



# TRADE MATTERS

## Lowenstein Sandler's Global Trade & National Security Newsletter

October 2024

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### 1. Vehicle Connectivity System (VCS) Hardware and Software From China May Be Restricted From United States

The U.S. Commerce Department is soliciting comments on a [proposed rule](#) to prohibit importing and selling Vehicle Connectivity System hardware and software designed, developed, manufactured, or supplied by persons owned by, controlled by, or subject to the jurisdiction or direction of the People's Republic of China, including the Hong Kong Special Administrative Region and the Russian Federation.

### 2. Industry Guidance To Prevent Russia Sanctions and Export Control Evasion

The G7 countries published [updated guidance](#) for businesses to help prevent Russia from evading U.S. export controls and sanctions. The guidance not only includes the list of 50 Harmonized System tariff codes applicable to items that cannot be exported to Russia (commonly referred to as the List of Common High Priority Items) but also advises companies about red flags that indicate that potential export or sanctions evasion may occur; recommends due diligence best practices; and provides a list of screening tools to assist companies with due diligence in their transactions. Such guidance indicates the regulators' compliance expectations. Businesses in all parts of the supply chain should review and train employees to be aware of and implement the recommendations in the guidance as appropriate to their risk profiles. Employees need to scrutinize export documentation and end-use certificates to identify potential forgery or evasion and escalate potential red flags to leadership as soon as possible.

### 3. Nippon Steel and U.S. Steel Transaction Review Extends Beyond November Election

Nippon Steel and U.S. Steel pulled their joint Committee on Foreign Investment in the United States (CFIUS) filing and plan to refile. The new filing will give CFIUS an additional 90 days from the date the companies refile to review the transaction and

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approve, propose mitigation measures, and/or make a recommendation to the President.

#### 4. OFAC Clarifies Process of Designating Parties Without Fully Blacklisting Them

The Department of the Treasury's Office of Foreign Assets Control (OFAC) published a [final rule](#), effective September 17, clarifying three ways OFAC may designate someone without fully blocking them. OFAC can (1) identify specific property or interests in property that are blocked when related to a blocked party; (2) block specific property or interests in property of a person who is not already blocked but for whom an OFAC investigation for potential designation is pending; and (3) partially block specific property or interests in property without imposing full blocking sanctions on an entity. Depending on the circumstance, OFAC may publish notice of its designations in the Federal Register or may instead directly notify the person affected by a more tailored prohibition.

#### 5. OFAC Sanctions Recordkeeping Requirement Will Increase From 5 to 10 Years On September 13

OFAC published an [interim final rule](#) to amend its Reporting, Procedures and Penalties Regulations extending recordkeeping requirements for certain transactions from five to 10 years consistent with the revised statute of limitations for violations that went into effect in April. Effective March 12, 2025, every person engaging in transactions subject to OFAC's programs must keep "a full and accurate record of each such transaction" for a period of 10 years after the transaction. Accordingly, companies should update their compliance materials and change contract terms moving forward.

#### 6. State Department Releases Updated Risk Advisory for U.S. Companies Doing Business in Hong Kong

On September 6, five U.S. government agencies issued an [update](#) to the July 2021 Hong Kong Business Advisory to highlight the heightened business risks associated with actions taken by the Chinese government and the Hong Kong Special Administrative Region authorities. Businesses operating in Hong Kong, as well as individuals located there, are subject to China's National Security Law (NSL) and Hong Kong's recent Safeguarding National Security Ordinance (SNS Ordinance). These laws are broadly construed and may implicate routine business activities. If suspected of violations, U.S. businesses and individuals could be subject to exit bans, arrests, seizure of any electronic devices without warrants, asset freezes, wiretaps, and/or electronic surveillance.

#### 7. Customs and Border Protection (CBP) Is Now Rejecting Vague Cargo Descriptions

Beginning October 7, CBP began [rejecting](#) shipments with vague cargo descriptions in Air Cargo Advance Screening (ACAS). If CBP determines a cargo description is not sufficient, importers will receive warning and rejection notifications. CBP has provided [guidance](#) on what are considered unacceptable cargo descriptions.

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The United States Trade Representative (USTR)'s 2024 NTE Report which lists foreign barriers to U.S. exports of goods, services, and investments has sparked controversy due to USTR limiting what trade barriers are included in the report. This shift has led to criticism for omitting certain barriers like digital trade. Thus, USTR is seeking early input for the 2025 NTE Report, with comments due by October 17. See the broad list of reportable business concerns and detailed filing instructions [here](#).

### TRADE TIP OF THE MONTH

Recent antiboycott enforcement penalties from the Commerce Department are a reminder to report any reportable boycott requests by foreign parties. All U.S. persons have a proactive obligation to report requests to the Office of Antiboycott Compliance. If you do receive a request and mistakenly comply, a disclosure to the Commerce Department should be considered as part of a risk analysis.

### Additional Resources

- **Client Alert:** "District of Oregon Holds Corporate Transparency Act Likely Constitutional; Denies Preliminary Injunction"  
September 23, 2024  
*Investment Management Client Alert*  
Robert A. Johnston Jr., Melissa L. Wiley, Paula A. Ladd, Ryan E. Fennell, Samantha Sigelakis-Minski
- **Client Alert:** "USTR Finalizes Section 301 Tariff Modifications Following Four-Year Review"  
September 20, 2024  
*Global Trade & National Security Client Alert*  
Doreen M. Edelman, Andrew Bisbas, Kei Komuro
- **Client Alert:** "The BIOSECURE Act: Proposed New Legislation Could Affect U.S. Companies' Plans to Contract With Chinese Biotechnology Companies"  
March 18, 2024  
*Capital Markets & Securities Client Alert*  
James C. Shehan, Daniel C. Porco

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