TRADE NEWS WEEKLY

April 22-April 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.

Economic Sanctions On Iran Expanded

The Biden administration announced April 18 additional economic sanctions against Iran in the wake of its drone attack on Israel earlier this month and its continued military cooperation with Russia.

The Department of Commerce - Bureau of Industry and Security (BIS) is imposing additional export controls to further restrict Iran's access to low-level technologies such as basic commercial-grade microelectronics. BIS said this action will cut off a wider range of items from reaching Iran, including items manufactured outside the U.S. that are produced using U.S. technology. BIS already imposes comprehensive export restrictions on Iran, including controls targeting Iran's involvement in supplying unmanned aerial vehicles in support of Russia's war against Ukraine.

In addition, Treasury's Office of Foreign Assets Control is imposing sanctions against (1) 16 individuals and two entities enabling Iran's UAV production, (2) five companies in the United Arab Emirates, Hong Kong, Turkey, and Europe that provide component materials for steel production to an Iranian steel producer or purchase its finished steel products (because steel exports generate significant revenue for the Iranian government), and (3) three subsidiaries of an Iranian automaker that have continued to materially support entities designated pursuant to counterterrorism authorities.

Under the sanctions, all property and interests in property of the designated persons that are in the U.S. or in the possession or control of U.S. persons are blocked and must be reported to OFAC. In addition, any entities that are owned, directly or indirectly, individually or in the aggregate, 50 percent or more by one or more blocked persons are also blocked. Unless authorized by a general or specific license issued by OFAC, or exempt, all transactions by U.S. persons or within (or transiting) the U.S. that involve any property or interests in property of designated or otherwise blocked persons are generally prohibited.

In addition, financial institutions and other persons that engage in certain transactions or activities with the sanctioned entities and individuals may expose themselves to sanctions or be subject to an enforcement action. These prohibitions include the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any designated person, or the receipt of any contribution or provision of funds, goods, or services from any such person.
Source: Sandler, Travis & Rosenberg, P.A.

House Advances Key Trade Bills

De Minimis

The End China's De Minimis Abuse Act (H.R. 7979, introduced April 15 by Rep. Murphy, R-N.C., and approved April 19 by the House Ways and Means Committee) would (1) prohibit the use of de minimis entry for imports subject to antidumping or countervailing duties and/or Section 301, Section 232, or Section 201 tariffs, (2) add a new 10-digit HTSUS classification requirement for all de minimis entries from countries subject to Section 301 tariffs, and (3) establish new civil penalties ($5,000 for the first violation and $10,000 for subsequent violations) for de minimis violations. According to press reports, Ways and Means rejected a proposal to prohibit all imports from China from utilizing de minimis entry.

The U.S. Foreign-Trade Zone Parity Act (H.R. 8059, introduced April 17 by Reps. Wenstrup, R-Ohio, and Correa, D-Calif.) would allow companies operating in FTZs to utilize de minimis entry procedures.

GSP
The GSP Reform Act (H.R. 7986, introduced April 15 by Rep. Smith, R-Neb., and approved April 19 by Ways and Means) would renew the Generalized System of Preferences through Dec. 31, 2030, retroactive to its Dec. 31, 2020, expiration. According to a committee press release, the bill would also (1) permanently ban China from GSP, (2) increase the competitive needs limitation from $215 million to $500 million to incentivize supply chain shifts out of China and "toward trusted allies," (3) increase the GSP rule of origin from 35 to 50 percent over time while incentivizing additional U.S. content in GSP-eligible products, (4) create new country eligibility criteria related to agricultural exports, digital trade, and labor and environmental issues, (5) remove countries with growing military and economic ties with China, and (6) establish an expedited petition process for adding products to, or removing them from, GSP eligibility

