TRADE NEWS WEEKLY

January 22-January 26, 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 *Sandler, Travis & Rosenberg P.A.*, which tracks news and events related to global trade. Other news sources may occasionally be included where indicated.

Free Trade Agreements

A Yonhap article reports that Guatemala has formally signed a deal to join South Korea's free trade agreement with Costa Rica, El Salvador, Panama, Honduras, and Nicaragua, which took effect in March 2021. The agreement is expected to be implemented in the second half of 2024.

According to a BNN article, Hong Kong has signed a protocol to amend its FTA with the Association of Southeast Asian Nations by enhancing the product-specific rules of origin. This will expand the coverage of the agreement from about 200 categories of products to nearly 600, including jewelry, drugs, food products, and textile goods.

Source: Sandler, Travis & Rosenberg, P.A.

Testing And Labeling Requirements For Footwear And Flooring Under Consideration

The Consumer Product Safety Commission is accepting comments through April 22 on a petition requesting that the CPSC mandate testing and labeling regarding the slip resistance of commercial- and residential-grade floor coverings, floor coatings, and treatments; residential and commercial floor cleaning agents; and consumer footwear.

According to the CPSC, the petitioner is requesting not that any level of slip resistance be mandated bur rather that these products be tested for their coefficient of friction and then labeled with the resulting information. However, the CPSC notes that it denied the petitioner's two previous efforts to secure such a rule because (1) the petitions did not establish an association between slip-and-fall incidents and particular types of flooring, (2) there was a lack of consistency and accuracy in test methods used, (3) there was insufficient information in the petitions to indicate that a high coefficient of friction decreased the risk of slips and falls, and (4) a labeling requirement would be insufficient to address the hazard because a coefficient of friction is likely only one of several factors involved in slips and falls.

Source: Sandler, Travis & Rosenberg, P.A.

Turnover At USTR

The Office of the U.S. Trade Representative is seeing the departure of a number of senior officials, which could affect efforts to pursue ongoing and potential new trade initiatives. Chief of staff Heather Hurlburt will depart January 26, with senior advisor Jamila Thompson replacing her on an interim basis. General Counsel Greta Peisch left earlier this month and her deputy, Juan Millan, is acting in her stead. Press reports indicate that Deputy USTR Sarah Bianchi will leave in the next few weeks.

Deputy USTR Jayme White left the agency in 2023 and President Biden has now announced his intention to nominate Nelson Cunningham to replace him. Cunningham helped lead the McLarty Associates consulting firm for 25 years after serving in the Clinton administration as special advisor on Western Hemisphere affairs.

Source: Sandler, Travis & Rosenberg, P.A.

Japan Supply Chain Talks

During a January 10 phone conversation, Commerce Secretary Gina Raimondo and Japanese trade minister Saito Ken discussed efforts to improve supply chain resiliency as well as follow-on matters from an August 2023 U.S.-Japan-Korea summit. Raimondo also expressed her desire to work closely with Saito to operationalize the Indo-Pacific Economic Framework supply chain agreement and finalize the IPEF clean economy and fair economy agreements.
Source: Sandler, Travis & Rosenberg, P.A.

CBP Global Trade Specialist

The House of Representatives approved Jan. 18 H.R. 5862, which would create a global trade specialist position within U.S. Customs and Border Protection "to ensure the agency is responding faster to combat trade cheats like China who try to exert an unfair economic advantage over American workers and undermine America's trade laws."
Source: Sandler, Travis & Rosenberg, P.A.

Duty Refund/Shortfall Interest Rates Remain High

U.S. Customs and Border Protection has updated its list of the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties.

For the quarter January 1 through March 31, 2024, the interest rates for overpayments remain seven percent for corporations and eight percent for non-corporations, and the interest rate for underpayments remains eight percent.

These rates were most recently increased in the fourth quarter of 2023 and are at their highest level since the last quarter of 2007.
Source: Sandler, Travis & Rosenberg, P.A.

