

TRADE NEWS WEEKLY

January 15–January 19, 2024

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.

No Cap On Cape Route

The Federal Maritime Commission (FMC) has waived the 30-day notice for new charges, allowing ocean carriers to impose additional charges on containers being rerouted around the Cape of Good Hope due to the Houthi attacks on trade in the Red Sea.

Source: *Miller & Company P.C.*

2024 HTSUS

- The U.S. International Trade Commission (ITC) has posted the 2024 Basic Edition of the Harmonized Tariff Schedule of the United States (HTSUS), which took effect January 1, 2024. HTSUS revisions include certain HTS Chapter 29 chemicals, Heading 3004 medicaments, and Heading 7602 aluminum waste and scrap. CSMS #58898566 (Jan. 2, 2024).
- Census has confirmed that Schedule B and HTS codes have been updated in the Automated Export System (AES). AES will continue to accept outdated codes for a 30-day grace period.

Source: *Miller & Company P.C.*

CBP FTZ Funding

The National Association of Foreign-Trade Zones (NAFTZ) is lobbying for more CBP funding for FTZ oversight. Some CBP ports have declined FTZ applications, claiming a lack of resources and staffing. NAFTZ says these issues are hindering economic development.

Source: *Miller & Company P.C.*

Iran UAV Parts Plot

An Iranian and Chinese national have been charged with attempting to export U.S. components for use in Iranian unmanned aerial vehicles (UAVs). The Office of Foreign Assets Control (OFAC) has added both individuals, as well as other individuals and entities involved in the parts procurement network located in Iran, Malaysia, Indonesia, and Hong Kong, to the Specially Designated Nationals (SDN) List. The Department of Justice (DOJ) also announced seizure actions targeting funds of two of the entities designated by OFAC. 88 Fed. Reg. 89495 (Dec. 27, 2023).

Source: *Miller & Company P.C.*

CBP 2024 Trade Summit

Registration opened on January 10 for the 2024 CBP Trade Facilitation and Cargo Security Summit in Philadelphia on March 26-28. CSMS #58996704 (Jan. 10, 2024).

Source: *Miller & Company P.C.*

Missile Proliferation

On December 19, the State Department issued a “notice of designation” for three Chinese entities that are allegedly engaged in activities related to missile proliferation: General Tech. Ltd., Beijing Luo Luo Tech. Development Co. Ltd., and Changzhou Utek Composite Company Ltd. 88 Fed. Reg. 87836 (Dec. 19, 2023).

Source: *Miller & Company P.C.*

Diving Into Trouble

The U.S. Court of Appeals for the 11th Circuit has upheld the conviction and 57-month sentencing of Peter Sotis, majority owner of



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diving equipment company Add Helium, for ignoring BIS advice and attempting to ship rebreathers to Libya without a license. U.S. v. Sotis, No. 22-10256 (Dec. 20, 2023).

Source: Miller & Company P.C.

EAPA Xanthan Gum Finding

CBP has found reasonable suspicion exists that Adi Chemtech entered merchandise covered by the antidumping duty order on xanthan gum from China by transshipping covered merchandise through India. CBP has commenced a formal investigation under the Enforce and Protect Act (EAPA) and imposed interim measures.

Source: Miller & Company P.C.

Russia Sanctions

- President Biden issued Executive Order (EO) 14114 on December 22. The EO expands U.S. sanctions authorities against foreign financial institutions that facilitate significant transactions involving designated parties or designated items for Russia's military-industrial base. OFAC has posted a list of those items, related general licenses, a compliance advisory, and FAQs.
- CBP has issued guidance on the filing requirements for Customs entries and FTZ admissions of fish, seafood, alcoholic beverages, and other products subject to EO 14068, as amended by EO 14114. CSMS #58813725 (Dec. 22, 2023).

Source: Miller & Company P.C.

Unverified List

BIS has issued a Final Rule that added 13 Chinese entities to the Unverified List (UVL). The companies were added after BIS was unable to verify end uses following end use checks in China. 88 Fed. Reg. 87897 (Dec. 20, 2023).

