

### WCO Releases Final 2022 Harmonized System Tariff Nomenclature

The World Customs Organization recently [announced](#) that the final 2022 edition of the Harmonized System tariff nomenclature is now available on its [website](#). The new edition, which replaces the 2017 version, will take effect Jan. 1, though WCO HS Convention members must implement the changes in their own tariff schedules.

The 2022 HS includes “significant changes” to the tariff nomenclature, with 351 sets of amendments comprising “77 relating to the agricultural sector; 58 to the chemical sector; 31 to the wood sector; 21 to the textile sector; 27 to the base metal sector; 63 to the machinery sector; 22 to the transport sector and an additional 52 that apply to a variety of other sectors,” the WCO said. The nomenclature harmonizes classification across over 200 countries at the six-digit level, with countries free to shape their own tariff schedules at the eight- and 10-digit levels.

In the pipeline for years (see [ITT 09/16/2021](#) and [ITT 01/22/2021](#)), the tariff nomenclature changes are being made “taking into consideration public health and safety, protection of society and fight against terrorism, goods especially controlled under various conventions, food security and environment protection, technological progress, trade patterns, and clarification of the HS texts,” the WCO said.

The WCO also posted [correlation tables](#) that correlate the 2017 and 2022 editions of the HS tariff nomenclature.

“Customs administrations and regional economic communities have a huge task to ensure timely implementation of the 2022 HS Edition, as required by the HS Convention,” the WCO [said](#). “They are therefore encouraged to begin the process of preparing for the implementation of HS 2022 in their national Customs tariff or statistical nomenclatures. The WCO will step up its capacity building efforts to assist Members with their implementation.” — *Brian Feito*

### US Open to Returning India to GSP; India Will Admit Alfalfa Hay and Cherry Imports

U.S. Trade Representative Katherine Tai and Indian Trade Minister Piyush Goyal agreed to continue working to resolve outstanding trade issues “to reach convergence in the near future,” according to a [joint statement](#) released Nov. 23 at the conclusion of the India-U.S. Trade Policy Forum (TPF) in New Delhi. Both countries discussed wanting better treatment of their exports. “India highlighted its interest in restoration of its beneficiary status under the U.S. Generalized System of Preferences program; the United States noted that this could be considered, as warranted, in relation to the eligibility criteria determined by the U.S. Congress.”

One of the issues that triggered the Trump-era decision to push India out of participation in the GSP benefits program was India’s price controls on U.S. medical devices, such as stents. “The U.S. side acknowledged the work being done by the Indian side to strike a balance between access to medical devices at affordable rates and the availability of cutting-edge medical technology,” the joint statement said. “In this regard, the United States welcomed the recent application of the Trade Margin Rationalization (TMR) approach for price regulation on certain medical device products and India noted that wider application of TMR for other medical devices is under consideration by the relevant authorities.”

Both countries talked about “potential targeted tariff reductions,” the statement said. They committed to holding technical dialogues on animal health, plant health and food safety in 2022. They agreed they will finalize import facilitation for Indian mangoes and pomegranates, and for American alfalfa hay and cherries. “In addition, the U.S. agreed to work to complete India’s request for table grapes access to the United States, and India agreed to work to finalize the mutually agreed export certificate to allow the importation of U.S. pork and pork products,” the statement said.

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They also agreed to relaunch workshops to accelerate India's implementation of the WTO Trade Facilitation Agreement. The joint statement said TPF working groups have been told to develop plans of action for "specific trade outcomes" by March, and that those could be finalized in the middle of next year. The working groups cover agriculture, manufactured goods, services, investment and intellectual property. "The Ministers acknowledged the significance of creating resilient and secure supply chains. In this context, they agreed that India and the United States could, together with like-minded partners, take a leading role in developing secure supply chains in critical sectors of trade and technology," the statement said. "India also noted its interest in partnering with the U.S. and allies in developing a secure pharmaceutical manufacturing base for augmenting global supply chains."

