



FJATA NEWSLETTER

December 2022 Edition

USMCA SECOND PHASE BEGINS JANUARY 1ST



The United States-Mexico-Canada Free Trade Agreement (USMCA), effective January 1, 2023, outlines specific rules of origin for pocket bag fabric used in blue denim apparel. This provision comes as a second phase of the initial pocket bag fabric Chapter Rule, which was effective January 1, 2022. In order to qualify for preferential tariff treatment under the USMCA, pocket bag fabric must be made from yarn that has been spun, drawn, and twisted in the United States, Mexico, or Canada. These requirements apply to woven apparel containing pockets of HTS Chapter 62 that include blue denim fabric of HTS subheadings 5209.42, 5211.42, 5212.24 or 5514.30. All clothing shipments that claim USMCA preferential treatment are subject to verification by the CBP and can potentially face penalty fees for any false claims.

The USMCA rules of origin for pocket bag fabric are designed to encourage the use of North American-produced materials in the production of blue denim apparel. In addition to the yarn requirement, the USMCA also specifies that pocket bag fabric must undergo a process of knitting, weaving, or nonwoven bonding in order to qualify for preferential tariff treatment. This provision ensures that the fabric is transformed into a

usable form in one of the USMCA countries, supporting the development of a domestic supply chain. By encouraging the use of North American-produced materials and requiring that pocket bag fabric be transformed into a usable form within the USMCA region, the agreement promotes the development of a strong and self-sustaining supply chain for this crucial component of the apparel industry.

For additional clarifying information of the USMCA update, please reach out to Anita Harris of the CBP Textile Policy Branch at anita.s.harris@cbp.dhs.gov.

LETTER TO RENEW GSP AND CHANGE CNL

FJATA has signed onto a new congressional letter written by the American Apparel and Footwear Association (AAFA) and cosigned by 300 other industry members. The letter urges congress to take action to reestablish the generalized system of preferences program (GSP) before the end of this year. The GSP program is a preferential trade program previously established by the US government to facilitate free trade with developing countries in order to better promote their economic growth. Before it was lapsed on December 31, 2020, the program helped to boost exports from a range of countries and successfully spurred their economic development. As a result of its termination at the end of 2020, US importers have decreased their interests in the diversified range of less-developed suppliers, which has significantly hindered the growth of the program's developing countries and subsequently impacted the US economy. According to the letter to Congress, "Since the expiration of GSP in 2020, American companies have paid over \$2 billion in extra taxes while also dealing with the effects of the COVID-19 pandemic, high freight costs, and supply chain disruption in both the United States and beneficiary countries. All of these issues have contributed to high and persistent US inflation". The letter further claims that the GSP program supports over 250,000 American jobs and generates billions of dollars of economic activity each year. Consignees of the letter argue that the reinstatement of the GSP program would significantly benefit both US companies and consumers. With US companies able to source their products from participating countries at significantly lower costs, the market prices of these products are kept down for consumers. Additionally, with increased access to more expansive markets, US companies are able to increase demand for their products and generate greater revenue for widespread economic growth. If Congress is not able to successfully reinstate a comprehensive GSP program before the end of 2022, industry members are advocating for them to pass H.R. 8906 in the meantime. H.R. 8906 would refund undue GSP tariffs that were assessed to companies since the program's termination at the start of 2021 through August 31, 2022.

The letter also addressed a need of adjustment in the competitive need limitation (CNL) rules. This concern was similarly proposed by Representatives Stephanie Murphy and Jackie Walorski, and relates that GSP development goals and competition are at risk if Congress does not prevent arbitrary and outdated caps from causing too many products to lose benefits. The group states that "CNLs are particularly relevant in the China context, as current rules severely constrain the volume of new trade that can move to GSP

countries.” The government is encouraging importers to find alternatives to Chinese sourcing, though these rules make the alternatives less attractive. The letter uses Indonesia as an example of this, as their top five GSP-eligible exports of this year will surpass the CNL limit.

CBP LAUNCHES GLOBAL BUSINESS IDENTIFIER PILOT PROGRAM

In coordination with 13 various government agencies, the US Customs and Border Protection (CBP) is officially launching its Global Business Identifier (GBI) pilot program in its latest efforts to improve supply chain operations. The program will examine the efficacy of single business identifiers in order to improve the government’s ability to promote safe and efficient trade across US borders. Participants of the GBI program will volunteer to use a unique alphanumeric code, known as the GBI, to identify and track their company’s shipments along the supply chain. The unique accessibility of the GBI allows companies to provide current information regarding their shipments to the CBP and accompanying government agencies in order to facilitate efficient surveillance of international trade. By providing real-time information of shipments through the GBI, members of the program can help the CBP to effectively identify any potential risks and promptly respond accordingly. AnneMarie R. Highsmith, Executive Assistant Commissioner of the CBP Office of Trade, stated: “Our hope for this pilot program is that it will give us a more complete picture of goods making their way into the US so that we can focus enforcement efforts on high-risk shipments while ensuring the free flow of legal trade that supports our economy”.