Source: Miller & Company P.C.

Yearling FTZ Filings

Foreign-Trade Zone Operators on a calendar year management basis are reminded of the following annual filing and reauthorization requirements for the new year:

- FTZ Yearly Blanket CBP Form 216 Renewal
- CBP FTZ Annual Reconciliation, Systems Review, and Certification Letter (along with any necessary CBPF 214 or Customs Entry)

All FTZ Operators must submit the FTZ Annual Board Report on a calendar year basis.

Source: Miller & Company P.C.

China Forced Labor

- CBP has posted a new attachment that has been included with Detention Notices under the Uyghur Forced Labor Prevention Act (UFLPA). It includes examples of documentation importers may submit to obtain a release.
- At a January 11 House Homeland Security Subcommittee hearing, Labor Department Deputy Undersecretary for International Affairs Thea Lee testified that seafood may be added to the list of priority enforcement targets under UFLPA. Current priority targets are cotton, polysilicon, and tomatoes.
- China has sanctioned the U.S. data intelligence company Kharon (which provides data used by some companies to conduct forced labor and restricted parties' due diligence), a Kharon researcher, and a former human rights researcher.
- China has claimed the December Uyghur Human Rights Policy Act report "spread false stories" on Xinjiang and interfered in China's internal affairs.

Source: Miller & Company P.C.

2024 Penalties & Fees

U.S. federal agencies have issued Final Rules announcing annual penalty and fee increases due to inflation:

- Penalties for FTZ Act violations increase to \$3,558/day. 88 Fed. Reg. 89300 (Dec. 27, 2023).
- Commerce has announced penalty increases for International Emergency Economic Powers Act (IEEPA) violations to \$368,136 and for Export Controls Act of 2018

violations to \$364,992. 88 Fed. Reg. 89300 (Dec. 27, 2023).

- OFAC has announced increases in the maximum penalties under the International Emergency Economic Powers Act (IEEPA) to \$368,136 and under the Trading with the Enemy Act (TWEA) to \$108,489. 89 Fed. Reg. 2139 (Jan. 12, 2024).
- CBP previously announced that the maximum per entry Merchandise Processing Fee (MPF) increased to \$614.35 for fiscal year 2024. 88 Fed. Reg. 48900 (July 28, 2023).

Source: Miller & Company P.C.

2023 BIS Enforcement

BIS has issued a review of 2023 enforcement actions that reveals BIS had its highest number of convictions, temporary denial orders (TDOs), and post-conviction denial orders in 2023. It also completed over 1,500 end-use checks and added 465 entities to its Entity List.

Source: Miller & Company P.C.

SAP FCPA Penalty

German software company SAP SE has agreed to a \$100 million settlement with the Security Exchange Commission (SEC) and faces a \$118.8 million criminal penalty upon entering into a prosecution agreement with the Department of Justice (DOJ) for Foreign Corrupt Practices Act (FCPA) violations from December 2014 to January 2022 related to bribing government officials in countries including South Africa, Indonesia, Kenya, Ghana, Malawi, Azerbaijan, and Tanzania.

Source: Miller & Company P.C.

President's Export Council

BIS has announced the re-establishment of the President's Export Council Subcommittee on Export Administration and is requesting nominations for membership by February 8. 88 Fed. Reg. 1064 (Jan. 9, 2024).

Source: Miller & Company P.C.

AGOA Changes

On December 29, President Biden issued Presidential Proclamation 10692, reinstating Mauritania as a beneficiary sub-Saharan country under the African Growth and Opportunity Act (AGOA) and terminating AGOA beneficiary country status for Gabon, Niger, Uganda, and the Central African Republic. 89 Fed. Reg. 437 (Jan. 4, 2024).

Source: Miller & Company P.C.

