

TRADE NEWS WEEKLY

March 13– March 17, 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.

Russia Sanctions

On February 24, the one-year anniversary of Russia's invasion of Ukraine, the U.S. government issued new and revised export controls and sanctions on Russia. The Bureau of Industry and Security (BIS) issued four new Final Rules:

- Additional Sanctions Against Russia and Belarus. The most substantial new rule revises the sanctions on Russia and Belarus in Part 746 of the Export Administration Regulations (EAR). Three hundred twenty-two (322) HTS subheading classifications were added to the Russian Industry Sector Sanctions. 88 Fed. Reg. 12175 (Feb. 27, 2023).
- Military End User Additions to the Entity List. This Final Rule added thirteen (13) entities to the Entity List. 88 Fed. Reg. 12170 (Feb. 27, 2023).
- Russian Entity Additions to the Entity List. This Final Rule added seventy-six (76) Russian entities to the Entity List. 88 Fed. Reg. 12155 (Feb. 27, 2023).
- Export Controls on Iranian UAVs and Their Use by Russia. This Final Rule imposed controls to address the use of Iranian Unmanned Aerial Vehicles (UAVs) by Russia against Ukraine by adding Iranian entities to the Entity List, creating a new list of EAR99 items used in Iranian UAV production, subjecting these items to the Russia/Belarus Foreign Direct Product (FDP) controls and a new Iran FDP Rule when destined to Russia, Belarus, or Iran, and adding new controls for foreign-

produced items specified in certain ECCNs when destined for Iran. 88 Fed. Reg. 12150 (Feb. 27, 2023).

- The Office of Foreign Assets Control (OFAC) issued sanctions targeting the Russian financial services, military supply chain, and metals and mining sectors, as well as sanctions evaders.

Source: Miller & Company, P.C.

Earthquake Relief

- BIS will expedite any licenses for Turkey or Syria related to humanitarian relief efforts.
- OFAC has issued guidance related to Syria, including frequently asked questions (FAQs).

Source: Miller & Company, P.C.

Cuba AG Exports

BIS is requesting comments on the effectiveness of its process for handling licenses for the export of agricultural products to Cuba. Comments are due by March 20. 88 Fed. Reg. 10286 (Feb. 17, 2023).

Source: Miller & Company, P.C.

Entity List Additions

BIS has added 37 entities to its Entity List for a variety of reasons, including contributing to Russia's military or defense industrial base, supporting China's military modernization, and facilitating or engaging in human rights abuses in Burma and in China. The companies added are from Belarus, Burma/Myanmar, China, Pakistan Russia, and Taiwan. 88 Fed. Reg. 13673 (Mar. 6, 2023).

Source: Miller & Company, P.C.



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HTSUS 2023 Revision 1

The U.S. International Trade Commission (ITC) has issued Revision 1 to the 2023 Harmonized Tariff Schedule of the United States (HTSUS). It includes the extension of some China Section 301 COVID product exclusions and technical amendments to others. CBP has posted the latest version of its HTSUS CATAIR. CSMS #55374465 (Mar. 6, 2023).

Source: Miller & Company, P.C.

Russia Evasion Arrests

Two U.S. citizens have been arrested and indicted on charges of supplying and repairing avionics equipment for Russian companies. According to the DOJ, they hid end user information, falsified invoices with lower values, and shipped to third countries to hide the ultimate destination.

Source: Miller & Company, P.C.

Paper Packaging

The U.S. Department of Agriculture (USDA) has issued a Final Rule updating the HTSUS classifications for paper and paper-based packaging products subject to assessments and adding verbiage allowing assessments to continue even if HTSUS classifications change. 88 Fed. Reg. 14484 (Mar. 9, 2023).

Source: Miller & Company, P.C.

WTO Plastics Pollution

The U.S. has joined the World Trade Organization (WTO) "dialogue" on plastics pollution and environmentally sustainable plastics trade. The goal is to generate ideas and policy recommendations to reduce plastics pollution and encourage plastics recycling and sustainable substitutes.

Source: Miller & Company, P.C.

Bond Collateral

Clients required to post collateral to secure customs bonds, such as for antidumping duties, may have an alternative. Contact Sean Murray with questions.

Source: Miller & Company, P.C.

Force Majeure & Value

CBP has ruled that force majeure charges resulting from Russia's invasion of Ukraine and

added to the contract price of certain imported pipe-in-pipe assemblies are part of the dutiable value of the goods and are not interest charges because the charges relate to the manufactured goods themselves and not to the financing of their purchase. HQ H329588 (Feb. 23, 2023).

Source: Miller & Company, P.C.

Country Of Origin

The U.S. Court of International Trade (CIT) has ruled that one of an importer's power supplies was substantially transformed in the Philippines, but other power supply and surge protectors were products of China. In applying the "substantial transformation" standard, the CIT rejected an "essence" test or component-by-component analysis and focused on the totality of the evidence, finding the importer failed to present at trial a preponderance of evidence detailing the specific Philippine assembly operations. This decision suggests some change or distinction from the "predetermined end-use" component analysis used in the 2016 Energizer Battery CIT decision and many subsequent CBP rulings. *Cyber Power Systems (USA) Inc. v. U.S.*, CIT Slip Op. 23-24 (Feb. 27, 2023).

Source: Miller & Company, P.C.

China License Stats

The U.S. House of Representatives Foreign Affairs Committee has released data showing that BIS approved approximately 79% of export license applications for exports to Chinese entities on the BIS Entity List in Q1 2022. Of those approved, roughly 60% were for controlled technologies. Denials amounted to about 10% of submissions. The balance was returned without action.

