The Fashion Jewelry & Accessories Trade Association

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FJATA NEWSLETTER

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SECTION 301 DUTY EXTENTIONS AND USTR PLAN FOR US-CHINA TRADE RELATIONSHIP

Oct. 4th screenshot of USTR Katherine Tai announcing plans for U.S.-China trade relationship

The long-anticipated Biden Administration China trade policy was announced October 5, 2021 on a webcast attended by FJATA. USTR Katherine Tai made the statement, adding that they are utilizing public comment in deciding which products will have the continued Section 301 tariff exclusions, and which will not.

In 2018, USTR placed additional duties onto four tranches of products known as Lists 1, 2, 3, 4A, and 4B. This imposed a 25% additional tariff for Lists 1-3, a 7.5% additional tariff for List 4A, and no additional tariffs for List 4B. The products under these lists made up around $550 billion of Chinese imports. The USTR allowed 549 products to be excluded from these additional duties, which were separate from the COVID-19 related exclusions. Between December 2020 and April 2021, the exclusions for the 549 products expired, leaving them subject to either a 7.5% or a 25% tax depending on their tranche. This announcement is in relation to these 549 products.

Importers of these products, which stretch over many categories such as, food products, metals, vehicles, appliances, recreational goods, etc., must submit a comment stating their stance by December 1, 2021 at the USTR Public Docket Portal found here. The USTR will take the following points into consideration when making their case-by-case decisions:

- If there is a similar product being made or can be made within the U.S. or other countries
- If there have been changes in the supply chain due to this specific product or related products
- How high demand for the product is
- If added tariffs on the products would affect economic harm to U.S. markets
- If the products are involved with Chinese industrial programs such as "Made in China 2025"

These Section 301 duty reinstatements are a part of a larger plan to reconstruct the U.S.-China trade relationship, while keeping focus on workers and strengthening the competitiveness within America. At the Center for Strategic and International Studies on October 4th, press release in full found here, USTR Tai announced the Biden Administration's four beginning steps in the reestablishment of this vital trade relationship:

1. The U.S. will honor commitments of the Phase-One agreement made under the Trump Administration which enter the U.S. into beneficial purchasing requirements ending December 31st, 2021.
2. Section 301 tariff exclusions will be decided in favor of promoting American businesses, specifically small and mid-sized. If products are available in the U.S. or other countries besides China, the tariffs of importing them from China are likely to remain.
3. The U.S. will address the fundamental concerns within the trade policies of both nations, specifically the state-centered and nonmarket trade practices of China. This step focuses on confronting the larger ongoing issues of the U.S.-China trade relationship, that the Biden Administration believes is lacking in the Phase-One agreement. To implement this, USTR Tai emphasizes the role of Section 301 tariff investigation and mentions the possibility of an investigation into Chinese subsidies.
4. The U.S. will strive to work with "like-minded partners" in facilitating fair trade and open markets that promote healthy competition and democracy. This would led to success in the U.S. economy, as well as the economy of U.S. allies.

CBP REQUESTS ADDITIONAL INFORMATION FROM IMPORTERS TO REDUCE FORCED LABOR

The continuing enforcement of withhold release orders on the forced labor occurring in Xinjiang's cotton industry have detained more than 1,000 shipments according to American Apparel and Footwear Association (AAFA) Vice President of policy Nate Herman. When attending a webinar hosted by the Thompson Hine law fire on October 5th, Herman mentions how the shipments are likely over a billion dollars in value and only few have been released.

Companies are searching for technology that will assist them in figuring out where the cotton in their products were made, either with chemical isotope tracing, DNA tagging, or DNA mapping, but there has yet to become reliable testing. If a shipment of any product is seized by the U.S. Customs Board Patrol (CBP), importers will be asked to provide the extensive specifics of the shipment. This includes information not routinely given by suppliers, like purchase orders, invoices, proof of payment, list of suppliers, daily process reports, production records, and transportation documents. This is all in efforts to deciphering if the products were a part in forced labor.

During the same webinar, a partner in international trade of Thompson Hine, Francesca Guerrero, discusses how importers should go about potentially obtaining this information from their suppliers. Adding a statement in their contracts about providing documentation would be helpful and could allow companies to seek a claim against suppliers if their response is delayed. Guerrero adds that giving additional information requires more work, and suppliers will refrain from doing so if they are not required to.

Secondly, brought up by Herman, there is much legislation in place in China that prevents them from cooperating with sanctions that may interfere with the nation’s internal affairs, sovereignty, or security. With this, the language used when requesting this information is extremely important. Herman suggests not using the words “Xinjiang” or “Uyghur”, the ethnic group native to the Xinjiang Uyghur Autonomous Region in Northwest China, so vendors will be able to comply. Keeping up to date with news and CBP related legislations is also helpful.