Forced Labor
The Stop China's Exploitation of Congolese Children and Adult Forced Labor Through Cobalt Mining Act (H.R. 7981, introduced April 15 by Rep. Smith, R-N.J., and approved April 19 by Ways and Means) would require the Forced Labor Enforcement Task Force to lead a comprehensive investigation into the use of forced labor in the cobalt mining industry of the Democratic Republic of the Congo and develop a strategy to ensure that cobalt mined by forced labor does not enter the U.S. market. A one-pager on this bill states that this investigation "will identify what products and priority sectors the U.S. government should apply its Section 307 prohibition [on imports made with forced labor] and will consider the risk of transshipment or downstream products that potentially reenter the U.S. through a third country." A press release from Smith's office notes that China processes 90 percent of the world's cobalt, which is used to power electric vehicles, solar panels, and other green products, and that Chinese entities reportedly have ownership stakes in 15 of the DRC's 19 cobalt mines.

In an April 16 letter, the two leaders of the House Select Committee on the Chinese Communist Party urged Secretary of State Antony Blinken to "expand and elevate U.S. diplomatic efforts to combat [Chinese] state-sponsored forced labor." The letter welcomed the import bans that some allies and partners have imposed on Chinese goods made with forced labor but expressed concern that they fall short of the standards in the Uyghur Forced Labor Prevention Act and are therefore "leading companies to build two separate supply chains." Diplomatic efforts should first focus on the European Union and the United Kingdom, the letter said, "which some have described as 'dumping grounds' for these products that are otherwise banned for importation into the United States."
Source: Sandler, Travis & Rosenberg, P.A.

CBP, Trade Community Working To Improve CTPAT

U.S. Customs and Border Protection is continuing to work with the trade community to further improve administration of the Customs Trade Partnership Against Terrorism.

Now in its 23rd year, CTPAT has more than 11,400 members accounting for more than half (by value) of all cargo imported into the U.S., including importers, exporters, customs brokers, carriers, ocean transportation intermediaries, foreign manufacturers, and others. The Senate approved last year a bill to create a pilot program allowing third-party logistics providers to participate as well, and similar legislation has been introduced in the House.

The program includes CTPAT Security, in which partners take steps to ensure supply chain security, and CTPAT Trade Compliance, which allows importers to assume responsibility for monitoring their own compliance with trade laws and regulations. To be approved, companies must meet minimum security criteria across 12 categories, including risk assessment, business partners, procedural and physical security, and cyber security. In return, participants receive benefits that can reduce regulatory burdens and mitigate enforcement actions.

In 2023 CBP's Commercial Customs Operations Advisory Committee recommended that CBP offer four additional benefits for CTPAT participants: (1) a standard set of user-friendly CTPAT validation/revalidation preparation documents, (2) relieving CTPAT Trade Compliance members subject to a risk analysis and survey assessment of the responsibility to provide underlying company information already provided in the annual notification letter/memorandum of understanding, (3) adding a field to the ACE protest module that indicates CTPAT Trade Compliance membership to ensure that member protests are given priority, and (4) giving CTPAT members access to a dashboard of information that demonstrates evidence of benefits; e.g., showing faster resolution of exams, front of the line treatment, etc.

At a COAC meeting earlier this month the committee's Trade Partnership and Engagement Working Group said it is now focusing on CTPAT Security while continuing efforts to enhance CTPAT Trade Compliance. One area of emphasis will be standardizing the validation process, and toward that end the working group (1) has been expanded to include a CBP supervisory supply chain security specialist to provide knowledge about the validation process, (2) has focused its discussions on validations and opportunities for efficiencies, (3) is reviewing validation materials provided by CBP, and (4) is discussing audit mechanisms and requisite information with representatives from CBP Regulatory Audit.

Other issues the working group intends to address this year include (1) proposing a strategic interagency partnership engagement approach to trusted partners, (2) reviewing current benefits and proposing actionable additional benefits, and (3) reviewing metrics that evaluate and quantify benefit effectiveness for industry and government.
Source: Sandler, Travis & Rosenberg, P.A.

Current Trade Talks

China

Treasury Secretary Janet Yellen traveled to China recently to meet with a number of senior officials on the bilateral economic relationship. According to a Treasury Department press release, Yellen reiterated U.S. concerns about China's non-market policies and practices and noted signs of increasing overcapacity in certain sectors of the Chinese economy. However, the two sides also agreed to hold "intensive exchanges" on balanced growth in the domestic and global economies and to expand cooperation on combatting money laundering in their respective financial systems.

