

TRADE NEWS WEEKLY

January 16– January 20, 2023

A summary of international business news prepared by the Hawaii Foreign-Trade Zone 9 with the collaboration of the Research and Economic Analysis Division of the Department of Business, Economic Development & Tourism, and based on research and shipment data from *Miller & Company P.C.*, which tracks companies involved in global trade. Other news sources may occasionally be included where indicated.

CBP China Postal Code Requirement – March 18, 2023

CBP will begin requiring the China postal code when creating and updating China Manufacturer Identification Codes (MIDs) and when filing CBPF 3461 Cargo Release entries on China-origin merchandise, as part of its enforcement under the Uyghur Forced Labor Prevention Act (UFLPA) as of March 18, 2023. UFLPA bans importation of goods made in whole or in part in the Xinjiang Uyghur Autonomous Region or by entities on the UFLPA Entity List.

The new schedule, released by CBP, indicates a target deployment date (subject to change) of March 18, 2023. The schedule provides that ACE (Automated Commercial Environment) will issue a warning message when a Uyghur region postal code is provided and an error message when invalid Chinese postal codes are provided. China postal codes will be needed for updated and new China MIDs and “MF” Manufacturer/Supplier parties reported on Customs CBPF 3461 Cargo Release entries of China-origin merchandise.

The CBP schedule also announced the “UFLPA Detention Process Related to Forced Labor” that will automate Admissibility Reviews and Exception Requests and the preparation and issuance of Detention Notices and Custody Receipts. It has a target deployment date of May 2023.

Source: Miller & Company, P.C.

USMCA Auto Origin Rules

A United States-Mexico-Canada Agreement (USMCA) Arbitral Panel has ruled that the U.S.

misinterpreted the USMCA rules of origin on how originating “core parts” are calculated in determining a motor vehicle’s regional value content (RVC). The Panel concluded the USMCA does not include a separate, self-standing core parts “origination requirement,” meaning core parts in Column 1 of Table A.2 that are originating can be included as originating material in the calculation of vehicle RVC. There are questions as to whether the U.S. government will accept the result. If not, Canada and Mexico may impose retaliatory duties.

Source: Miller & Company, P.C.

USMCA Canada Dairy

On December 20, the U.S. Trade Representative (USTR) announced the U.S. is requesting new dispute settlement consultations with Canada regarding Canada’s dairy tariff-rate quota (TRQ) allocation measures.

Source: Miller & Company, P.C.

232 Product Exclusions

U.S. Customs and Border Protection (CBP) has ruled that certain umbilical tubing is not eligible for Section 232 product exclusions approved by the Commerce Department because the actual imported tubing did not fulfill the specifications in the approved exclusions. Clients are reminded that actual imports must be consistent with the product exclusion. HQ H325770 (Oct. 11, 2022).

Source: Miller & Company, P.C.

Protests

The ACE Protest Module Document Upload functionality was inoperative between



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September 16 and December 1, 2022. Filers of Protests and Section 520(d) post-importation claims during this period that were denied solely because supporting documents were not uploaded may upload supporting documents by January 30. CSMS # 54424515 (Dec. 20, 2022).

Source: Miller & Company, P.C.

AES State of Origin

On January 10, CBP activated a new Automated Export System (AES) response message 26C (“USPPI Address and State of Origin mismatch”) that will be generated when the two fields do not match in Electronic Export Information (EEI) submitted via AES. Census has provided guidance on how to determine the correct fields. CSMS #54645487 (Jan. 9, 2023).

Source: Miller & Company, P.C.

301 Product Exclusions

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 USTR has extended 352 China Section 301 product exclusions under HTSUS subheading 9903.88.67 to September 30, 2023. CSMS #54468100 (Dec. 23, 2022).

Source: Miller & Company, P.C.

Customs Brokers

- On December 19, CBP deployed enhancements to broker reporting and national broker permits in the ACE Portal. Quick reference documents are available for both enhancements. CSMS #54416648 (Dec. 19, 2022).
- CBP has published Version 1.1 of “Customs Broker Guidance for the Trade Community” as a resource for brokers to conduct customs business in compliance with CBP regulations. CSMS #54525793 (Dec. 29, 2022).

Source: Miller & Company, P.C.