UNFAIR SURCHARGES INVESTIGATED BY FMC

Due to COVID-19, the demand for shipping increased immensely which caused huge delays and new, much higher rates. In response, some carriers implemented congestion related surcharges on their clients. Though this is legal, they are only allowed up to a point, and the Federal Maritime Commission (FMC) has heard word of some carriers abusing their position.

This has led the FMC to launch an investigation into the timing and legality of certain surcharges placed by ocean carriers. The eight carriers chosen, CMA CGM, Hapag-Lloyd, HMM, Matson, MSC, OOCL, SM Line, and Zim, will be asked details of the fees they gave by the Commission’s Bureau of Enforcement (BoE). Some qualities of unfair shortages would be:

- Not giving a 30-day notice of the tariffs to shippers
- A lack of clarity in the notice surrounding what triggers or terminates the surcharge
- Unjust or no given purpose of the surcharge

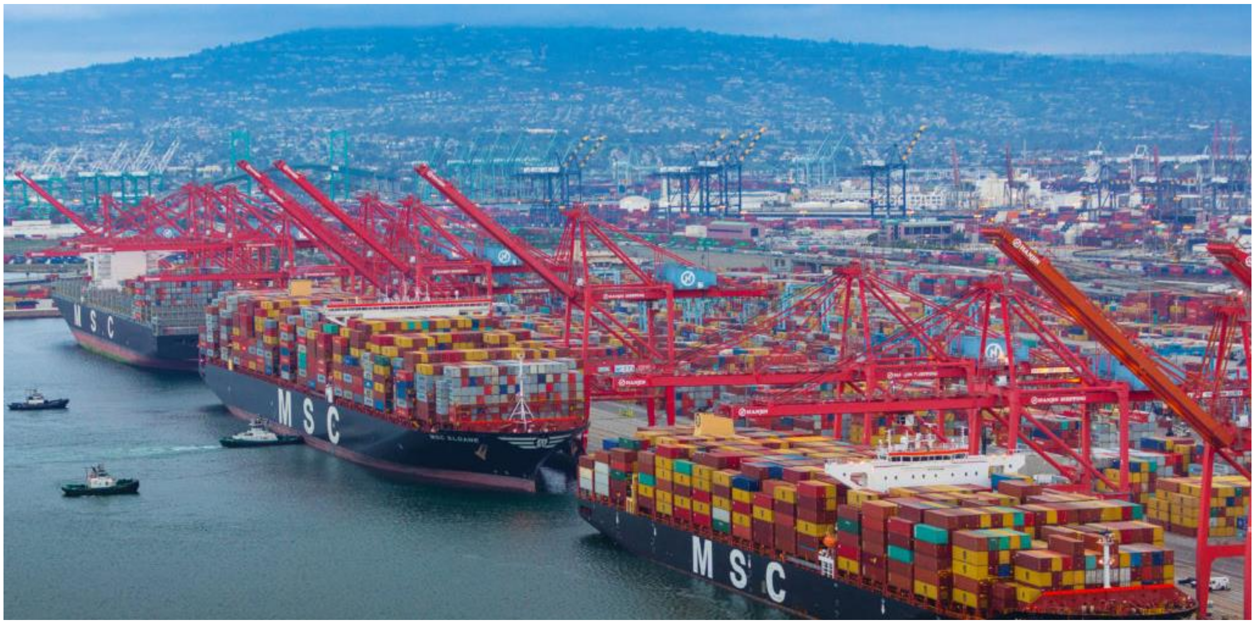
This investigation was open until August 13, 2021, and results are expected soon.

BREAK DOWN OF RECENT DUTIES

In total, the CBP assessed that around $123.5 billion in duties have been collected since the major trade remedies put into place by the Trump Administration. The following is a broken-down list of a few of the goods that have a large impact on that total.

Dollar Amount of Duties Collected	Tariff Section	Type of Goods
$108 B	301	Goods from China
$1.1 B	301	Goods from the European Union
$8.8 B	323	Steel
$2.7 B	323	Aluminum
$277 M	201	Washing machine parts
$2.7 B	201	Solar cells

L.A. AND LONG BEACH PORTS DRIVE REINVESTMENT PLAN WITH SURCHAGES ON CARRIERS



The port of Long Beach, California, the second largest port in the US after Los Angeles

Beginning November 1st, the ports of Long Beach and Los Angeles will begin implementing surcharges for import contains extended dwelling. Ocean carriers will be charged for either of the following: if containers picked up by truck dwell for nine days or more, and if containers moving by rail dwell for three days or more. Each of these offences will cost the carrier $100 per container, increasing by increments of $100 every day the container remains.

