

TRADE NEWS WEEKLY

April 15–April 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.**, Kansas City, MO., which tracks news and events related to global trade. Other news sources may occasionally be included where indicated.

Vague Cargo Descriptions

U.S. Customs and Border Protection (CBP) has implemented cargo messaging to communicate with entry filers if shipments have “vague non-compliant cargo descriptions.” Vague descriptions include “gift,” “accessories,” “parts,” “necessities,” and “consolidated.” The messages are usually to be sent via ACE after Cargo Release. Brokers and importers are expected to correct the issue with the shipper and bill of lading issuer for future shipments. CSMS #60144714 (April 11, 2024).

Source: Miller & Company P.C.

China EV WTO Challenge

China has challenged U.S. Inflation Reduction Act (IRA) tax credits for electric vehicles (EVs) at the World Trade Organization (WTO), alleging that they violate WTO “most-favored nation treatment” rules by discriminating against Chinese origin products. U.S. Trade Representative (USTR) Katherine Tai has responded by noting China’s use of unfair, non-market policies and practices to undermine fair competition.

Source: Miller & Company P.C.

BIS & OFAC Controls

The Bureau of Industry and Security (BIS) has issued a Final Rule that expands end-user controls to add license requirements on all items subject to the Export Administration Regulations (EAR) for persons designated as Specially Designated Nationals (SDN) under eleven Office of Foreign Assets Control (OFAC) sanctions programs. 89 Fed. Reg. 20107 (March 21, 2024).

Source: Miller & Company P.C.

China 301 Shipbuilding

A petition was filed on March 12 asking USTR to initiate a Section 301 investigation into China’s practices in the maritime, logistics, and shipbuilding sector which burden or restrict U.S. commerce. Among other remedies, the Section 301 petition urges a U.S. port fee on China-made vessels. USTR has until April 26 to decide to initiate an investigation.

Source: Miller & Company P.C.

China Chip Controls

BIS has issued a new Interim Final Rule, effective April 4, that adds to and revises the controls on advanced computing items and semiconductors that were issued in October 2023. Revisions include the license exceptions Advanced Computing Authorized (ACA) and Notified Advanced Computing (NAC), the controls applied to certain Export Control Classification Numbers (ECCNs), and the model certificate for the Foreign Direct Product (FDP) Rule. BIS is accepting comments through April 29. 89 Fed. Reg. 23876 (April 4, 2024).

Source: Miller & Company P.C.

New AES License Codes

Census has updated the Automated Export System (AES) to create License Type Code C67 for license exception Notified Advanced Computing (NAC) when notice is required and License Type Code C68 for license exception NAC when no notice is required.

Source: Miller & Company P.C.



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CBP 2024 Summit

News from the U.S. Customs and Border Protection (CBP) Trade Facilitation and Cargo Security Summit in Philadelphia on March 26-28 includes:

- CBP is structuring a new export electronic manifest program that should streamline and expedite the export process. A major advantage is that, unlike Census AES filings, it will require export carrier engagement and prove export from the U.S. Clients are encouraged to join the pilot program.
- CBP announced a plan to institute a large-scale export enforcement structure that would target exports for exams at land, sea, and airports. Plans are underway to increase the size of Centralized Examination Station (CES) facilities at all major ports to handle the increased volume of CBP exams.
- The Department of Homeland Security (DHS) Center for Countering Human Trafficking (CCHT) works to counter human trafficking and the importation of goods made with forced labor. Knowingly importing merchandise made with forced/child labor has serious implications, including criminal penalties.
- CBP indicated that ACE 2.0 will not replace ACE 1.0. ACE 2.0 will use “distributed technology.” There will be no changes/upgrades to ACE Reports as the software will not be replaced any time soon. CBP confirmed that there is no funding for ACE 2.0 in 2024 and probably 2025.
- CBP would like to replace the Manufacturer Identification code (MID) with the Global Business Identifier. There is currently no timetable or funding for this vision.
- Dr. Laura Murphy, Advisor to Department of Homeland Security (DHS) Policy Office said that the Uyghur Forced Labor Prevention Act (UFLPA) Entity List will grow by more than 10 entities in the coming months.

