

US & Multilateral Trade Policy Developments

Japan External Trade Organization

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Free Trade Agreement Highlights

USMCA Inches Forward in Congress, but Time May Be Running Short

With just weeks remaining on the 2019 congressional calendar, a potential House vote on legislation to implement the US-Mexico-Canada Agreement (USMCA) remains in doubt. Negotiations between House Democrats and the Office of the US Trade Representative (USTR) on possible changes to the USMCA remain incomplete, despite weeks of additional talks following an initial exchange of written proposals and counter-proposals in September 2019. Moreover, if the two sides are able to reach agreement in the coming weeks, other procedural hurdles likely will need to be overcome before the House would vote on a USMCA bill, raising the potential for further delays. Opposition from key Democratic constituencies, most notably organized labor, and several Democratic presidential candidates may also have reduced the political incentive for House Democratic leadership to come to an agreement with USTR and to support the final deal. Given the limited time remaining on the 2019 congressional calendar, and the possibility that the presidential election will deter consideration of the Agreement in 2020, there is a significant chance that the USMCA will not be implemented in the near-term. This alert summarizes recent developments regarding the USMCA and the potential obstacles that remain.

Status of USTR-Working Group Negotiations

Over the past month, the Working Group of nine Democrats assigned by House Speaker Nancy Pelosi (D-CA) to address USMCA issues has continued to meet with USTR, reportedly accelerating discussions following the initial exchange of USTR proposals and Working Group counter-proposals in September 2019 (please refer to the W&C US Trade Alert dated September 19, 2019.) The two sides have held meetings and exchanged written proposals more frequently in recent weeks in an effort to finalize agreements on the USMCA's treatment of labor, environmental, pharmaceutical and enforcement issues. Congressional sources have indicated that House Democrats will not settle for a "handshake deal" or "agreement in principle" with USTR but instead have demanded agreed-upon written texts in all four issue areas.

The leader of the Working Group, House Ways & Means Committee Chairman Richard Neal (D-MA), has repeatedly expressed optimism that the two sides are close to completing these agreements, and other Members have explained that the parties are now focusing on specific textual issues (e.g., the use of binding "shall" versus permissive "may") rather than high-level principles. Chairman Neal reiterated this optimism at a meeting with the Canadian government this week. Nevertheless, it does not appear that any of the four issue areas has been fully closed, and the two sides have not yet resolved the most contentious issue – binding enforcement of Mexican labor commitments. Indeed, despite his overall optimism, Chairman Neal suggested last week that USTR Lighthizer and his staff would need to engage directly with organized labor officials in order to reach a final compromise on the USMCA's labor and enforcement terms.

Congressional Consideration of Implementing Legislation

Given the aforementioned issues, it appears unlikely that USTR and the House Working Group will reach final agreements on the four core issue areas before mid-November at the earliest. This step, however, would not result in the immediate submission to Congress of the legislation needed to implement the USMCA under Trade Promotion Authority (TPA). Instead, at least two other, interrelated hurdles remain before House Democrats would agree to consider the implementing legislation: First, the USTR-Working Group agreements would need to be presented to Speaker Pelosi for her final approval. Second, USTR will likely need to conduct further negotiations with Mexico, and perhaps Canada, to obtain commitments consistent with what has been agreed between USTR and the Working Group. According to Mexican Under Secretary for North America Jesús Seade, any USTR-Working Group agreement would need to be reviewed and approved by both Mexico and Canada.

Satisfying these pre-conditions may present additional complications: for example, it is unclear whether Mexico or Canada would agree to significant changes to the USMCA without Speaker Pelosi's approval, or whether Speaker Pelosi would sign off on the agreement prior to seeing whether Canada and Mexico have responded favorably. Although neither obstacle is insurmountable, they do complicate and likely delay the implementing legislation's arrival and consideration in Congress. Mexican officials have said that their review of the USMCA changes could take time if they are not viewed as being in Mexico's interest, and that Mexico will not accept provisions permitting US inspections of specific Mexican factories, which some congressional Democrats have proposed.

Moreover, senior congressional sources have stated that House Democrats will insist on holding “mock markups” of the implementing bill to ensure transparency and to address Members’ concerns. These markups could theoretically occur while USTR is negotiating with Mexico in order to expedite the process, but such an approach again raises concerns about whether House Democrats would agree to consider the USMCA implementing bill without first having official Mexican and Canadian sign-off.