U.S. CIT On EAPA

The U.S. Court of International Trade (CIT) has found it lacked subject matter jurisdiction to hear a challenge to CBP entry liquidations pursuant to an antidumping duty evasion investigation under the Enforce and Protect Act (EAPA) because the importer had failed to protest the liquidations. Royal Brush Mfg., Inc. v. U.S., CIT Slip Op. 23-177 (Dec. 15, 2023).

Source: Miller & Company P.C.

Russia Smuggling

The owner of a Kansas business, KanRus Trading Company Inc., has pleaded guilty to conspiring with others to smuggle U.S. origin avionics equipment to end users in Russia and other foreign countries, as well as failing to file and filing false export documents with the U.S. government. The owner faces a maximum of 25 years in prison.

Source: Miller & Company P.C.

No AD/CVD Evasion

CBP has determined that Muller Import Inc. and U.S. Castings Inc. did not evade anti-dumping and countervailing duty orders on cast iron soil pipe and fittings. While the alleged argued that CBP should impose "adverse inferences," CBP noted that its evaluation of the alleged Indian transshipment facility and gaps in the record did not produce substantial evidence of transshipment.

Source: Miller & Company P.C.

Section 232 Steel/Aluminum

The U.S. and European Union (EU) have agreed to continue the tariff-rate quota (TRQ) system to exempt imports of EU steel and aluminum from Section 232 25% and 10% duties through



December 31, 2025. There are no substantive changes to aggregate EU TRQs and previously-granted Section 232 product exclusions will be extended.

Source: Miller & Company P.C.

Section 232 Exclusions

On February 15, CBP will begin deactivating some Section 232 product exclusions once they reach 95% capacity. This policy change follows a GAO report that importers have exceeded exclusion limits without paying duties. This policy only applies to exclusions for: non-quota countries, EU countries subject to 232 TRQs, and countries subject to both Section 232 tariffs and quotas. All other Section 232 exclusions will remain at the 100% threshold for deactivation. CSMS #58942510 (Jan. 5, 2024).

Source: Miller & Company P.C.

Section 232 Extension

- The U.S. Trade Representative (USTR) has further extended the 352 reinstated product exclusions and 77 COVID-related product exclusions that were previously extended through December 31, 2023. The exclusions now run through May 31, 2024. A public comment period will run from January 22 to February 21. 88 Fed. Reg. 90225 (Dec. 29, 2023).
- CBP did not implement these extensions until January 4, so importers who entered qualifying goods between January 1 and January 4 should file Post Summary Corrections (PSCs) to obtain duty refunds. CSMS #58869963 (Dec. 29, 2023).

Source: Miller & Company P.C.

Section 301 Litigation

The U.S. Government has filed its response brief in the Court of Appeals for the Federal Circuit (CAFC) litigation challenging China Section 301 Lists 3 and 4A tariffs. The deadline for lead plaintiffs to file a reply brief is February 12.

Source: Miller & Company P.C.

ACE PGAs & EPA HFCs

CBP has announced Partner Government Agency (PGA) programming deployments on

January 16, including the EPA hydrofluorocarbon (HFC) “EH1” and “EH2” flags, which will generate rejections. CSMS #58769730 (Jan. 11, 2024).

Source: Miller & Company P.C.

CTPAT Pilot Bill

A bipartisan bill (H.R. 6876) was introduced in the House on December 19 that would create a Customs Trade Partnership Against Terrorism (CTPAT) pilot program for third-party logistics providers.

Source: Miller & Company P.C.

Chem Weapons and Pharma

BIS has requested comments on the impact of the Chemical Weapons Convention (CWC) regulations on commercial activities involving “Schedule 1” drugs. BIS is trying to understand whether legitimate interests of commercial chemical, biotechnology, and pharmaceutical firms are being harmed. Comments are due by January 19. 88 Fed. Reg. 88049 (Dec. 20, 2023).

Source: Miller & Company P.C.

Drawback Records

CBP has issued a ruling that neither of two sets of provided documents were sufficient proof of export for drawback purposes because they did not adequately establish the export of the items or the identity of the exporter. HQ H311759 (Nov. 28, 2023).

Source: Miller & Company P.C.