Before India was removed from GSP in 2019, the program saved importers of GSP-eligible goods from India \$300 million annually, according to GSP advocates; according to USTR, \$5.6 billion of the program's \$21.1 billion in imports were from India in 2018, and India was the top GSP country. Almost 12% of India's exports to the U.S. were covered by GSP. — *Mara Lee*

### Cassidy Says INFORM Act Has Easier Path to Passage Than Shop SAFE

Sen. Bill Cassidy, R-La., said his INFORM Consumers Act, which would require e-commerce platforms to verify the identity of sellers of a certain size, could pass during this Congress, given that Amazon, the most prominent e-commerce player, has blessed the language in it. Cassidy, who spoke to *International Trade Today* in a phone interview, said that the fact that the House and Senate have identical language in the INFORM Act also would make it easier to get it through Congress. Senate Judiciary Committee Chairman Dick Durbin, D-Ill., is the other lead sponsor of the bill.

"We're looking for a vehicle" the bill could ride on, he said. "Right now, now that's a little bit of a challenge, but hopefully we could find one." He said, "Could there be a modification? Yes, it's not written in stone."

Cassidy said he would like the Shop SAFE Act to pass along with the INFORM Act; the Shop SAFE Act would require foreign sellers on e-commerce platforms to accept personal jurisdiction in the U.S. and allow themselves to

be served in a lawsuit (see [ITT 09/29/2021](#)), and would ask platforms to make reasonable efforts to screen for sellers who are likely to sell counterfeit goods.

Cassidy said getting Amazon's support for the INFORM Act, after it had input into the bill, has put the bill closer to becoming law. "We had draft legislation for this a year ago, last Congress, but Amazon wasn't in the right place," he said. But while stakeholders have lined up to support the revised INFORM Act, the Shop SAFE Act is in "a different place," Cassidy said. Still, he said, it's absolutely important to him to advance that bill.

Cassidy, who spoke to a conference attended by business interests that hope that the INFORM Act can cut down on shoplifters selling stolen goods online, said you have to be patient when pushing for legislation to combat illegal commerce. He said he first got involved in the issue six years ago.

"As you learn enough to write the legislation, and then you learn enough about how people react to it, in order that you can actually get it passed, and then you socialize among colleagues, both parties, both chambers."

He said the sale of counterfeits and stolen goods online has only recently been generally known as a major problem, though he noted that some trade groups have been pushing the government to crack down on the sale of counterfeit goods for 10 or 20 years, back when the primary problem was sales at flea markets or street vendors.

Cassidy said the rise of online platforms where individuals can set up virtual storefronts has extended the reach of illicit commerce. — *Mara Lee*

### Xi, Biden Discussed Phase One Agreement, With No Breakthroughs

China dwelled on trade more than the U.S. did in the countries' respective summaries of the more than three-hour call between their presidents. But one think-tank author said China would like the tariffs to go away, "but will not pay too much to make it happen."

Stephen Olson, a Hong-Kong based Hinrich Foundation fellow, also [wrote](#), "Both sides are likely looking for an ele-

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gant way to move past the Phase One agreement negotiated under the Trump administration. That agreement has failed to appreciably advance the interests of either side, but it can't simply be ignored. There must be a resolution that's palatable to both sides. The Biden team has 'boxed themselves in' somewhat by saying they intend to hold China's feet to the fire on implementation. At the same time, they recognize that the purchase commitments are never going to happen and that the tariffs are harming at least some segments of the US economy."

In China's [summary](#) of the call, it said President Xi Jinping suggested that the trade conflict between the U.S. and China is having spillover effects on the world economy. He said "the essence of Sino-US economic and trade relations is mutual benefit and win-win. When doing business, we should not politicize Sino-US economic and trade issues. ... The US should stop abusing and generalizing the concept of national security to suppress Chinese companies." He also said, "The earth is large enough to accommodate China and the United States for their own and common development. We must insist on mutual benefit, do not play zero-sum games, and do not engage you in winning or losing."