Import Restrictions On Material From China Extended

U.S. Customs and Border Protection has extended through January 14, 2029, the import restrictions on certain archaeological material from China. The designated list of goods covered includes the following types of items.

- ceramic vessels, sculpture, and architectural decorations and molds.

- jade ornaments and jewelry; weapons, tools, and insignia; ceremonial paraphernalia; and vessels.

- other stone tools and weapons, sculpture, architectural elements, and musical instruments.

- bronze vessels, sculpture, coins, musical instruments, and tools and weapons.

- various articles of iron, gold, silver, bone, ivory, horn, shell, silk, textiles, lacquer, wood, bamboo, paper, and glass.

Source: Sandler, Travis & Rosenberg, P.A.

Carbon Tariffs

The Senate Environment and Public Works Committee voted January 18 to advance the Providing Reliable, Objective, Verifiable Emissions Intensity and Transparency Act (S. 1863), which would direct the Department of Energy to study and report on the greenhouse gas emissions released during the production of various commodities in the U.S. and other countries. A Politico article notes that this study "could help pave the way to impose carbon tariffs" on imported goods if it shows "U.S. companies' relative carbon advantage."
A bipartisan group of lawmakers wrote to U.S. Trade Representative Katherine Tai January 17 to encourage her to make renewal of the World Trade Organization's moratorium on customs duties on electronic transmissions a top priority at the upcoming WTO ministerial conference. The moratorium, which covers electronic transmissions of both digital goods (music, movies, video games, etc.) and services (software, emails, etc.) has been in place since 1998 and was most recently extended in June 2022. The lawmakers said that if the moratorium is not renewed "governments around the world would be free to impose tariffs and other trade barriers on numerous American industries that transmit products and services electronically and rely heavily on the free flow of

data around the globe, including manufacturing, agriculture, entertainment, software, financial services, semiconductors, aerospace, autos, robotics, and medical devices."
Source: Sandler, Travis & Rosenberg, P.A.

Forwarders, Brokers, Others Responsible for Ensuring Sanctions Compliance

A new compliance note from five federal agencies emphasizes that companies that move cargo have a responsibility to ensure their services are not being used to evade U.S. export and sanctions laws. The agencies said this note marks their first collective effort to inform the private sector about enforcement trends and provide guidance on compliance with these laws.

The note states that individuals and entities directly participating in and enabling the global transport of goods – vessel owners, charterers, exporters, managers, brokers, shipping companies, freight forwarders, commodities traders, and financial institutions – "must be responsible" for assessing their risk profiles for potential violations; implementing rigorous, internal compliance controls to mitigate those risks; and taking any other steps necessary to verify the true nature, origin, and destination of cargo being transported.

"Those who move cargo play a key role in helping to prevent sensitive goods and technologies from falling into the hands of proliferators, terrorists, and other malign actors," said Assistant Secretary of Commerce for Export Enforcement Matthew Axelrod. "Across the federal government, we are united in our message – if you have a role in moving cargo, you have a responsibility to ensure your services are not being exploited by those who would do this country harm."

Assistant Attorney General for National Security Matthew Olsen stressed that the federal government "will hold accountable companies that do not maintain rigorous compliance programs and violate the law." Brad Smith, director of the Office of Foreign Assets Control, added that engaging with those seeking to evade sanctions "not only risks civil penalties for U.S. companies, but also non-U.S. companies that cause U.S. persons to violate sanctions." To emphasize the potential consequences the note lists the five agencies' various enforcement authorities as well as a number of criminal prosecutions and civil actions the U.S. has already brought.
Source: Sandler, Travis & Rosenberg, P.A.