Finally, concerns remain about whether there will be sufficient support for the final USMCA implementing legislation – a question complicated by the lack of published implementing legislation. On the Democratic side, lawmakers such as House Ways & Means trade subcommittee member Bill Pascrell (D-NJ) have indicated that they will oppose the USMCA at this time due to continuing concerns about Mexico’s labor commitments, instead wishing to see whether the Mexican government will follow through in 2020 with labor reforms enacted this year. Moreover, it appears that most US labor unions could oppose the USMCA, despite the Trump administration’s attempts to include in the agreement provisions designed to obtain union support. This week, the leaders of the twelve labor groups that comprise the AFL-CIO’s Industrial Union Council (which represents more than 4.5 million workers and includes the International Association of Machinists & Aerospace Workers, the United Steelworkers, the United Automobile Workers, and United Mine Workers of America) sent a letter to Congress warning that they will oppose the USMCA unless “it is significantly improved and reflects our core recommendations” on labor and enforcement.

Several Democrats also have openly complained about the Trump administration’s approach to seeking congressional approval of the USMCA, arguing that recent public criticism of House Democrats by Vice President Pence and other senior administration officials has made many Democrats less likely to support the final bill. For example, Rep. Ron Kind (D-WI) recently criticized Vice President Pence for “politiciz[ing] USMCA when everyone is trying to get this done in an honest, bipartisan fashion.” Still other Democrats remain undecided because there is no implementing bill to consider. Rep. Haley Stevens (D-MI), for example, has expressed support for the USMCA but recently complained that lawmakers “still don’t have the materials and it’s up to the administration to produce it.”

Congressional Republicans, on the other hand, are expected to support the USMCA, in part to placate the US business community (which is actively engaged on the issue) and to support President Trump. However, given the likely extent of Democratic opposition, the administration can only afford to lose a few Republican votes, and some Republicans have recently expressed opposition, or demanded changes, to the agreement. Sen. Pat Toomey (R-PA) has already stated that he will vote against the USMCA due to its “sunset” clause, scaling-back of investor-state dispute settlement, and automotive rules of origin, and it is likely that a handful of other “free market” Republicans will oppose the agreement on similar grounds (for example, recent reports of alleged administration demands that US automakers further localize production in order to obtain special treatment under the USMCA rules of origin). Other Republicans, moreover, might oppose the USMCA due to digital trade provisions that protect internet companies from third party liability in a manner similar to “Section 230” of the Communications Decency Act – a provision of US law that many Republicans allege allows internet companies to stifle conservative viewpoints. In a November 1, 2019 letter, for example, Sen. Ted Cruz (R-TX) called for the removal of USMCA Article 19.17, which he claimed would stymie “efforts to hold big tech companies accountable” by putting the United States in breach of the USMCA if Section 230 were ever revised.

Outlook

Even if USTR and the Working Group can reach an agreement prior to the Thanksgiving holiday that greenlights submission of the USMCA implementing legislation, the remaining pre-conditions for congressional consideration of the bill, the bill’s actual drafting, and the limited number of legislative days remaining in 2019 could delay a vote into 2020. (According to the latest House of Representatives Schedule, only 17 legislative days remain on the 2019 calendar, though days could be added particularly if they are needed for appropriations or other time-sensitive legislative business.) It remains possible that the parties can complete all of these steps in rapid succession, thus

clearing the way for a December vote (despite TPA's much longer timelines), and House Democrats may indeed be motivated to move the bill in part to demonstrate that their agenda is not focused solely on impeachment proceedings. Congressional approval of the USMCA in 2019 therefore cannot be ruled out.

On the other hand, the aforementioned obstacles to a congressional vote on the USMCA this year are significant, and there is little margin for error at this stage. Perhaps for this reason, Speaker Pelosi recently declined to rule out the possibility that a USMCA vote would slip into next year. Should that delay occur, presidential election year politics might prevent the vote from occurring at all. Currently, all four of the top-tier Democratic Party presidential candidates – Joe Biden, Elizabeth Warren, Bernie Sanders and Pete Buttigieg – have expressed opposition to the USMCA as written. If the USTR-Working Group agreements do not soften the leading candidates' views (and those of organized labor), it is likely that each would demand that House Democrats vote "no" on any final USMCA implementing legislation, both on policy grounds and in order to deny President Trump a legislative victory heading into the election. Given this dynamic, and the historical difficulties associated with trade votes during election years (e.g., the Trans-Pacific Partnership in 2016), Speaker Pelosi may be forced to shelve the USMCA bill in 2020, leaving the prospects for the USMCA's implementation uncertain.

