View this email in your browser

Lowenstein Sandler

Trade Matters

Lowenstein Sandler's Global Trade & National Security Newsletter

May 2022

Share:

1. Get Ready: U.S. Ban on the Import of Xinjiang Goods Goes Into Effect on June 21

In late December 2021, President Joe Biden signed the Uyghur Forced Labor Prevention Act (UFLPA). The new law creates a rebuttable presumption that any goods created in whole or in part in the Xinjiang Uyghur Autonomous Region of China (Xinjiang) have been made using forced labor and are therefore banned from entering the United States. The ban, which goes into effect on June 21, will apply to all goods with Xinjiang-origin inputs, regardless of sector, country of export, or country of origin. Customs and Border Protection (CBP) has announced that it will issue known importer letters to importers the agency has identified as having previously imported merchandise that may be subject to the UFLPA. CBP aims to issue these letters in advance of June 21. However, all importers should be reviewing their supply chains to identify and replace Xinjiang inputs/suppliers and to compile documentation demonstrating that none of their products are linked to Xinjiang or to forced labor.

2. China Section 301 Tariffs To Be Reviewed

The United States Trade Representative (USTR) has announced the start of a mandatory review of the China Section 301 tariffs. The USTR will notify representatives of domestic industries that benefit from the tariff actions through letters to interested parties that previously submitted comments in support of the tariff actions and through the issuance of a Federal Register notice. Requests for continuation must be submitted prior to the four-year anniversary of the action, which is July 6.

3. Suspension of Normal Trade Relations With Russia

Contact Us

for more information about any matters in this newsletter:

Doreen M. Edelman
Partner
Chair, Global Trade & National Security
202.753.3808
dedelman@lowenstein.com

Laura Fraedrich
Senior Counsel
202.753.3659
lfraedrich@lowenstein.com

Abbey E. Baker
Counsel
202.753.3806
abaker@lowenstein.com

Andrew Bisbas
Counsel
202.753.3807
abisbas@lowenstein.com

Jeffrey B. Jones
Counsel
202.753.3769
jejones@lowenstein.com

and Belarus

Biden has suspended normal trade relations with Russia and Belarus. Beginning on April 9, imports originating from Russia and Belarus will be ineligible for the most-favored nation (MFN) tariff rates the United States currently applies to imports from all World Trade Organization member countries. Instead, imports originating from Russia and Belarus will be subject to the duty rates set forth in “Column 2” of the Harmonized Tariff Schedule of the United States, which average approximately 32.3 percent (versus an average MFN rate of 3.3 percent). The suspension remains in effect until Jan. 1, 2024. Note that a companion law now also prohibits the importation of oil, gas, and coal from Russia.

4. Russian Crypto Mining Biz Target of Sanctions

On April 20, the Treasury Department’s Office of Foreign Assets Control (OFAC) targeted Russia’s virtual currency mining industry in an effort to ensure no asset becomes a mechanism for the Putin regime to offset the impact of economic sanctions. Russian virtual currency company Bitriver AG and 10 Russia-based subsidiaries were designated by OFAC. Those doing business in crypto mining and trading should review and update their compliance procedures accordingly.

5. U.S. Offers $5 Million for Help Curbing North Korea Cyber Ops

The Department of State’s Rewards for Justice Program announced that it will pay up to $5 million for information that helps authorities disrupt North Korea’s illicit actions in cyberspace. This announcement came after the FBI linked a March cyberattack against Axie Infinity, which resulted in the theft of more than $620 million, to North Korean hacking group Lazarus. OFAC announced new sanctions against an ethereum wallet belonging to Lazarus that allegedly holds the stolen funds.

6. FTC Charges Battery Maker in First Case Under New Made in USA Labeling Rule

The Federal Trade Commission is alleging that Lithionics Battery LLC has falsely claimed its battery and battery module products were made in the USA since 2018. The products were marketed using phrases and American flag images to convey a Made in USA marketing message, but the FTC alleges the products were actually made in China. The proposed settlement includes a civil penalty of $105,000. This is the first enforcement action under a revised rule implemented by the agency last year that prohibits marketers from including unqualified Made in USA claims on labels unless 1) final assembly or processing of the product occurs in the United States; 2) all significant processing that goes into the product occurs in the United States; and 3) all or virtually all ingredients or components of the product are made and sourced in the United States.

TRADE TIP OF THE MONTH: Take Note: AML compliance does not necessarily cover U.S. economic sanctions requirements.

Christian C. Contardo
Associate
202.753.3804
ccontardo@lowenstein.com

Megan C. Bodie
Administrative Coordinator
202.753.3809
mbodie@lowenstein.com

OFAC's strict liability sanctions requirements apply to all U.S. parties, not just financial institutions and financial services companies. These requirements are not the same as AML requirements. Effective OFAC compliance requires every U.S. party 1) to screen each and every entity that it does business with around the world and 2) to have geolocation blocks for embargoed countries and the three embargoed regions in Ukraine. Companies also should keep screening paperwork for five years.

Additional Resources

- **Client Alert:** "Material Investment Management Developments and Template Annual Compliance Checklists for Registered Investment Advisers, Exempt Reporting Advisers, Commodity Pool Operators, Commodity Trading Advisors and Private Fund Managers"
  May 5, 2022
  Investment Management Client Alert
  Scott H. Moss, Brian A. Silikovitz, Rachel Ingwer, Mary J. Hildebrand CIPP/US/E, Andrew E. Graw, Doreen M. Edelman, George Danenhauer
- **In the Media:** "This law firm created a program to connect startups to federal government contracts"
  April 21, 2022
  Technical.ly
  Jeffrey B. Jones
- **Client Alert:** "Notable Russia and Belarus Trade Controls in Response to the Ongoing Conflict in Ukraine – April 11, 2022 Update"
  April 11, 2022
  Global Trade & National Security Client Alert
  Doreen M. Edelman, Abbey E. Baker, Andrew Bisbas, Christian C. Contardo
- **Article:** "Tips for Managing Supply Chain Trade Issues in 2021"
  November 2, 2021
  Supply & Demand Chain Executive
  Doreen M. Edelman, Christian C. Contardo

Follow us on:

lowenstein.com

NEW YORK PALO ALTO NEW JERSEY UTAH WASHINGTON, D.C.