The GBI Evaluative Proof of Concept (EPoC) will invite a range of personnel from various levels of the supply chain to contribute their individual collections of identifier codes in order to coordinate a more comprehensive database of industry insight. Participants of the program will be asked to provide the CBP with three entity identifiers: (1) Data Universal Numbering System, (2) Global Location Number, (3) Legal Entity Identifier, in addition to the Manufacturer/Shipper Identification (MID) number of the current tracking system. The agency will consider the four codes in order to determine the optimal combination of identifiers that are best suited to gather critical information, such as the primary legal entity, business locations, and supply chain roles, while also harnessing the impressive system, range, and functionality of the GBI.

The GBI pilot program is expected to benefit a wide range of supply chain personnel including manufacturers, importers, exporters and logistics providers. By volunteering for the GBI program, these companies can improve the efficiency and security of their supply chain operations, ultimately leading to cost reductions and increased productivity. The launch of this program demonstrates the massive strides the industry is taking to improve supply chain visibility and promote legitimate international trade.

Companies interested in participating in the GBI pilot program can learn more and apply online through the CBP website: [here](#). Further information regarding the details of the GBI can be found on the Global Business Identifier Fact Sheet [here](#).

MARCO RUBIO RESPONDS TO ATTEMPTS TO WEAKEN UFLPA



On November 2nd, Senator Marco Rubio released a letter he wrote to the Commercial Customer Operations Advisory Committee (COAC) after hearing of their advocacy to weaken the UFLPA, an Act in which Rubio is a lead proponent of. Rubio reports how COAC promoted that data collected from vessel manifests should be confidential and “trusted” importers should be notified early on when the CBP begins to suspect a violation of the Act.

While the UFLPA may present some challenges, the Act is necessary to stop human rights violations. FJATA supports the UFLPA and condemns any efforts to dilute the purpose of the Act.

USTR EXTENDS CHINA SECTION 301 TARIFFS

On December 16th, 2022, the USTR announced an extension of 352 product exclusions in the China Section 301 Investigation. These exclusions were set to expire at the end of 2022, but now will remain until September 30, 2023. FJATA has been advocating alongside fellow trade organizations to have these exclusions extended.

Additionally, the USTR announced an extension of the 81 “COVID items” previously allotted until the end of November. They are now in action until February 28, 2023.

To encourage conversation and insight on how these tariffs effect businesses, the USTR will be taking comments through January 17, 2023. Comments should relate to Section 301 tariffs, the exclusions, and their effect on the U.S. economy.

US CHAMBER OF COMMERCE VIRTUAL AMERICAN BUSINESS EVENT

The U.S. Chamber of Commerce is hosting their State of American Business 2023 event on January 12th, 2023, 11:00am ET. This annual event will bring business leaders of all sectors and all states together to explore the challenges and opportunities that may occur in the New Year. Held virtually, the event will be dialogue driven featuring conversations with small business owners to owners of Fortune 500 executives.

U.S. Chamber President and CEO Suzanne Clark will speak on what the Chamber’s priorities are going forward, as well as touch on the government’s role in developing smart policy and the importance of business-led innovations for the future of America and American citizens.

FAKE GOODS MARKET CONTINUES TO GROW

The sale of counterfeit items has long been a problem for luxury goods companies, but it has become increasingly prevalent in recent years. With the rise of Chinese websites such as DHgate and AliExpress, it is now easier than ever for consumers to purchase inexpensive counterfeits of high-end brands.

This surge in counterfeiting has been fueled, in part, by a shift in consumer attitudes. The stigma behind owning fake products has faded, and many young consumers no longer see purchases directly from luxury brands as a moral imperative. Instead, they are more likely to show off counterfeit items to family and friends or in viral TikTok hauls to share their lucky finds with wider audiences.

This trend of counterfeiting has been exacerbated by the fact that many once-attainable luxury items, such as those from Chanel and Louis Vuitton, have experienced massive price increases and are now out of reach for a majority of middle-class consumers. As a result, these consumers are turning to counterfeits as a substitute way to access these brands.

