

TRADE NEWS WEEKLY

November 13–November 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 information from *Miller & Company P.C.*, which tracks news and events related to global trade. Other news sources may occasionally be included where indicated.

Forced Labor

- Laura Murphy, director of the forced labor lab at Sheffield Hallam University (SHU) in the United Kingdom, has joined the U.S. Department of Homeland Security as a policy advisor. Ms. Murphy's work at SHU is recognized in forced labor enforcement efforts worldwide.
- In October, U.S. Customs and Border Protection (CBP) stopped 504 shipments valued at more than \$199 million based on the suspected use of forced labor. These figures compare to 259 shipments valued at more than \$102 million in September.
- The Southern Shrimp Alliance has filed an allegation with CBP that imports of shrimp processed by Qingdao Yize violate the Uyghur Forced Labor Prevention Act (UFLPA) and asked CBP to investigate all shipments of Argentinian shrimp exported to the U.S. from China to determine whether forced labor was used in its processing.
- A South China Morning Post article reports that exports from the Xinjiang region have increased nearly 50% in the first three quarters of 2023 despite the global effort to prohibit trade in merchandise produced using forced labor.

Source: Miller & Company P.C.

Iran Procurement

- The Office of Foreign Assets Control (OFAC) has published guidance on how Iranian agents procure technology and products to

bolster Iran's ballistic missile and military programs.

- OFAC has sanctioned a number of individuals, entities, and vessels from China, Venezuela, Hong Kong, and Iran for their role in procuring goods in support of Iran's military programs.

Source: Miller & Company P.C.

Machine Classification

Relying on dictionary definitions of "machine," Customs Headquarters has ruled that a bushing well module is not a machine or mechanical appliance of HTS Chapter 84 because neither the bushing nor the bushing well perform a mechanical function and remain static. Instead, the module is classified as other articles of precious metal in Heading 7115. HQ H329895 (March 7, 2023).

Source: Miller & Company P.C.

CBP AD/CVD Scope Ruling

CBP has granted a Protest/Application for Further Review (AFR) that certain China polyethylene plastic rolls were not subject to the antidumping/ countervailing duties (AD/CVD) on Chinese polyethylene retail carrier bags (PRCB) because the plastic rolls are not cut to length prior to importation. In issuing the ruling, CBP cited court precedent that CBP can determine whether merchandise falls within the common meaning of the AD/CVD scope language based upon observable characteristics. HQ H307924 (Aug. 21, 2023).

Source: Miller & Company P.C.



HAWAII
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

CPSC Electronic Filing

The Consumer Product Safety Commission (CPSC) has initiated its beta pilot test for electronically filing certificate data on CPSC-regulated products via the Partner Government Agency (PGA) Message Set. Full implementation is not expected until 2025.

Source: Miller & Company P.C.

CBP Amends Collections

CBP has issued an Interim Final Rule that amends the regulations on collection procedures for bounced checks and automated clearinghouse (ACH) payments by eliminating interest owed if payment is made in the fifteen-day period after a debit voucher is issued. CBP noted the amendment was necessary to fully automate collections in ACE. Comments are due by December 22. 88 Fed. Reg. 72675 (Oct. 23, 2023).

Source: Miller & Company P.C.

CBP Textile Penalties

Recent CBP enforcement statistics show that Customs penalties for textile fraud in fiscal year (FY) 2023 were the highest in over five years. The total amount of commercial textile fraud penalties issued in FY 2023 was \$19.3 million, which marks a \$2.45 million increase from FY 2022.

Source: Miller & Company P.C.

AGOA Benefits

- President Biden has notified Congress that he intends to terminate African Growth and Opportunity Act (AGOA) trade program benefits for Gabon, Niger, Uganda and the Central African Republic (CAR) as of January 1, 2024, based on human rights violations and a lack of progress on protecting political pluralism and the rule of law.
- AGOA is set to expire in September 2025. President Biden has released a statement supporting the reauthorization and modernization of AGOA.

Source: Miller & Company P.C.

