



## Global Trade Advisory Alert

### In Case You Missed It: Recent US Import and Export Developments

Several regulatory and policy developments occurred over the past several weeks and during the holiday period that impact the global trade activities of many US importers and exporters.

As further described below, the federal government and various federal agencies—including US Customs and Border Protection (“CBP”), the US Trade Representative (“USTR”), and the US Departments of Commerce, State, and Treasury—have all taken actions, or proposed future actions, that have or will potentially impact US import and export activities and that companies should carefully consider in the new year.

#### US Import Developments

- US Dairy Action

On 9 December 2020, the USTR requested consultations with Canada based on the United States-Mexico-Canada Agreement (“USMCA”) dispute settlement system concerning Canada’s dairy tariff rate quotas. The US alleges that, by reserving a percentage of quantities to Canadian dairy processors, Canada has violated USMCA terms.

- 232 Tariff Exclusions Updates

On 14 December 2020, the US Department of Commerce’s Bureau of Industry and Security (“BIS”) published a new

category of General Approved Exclusions from Section 232 tariffs impacting 108 HTS classifications from the Section 232 tariffs on steel products and 15 classifications from the Section 232 tariffs on aluminum products. These items are now excluded from the Section 232 tariffs, but unlike prior exclusions, these exclusions cannot be retroactively applied.

- New Import License System for Aluminum Imports

On 23 December 2020, the US Department of Commerce indicated that new licensing requirements for the import of aluminum will take effect on 25 January 2021. Starting 4 January 2021, importers of aluminum can use a new online portal to submit information to receive an automatically issued license, then submit the license number with the entry summary documentation.

- USMCA Technical Fixes

On 27 December 2020, the Consolidated Appropriations Act, 2021, became law. This legislative package included technical fixes to the implementing statutes for the USMCA, which included the restoration of merchandise processing fee refunds for post-entry USMCA claims and returns the treatment of goods manufactured in a foreign trade zone and entered into the US to the treatment previously applied under the North American Free Trade Agreement.

- Withhold Release Orders (“WROs”) on Palm Oil and Seafood

On 30 December 2020, CBP issued a WRO on select palm oil products produced in Malaysia. Similarly, on 31 December 2020, CBP issued a WRO on certain tuna and seafood harvested in Taiwan. WROs can result in one or multiple shipments being detained.

- 301 Tariff Exclusion Expirations and Extensions

On 31 December 2020, most exclusions from Section 301 tariffs on Chinese-origin goods expired. The USTR, however, extended a limited number of exclusions on goods used to treat COVID-19 and expanded these exclusions to cover additional personal protective equipment until 31 March 2021.

- Generalized System of Preferences (“GSP”) Expiration

As a result of the latest expiration of GSP preferential tariff treatment on 31 December 2020, duties must be deposited on GSP eligible goods entered or withdrawn from warehouses into the US from 1 January 2021. Historically, the GSP has periodically expired only to be later renewed with retroactive application. For this reason, CBP has encouraged importers to continue utilizing the applicable special program indicator for GSP when entering or withdrawing goods to facilitate processing if the GSP is renewed retroactively and duty refunds become available.

- Increase in Section 301 Tariffs on French and German Goods

On 4 January 2021, the USTR imposed additional Section 301 tariffs on aircraft manufacturing parts, non-sparkling wine, and certain cognac and grape brandies from France and Germany. Effective 12 January 2021, such aircraft parts will be subject to an additional 15 percent tariff, while wines and brandies will be subject to an additional 25 percent tariff.

- Suspension of Planned Section 301 Tariffs on French Goods

On 7 January 2021, the USTR suspended the Section 301 supplemental tariffs of 25 percent on certain products of French origin that were scheduled to go into effect on 6 January 2021. These tariffs were to be levied in response to France's imposition of a three percent Digital Service Tax ("DST") in 2019. They have been deferred while the USTR considers ten other similar DST investigations involving other countries.

### **US Export Developments**

- New Turkey Sanctions

On 14 December 2020, the US Department of Commerce's Office of Foreign Assets Control ("OFAC") imposed sanctions on the Republic of Turkey's Presidency of Defense Industries and four other individuals under Section 231 of the Countering America's Adversaries Through Sanctions Act for its acquisition of the Russian-made S-400 surface-to-air missile system from Rosoboronexport.

- Chinese Companies/Institutions Added to Entity List

On 22 December 2020, the BIS announced the addition of several Chinese corporate and academic institutions to the BIS Entity List. The agency specifically targeted technologies produced by listed entities that were deemed "uniquely capable" of producing semiconductors at 10 nanometers in size or below.

- BIS Adds New Military End User List

On 23 December 2020, the BIS amended the Export Administration Regulations ("EAR") by adding a new Military End User List that includes the entities determined to be "military end users" for purposes of the control in the EAR that applies to specified items for exports, reexports, or transfers (in-country) to the People's Republic of China, Russia, and Venezuela when such items are destined for a "military end user."

- OFAC Guidance on Communist Chinese Military Companies

On 28 December 2020, OFAC released Frequently Asked Questions ("FAQs") on Executive Order ("EO") 13959, which prohibits US persons from purchasing securities of Communist Chinese Military Companies ("CCMCs"), effective 11 January 2021. In conjunction with issuing these FAQs, OFAC also issued a list of, and identifying information on, entities identified as CCMCs according to EO 13959.

### **Potential Future Actions**

- Section 321 De Minimis Customs Entries

On 23 December 2020, the Senate Finance Committee submitted a letter to challenge the Office of Management and Budget's proposed rule to carve out items subject to Section 301 tariffs from Section 321 de minimis entry provisions. The Senate Finance Committee claimed that this rule would require a comprehensive review and a 60-day public comment period. The proposed rule change has yet to be published publicly.

- Vietnam Section 301 Investigation Hearings

On 28 and 29 December 2020, the USTR held public hearings covering the Section 301 investigations of Vietnam’s alleged import and use of illegal timber and alleged currency manipulation. Post-hearing rebuttal comments are due on 5 and 6 January 2021, after which time the USTR may initiate tariff actions on either or both investigations.

### How we can help

Deloitte’s Global Trade Advisory specialists are part of a global network of professionals who can provide specialized assistance to companies in global trade matters. Our professionals can help companies seeking to manage the impacts and potential impacts of the developments described above.

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