

# TRADE NEWS WEEKLY

May 15– May 19, 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 trade data from *Miller & Company P.C, Kansas City, Missouri*, which tracks global trade activity and Foreign-Trade Zones.

## ITC FTZ Study

On May 15, the U.S. International Trade Commission (ITC) issued a 361-page report on foreign-trade zones (FTZs) that was requested by the U.S. Trade Representative in December 2021. On balance, the report provides a positive description of the growth, employment, and investment in the U.S. as a result of the FTZ program. It contains extensive data in 9 boxes, 27 figures, and 201 tables. Also, for the first time in a government report on FTZs, the report includes a detailed analysis of the comparable Mexico and Canada programs and USMCA Duty Deferral.

**Source:** *Miller & Company, P.C.*

## 301 CIT Litigation

The plaintiffs in the litigation over the Section 301 additional duties on List 3 and 4A products filed their notice of appeal to the U.S. Court of Appeals for the Federal Circuit on May 12.

**Source:** *Miller & Company, P.C.*

## OFAC Know Your Customer

The Office of Foreign Assets Control (OFAC) has announced a \$7.6 million settlement with Poloniex, LLC for apparent violations of sanctions on Crimea, Cuba, Iran, Sudan, and Syria involving the use of Poloniex's trading platform for online digital asset-related transactions despite having reason to know the users were located in sanctioned jurisdictions based on Know Your Customer information and internet protocol (IP) address data.

**Source:** *Miller & Company, P.C.*

## COVID Rules End

- U.S. Customs and Border Protection (CBP) has issued Notices that terminated, effective May 12, the COVID-19 travel restrictions (vaccination requirement) applicable to Canada and Mexico land ports of entry. 88 Fed. Reg. 30033 (May 10, 2023) (Canada); 88 Fed. Reg. 30035 (May 10, 2023) (Mexico).

- President Biden has issued a Proclamation, effective May 12, for the revocation of the COVID-19 vaccination requirement for international air travel. 88 Fed. Reg. 30889 (May 15, 2023).

**Source:** *Miller & Company, P.C.*

## China 301 COVID Exclusions

The U.S. Trade Representative (USTR) is extending certain China Section 301 COVID-19 product exclusions through May 31 and others through September 30.

**Source:** *Miller & Company, P.C.*

## COVID Med Devices

The U.S. Food and Drug Administration (FDA) has posted a transition plan for medical devices marketed under Emergency Use Authorizations (EUAs) during the COVID-19 pandemic. Beginning November 7, importers will be required to transmit the standard Intended Use Code (IUC) and Affirmation of Compliance (AoC) codes for the device import. CSMS #56244578 (May 12, 2023).

**Source:** *Miller & Company, P.C.*

## Russia Oil Cap

OFAC is warning ship owners and service providers of practices being undertaken by



H A W A I I  
FOREIGN-TRADE ZONE  
NO. 9

521 ALA MOANA BLVD, STE 101 • HONOLULU, HI 96813

Tel. 808-586-2507 • administrator@ftz9.org

www.ftz9.org • www.facebook.com/HawaiiFTZ

Twitter at: @FTZ9

Russia to avoid the oil price cap. Many of the practices are occurring on Russia's Pacific east coast and involve false documentation, manipulating the ship "Automatic Identification System," or making ship-to-ship transfers at sea.

**Source: Miller & Company, P.C.**

## OFAC Renews Russia GL 8

OFAC has renewed General License (GL) 8G until November 1, 2023. GL 8G allows some energy transactions with some Russian banks that are otherwise sanctioned.

**Source: Miller & Company, P.C.**

## Articles For Handicapped

CBP has proposed the modification of a ruling on the classification of transducer arrays used with a cancer therapy system. CBP has determined that the arrays are excluded from classification in the special HTSUS 9817.00.96 provision for articles for the handicapped. The proposed modification includes substantially identical transactions. Comments are due by June 9. Contact Sean Murray with questions. 57 Cust. B. & Dec. 10 (May 10, 2023).