These sudden charges are a result of the ports' frustrations with their ocean carriers. Gene Seroka, the Executive Director of the Port of Los Angeles, recalls that "approximately 40% of the container on out terminals today fall into the two categories." Moving the cargo out will allow for deadlines to be met and will help the shipping industry merge back into to some level of normalcy. Executive Director of the Port of Long Beach, Mario Cordero agrees, adding how "we must take immediate action to prompt the rapid removal of containers from our marine terminals."

Prior to the pandemic, the average time a container would sit on terminals was under four days for truck pick-up and under two for rails. These numbers are much greater now, leading to a major reduction in the turnover rate, and therefore a loss of profits for the ports.

The collected fees from the November 1st surcharges will go towards port programs focused on enhancing efficiency, decongesting the terminals, and accelerating cargo velocity. This reinvestment was developed with the help of the Biden-Harris Supply Chain Disruptions Task Force, US Department of Transportation, and various supply chain stakeholders. The changes of these ports are only one piece of what the Supply Chain Disruptions Task Force is planning in order to get the shipping industry back on track.

ACTIONS OF BIDEN'S SUPPLY CHAIN TASK FORCE

President Joe Biden launched the Supply Chain Disruption Task Force in June of 2021 with the focus on improving the transportation and logistical problems facing the US economy. Government officials are conveying with local officials representing ports, businesses, and unions, and have appointed John Porcari as the Port Envoy for the Biden Administration, taking on the role of driving coordination between transportation and supply chain leaders in private firms.

The overarching goal of this Task Force is to jointly identify the country's main challenges at US ports, find realistic solution for them, and reduce the congestion and delays that currently cripple the supply chain.

The Ports of Los Angeles and Long beach are the two largest ports in the US and both are on track to reach record highs in container traffic. They are already facing major facing delays in piling backlogs, but it has been announced they will move to operate 24/7 to combat this. Fortunately, the International Longshore and Warehouse Union (ILWU) will be able to accommodate for these extra shifts. With this, they are able to almost double their productivity.

Private companies are also expanding hours to move cargo from the ships and then get more ships in as fast as possible. Many ports around the world have had weekend and night shifts available for a long time, though the US has not followed this lead. Not only is there the obvious benefit of having more hours of operation, but the port of LA finds the night shifts move 25% faster than the day.

Other commitments made due to this Task Force included:

- Walmart will increase the night shift hours and expect to increase throughput by 50% over the next several weeks.

- UPS has agreed to make operating hours 24/7 and improve communication and data sharing with ports, potentially upping the amount of containers able to be moved from the ports by 20%.
- FedEx committed to increasing night shift hours and implement more trucking and rail usage when moving containers from the port. This can double the volume of cargo able to be moved at night.
- Samsung will move to 24/7 hours of operating, allowing them to move 60% more containers from ports through the next 90 days.
- Home Depot, due to the increased hours of the LA and Long Beach ports will move up to 10% additional containers each week.
- Target agreed to increase container movement by 10% during the next 90, despite the fact they already move about 50% of containers at night.

The changes these six companies have agreed to will lead to 3,500 additional containers being moved at night each week. The Task Forces hopes these night hours will influence other companies to do the same, and will have an impact in the economic recovery of the US.

FTC FINES RESIDENT FOR FALSE US ORIGIN CLAIMS

The Federal Trade Commission (FTC) has fined Resident Home LLC, Resident for short, $750,000 after selling mattress falsely advertising they were made in the US. This charge however was not out of nowhere.

In 2018, the FTC filed a complaint against Resident after alleging their "assembled in the United States" was inaccurate. The complaint was resolved under the condition Resident would no longer make false claims, and submit a compliance report in 2019. In this report Resident's owner, Ran Reske claimed his company had never made a false claim and did not advertise to be products of US origin.

The FTC maintain their claim that from 2018 to 2020, Resident repeatedly claimed to be 100% made in the US, despite importing whole mattresses or significant pieces of mattresses from foreign countries.

In 2021, Resident made an agreement with the FTC which resulted in a $750,000 fine, and restricts the mattress firm from repeating similar claims without an obvious disclaimer stating the true nature of the products or demonstrated proof to support the claim. Resident will have to continue filing compliance reports with the FTC and notify customers of the misleading US-origin allegations.

CBP CONFIRMS AD DUTY EVASION ON HANGERS

The US Customs and Board Protection (CBP) has concluded there is substantial evidence that four importers have avoided antidumping (AD) duties by misrepresenting their country of origin as Thailand, despite the products coming from China. The products in question are steel wire garment hangers.