Seafood Import Monitoring Program

A bipartisan group of senators recently wrote to the Department of Commerce to express concern about its decision to withdraw a proposed regulation that would have expanded the Seafood Import Monitoring Program. Citing an International Trade Commission study finding that the U.S. imported more than $2.4 billion worth of illegal seafood in 2019, the senators encouraged the DOC "to use this opportunity to implement a stronger, more comprehensive and transparent rulemaking process and rule" that expands the SIMP, includes forced labor as a criterion for including species in the program, and makes other changes.
Source: Sandler, Travis & Rosenberg, P.A.

CBP Announces Changes To Section 321 Shipment Test

U.S. Customs and Border Protection is modifying an ongoing test designed to expedite the entry of low-value shipments. This test was launched in September 2019 and will continue until further notice.

The test allows Section 321 shipments (those imported by one person on one day and having an aggregate fair retail value of $800 or less in the country of shipment) to be entered via informal entry type 86 in the Automated Commercial Environment, resulting in faster clearance. CBP states that this test allows it to address the growing volume of Section 321 shipments resulting from the increasing use of e-commerce and to utilize a low-value entry process for Section 321 shipments subject to partner government agency data requirements for the first time.

CBP has experienced enforcement challenges in the course of this test related to its efforts to prevent imports of illicit substances, counterfeits and other goods violating intellectual property rights, and goods made with forced labor.

To address these problems CBP is making the following modifications to the test, effective February 15.

- requiring entry type 86 to be filed prior to or upon, rather than within 15 days of, cargo arrival.
- clarifying that only specified regulations are waived under the test and that all others (e.g., those allowing CBP to require formal entry) remain in force.
- clarifying the types of misconduct by test participants that may result in civil and criminal penalties, administrative sanctions, or liquidated damages.

Source: Sandler, Travis & Rosenberg, P.A.

Both Imports and Exports Fall

The monthly U.S. trade deficit in goods and services reversed a recent trend and fell slightly in November, down 2.0 percent, as exports and imports both declined. For the year to date the total U.S. trade deficit was down 18.4 percent from the same period in 2022, with exports up 1.0 percent and imports down 3.6 percent.

Imports slid 1.9 percent, to $316.9 billion, from October to November. Imports of goods were down 2.3 percent to $257.4 billion, with decreases of $1.9 billion for cell phones and other household goods, $1.4 billion for drugs, and $700 million for drilling and oilfield equipment, along with an increase of $1.5 billion for crude oil. Services imports lost 0.2 percent to $59.6 billion.

Exports fell 1.9 percent in November to $253.7 billion. Exports of goods were down 3.1 percent to $168.0 billion, with decreases of $1.9 billion for non-monetary gold, $1.0 billion for crude oil, and $700 million for organic chemicals. Services exports advanced 0.7 percent to $85.7 billion.

With exports and imports both down, the monthly U.S. trade deficit decreased from $64.5 billion in October to $63.2 billion in November. The deficit in goods trade was down 0.7 percent to $89.4 billion while the services trade surplus rose 2.7 percent to $26.2 billion.

Source: Sandler, Travis & Rosenberg, P.A.

Japanese Poultry Restriction

Effective January 5, the Department of Agriculture's Animal and Plant Health Inspection Service has restricted the importation of poultry, commercial birds, ratites, avian hatching eggs, unprocessed avian products and byproducts, and certain fresh poultry products originating from, or transiting Gifu Prefecture in Japan based on a determination that highly-pathogenic avian influenza exists in domestic birds in this area.

Processed avian products and byproducts originating from or transiting any restricted area, imported as cargo, must be accompanied by an APHIS import permit and/or government certification confirming that the products were treated according to APHIS requirements. Further, importation as cargo of fresh, unprocessed shell/table eggs and other egg products, void of the shell (i.e., liquid eggs, dried egg whites), originating from or transiting any restricted zone is prohibited unless the products are consigned from the port of arrival directly to an APHIS-approved breaking and pasteurization facility. An import permit and/or certificate is not required for these shipments when consigned directly to an APHIS-approved establishment.

Source: Sandler, Travis & Rosenberg, P.A.

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