**Source: Miller & Company, P.C.**

## Office Of Foreign Assets Control – North Korea

OFAC has announced a \$508 million settlement agreement with British American Tobacco p.l.c. (BAT) to resolve apparent violations of U.S. sanctions on North Korea and proliferators of weapons of mass destruction (WMD). OFAC's investigation found that BAT sent \$250 million in profits from a North Korean joint venture through U.S. financial institutions over a 7-year period. This settlement is OFAC's largest ever with a non-financial institution and reflects the statutory maximum penalty.

**Source: Miller & Company, P.C.**

## DDTC Report

The Directorate of Defense Trade Controls (DDTC) has released its 2022 fiscal year report to Congress. The report outlines the value and quantity of defense items and services by country.

**Source: Miller & Company, P.C.**

## Section 232 Protests

The CIT has ruled that a Protest is required to seek refunds of Section 232 duties for goods which satisfy a product exclusion on liquidated Customs entries. SXP Schulz Xtruded Prods. LLC v. U.S., CIT Slip Op. 23-51 (April 19, 2023).

**Source: Miller & Company, P.C.**

## BIS China Penalty

The Bureau of Industry and Security (BIS) has imposed its largest-ever civil monetary penalty, a \$300 million civil penalty, against Seagate Technology LLC of Fremont, California and a foreign affiliate related to selling hard disk drives (HDDs) to Huawei Technologies Co. Ltd. in violation of the Huawei foreign direct product (FDP) rule. Clients are encouraged to carefully consider the application of BIS FDP rules. They are difficult and time-consuming to apply.

**Source: Miller & Company, P.C.**

## BIS Emerging Technology

BIS has issued a Proposed Rule to place export controls on instruments related to the automated chemical synthesis of peptides, which BIS considers an emerging and foundational technology that warrants control. Comments are due by May 22. 88 Fed. Reg. 24341 (April 20, 2023).

**Source: Miller & Company, P.C.**

## ACE Portal Modernization

CBP will deploy Phase 3 of its ACE Portal modernization on May 21. It is hosting an online demonstration for trade users on May 18. CSMS #56216007 (May 10, 2023).

**Source: Miller & Company, P.C.**

## CBP Export Holds

Beginning May 18, new commodity filing response message codes are being added that allow CBP officers to inform Census Automated Export System (AES) filers when export shipments are held and released. CSMS #56214479 (May 10, 2023).

**Source: Miller & Company, P.C.**

## LACY Act Final Phase

The U.S. Department of Agriculture (USDA) has announced the final phase of Lacey Act import declarations will be implemented this fall. It will



expand the scope of goods requiring Lacey Act declarations to all remaining plant product Harmonized Tariff Schedule (HTS) classifications, such as furniture, additional essential oils, and cork. Clients importing such products should take steps to gather the necessary Lacey Act data.

**Source: Miller & Company, P.C.**

## CTPAT Mutual Recognition Agreements

CBP has signed Mutual Recognition Agreements with the Guatemala and Colombia customs administrations that will allow the exchange of supply chain security program membership information and recognize U.S. CTPAT and respective supply chain security validations.

**Source: Miller & Company, P.C.**

## Sanction Corrections

OFAC has issued a Final Rule to correct three typographical errors and add a general license in the Iranian Transactions and Sanctions Regulations and the Western Balkans Stabilization Regulations. 88 Fed. Reg. 25491 (April 27, 2023).

**Source: Miller & Company, P.C.**

## Storage Capacitors

The State Department has issued an Interim Final Rule, effective May 21, which amends the International Traffic in Arms Regulations (ITAR) to remove certain high-energy storage capacitors from U.S. Munitions List (USML) Category XI and clarify covered capacitors. Comments are due by May 30. 88 Fed. Reg. 25488 (April 27, 2023).

**Source: Miller & Company, P.C.**

## USML Category XXI

The Census Bureau has issued a Proposed Rule to add a new conditional data element, "DDTC Category XXI Determination Number," when Category XXI is selected in the DDTC USML Category Field in the Automated Export System (AES). Comments are due by July 3. 88 Fed. Reg. 27815 (May 3, 2023).