Source: Miller & Company, P.C.

BIS Enforcement

BIS and the Department of Justice (DOJ) have announced a strike force to improve enforcement of export controls on advanced technology.

Source: Miller & Company, P.C.

Sanctions Evasion Note

The U.S. Departments of Commerce, Justice, and Treasury have issued a joint Compliance Note reminding businesses that malign actors are actively engaged in sanctions evasion efforts



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and that businesses should be vigilant. A list of common red flags is provided, and businesses are reminded that their compliance programs should be designed to address the export risks inherent in their business models.

Source: Miller & Company, P.C.

Currency Exchange

A new ACE Currency Exchange Rates CATAIR Chapter has been posted to support migration of currency exchange rate functionality from ACS to ACE. It will be implemented in certification on March 23 and in the production environment on April 23. It uses Federal Reserve Bank rates. CSMS #55391973 (Mar. 7, 2023).

Source: Miller & Company, P.C.

USA Food Labeling

The USDA Food Safety and Inspection Service has issued a Proposed Rule to amend its regulations on establishing when meat, poultry, egg products, and voluntarily inspected products may bear the voluntary "Product of USA" label. Comments are due by May 12. 88 Fed. Reg. 15290 (Mar. 13, 2023).

Source: Miller & Company, P.C.

Tobacco Company Fined

Godfrey Phillips Ltd., an Indian tobacco company, agreed to pay \$332,500 for routing payments for tobacco shipped to North Korea through the U.S. financial system.

Source: Miller & Company, P.C.

Iran Shipments Conspiracy

An Iranian national, Mr. Mehdi Khoshghadam, has been charged with attempting to ship U.S. electrical equipment to Iran via Hong Kong. According to the indictment, Mr. Khoshghadam used front companies from Singapore, China, and Malaysia to order and pay for the goods. He is also accused of falsifying BIS 711 ultimate consignee statements. If convicted, he faces up to 25 years in prison.

Source: Miller & Company, P.C.

UFLPA Forced Labor

U.S. Customs and Border Protection (CBP) has created a new webpage with Uyghur Forced Labor Prevention Act (UFLPA)

statistics. The webpage allows data filtering for 2022 and 2023 year-to-date. It shows 424 shipments denied, 1,090 shipments released, and 1,723 shipments under review from a variety of countries, with the largest number of impacted shipments involving electronics (solar). Surprisingly, the highest total shipment value is from Malaysia, followed by Vietnam, then China.

- CBP has issued Frequently Asked Questions (FAQs) regarding the March 18 deployment of the UFLPA Region Alert to the Automated Commercial Environment (ACE), which will provide early notification to importers that their goods may be excluded from importation due to their Xinjiang region postal code.
- CBP has posted additional UFLPA guidance documents, including more detailed FAQs, Best Practices for Applicability Reviews, and Guidance on Executive Summaries and Tables of Contents for importer submissions. The Best Practices document includes guidance on submission content, interfacing with CBP, and timeframes.

Source: Miller & Company, P.C.

Aluminum Imports

- On February 24, President Biden issued Proclamation 10522, which increased the duty rate to 200% on Russian origin aluminum articles and derivatives thereof, effective March 10, and Proclamation 10523, which increases Column 2 duty rates to 70% on a range of Russian products, effective April 1. 88 Fed. Reg. 13267 and 13277 (Mar. 2, 2023).
- CBP has issued guidance on the entry requirements for articles subject to the 200% Section 232 duties. The 200% duties are assessed on articles entered on March 10. For articles previously admitted into an FTZ in Privileged Foreign (PF) zone status and entered on or after March 10, CBP instructs the trade to contact the CBP HQ Trade Remedy Branch. CSMS #55407022 (Mar. 10, 2023).
- Beginning April 10, importers of aluminum and derivative articles from all countries (not just Russia) will be required to report on



CBPF 7501s the countries of (1) primary and secondary smelting and (2) casting, regardless of whether Section 232 duties, quotas, or exclusions apply. Smelt and cast origin reporting includes articles entered from FTZs. U.S. origin product may report “N/A” for smelt and “U.S.” for cast. CSMS #55438432 (Mar. 9, 2023).

Source: Miller & Company, P.C.

Section 321 De Minimis Pilot

CBP is accepting new applicants to its Section 321 Data Pilot which allows advance data to be submitted by e-commerce supply chain entities including carriers, customs brokers, freight forwarders, and online marketplaces. CBP is extending the pilot to August 2025. CSMS #55326449 (Mar. 2, 2023)

Source: Miller & Company, P.C.

Toblerone Origin

Numerous media sources have reported that Swiss chocolate company Toblerone is removing its famous Matterhorn logo from packaging because it is moving some production to Slovakia later this year, so the chocolate will no longer be “made in Switzerland” and satisfy requirements of the “Swissness Act” of 2017. Clients are reminded that sourcing changes can result in country-of-origin changes and require label changes.

Source: Miller & Company, P.C.

FIFRA Compliance

The Environmental Protection Agency (EPA) has issued a compliance advisory due to “substantial non-compliance” with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) on pesticides and devices, warning that the failure to comply with pesticide regulations including Notice of Arrival (NOA), labeling, and establishment registration may lead to detention and civil or criminal penalties. The advisory indicates importers must submit a separate NOA for each unique FIFRA-regulated pesticide and device in a shipment.

Source: Miller & Company, P.C.



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