US Trade Actions

Section 301

US-China Negotiations on “Phase One” Agreement Continue with Little Clarity on Tariffs or Substance

More than one month after President Trump’s announcement that the United States and China had reached a narrow, “Phase One” trade agreement “in principle,” negotiations to finalize the agreement remain incomplete, and substantive disagreements – including over the extent of any tariff reductions – continue to pose obstacles. In recent weeks, US and Chinese officials have reported progress in their negotiations towards the potential Phase One agreement and have continued to express optimism that such an agreement can be concluded quickly. However, many core issues remain unresolved. This note summarizes outstanding issues in the US-China trade conflict and possible next steps.

Venue

President Trump and President Xi were originally rumored to be planning a signing ceremony for the “Phase One” agreement at the November 16-17 APEC meeting in Chile. However, the APEC meeting has now been canceled due to civil unrest in Chile, and the two sides have yet to announce an alternate venue. Some observers have speculated that a signing ceremony may be held in Iowa to show support for American farmers – an idea President Trump did not rule out – but neither this venue nor any other has been confirmed at this time.

Timing and Terms

The cancellation of the APEC meeting may prove to be a fortunate turn of events for the Trump administration – which reportedly is eager to conclude the Phase One deal –because both sides appear to be struggling to finalize the deal by the original, mid-November deadline. Indeed, as of today the parties remain unable to close the initial agreement. The broad outlines of the deal – focusing on Chinese agricultural purchases, currency, intellectual property and tariffs – are still in place, and the parties apparently have agreed on modest currency and intellectual property commitments. However, doubts remain about China’s commitments to purchase US agricultural products and, most importantly, the tariffs that both sides now have in place or are planning to put in place (see next section).

Tariff Removal

Disagreement over the extent to which the United States will scale back planned and existing Section 301 tariffs on Chinese goods appears to be the primary obstacle to concluding a Phase One agreement at this time. China reportedly continues to seek, as part of any Phase One deal, the cancellation of the 15% US tariff increase on \$160 billion worth of goods (“List 4B”) that is scheduled to take effect on December 15, 2019, as well as the removal of the 15% tariff on “List 4A” goods (\$112 billion) that took effect on September 1, 2019 (see table below). In addition, some sources indicate that China is seeking at least a partial reduction of the 25% additional tariffs imposed by the United States on Lists 1-3 (\$250 billion) since mid-2018. (China also has indicated that it would remove the retaliatory tariffs it has imposed on US goods simultaneously and “in the same proportion” as any US tariff reductions.) The United States, however, reportedly is reluctant to eliminate any of the Section 301 tariffs that it has already implemented as part of a Phase One deal, and may instead be willing to cancel only the tariffs scheduled for December 15.

Tariff action / effective date	Estimated annual trade value / tariff rate	
	United States	China
List 1 – July 6, 2018	\$34 billion at 25%	\$34 billion at 25%

Tariff action / effective date	Estimated annual trade value / tariff rate	
	United States	China
List 2 – August 23, 2018	\$16 billion at 25%	\$16 billion at 25%
List 3 – September 24, 2018	<u>September 24, 2018 – May 9, 2019:</u> \$200 billion at 10% <u>After May 9, 2019:</u> \$200 billion at 25%	September 24, 2018 – May 31, 2019: \$60 billion at 5-10% After May 31, 2019: \$60 billion at 5-25%
List 4A – September 1, 2019	\$112 billion at 15%	\$29 billion at 5-10% (significant overlap w. Lists 1-3)
List 4B – December 15, 2019 (not yet in force)	160 billion at 15%	\$46 billion at 5-10% (significant overlap w. Lists 1-3)

The two sides recently have offered differing accounts of the status of the negotiations on tariff removal. Last Thursday, for example, a spokesman for China’s Ministry of Commerce announced that, following constructive negotiations over the past two weeks, US and Chinese negotiators had “agreed to remove the additional tariffs in phases as progress is made on the agreement,” but provided no further details. Markets reacted positively to this news, but White House officials subsequently gave conflicting signals on whether the parties had actually come to any such agreement and, if they did, how significant this tariff “rollback” would be. President Trump subsequently stated that he had not yet agreed to roll back any of the tariffs, and that, even if a Phase One deal is reached, he would not eliminate all of the additional tariffs the United States has imposed on China-origin goods. He subsequently added that the United States would further increase tariffs on Chinese goods if a Phase One deal is not completed, suggesting that tariffs may be imposed on List 4B on December 15 if an agreement is not reached before then.