**Source: Miller & Company, P.C.**

## Forced Labor

- CBP issued a ruling upholding the exclusion of apparel suspected of containing cotton from the Xinjiang Uyghur Autonomous Region (XUAR), based on internal CBP documents showing that one company in the supply chain is linked with the XUAR. The ruling is no longer accessible on Customs CROSS website. Contact Brian Murphy with questions. HQ H330077 (April 26, 2023).
- Rep. Mike Gallagher (R-WI) and Rep. Raja Krishnamoorthi (D-IL), Chairman and Ranking Member of the Select Committee on the Chinese Communist Party, have sent letters with detailed questions to Nike, Adidas, Shein, and Temu requesting detailed information on apparel inputs in their supply chains due to the alleged use of Uyghur forced labor. Shein and Temu were also questioned on use of the Section 321 "de minimis loophole."

**Source: Miller & Company, P.C.**

## UFLPA Releases

At the April CBP Trade Facilitation and Cargo Security Summit in Boston, a CBP panel on the Uyghur Forced Labor Prevention Act (UFLPA) explained the need for a complete mapping of the supply chain to show no Xinjiang region inputs. No current technological means has yet been identified by CBP that can definitively prove no Xinjiang content without additional support. A CBP speaker also noted that CBP is targeting manufacturers, not importers.

**Source: Miller & Company, P.C.**

## Detentions

On May 20, CBP is set to deploy electronic access to the CBP Form 6051D for cargo detentions, including Uyghur Forced Labor Prevention Act (UFLPA) detentions. This will allow importers to view, search, and respond to CBP Detention Notices using the ACE Secure Data Portal. CSMS #55989699 (April 2, 2023).

**Source: Miller & Company, P.C.**



## Steel/Aluminum Reporting

- CBP has proposed updating the CBPF 7501 Entry Summary form to require importers to report countries of melt and pour (steel) and countries of smelt and cast (aluminum) under steel and aluminum HTSUS classifications subject to Commerce Department steel/aluminum import licenses and Section 232 steel and aluminum measures. Comments are due by June 20. 88 Fed. Reg. 24203 (April 19, 2023).
- CBP previously delayed from April 10 to May 10 implementation of new Customs Entry Summary reporting requirements for primary and secondary countries of smelt and country of cast for aluminum and derivative aluminum articles. CSMS #55438432 (March 30, 2023).

**Source: Miller & Company, P.C.**

## EO Nomine

The CIT has ruled that heat-forged steel rods are properly classified as "other bars and rods" in Harmonized Tariff Schedule Heading 7228 rather than as "other articles of iron or steel" in Heading 7326 as both headings are eo nomine tariff provisions, even though the rods' actual use is as grinding rods, which are provided for at the 8-digit HTSUS subheading level in Heading 7326. *ME Global Inc. v. U.S.*, CIT Slip Op. 23-68 (May 2, 2023).

**Source: Miller & Company, P.C.**

## AD/CVD Indictment

A federal grand jury has indicted a Chinese citizen for wire fraud and conspiracy to defraud the U.S. for a scheme allegedly involving the illegal transshipment of China ceramic tiles subject to antidumping/countervailing duties (AD/CVD) through Malaysia and misclassifying the tiles with a Puerto Rico-based U.S. importer.

**Source: Miller & Company, P.C.**

## COAC Applicants

CBP is requesting applicants for appointment to the Commercial Customs Operations Advisory Committee (COAC). Applications are due by June 5. 88 Fed. Reg. 29142 (May 5, 2023).

**Source: Miller & Company, P.C.**

## Thermometer HTSUS

CBP has issued a ruling that temperature screening devices designed to provide readings of human body temperatures via non-contact skin measurements are properly classified as thermometers of Heading 9025 and not as instruments and apparatus for measuring or checking quantities of heat, sound, or light of Heading 9027. HQ H324564 (Feb. 28, 2023).

**Source: Miller & Company, P.C.**



521 ALA MOANA BLVD, STE 101 • HONOLULU, HI 96813

Tel. 808-586-2507 • administrator@ftz9.org

www.ftz9.org • www.facebook.com/HawaiiFTZ

Twitter at: @FTZ9