The American desire to counter China's trade-distorting industrial policy led to the tariffs, and the Chinese summary talked obliquely about that policy by saying that the U.S. and China must "respect each other's social systems and development paths, respect each other's core interests and major concerns, respect each other's development rights, treat each other as equals, manage differences, and seek common ground while reserving differences." The U.S. [summary](#) was more direct, which said President Joe Biden "was clear about the need to protect American workers and industries from [China]'s unfair trade and economic practices."

The U.S. has also ramped up its enforcement of the import ban on goods made with forced labor, and the U.S. summary said that Biden "raised concerns about [China]'s practices in Xinjiang, Tibet, and Hong Kong, as well as human rights more broadly."

A background call by a U.S. government official after the leaders' call said: "We were not expecting a breakthrough. There were none to report." The official also said that Biden

told Xi it's important that China fulfill its phase one commitments, "and [about] his desire to see real progress on the conversations that Ambassador Tai is having with her counterpart, Vice-Premier Liu He."

The Chinese summary said that Xi said China is determined to further open its market to exporters and foreign investment, and said that will surely provide countries with more opportunities. He said China will "create a more market-oriented, legalized, and international business environment."

That is what the U.S.-China Business Council is seeking, and that group said more trade talks need to be scheduled on those topics. "We greatly appreciate the two leaders' lengthy and candid discussions and their shared commitment to work toward strategic stability for the benefit of both our countries and the world. Given that US-China economic and trade ties have been a ballast of the relationship and can help manage strategic risks, we hope separate meetings will be scheduled soon to discuss economic and trade issues with China," USCBC President Craig Allen [said](#). "Such issues include reducing US and Chinese tariffs; ensuring more equitable market access for US companies; easing travel restrictions to China; fully implementing China's Phase One commitments; moving to further negotiations, including on China's subsidies of state-owned enterprises; and meeting China's WTO obligations." — *Mara Lee*

### California Ports Again Postpone New Surcharges

The ports of Los Angeles and Long Beach again postponed a new surcharge meant to incentivize the movement of dwelling containers, the two ports [announced](#) Nov. 29. The ports originally said they would begin imposing the fee Nov. 15 (see [ITT 11/03/2021](#)) but have postponed it several times (see [ITT 11/15/2021](#)). The fee will now "not be considered prior" to Dec. 6, the ports said.

The ports have seen a 37% decline in combined aging cargo on their docks since announcing the fee in October. "The executive directors of both ports will reassess fee implementation after another week of monitoring data," they said. The fee, if implemented, will impose additional charges for containers moving by truck and dwelling for nine days or more, and for containers moving by rail and

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dwelling for six days or more (see [ITT 10/28/2021](#)). — *Ian Cohen*

### West Coast Dockworkers Reject Contract Extension, Setting Up Negotiations

The International Longshore and Warehouse Union has rejected a proposal from the Pacific Maritime Association to extend its current labor contract, according to a Nov. 23 [report](#) from Bloomberg. That sets up potentially contentious negotiations between the labor union, which represents West Coast dockworkers, and terminal operators and carriers on the West Coast, amid existing supply chain challenges. The current contract, which had already been extended one year, expires mid-2022.

### FMC Hopes Supply Chain Teams Address Container Return, Delivery Issues

The Federal Maritime Commission will convene six supply chain innovation teams to find improvements in the container return and delivery process at marine terminals, the FMC [said](#) Nov. 17. The announcement, made by Commissioner Rebecca Dye this week, is aimed at “improving conditions” at the ports of Los Angeles and Long Beach in California and at the Port of New York and New Jersey. The teams will be composed of ocean carrier executives and marine terminal operators.