Outlook

Both sides continue to appear motivated to conclude a Phase One agreement, but the past several weeks have brought little additional clarity regarding the scope, timing, or implications of such an agreement, including its effects on the Section 301 tariffs and Chinese retaliation. At this stage, the most likely outcome continues to be a modest tariff ceasefire upon the completion of the Phase One agreement, with the United States delaying or canceling the December 15 (List 4B) tariff increase and both sides potentially eliminating recent tariff increases, such as the List 4A tariffs imposed on September 1. At this time, however, it appears unlikely that there will be near-term changes to the US tariffs for Lists 1-3. Companies therefore should continue to plan for scenarios in which these tariffs remain in place for the foreseeable future. It also remains possible that negotiations to conclude the Phase One agreement will take significantly longer than the Trump administration initially projected, prolonging the uncertainty regarding the List 4B tariffs and corresponding retaliation.

US Department of Commerce Invites Comments on Proposed Rule Targeting Information and Communications Technology Transactions

On November 27, 2019, the US Department of Commerce (Commerce) issued a notice of proposed rulemaking on the implementation of Executive Order 13873 (the EO), “Securing the Information and Communications Technology and Services Supply Chain.”¹ This action does not automatically impose restrictions on any particular parties or

¹ Dep’t of Commerce, Proposed Rule (November 27, 2019), available [here](#).

transactions at this time. Commerce invites the public to submit comments on the proposed rulemaking until December 27, 2019.

The EO, published on May 15, 2019, prohibits certain transactions involving telecommunications equipment or services made or supplied by persons that have been determined by the US Government to be “foreign adversaries” when the transactions are deemed to pose an “unacceptable national security risk.”² The proposed rule lays out a “case-by-case, fact-specific approach” that the Secretary of Commerce (the Secretary) would use to determine which information and communications technology and services (ICTS) transactions would be prohibited according to the requirements in the EO.

Proposed Rule

Scope

In making a decision for action or inaction regarding a “transaction”³ under the EO, the Secretary shall consider, on a case-by-case basis, whether the transaction:

- Is subject to jurisdiction of the United States;
- Involves any property in which any foreign country or a national thereof has an interest;
- Was initiated, is pending, or will be completed after May 15, 2019;
- Involves “information and communications technology or services”⁴ designed, developed, manufactured, or supplied by persons owned by, controlled by, or subject to the jurisdiction or direction of a “foreign adversary”⁵; and
- Poses:
 - An undue risk of sabotage to or subversion of the design, integrity, manufacturing, production, distribution, installation, operation, or maintenance of information and communications technology or services in the United States;
 - An undue risk of catastrophic effects on the security or resiliency of United States critical infrastructure or the digital economy of the United States; or
 - An unacceptable risk to the national security of the United States or the security and safety of United States persons.

The Secretary is authorized to prohibit transactions as a class if the Secretary determines that transactions in that class will always pose an undue or unacceptable risk, or to exempt classes of transactions that do not present such risks or are outside the scope of the EO.⁶ The proposed rulemaking indicates that (1) telecommunications service

² For more detail about the EO, please consult White & Case’s previous client alert, *available here*.

³ “Transaction means any acquisition, importation, transfer, installation, dealing in, or use of any information and communications technology or service. Use of the term transaction in this part includes a class of transactions.”

⁴ “Information and communications technology or services means any hardware, software, or other product or service primarily intended to fulfill or enable the function of information or data processing, storage, retrieval, or communication by electronic means, including through transmission, storage, or display.”

⁵ “Foreign adversary means any foreign government or foreign non-government person determined by the Secretary to have engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security of the United States or security and safety of United States persons for the purposes of Executive Order 13783.”