The investigation showed that the foreign producer would purchase semi-finished hangers from China which are subject to the AD duty order, but would, as confirmed by the Thai government, begin production until the DOC's investigation has finished. Many people within this case, such as the owners or employees, have had a history of engaging in past evasion and used false documents.

The penalties decided by the CBP are the following:

- Suspension or continued suspension of the liquidation of all subject entries
- Change entries with previously extended temporary measures to type 03 and continue their suspension
- The CBP will observe the continuous bonds of the importers and demand single transaction bonds when applicable

RECENT CAPTURED COUNTERFEIT GOODS

A team of CBP officers in Louisville, Kentucky

Counterfeit goods are continuously being caught by the US Customs and Board Protection (CBP). Here are some of the most recent and most notable incidents:

- At the port of Memphis $1.9 million of fake Chanel earrings were seized on September 30th. The shipment, labeled "Ladies Jewelry", was from the United

Arab Emirates, going to an apartment in Little Rock, Arkansas. When the US CBP inspected the package, they uncovered 50 pairs of fake Chanel earrings that, if sold at their authentic value would be worth $1.9 million.

  - On September 10th, 2,168 counterfeit watches with a market value of $57.84 million were seized in Louisville. Then on October 21st, Louisville CBP officers found another 54 fake designer watches totaling $26.86 million. All were shipped from Hong Kong and Turkey going to either Florida or Michigan.
  - Three shipments of counterfeit championship rings were seized during October in Cincinnati. The shipments, two arrived on October 5th and the last on the 13th, held 294 rings which would sell at a market value of $441,000 had they been genuine. Most of the rings were from Saudi Arabia, the rest from Singapore and United Arab Emirates, and included rings of the Pittsburgh Penguins, Los Angeles Dodger, and the Washington Nationals.

Watches and jewelry are among the most frequently counterfeited items seized by CBP. More than 25% of these fake goods originate from Hong Kong and are usually sold on underground outlets or third-party e-commerce websites. Illegal goods are often dangerous, and can reduce consumer confidence by misleading buyers. The high margins of selling fake goods allow for huge profits regularly used to fund smugglers and organized crime. Throughout 2020, a total of 26,503 shipments were seized by the CBP and contained good violating the intellectual property rights. The market value of these good would have been $1.3 billion.

AFGHAN JEWLER CONTACT

FJATA has recently been contacted by a representative for Fazel Rahman Durani, a jeweler from and residing in Afghanistan with his wife and young child. Fazel has been designing, creating, marketing, and selling jewelry for over 15 years, and has managed his own business in Kabul where he would sell pieces to Western travelers. His jewelry consists of gold, silver, and various other non-precious gemstones and makes an effort to incorporate designs relevant to the culture, history, and rustic landscape of Fazel's country.

Due to the Taliban's current control of Kabul, Fazel has been targeted for selling to Westerns and his untraditional lifestyle. He has been struggling to continue his passion and reached out to our organization asking if there were any opportunities for a student or artisan open. He speaks good English, is driven and passionate about the work he does.

If anyone would like to reach out, please contact him at his WhatsApp number, as this is an encrypted method and therefore will not be flagged by the Taliban, (+93) 785-949-508, or his email Doranyfazel@yahoo.com. The contact that reached out on behalf of him, Catherine Ostrander, can be reached with the following contacts: (+1) 202-657-4642 or Cat.ostrander@gmail.com.

ASTM JEWELRY SUBCOMMITTEE CHAIR NEEDED

The American Society for Testing and Materials (ASTM) is in need of a subcommittee chair for the ASTM F15.24 Jewelry Subcommittee. One current responsibly of this chair would be addressing how the high-powered magnets pending CPSC NPR would affect the jewelry industry. If any members are interested, please contact Ken O'Brien, FJATA Executive Director.

NOTICY FOR EYEWEAR IMPORTERS

To import eyeglasses and sunglasses into the US, the importer must give a certificate to comply with 21 CFR 801.410 which shows that the manufacturer has completed all the necessary lenses tests. Recently some certificates from outside the US have had their validity questioned, and when a US distributor tested the lenses, they found 40-70% breakage.

The FDA will be closely monitoring the coming eyewear imports to ensure the products and their certification is legitimate.

LEGISLATIVE STATUS

Click here to view a list of bills affecting our industry and any action that has occurred.

Our Mission - We continue our leadership role in legislative issues and advancing internationally recognized, sensible standards for the jewelry and accessories industries on behalf of our members.

Thanks for reading. Have any questions? Email us at executive_director@fjata.org.