Despite the proliferation of counterfeits, luxury goods companies have not seen any relative decline in profits in recent years. However, the counterfeit surge does pose a potential threat to the resale market, which plays a complicated role in the counterfeit conversation due to its ability to both mitigate or contribute to the problem. On one hand, resale could potentially curb the growth of counterfeits by offering consumers an alternative way to access luxury products. On the other hand, many of these resale platforms are particularly vulnerable to counterfeit fraud, as an increasing number of people claim their fake products to be legitimate.

In conclusion, luxury goods companies are facing a constant battle against counterfeiting, which has become easier and more prevalent in recent years due to the rise of fraudulent websites and changing consumer attitudes. While the profits of these companies have not yet been significantly affected, the proliferation of counterfeits remains a concern, particularly in the resale market.

FMC ACTION STEPS IN HANDLING CHARGE COMPLAINTS

Since the Ocean Shipping Reform Act of 2022 allowed shippers to challenge carrier fees by filing complaints to the FMC, more than 175 Charge Complaints have been received. On December 1st, the FMC shared the details of how each complaint is handled:

- Confirm complaint has proper information and details.
- Carrier is contacted by Commission staff and asked to justify the charge
- If the FMC concludes that the fee is not admissible
 - The Office of Enforcement will recommend that the Commission issue an “Order to Show Cause” to the carrier
 - The receiving carrier must respond with why the fees should stand and no refunds or waiving is required
 - The Commission will then make a final decision on the Order to Show Cause. Charges found to not comply will receive a refund or waiver
 - A separate civil penalty may also be initiated by the Commission
- If the FMC concludes that the fee is admissible, the shipper may still file a small claim or formal complaint
 - If the shipper prefers an alternative resolution, they can contact the Commission’s Office of Consumer Affairs and Dispute Resolution Services

While this outline of the interim procedures of a Charge Complaint is helpful, the first few cases on this will be crucial in telling how the FMC will judge complaints going forward.

. Despite the immediate enforcement of a range of burdensome regulations in just the past few months alone, legislatures and consumers are showing no mercy to the supply chain industry as manufacturers and retailers navigate these new guidelines. Some recent and ongoing cases to monitor as these defining proceedings continue to unfold include the following:

- Cosmetics industry:
 - *Brown v. Cover Girl*, New York (April 1, 2022)
 - *Anderson v. Almay*, New York (April 1, 2022)
 - *Rebecca Vega v. L’Oreal*, New Jersey (April 8, 2022)
 - *Spindel v. Burt’s Bees*, California (March 25, 2022)
 - *Hicks and Vargas v. L’Oreal*, New York (March 9, 2022)
 - *Davenport v. L’Oreal*, California (February, 22, 2022)
- Feminine hygiene products:
 - *Gemma Rivera v. Knix Wear Inc.*, California (April 4, 2022)

- *Blenis v. Thinx, Inc.*, Massachusetts (June 18, 2021)
- *Destini Canan v. Thinx Inc.*, California (November 12, 2020)

As public health groups and environmentalists continue to push legislators for increased PFAS scrutiny, it is imperative that companies remain vigilant of PFAS regulations and ensure they are in full compliance to avoid any unnecessary fines and violations. Should inadvertent violations take place, companies must ensure their legal teams are prepared to defend lawsuits for PFAS regulations across all fifty states.

‘GRAND BARGAIN’ LEGISLATIVE PACKAGE

Senators Rob Portman and Chris Coons have outlined a trade package they hope to pass in Congress within the next three weeks. The “grand bargain” as Portman has referred to it, aims to combine several trade initiatives into one package. This includes the renewal of Trade Adjustments Assistance, a limited Trade Promotional Authority that would authorize deals with Taiwan, the UK, Kenya, and Ecuador; the renewal of the Generalized System of Preferences benefits program; and a new Miscellaneous Tariff Bill.

The package also includes authorization to negotiate sector-specific plurilateral deals at the World Trade Organization, as well as improving antidumping and countervailing duty regulations in order to challenge China's unfair trade practices and prioritize the welfare of American jobs. This final point of the package is a reference to Portman's ‘Level the Playing Field Act 2.0’, which was a part of the House trade title in the Chips Act, but faced major opposition from the US Chamber of Commerce and others.

In an op-ed piece published in The Hill on December 2nd, Portman and Coons expressed optimism that a bipartisan agreement could be reached by the end of the year. They noted that several trade bills have passed either the House or Senate during this Congress, providing a range of priorities to draw upon. They also emphasized the importance of reaching a consensus now, as critical programs that have expired could potentially languish for many years if a deal is not reached.