⁶ Commerce will issue further guidance if the Secretary makes such class-based inclusions or exclusions.

providers, (2) internet and digital service providers, and (3) vendors and equipment manufacturers could be directly affected by the EO.⁷

Commencement of Evaluation

The Secretary may commence an evaluation of a transaction in one of three ways:

- At the Secretary's discretion;
- Upon request of another government agency; or
- Based on information submitted to the Secretary by private parties (via a designated web portal) that the Secretary determines to be credible.

Preliminary and Final Determinations

Under the proposed rule, parties to a transaction will receive a written preliminary determination of the Secretary's findings, which would explain the basis for the determination.⁸ Parties have 30 days to submit an opposition to the preliminary determination or information on proposed measures for mitigation.

The Secretary will issue a final written determination within 30 days of receiving a party's response stating that the transaction (1) is prohibited, (2) is not prohibited, or (3) requires mitigation measures as a precondition for approval. The unclassified determinations may be available to the public, "as appropriate."

Emergency Action

The proposed rule allows the Secretary to take "emergency action" to vary or dispense with any or all of these procedures. Such action is limited to circumstances when public harm is likely to occur if the procedures are followed or national security interests require it.

Penalties and Appeal

Violations of any determination, regulation, prohibition, or other action issued under the proposed regulations may be subject to civil penalties up to \$302,584 (adjusted annually for inflation) or twice the amount of the transaction that is the basis of the violation. Violations of mitigation measures or material conditions may be subject to civil penalties up to \$302,584 (adjusted annually for inflation) or the value of the transaction. Penalties may be appealed within 15 days of receipt of the penalty notice. The Secretary will issue a final decision within 30 days of receipt of the petition for appeal.

Public Comments

The public will have until December 27, 2019 to submit comments on all aspects of the proposed rule.⁹ Commerce indicated that it would appreciate comments on whether whole classes of transactions should be excluded from the review, mitigation measures for transactions that fall within the EO's standards, and interpretation of the terms of the EO. The rulemaking also sets out guidelines for any non-public oral communications made to Commerce regarding the substance of the proposed rule.

⁷ Commerce identifies further sub-groupings of entities under these three broad groups in the rulemaking.

⁸ The determination may omit information due to national security concerns.

⁹ Dep't of Commerce, Press Release (November 26, 2019), *available* [here](#).

Conclusion

Companies engaging in business involving information and communications technology or services should monitor the implementation and any determinations under this EO very closely. Commerce states in the proposed rule that it expects that parties engaging in transactions subject to the EO will maintain records related to such transactions in a manner consistent with the recordkeeping practices used in their ordinary course of business.

Petitions and Investigations

US Department of Commerce Issues Affirmative Preliminary Determination in Countervailing Duty Investigation of Imports of Steel Staples from China

On November 5, 2019, the US Department of Commerce (DOC) announced an affirmative preliminary determination in the countervailing duty (CVD) investigation of imports of certain collated steel staples from China. In its investigation, DOC preliminarily determined that exporters of this product from China received countervailable subsidies ranging from 12.38 to 156.99 percent. As a result of the decision, US Customs and Border Protection will collect cash deposits from importers of steel staples from China based on these preliminary rates.

The petitioner in this investigation is Kyocera Senco Industrial Tools, Inc. (Cincinnati, OH). The merchandise covered by the scope of this investigation is certain collated steel staples. Certain collated steel staples subject to this investigation are made from steel wire having a nominal diameter from 0.0355 inch to 0.0830 inch, inclusive, and have a nominal leg length from 0.25 inch to 3.0 inches, inclusive, and a nominal crown width from 0.187 inch to 1.125 inch, inclusive. Certain collated steel staples subject to this investigation are currently classifiable under subheading 8305.20.00.00 of the Harmonized Tariff Schedule of the United States (HTSUS).

DOC is currently scheduled to announce its final CVD determination by March 18, 2020. If DOC makes an affirmative final determination, the US International Trade Commission (ITC) will be scheduled to make its final injury determination by May 1, 2020. If DOC makes an affirmative final determination in this investigation, and the ITC makes an affirmative final injury determination, DOC will issue a CVD order. If DOC makes a negative final determination, or the ITC makes a negative final determination of injury, the investigation will be terminated and no order will be issued.