Alcohol Tax Refunds

CBP has published an Interim Final Rule to shift responsibility for administering refunds of imported alcohol excise taxes from CBP to the Alcohol and Tobacco Tax and Trade Bureau (TTB), effective January 1, 2023. Comments must be received by March 2. 87 Fed. Reg. 80442 (Dec. 30, 2022).

Source: Miller & Company, P.C.

CBP Parts Ruling

CBP has affirmed a ruling that propellant carbon dioxide cartridges that are specifically designed to fit in air guns to propel BBs or pellets are not classified as parts of air guns because they potentially have other applications and are a separate and distinct commercial commodity, ultimately classifying them as the chemical compound carbon dioxide. The ruling includes a “parts” analysis that may be helpful for client review. HQ H320777 (Dec. 12, 2022).

Source: Miller & Company, P.C.

ADD/CVD Scope Rulings

Four scope ruling applications were filed in November 2022 involving Chinese products which may be subject to antidumping duty/ countervailing duty (ADD/CVD) orders for ammonium sulfate, solar panels, hand trucks, and aluminum extrusions. 87 Fed. Reg. 79867 (Dec. 28, 2022).

Source: Miller & Company, P.C.

FTZ Board

Elizabeth Whiteman is now the Acting Executive Secretary of the U.S. Foreign-Trade Zones Board. Ms. Whiteman replaces Andrew McGilvray, who retired at the end of 2022 after serving as Executive Secretary for 16 years.

Source: Miller & Company, P.C.

US-Swiss Pharma Deal

On January 12, the U.S. and Switzerland signed a Pharmaceutical Good Manufacturing Practice (GMP) Mutual Recognition Agreement (MRA) that is intended to streamline pharmaceutical supply chains between the countries by allowing the U.S. and Swiss governments to share documents from GMP inspections.

Source: Miller & Company, P.C.

Manifest Confidentiality

Clients are reminded that vessel manifest information is obtained by third parties. Importers not wanting their names and addresses to be publicly available may request confidential treatment via the Electronic Vessel Manifest Confidentiality Online Application.

Source: Miller & Company, P.C.



Russian Oil & Petroleum

On December 30 the Office of Foreign Assets Control (OFAC) issued “Preliminary Guidance on Implementation of the Price Cap Policy for Petroleum Products of Russian Federation Origin,” which primarily explains when the price cap applies during the transportation of petroleum. For issues not addressed in the Preliminary Guidance, OFAC suggests referring to its November 2022 guidance on the price cap policy for crude oil because it expects to take similar approaches to both groups of products.

Source: Miller & Company, P.C.

BIS Entity List

On December 21, the Bureau of Industry and Security (BIS) modified the Entity List listing of Russian private military company Wagner by adding one new address, two new aliases, and a “footnote 3 designation,” which indicates the company is a Russian or Belarusian “military end user” and subjects it to license reviews under a policy of denial for all items besides EAR 99 food and medicine. 87 Fed. Reg. 78856 (Dec. 23, 2022).

Source: Miller & Company, P.C.

Iran UAV Sanctions

On January 6, OFAC announced it was placing six executives and board members of Iran's Qods Aviation Industries (QAI) on the Specially Designated Nationals (SDN) List. QAI builds unmanned aerial vehicles (UAVs) that are being resold to Russia. In addition to the QAI board members, OFAC added the director of Iran's Aerospace Industry Organization that has been involved in directing Iran's ballistic missile program. 88 Fed. Reg. 1627 (Jan. 11, 2023).

Source: Miller & Company, P.C.

Burkina Faso

Burkina Faso's designation as a beneficiary sub-Saharan African country to the African Growth and Opportunity Act (AGOA) was terminated, effective January 1. CSMS #54509427 (Dec. 28, 2022).

Source: Miller & Company, P.C.

Treasury Department Boycott List

The Treasury Department has published its current list of countries that require or may

require participation in, or cooperation with, an international boycott. The countries are unchanged from the previous list: Iraq, Kuwait, Lebanon, Libya, Qatar, Saudi Arabia, Syria and Yemen. 87 Fed. Reg. 79065 (Dec. 23, 2022).

Source: Miller & Company, P.C.

Emerging Technology

On January 3, the Department of State announced the initiation of operations at the Office of Special Envoy for Critical and Emerging Technology. The office will develop and coordinate foreign policy on critical and emerging technology.