Russia Sanctions Evasion

- On November 1, the Department of Justice (DOJ) announced indictments and the arrest of four persons and the charging of multiple Russian nationals in connection with two separate schemes to evade U.S. sanctions and export semi-conductors and other electronic components to Russian end-users affiliated with the Russian military.
- BIS has issued a Temporary Denial Order (TDO) against seven individuals and three companies involved in the first scheme to deny their export privileges for 180 days. 88 Fed. Reg. 77955 (Nov. 14, 2023).
- U.S. manufacturers and suppliers of electrical components need to be aware of potential “red flags” and transshipment.

Source: Miller & Company P.C.

CBP Job Consolidation

A bill unanimously passed in the House Ways and Means Committee would consolidate six CBP job descriptions, including Import Specialists, under the title of “Global Trade Specialist.”

Source: Miller & Company P.C.

New Hamas Sanctions

- On October 18, OFAC announced sanctions on Hamas operatives and financial facilitators. The sanctions are to limit Hamas's ability to obtain funds.
- On October 27, OFAC added Hamas-linked officials and financial entities to the Specially Designated Nationals (SDN) List. 88 Fed. Reg. 72814 (Oct. 23, 2023).

Source: Miller & Company P.C.

Gaza Aid

OFAC has issued guidance on the provision of humanitarian assistance to the Palestinian people in Gaza. There are general licenses authorizing transactions with the U.S. government, certain international organizations and non-governmental organizations, but there are sanctions on Hamas and many blocked persons under both the Global Terrorism

Sanctions Regulations and the Foreign Terrorist Organization Sanctions Regulations.

Source: Miller & Company P.C.

Firearms Exports

On October 27, the Bureau of Industry and Security (BIS) announced a 90-day “pause” in the issuance of new export licenses involving certain firearms, related components, and ammunition. The “pause,” which was effective immediately, is to be used by BIS to assess firearm export control review policies and determine whether any changes are warranted.

Source: Miller & Company P.C.

Aluminum Extrusions

The Department of Commerce has initiated antidumping/countervailing duty (AD/CVD) investigations into aluminum extrusions from fifteen countries, including China, India, Indonesia, Italy, Korea, and Mexico. The broad scope is unprecedented, including aluminum extrusions imported with non-extruded aluminum components. Commerce has extended the time period to file scope comments to November 24. CSMS #58263753 (Nov. 2, 2023).

Source: Miller & Company P.C.

Buyer Beware

In a case that should be watched by all companies providing trade compliance information to customers, the U.S. District Court for the District of Oregon has denied a motion for summary judgment filed by Lattice Semiconductor, a seller of semiconductors to Canadian electronics component manufacturer Apex Micro Manufacturing. After the Canada Border Services Agency seized export shipments, Apex filed suit alleging that Lattice had a special responsibility to provide Apex with information on the export control status of the semi-conductors. Apex Micro Mfg. Corp. v. Lattice Semiconductor Corp., Case No. 3:19-cv-86-SI (D. Or. Nov. 1, 2023).

Source: Miller & Company P.C.

Deuterium Exports

Based on targeting provided by CBP’s National Targeting Center, Norfolk CBP personnel seized

a September shipment of deuterium cylinders being exported to China. Export controls over deuterium were expanded by BIS in August, so more deuterium products are now subject to licensing requirements.

Source: Miller & Company P.C.

Entity List Additions

BIS has added a number of entities to its Entity List. Some are Chinese entities involved in advanced semiconductor manufacturing. Others are involved in Russian drone procurement. 88 Fed. Reg. 71991, (Oct. 19, 2023); 88 Fed. Reg. 76128 (Nov. 6, 2023).

Source: Miller & Company P.C.

FinCEN

BIS and the Financial Crimes Enforcement Network (FinCEN) have issued a joint notice highlighting a new Suspicious Activity Report (SAR) key term (“FIN-2023-GLOBALEXPORT”) for financial institutions to reference when reporting potential efforts by individuals or entities to evade U.S. export controls not related to Russia’s invasion of Ukraine. The notice emphasizes the importance of financial institutions applying a risk-based approach to trade transactions and remaining vigilant against efforts to evade export controls.