In 2018, imports of steel staples from China were valued at an estimated \$88.8 million, according to DOC.

US Department of Commerce Issues Affirmative Preliminary Antidumping Duty Determination on Ceramic Tile from China

On November 7, 2019, the US Department of Commerce (DOC) announced its affirmative preliminary determination in the antidumping duty (AD) investigation of imports of ceramic tile from China. In its investigation, DOC preliminarily found that exporters from China have dumped ceramic tile in the United States at margins ranging from 114.49 to 356.02 percent. As a result of the decision, US Customs and Border Protection will collect cash deposits from importers of ceramic tile from China based on these preliminary rates.

The petitioner in this investigation is the Coalition for Fair Trade in Ceramic Tile, which includes American Wonder Porcelain (Lebanon, TN), Crossville, Inc. (Crossville, TN), Dal-Tile Corporation (Dallas, TX), Del Conca USA, Inc. (Loudon, TN), Florida Tile, Inc. (Lexington, KY), Florim USA (Clarksville, TN), Landmark Ceramics (Mount Pleasant, TN), and StonePeak Ceramics (Chicago, IL). The merchandise covered by these investigations is ceramic flooring tile, wall tile, paving tile, hearth tile, porcelain tile, mosaic tile, flags, finishing tile, and the like (hereinafter ceramic tile).

Subject merchandise is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under the following subheadings of heading 6907: 6901.21.1005, 6907.21.1011, 6907.21.1051, 6907.21.2000, 6907.21.3000, 6907.21.4000, 6907.21.9011, 6907.21.9051, 6907.22.1005, 6907.22.1011, 6907.22.1051, 6907.22.2000, 6907.22.3000, 6907.22.4000, 6907.22.9011, 6907.22.9051, 6907.23.1005, 6907.23.1011, 6907.23.1051, 6907.23.2000, 6907.23.3000, 6907.23.4000, 6907.23.9011, 6907.23.9051, 6907.30.1005, 6907.30.1011, 6907.30.1051, 6907.30.2000, 6907.30.3000, 6907.30.4000, 6907.30.9011, 6907.30.9051, 6907.40.1005, 6907.40.1011, 6907.40.1051, 6907.40.2000, 6907.40.3000, 6907.40.4000, 6907.40.9011, and 6907.40.9051. Subject merchandise may also enter under subheadings of headings 6914 and 6905: 6914.10.8000, 6914.90.8000, 6905.10.0000, and 6905.90.0050.

DOC is scheduled to announce the final determination by March 23, 2020. If DOC's final determination is affirmative, the US International Trade Commission (ITC) will be scheduled to make its final injury determination by May 4, 2020. If DOC makes an affirmative final determination of dumping, and the ITC makes an affirmative final injury determination, DOC will issue an AD order. If DOC makes a negative final determination of dumping, or the ITC makes a negative final determination of injury, the investigation will be terminated and no order will be issued.

In 2018, imports of ceramic tile from China were valued at an estimated \$481.3 million, according to DOC.

US Department of Commerce Initiates Antidumping Duty and Countervailing Duty Investigations of Imports of Forged Steel Fittings from India and Korea

On November 13, 2019, the US Department of Commerce (DOC) announced the initiation of new antidumping duty (AD) and countervailing duty (CVD) investigations to determine whether forged steel fittings from India and Korea are being dumped in the United States, and to find if producers in India are receiving countervailable subsidies.

These investigations were initiated based on petitions filed by Bonney Forge Corporation (Mount Union, PA) and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union. The dumping margins alleged in the petitions range from 45.31 to 198.38 percent for Korea and 52.48 to 293.40 for India. There are 45 subsidy programs alleged for India, including allegations that the Government of India provides export subsidies, as well as subsidized financing, land, steel, and other raw materials.

The merchandise covered by these investigations is carbon and alloy forged steel fittings, whether unfinished (commonly known as blanks or rough forgings) or finished. Such fittings are made in a variety of shapes including, but not limited to, elbows, tees, crosses, laterals, couplings, reducers, caps, plugs, bushings, unions, and outlets. Forged steel fittings are covered regardless of end finish, whether threaded, socket-weld or other end connections.

