

## NEWS IN BRIEF

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### CBP Introduces New Green Trade Strategy

Customs and Border Protection (CBP) launched the “Green Trade Strategy,” a framework to incentivize green trade, strengthen the agency’s environmental enforcement posture, accelerate green innovation, and improve climate resilience and resource efficiency.

The agency said the strategy sets up a proactive model to combat the negative impacts of climate change on the agency’s trade mission while strengthening existing enforcement activities against environmental trade crimes including illegal logging; wildlife trafficking; illegal, unreported, and unregulated fishing; and illegal mining. It also defines goals for environmentally sustainable trade policies, programs, and infrastructure within the agency.

“Climate change and its impacts on the global movement of people and goods pose new challenges to U.S. national and economic security and introduce new considerations into CBP’s trade facilitation and enforcement mission,” said CBP Commissioner Chris Magnus in a June 30 statement.

Recent studies indicate that global supply chains may account for as much as 80 percent of the world’s total carbon emissions. In addition, environmental crime represents between \$85 billion and \$265 billion in criminal revenue each year and is often linked to money laundering and the funding of transnational criminal organizations.

CBP said it is “well positioned to help develop and enforce a cleaner, more sustainable international trading environment through the agency’s influence on global supply chain practices and enforcement of laws against environmental crimes, which have devastating economic and environmental effects on local and international communities.”

The Strategy presents four strategic goals to guide CBP’s trade-related environmental activities:

- Incentivize Green Trade – provide facilitation benefits and other incentives to promote environmentally-friendly trade practices and supply chains.
- Strengthen Environmental Enforcement Posture – enforce against environmental bad actors to drive meaningful changes in trade practices.
- Accelerate Green Innovation – promote and invest in the deployment of innovative, sustainable trade practices by government and private industry.
- Improve Climate Resilience and Resource Efficiency – decrease the greenhouse gas emissions associated with CBP operations and strengthen the resilience and sustainability of trade infrastructure and assets.

CBP already enforces several environmental trade laws and practices to help combat environmental degradation, protect endangered species, and ensure American consumers and industry have access to sustainable products. With the Green Trade Strategy, the agency is looking to set an example for customs authorities around the world to develop higher, greener standards for global trade while creating an opportunity for government, industry, and the public to unify efforts in the creation of a more sustainable future.

More information on CBP’s Green Trade Strategy, including the Strategy in its entirety, can be found on CBP’s [website](#).

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## **A Quick Update on China 301 Duties**

The lists of China 301 duties are subject to expiration after 4 years. Each list will have its own review time of 60 days before expiration date based on the day of enactment of the list. The review for List 1 opened for comments on May 7, 2022 and will be open until July 7, 2022. The review for comments on list 2 opened on June 24, 2022 and will be open until August 22, 2022.

Requests for continuation of the program will most likely stop the expiration. Each list will have its own review. We have heard of reports that the USTR has received more than 300 requests from domestic companies and labor unions requesting the tariffs be extended. The review of all the comments is likely to take several months.

Additionally, we have heard of rumors and chatter this month on Section 301 China duties. Up to three actions might be taken by the Biden Administration and the Office of the US Trade Representative (USTR) in the coming weeks:

- USTR may announce that it is lifting tariffs for a relatively narrow set of products, possibly targeting certain consumer goods.
- USTR may announce a new tariff exclusion process. An exclusion process would take time to play out, as companies would have a certain amount of time to request exclusions, and then USTR would take a certain amount of time to review the requests.
- The Administration could announce a new tariff investigation under Section 301 of the 1974 Trade Act that would target sectors of the Chinese economy that are heavily subsidized by the Chinese Communist Party (e.g. high-tech products such as semiconductors and batteries) and which could result in new tariffs on similar product categories.

These actions would all be in addition to the four reviews of the China tariffs that we addressed in the first paragraph.

## **CBP has Issued a Ruling that Allows for Price Adjustments for Some Related Transactions**

U.S. Customs and Broder Protection (CBP) has just released a March 18, 2022 ruling that allows for some price adjustments reducing the transfer price due to disruption in the supply of goods. This ruling only applies to transfer pricing between related parties. The ruling includes 5 criteria that must be satisfied to make a claim. We just received information on this ruling and cannot go into details yet on how it can be applied, but for our customers using transfer pricing, you should review this with your internal team to see if this can apply to any of your imports. [Here](#) is the link to this binding ruling.

## **OSRA Update**

The Ocean Shipping Reform Act was passed in late June. It calls for regulations to be issued within 45 days; however, the Federal Maritime Commission (FMC) has stated that the rules for demurrage and detention became effective immediately when the bill was signed into law. Carriers and terminals are scrambling to prepare for OSRA requirements for billing and collecting demurrage and detention.

This week we have seen some carriers take action that demurrage be paid directly to the carrier instead of to the terminals. For the three notices we have seen, the new payment processes will take some time to be processed which might add an additional day for pick up from the terminals that service those carriers. We do expect more notices and will compile a list with the various carriers and their instructions over the next few weeks.



By **Todd Boice**, President