COMMENTS OPEN FOR SECTION 301 EXTENTION

The USTR is asking for comment on a potential extension of Section 301 tariffs. Comments can be made from November 15th to January 17th and should related to one of the following issues:

- How effective are the tariffs in weakening the technology transfer, intellectual property, or innovation of China’s operations?
- Are there other actions or modification that could be more effective in reaching those objectives?
- Are there goods not subject to tariffs that should be?
- Have parts imported for U.S. manufacturing been subject to higher duties due to the Section 301 tariffs?

Additionally, the USTR would like comments on how these tariffs are effecting the U.S. economy, consumers, domestic manufacturing, technology, workers, small businesses, and supply chain resilience and recovery.

UFLPA CRACKDOWN ON MINERAL IMPORTS

China is a major global importer of critical minerals that are used in a wide range of essential industries, such as electronics, defense, renewable energy, and jewelry. These minerals, which primarily include rare earth elements, cobalt, and lithium, are essential for the production of a range of jewelry products have become increasingly important in recent years as the demand continues to grow exponentially. China has faced increased scrutiny of these imports as many speculate that the practice of forced labor is being exploited along several levels of the critical mineral supply chain. Importers of these critical minerals are at risk of being detained under the Uyghur Forced Labor Prevention Act (UFLPA). As a consequence, mineral importers across the US should be prepared to face increased surveillance from the CBP in various aspects as they continue to crack down on forced labor practices and ensure they are in compliance with all UFLPA provisions.

USMCA CAUSES INCREASE IN NEARSHORE MANUFACTURING

In accordance with provisions of the United States-Mexico-Canada Agreement (USMCA), there continues to be more nearshoring of production across the North American region. The United States-Mexico-Canada Agreement (USMCA) is a free trade agreement that replaces the North American Free Trade Agreement (NAFTA) and went into effect on July 1, 2020. The USMCA aims to modernize and improve the rules governing trade and investment between the United States, Mexico, and Canada, three of the largest economies in the world. One of the primary goals of the USMCA is to enhance economic competitiveness and support the growth of small and medium-sized businesses in the three countries. To achieve this, the agreement includes provisions on topics such as market access, intellectual property, digital trade, and labor and environmental protections.

The USMCA also includes rules of origin, which specify the minimum amount of North American content that must be used in the production of certain goods in order for them to qualify for preferential tariff treatment under the agreement. These rules are designed to encourage the use of domestic materials and support the development of a domestic supply chain in the three countries. As a result, many manufacturing companies have begun to nearshore their production processes to ensure compliance with these various rules of origin.

FMC ANNOUNCES NEW GENERAL COUNSEL

The Federal Maritime Commission (FMC) has announced Phillip “Chris” Hughey to be the General Counsel of the FMC and a member of the Senior Executive Service. This role includes providing legal advice and recommendations on regulatory and policy matter to the Chairman and Commissioners, as well as managing the Office of the General Counsel’s attorneys.

Hughey earned a J.D. and L.L.M. degree from Cornell before gaining his MPA from Harvard in 2007. This career begins with then years at the FMC, first as an attorney then Deputy General Counsel. After spending his next four years at the Federal Election Commission, Hughey served as a Foreign Service Officer from 2012-2022 where he practiced diplomacy at postings in Brazil, Kuwait, and Madagascar.

Through his career, Hughey has argued cases before the U.S. Supreme Court, the U.S. Court of Appeals for DC and Fourth Circuits, and the U.S. Court of Appeals for the Central District of California. FMC Chairman Daniel Maffei welcomes Hughey and believes his vast experiences as a litigator and prior FMC engagements will be a huge asset to the organization.

UPCOMING INDUSTRY EVENTS

New opportunities lie ahead in the new year. The following are some events great for networking and exposure. Feel free to message FJATA if more information is wanted.

Title	Date	Location
Project New York	January 24-25	Iron23, NYC
FFANY Market Week	February 6-10	NYC
Project Las Vegas	February 13-15	Las Vegas Convention Center
Magic Las Vegas	February 13-15	Las Vegas Convention Center
Sourcing at Magic	February 13-15	Las Vegas Convention Center
Coterie New York	February 21-23	Jacob Javits Convention Center (NYC)
Magic New York	February 21-23	Jacob Javits Convention Center (NYC)
Project Tokyo	March 15-16	Tokyo International Forum
Magic Nashville	May 26-27	Music City Center
FFANY Market Week	June 5-9	NYC
FFANY Market Week	July 31-August 4	NYC
FFANY Market Week	November 27-December 1	NYC

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.

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