Source: Miller & Company P.C.

Cargo Diversion

CBP has reminded that for unanticipated cargo diversions, the port of entry cannot be changed

in an entry that has been accepted by CBP. The Entry Summary must be cancelled, and a new entry filed at the new port. CSMS #60069598 (April 5, 2024).

Source: Miller & Company P.C.

Russian Metals

OFAC issued two separate determinations on April 12. The first is that the prohibitions in Executive Order (E.O.) 14068 apply to imports of aluminum, copper, and nickel of Russian origin produced on or after April 13, 2024. As a result, imports and Customs entries, including U.S. foreign trade zone (FTZ) admissions, of Russian aluminum, copper, and nickel are prohibited unless provided by law or licensed or authorized by OFAC. The second determination is that the prohibition on new investment in E.O. 14071 applies to warranting services and acquisition services for Russian aluminum, copper, and nickel, so export, re-export, sale, and supply of such services from the U.S. or by U.S. persons is prohibited. OFAC plans to issue regulations. Meanwhile, it has issued Frequently Asked Questions (FAQs). FAQ 1170 provides guidance on the scope of covered metals by HTS classification. CSMS #60167806 (April 12, 2024).

Source: Miller & Company P.C.

Avionics Charges

Oleg Chistyakov, a Latvian national, was arrested and is awaiting extradition back to the United States. Mr. Chistyakov allegedly was part of a conspiracy to sell U.S. made avionics to sanctioned Russian entities. If convicted, Mr. Chistyakov could spend over 20 years in prison.

Source: Miller & Company P.C.

Russian Sanctions Evaders

On March 25, OFAC announced it had placed 13 entities and 2 individuals on its Specially Designated Nationals (SDN) List. These entities were added for their role in offering financial services to entities attempting to avoid U.S. sanctions on Russia.

Source: Miller & Company P.C.

Russian Parts Scheme

Two Russian nationals living in Florida pled guilty to attempting to send U.S.-origin aircraft parts to Russian airlines. They used phony non-



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U.S. buyers to hide the actual customer and routed payments via a Turkish bank. They have already been placed on the Denied Persons List and face up to 20 years in prison).

Source: Miller & Company P.C.

Entity List Additions

BIS has issued a Final Rule adding six Chinese, three Russian, and two UAE entities to the Entity List. They were added for acquiring and attempting to acquire U.S.-origin items in support of Chinese military modernization, procuring aerospace components for use by Iran and Russia, supporting Russian unmanned aerial vehicles (UAVs), and exports and attempted exports to Iran. 89 Fed. Reg. 25503 (April 11, 2024).

Source: Miller & Company P.C.

Textile Enforcement

The Department of Homeland Security (DHS) has outlined an enhanced textile enforcement strategy including: increased scrutiny of Section 321 de minimis shipments; conducting joint CBP and Homeland Security Investigations (HSI) trade special operations, including physical inspections document reviews, and country of origin, isotopic, and composition testing; issuing civil penalties and conducting criminal investigations; conducting customs audits and textile production verification team visits; and expanding the UFLPA Entity List.

Source: Miller & Company P.C.

Forced Labor Charges

An importer has filed a Complaint with the Federal Maritime Commission (FMC) against FedEx Trade Networks, Mediterranean Shipping, and Total Terminals for alleged violations of the Shipping Act related to \$11.3 million in demurrage, detention, chassis, and per diem charges for 202 containers detained by CBP for forced labor under Withhold Release Orders.

Source: Miller & Company P.C.

Work Gloves WRO

On April 10, CBP issued a Withhold Release Order (WRO) covering work gloves made by Shanghai Select Safety Products and two of its subsidiaries based on information that

reasonably indicates the use of convict labor in production operations.

Source: Miller & Company P.C.

Census ACE Reports

Census has announced that, effective March 22, 10 additional data elements were added to Automated Export System (AES) reports in the Automated Commercial Environment (ACE). These additional data elements include: USPPI contact name, forwarder name, unit of measure, late file indicator, license type code, and license number.