Source: Miller & Company P.C.

Antiboycott Penalty

BIS has announced a civil penalty of \$44,750 against Forta LLC, a Pennsylvania manufacturer of synthetic reinforcement fibers, to resolve three violations of the antiboycott provisions of the Export Administration Regulations (EAR). Forta voluntarily disclosed the conduct, cooperated with the investigation, and took remedial measures after discovering the conduct at issue, which resulted in a significant reduction in penalty.

Source: Miller & Company P.C.

Plywood Duty Evasion

A Florida couple has pleaded guilty to Customs law and Lacey Act violations related to plywood imports. Plywood imports were transshipped and misdeclared as other wood species to avoid 8% regular duties and antidumping and



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

countervailing duties (AD/CVD) of more than 200% on Chinese-manufactured hardwood plywood. The couple faces forfeiture up to \$42 million and the husband could be sentenced to up to 20 years in prison.

Source: Miller & Company P.C.

CBP Periodic Statements

- Effective October 25, original Entry Summaries may be cancelled and taken off a daily or monthly periodic statement while in CBP control so long as a valid bond exists and the replacement Entry Summary is scheduled for payment. CSMS #58168088 (Oct. 25, 2023).
- We advise all clients to utilize monthly periodic statements. These statements consolidate Customs entries into a single monthly payment and eliminate customs brokers as intermediaries for payment.

Source: Miller & Company P.C.

CBP Periodic Statements

- Effective October 25, original Entry Summaries may be cancelled and taken off a daily or monthly periodic statement while in CBP control so long as a valid bond exists and the replacement Entry Summary is scheduled for payment. CSMS #58168088 (Oct. 25, 2023).
- We advise all clients to utilize monthly periodic statements. These statements consolidate Customs entries into a single monthly payment and eliminate customs brokers as intermediaries for payment.

Source: Miller & Company P.C.

Chip Export Controls

The Bureau of Industry and Security (BIS) has published two Interim Final Rules that revise the controls implemented on October 7, 2022, on the export of advanced semi-conductors, related manufacturing equipment, and items that support supercomputing applications to arms embargoed countries such as China. The 92 total pages of rules and comments change the definition of covered chips, expand controls to prevent circumvention, control more equipment, and add more Chinese entities to

the Entity List. Most of the new rules go into effect on November 17. Comments on the rules are due by December 18. 88 Fed. Reg. 73424 and 73458 (Oct. 25, 2023).

Source: Miller & Company P.C.

Section 201 Litigation

Overturing a U.S. Court of International Trade (CIT) decision, the Court of Appeals for the Federal Circuit (CAFC) has ruled that President Trump's revocation of a Section 201 exclusion for bifacial solar panels did not violate the statutory authority to modify the Section 201 trade action, as trade-restrictive changes were not clearly prohibited. *Solar Energy Industries v. U.S.*, CAFC Slip Op. 2022-1392 (Nov. 13, 2023).

Source: Miller & Company P.C.

FDA Prior Notice

The Food and Drug Administration (FDA) has released a Proposed Rule on Prior Notice requirements. The Proposed Rule would require a mail service name and tracking number in the Prior Notice for articles arriving by international mail. The FDA would also require "post hold" and "post refusal" submissions for food facility registration information to be submitted within thirty (30) days after an FDA refusal or hold. Comments are due by January 30. 88 Fed. Reg. 74939 (Nov. 1, 2023).

Source: Miller & Company P.C.

Employment V. Controls

In response to the administrative complaint filed by the Department of Justice that alleges SpaceX discriminated based on national origin or citizenship while trying to comply with export control laws, a federal district court judge has granted in part SpaceX's Motion for Preliminary Injunction to enjoin the administrative proceedings based on SpaceX's argument that the proceedings violate the Appointments Clause of the U.S. Constitution.

Source: Miller & Company P.C.



HAWAII
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