The teams will primarily look to help truckers conduct more “double moves,” which allow them to return an empty container to a terminal and pick up a loaded container. The teams also hope to bring “certainty and predictability to the earliest return date process,” which the FMC hopes will address exporter complaints about the “unreliability of the deadline for getting cargo to a terminal.”

“Achieving double moves for truckers would improve trucker productivity and remove a constant source of conflict over container return as well as resolve problems with appointment systems and chassis shortages,” Dye said. “Earliest return date confusion is a terrible problem for U.S. exporters. This reform would also remove the constant problem to U.S. agricultural exporters of demurrage and detention charges that are not in compliance with our interpretative rule.” The first team meetings are scheduled for Dec. 1.

### Import Alert for FSVP Non-Compliance Sees Sharp Uptick in New Listings in Last 3 Months

FDA is adding importers to its import alert for those not in compliance with the Foreign Supplier Verification Program at an ever-increasing rate, with more than half of importers subject to import refusal under the alert added within the last three months.

Of the 22 importers on [Import Alert 99-41](#) as of Nov. 26, 11 were added by FDA since Sept. 1. Six were added in September, followed by three in October and two so far in November. The import alert provides for “Detention Without Physical Examination of Human and Animal Foods Imported from Foreign Suppliers by Importers Who Are Not in Compliance with the Requirements of the Foreign Supplier Verification Program (FSVP) Regulation.”

An FDA spokesperson said that addition to the import alert results from a failure by importers to correct violations identified by FDA in an initial inspection by the time FDA returns for a second inspection. FDA began conducting FSVP inspections in 2017, “with a focus on helping importers understand the requirements and appropriate corrective actions that should be taken if deficiencies are observed,” the spokesperson said. Reinspections have been ongoing since 2019.

Importers may request removal from the import alert, and must submit information to demonstrate any FSVP compliance issues have been resolved. To date, four importers have been removed from Import Alert 99-41, the agency spokesperson said. — *Brian Feito*

### EPA Shows ‘No Flexibility’ on Upcoming Filing Requirements for HFCs, NCBFAA Says

The Environmental Protection Agency “showed no flexibility” on an upcoming requirement to submit entry data for imports of hydrofluorocarbons 14 days prior to importation (see [ITT 09/23/2021](#)), despite concerns raised by the National Customs Brokers & Forwarders Association of America at a recent meeting with the agency, the trade group said in an emailed update.

Transit time is much less than 14 days for some shipments, and the product has often not even been purchased yet by

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that time, the NCBFAA told the agency. But the 14-day time frame “is a stated requirement in the final rule,” the EPA said, according to the NCBFAA. “Presumably, the agency’s intent is that a bulk HFC product by air/truck/rail will sit at the point of origin until ACE data is transmitted and the agency has 14 days to review it,” the broker association said. “If this is the case, it will require more coordination by the importer with the foreign exporter to hold the shipment for the specified period.”

The final rule, [published](#) Oct. 5, sets up a quota system that will eventually reduce HFC production and consumption by 85% by 2036. For now, the rule only applies to bulk shipments, not products containing HFCs, the NCBFAA said. EPA said the requirements apply to foreign-trade zone and bonded warehouse entry, “though clarification is needed on when the data set is required,” the NCBFAA said.

The NCBFAA also raised concerns around a new Chemical Abstracts Service (CAS) number data element required by the final rule. Brokers can’t program their systems until the EPA provides specific instructions to CBP, and “at this late date”—implementation is Jan. 1—“it is next to impossible” to complete programming and provide guidance to vendors. “When RAC leaders asked about an initial period of ‘soft enforcement,’ EPA would not commit to any deviation from its plan,” the trade group said. “NCBFAA will continue to press this point as the deadline approaches and reality sets in.”

EPA said legislation passed last year imposed tight deadlines on the agency, “requiring the ‘rushed’ rulemaking process and leaving a lot of unanswered questions,” the NCBFAA said. — **Brian Feito**

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