Source: Miller & Company, P.C.

Trade Secrets

On January 3, a former GE engineer was sentenced to 24 months in prison after being convicted for conspiracy to commit economic espionage for China. Court documents showed the engineer conspired to steal GE trade secrets involving turbine technologies.

Source: Miller & Company, P.C.

Venezuela General License

On January 9, OFAC issued General License (GL) 31B, which authorizes transactions related to the Venezuelan General Assembly seated on January 5, 2023. It does not include the Venezuelan National Constituent Assembly convened by Nicolas Maduro. OFAC also updated Frequently Asked Questions (FAQs) 522, 547, 660, 679, and 680.

Source: Miller & Company, P.C.

2023 HTSUS And Schedule B

- The U.S. International Commission has posted the 2023 Harmonized Tariff Schedule of the United States (HTSUS). CSMS #54535154 (Dec. 30, 2022).
- The Census Bureau has issued the 2023 Schedule B and announced the Schedule B and HTS codes that are not valid for use in the Automated Export System (AES). AES will accept shipments with outdated codes during a grace period of 30 days beyond the expiration date of December 31. Reporting an outdated code after the 30-day grace period will result in a fatal error.

Source: Miller & Company, P.C.



ACE Portal And In Bonds

On January 10, CBP deployed Phase 2 modernization of its ACE Portal that migrates functionality to arrive, divert, export, and cancel in-bonds for trade users with a carrier account. FTZ clients are urged to review the Quick Reference Guide with details on carrier actions for in-bonds in the ACE Portal. CSMS #54613020 (Jan. 6, 2023).

Source: Miller & Company, P.C.

Organic Import Fraud

The U.S. Department of Justice has charged two Dubai companies and three individuals with conspiracy, smuggling, and wire fraud for a scheme to import non-organic soybeans from Eastern Europe falsely labeled as “organic.” They could be subject to a maximum of 20 years in prison.

Source: Miller & Company, P.C.

CBP Forced Labor Stats

CBP statistics show that in November 2022, CBP identified 444 entries valued at more than \$128 million for further examination based on the suspected use of forced labor. In October, CBP had identified 398 entries valued at more than \$129.8 million.

Source: Miller & Company, P.C.

North Korea Forced Labor

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Source: Miller & Company, P.C.

U.S.-Japan Forced Labor

The USTR announced on January 6 that it had signed a Memorandum of Cooperation with the Ministry of Economy, Trade and Industry of Japan, to create a task force to promote human rights and international labor standards in supply chains.

Source: Miller & Company, P.C.

Penalty Increases

U.S. federal agencies have issued Final Rules to increase various penalty amounts by 7.745% for 2023 due to inflation. For example:

- Commerce and OFAC penalties for International Emergency Economic Powers Act (IEEPA) violations increase to \$356,579.
- Census penalties for AES violations increase to \$16,438.
- FTZ penalties for FTZ Act violations increase to \$3,446/day.
- 88 Fed. Reg. 3 (Jan. 3, 2023) (Commerce); 88 Fed. Reg. 1505 (Jan. 11, 2023) (State); 88 Fed. Reg. 2229 (Jan. 13, 2023) (OFAC); 88 Fed. Reg. 2175 (Jan. 13, 2023) (CBP).

Source: Miller & Company, P.C.

COVID-19 Report

U.S. Trade Representative Katherine Tai has requested that the U.S. International Trade Commission (ITC) conduct an investigation and prepare a report by October 17 on COVID-19 diagnostics and therapeutics market dynamics. The report is to inform World Trade Organization (WTO) negotiations over intellectual property rights waivers for COVID-19 products.

Source: Miller & Company, P.C.

IPEF Negotiations

Representatives from the USTR presented negotiating text relating to trade facilitation, agriculture, services, domestic regulation, transparency, and good regulatory policies at the Indo-Pacific Economic Framework (IPEF) held in Brisbane, Australia in December.

Source: Miller & Company, P.C.

Defense Services

The Directorate of Defense Trade Controls (DDTC) has released guidance for U.S. persons providing defense services outside the U.S. The updated guidance includes a recommended certification and submission letter. The guidance also includes new Frequently Asked Questions (FAQs).

Source: Miller & Company, P.C.