WTO

The Office of the U.S. Trade Representative issued to World Trade Organization members April 4 a communication intended to advance discussions on ways trade policies can support efforts to address climate change. According to USTR, this communication (1) proposes that discussions at the WTO focus on how the various trade-related climate policies countries are already implementing can complement each other and avoid working at cross purposes, (2) identifies certain areas of climate-related discussions that are more advanced at the WTO and can be deepened and lead to positive outcomes, and (3) encourages WTO members to draw upon work already underway in other international bodies to avoid duplication of efforts.
Source: Sandler, Travis & Rosenberg, P.A.

Exports To 11 More Entities Restricted

The Bureau of Industry and Security has issued a final rule that, effective April 11, adds six entities in China, three in Russia, and two in the United Arab Emirates to the Entity List.

These entities are being added for (1) transshipping controlled items through the UAE to Iran, (2) acquiring U.S.-origin items in support of China's military modernization efforts, (3) supporting Russia's military, or (4) procuring aerospace components for Iran.

For the listed entities BIS is imposing a license requirement for exports of all items subject to the Export Administration Regulations and a license application review policy of denial (other than for food and medicine designated as EAR99) or presumption of denial. BIS is also designating five of these entities as Russian or Belarusian military end-users, which subjects them to the associated foreign direct product rule.

Shipments of items removed from eligibility for a license exception or for export, reexport, or transfer (in-country) without a license (NLR) as a result of this rule that were en route aboard a carrier to a port of export, reexport, or transfer on April 11 pursuant to actual orders for export, reexport, or transfer to or within a foreign destination may proceed to that destination under the previous eligibility before May 13. Any such items not actually exported, reexported, or transferred before midnight on May 13 will require a license in accordance with this rule.
Source: Sandler, Travis & Rosenberg, P.A.

US-Japan Commit To Accelerating Cooperation

At the third ministerial meeting under the Japan-U.S. Commercial and Industrial Partnership held April 10 in Washington, D.C., senior officials committed to accelerating cooperation toward achieving more transparent, robust, and sustainable supply chains, including addressing non-market policies and practices, and cooperating on current-generation and legacy semiconductors. They also agreed to continue cooperation on export controls to address national security threats and protect critical and emerging technologies from abuse by malign actors.
Source: Sandler, Travis & Rosenberg, P.A.

Philippines Announces Luzon Economic Corridor

At an April 11 summit the leaders of the U.S., Japan, and the Philippines announced their intent to develop the Luzon Economic Corridor, which will support connectivity between Subic Bay, Clark, Manila, and Batangas in the Philippines by accelerating coordinated investments in rail infrastructure, port modernization, clean energy and semiconductor supply chains, and agribusiness.

Commerce ministers from the three countries also met April 11 to discuss opportunities for potential trilateral trade and investment collaboration, including in the areas of critical minerals supply chains, semiconductors, Open RAN deployment, clean energy, and infrastructure development.
Source: Sandler, Travis & Rosenberg, P.A.

Classification Change For Protein Powder

In the April 10, 2024, Customs Bulletin and Decisions, U.S. Customs and Border Protection is reclassifying rice protein powder as a food preparation under HTSUS 2106.10.00 (6.4 percent duty) instead of as a protein substance under HTSUS 3504.00.5000 (4 percent duty). Ruling HQ H315652 will modify ruling NY N308405 to reflect this change, effective with respect to goods entered or withdrawn from warehouse for consumption on or after June 10.

The product at issue is a rice protein powder consisting of 80 percent or greater rice protein on a dry basis. The remaining 20 percent consists of residual materials of the protein extraction process such as ash, moisture, and fat. The protein is imported in 20 kg poly-lined paper bags and sold to food manufacturers for use as an ingredient in various food applications, including bars, chips, protein blends, ready-to-drink beverages, and dips.
Source: Sandler, Travis & Rosenberg, P.A.