Source: Miller & Company P.C.

Supply Chain Policy

USTR will hold public hearings on May 14 (St. Paul, MN), 23 (virtual), and 28 (New York, NY) to gather information on advancing U.S. supply chain resilience for use in trade negotiations, enforcement, and other initiatives. Requests to appear are due by April 24 and post-hearing comments are due by June 4. 89 Fed. Reg. 23079 (April 3, 2024).

Source: Miller & Company P.C.

Antidumping Protest

CBP Headquarters has denied an importer's Protest that challenged the assessment of antidumping duties (AD) based on the date the merchandise arrived in the Dallas port of entry limits, notwithstanding that the customs broker elected an earlier entry date on the CBP Form 3461 and the merchandise first arrived at the Port of Los Angeles before moving in-bond to Dallas. CBP reasoned that the Customs Regulations provide that merchandise is not authorized for release until it has arrived within port limits with the intent to unladen, and an entry cannot legally be deemed filed or presented until the merchandise arrives at the port where it will be unladen and entered. HQ H336408 (Jan. 25, 2024).

Source: Miller & Company P.C.

Pesticide Smuggling

The U.S. Attorney's Office for the Eastern District of California has charged California beekeeper Paulo Perez-Mendoza with conspiracy to receive and sell pesticides that were smuggled into the U.S. from Mexico.

Source: Miller & Company P.C.



Spyware Controls

On March 18 at the Summit for Democracy in Seoul, Korea, six additional countries committed to control commercial spyware that can be used by authoritarian governments to suppress opponents, civil liberties, and democracy. These six countries join 11 countries, including the U.S., that previously agreed to control such software, technology, and equipment.

Source: Miller & Company P.C.

Excise Tax

The U.S. government has brought suit at the U.S. Court of International Trade (CIT) against E-Dong U.S.A., Inc., alleging that it improperly classified imports of soju, a Korean alcoholic beverage, and failed to pay federal excise tax on imports from 2017 to 2020. U.S. v. E-Dong, U.S.A. Inc., CIT Case No. 24-cv-00066 (March 8, 2024).

Source: Miller & Company P.C.

DDTC Best Practices

The Directorate of Defense Trade Controls (DDTC) has issued a new white paper of best practices and recommendations for universities and R&D centers. One best practice is a centralized compliance function reporting to internal legal and the president.

Source: Miller & Company P.C.

Foreign Trade Barriers

USTR has published its annual report on foreign trade barriers, highlighting Chinese tariff-rate quota and VAT rebate policies impacting agricultural commodities, “Made in China 2025” policies, and the failure to accept U.S. motor vehicle safety standards in several export markets.

Source: Miller & Company P.C.

Capsules Origin

CBP has issued a Notice of Final Determination that the country of origin of certain Omega-3 capsules is Norway for government procurement purposes. The reasoning is consistent with prior Customs rulings and determinations on pharmaceutical origin but is noteworthy because the Norwegian active pharmaceutical ingredient was made into finished dosage form

capsules in China. 89 Fed. Reg. 23036 (April 3, 2024).

Source: Miller & Company P.C.

Beat It

After pleading guilty, a former CBP employee has been sentenced to one year probation by the U.S. District Court for the Western District of North Carolina for illegally selling a Customs declaration form signed by Michael Jackson.

Source: Miller & Company P.C.

DIS Status Message

CBP now can send users “accepted” or “under review” status messages for documents submitted in the Document Image System (DIS). Previously, status was only provided for rejections. CSMS #59950256 (March 26, 2024).

Source: Miller & Company P.C.

Threatened Species

U.S. Fish and Wildlife Service (FWS) has issued a long Final Rule, effective May 6, that revises its regulations protecting endangered and threatened species. Changes include reinstating the “blanket rules” options for protecting newly listed threatened species. 89 Fed. Reg. 23919 (April 5, 2024).

Source: Miller & Company P.C.