Subject carbon and alloy forged steel fittings are normally entered under Harmonized Tariff Schedule of the United States (HTSUS) 7307.92.3010, 7307.92.3030, 7307.92.9000, 7307.99.1000, 7307.99.3000, 7307.99.5045, and 7307.99.5060. They may also be entered under HTSUS 7307.93.3010, 7307.93.3040, 7307.93.6000, 7307.93.9010, 7307.93.9040, 7307.93.9060, and 7326.19.0010.

If DOC makes affirmative findings in these investigations, and if the US International Trade Commission (ITC) determines that dumped and/or subsidized imports of forged steel fittings from India and/or Korea are causing injury to the US industry, DOC will impose duties on those imports in the amount of dumping and/or subsidization found to exist.

In 2018, imports of forged steel fittings from India and Korea were valued at an estimated \$92.6 million and \$67.6 million, respectively, according to DOC.

US Department of Commerce Finds Dumping and Countervailable Subsidization of Imports of Polyester Textured Yarn from China and India

On November 14, 2019, the U.S. Department of Commerce (DOC) announced its affirmative final determinations in the antidumping (AD) and countervailing duty (CVD) investigations of imports of polyester textured yarn from China and India. In its investigations, DOC determined that exporters from these countries have dumped yarn in the United States at margins ranging from 76.07 to 77.15 percent and 17.62 to 47.51 percent, respectively. DOC also determined that exporters from China and India received countervailable subsidies at rates ranging from 32.18 to 473.09 percent and 4.29 to 21.83 percent, respectively.

The petitioners in these investigations are Unifi Manufacturing, Inc. (Greensboro, NC) and Nan Ya Plastics Corp. America (Lake City, SC). The merchandise covered by these investigations, polyester textured yarn, is synthetic multifilament yarn that is manufactured from polyester (polyethylene terephthalate). Polyester textured yarn is produced through a texturing process, which imparts special properties to the filaments of the yarn, including stretch, bulk, strength, moisture absorption, insulation, and the appearance of a natural fiber. The merchandise subject to these investigations is properly classified under subheadings 5402.33.3000 and 5402.33.6000 of the Harmonized Tariff Schedule of the United States (HTSUS). Merchandise subject to these investigations may also enter under HTSUS subheading 5402.52.00.

The US International Trade Commission (ITC) is currently scheduled to make its final injury determinations on or about December 30, 2019. If the ITC makes affirmative final injury determinations, DOC will issue AD and CVD orders. If the ITC makes negative final determinations of injury, the investigations will be terminated and no orders will be issued.

In 2018, imports of polyester textured yarn from China and India were valued at an estimated \$45.5 million and \$21.6 million, respectively, according to DOC.

US Department of Commerce Finds Dumping and Countervailable Subsidization of Imports of Magnesium from Israel

On November 22, 2019, the US Department of Commerce announced its affirmative final determinations in the antidumping duty (AD) and countervailing duty (CVD) investigations of imports of magnesium from Israel. In its investigations, DOC determined that exporters from Israel have sold magnesium at less than fair value in the United States at a rate of 218.98 percent. In addition, DOC determined that exporters from Israel received countervailable subsidies at a rate of 13.77 percent.

The petitioner in these investigations is US Magnesium LLC (Salt Lake City, UT). The products covered by these investigations are primary and secondary pure and alloy magnesium metal, regardless of chemistry, raw material source, form, shape, or size (including, without limitation, magnesium cast into ingots, slabs, t-bars, rounds, sows, billets, and other shapes, and magnesium ground, chipped, crushed, or machined into raspings, granules, turnings, chips, powder, briquettes, and any other shapes). The merchandise subject to these investigations is classifiable under items 8104.11.0000, 8104.19.0000, and 8104.30.0000 of the Harmonized Tariff Schedule of the United States (HTSUS).

The US International Trade Commission (ITC) is currently scheduled to make its final injury determinations on or about January 6, 2020. If the ITC makes affirmative final injury determinations, DOC will issue AD and CVD orders. If the ITC makes negative final determinations of injury, the investigations will be terminated and no orders will be issued.

In 2018, imports of magnesium from Israel were valued at an estimated \$38.9 million, according to DOC.

US Department of Commerce Finds Circumvention of Antidumping and Countervailing Duty Orders on Hardwood Plywood Products from China

On November 25, 2019, the US Department of Commerce (DOC) announced affirmative final antidumping duty (AD) and countervailing duty (CVD) circumvention rulings involving exports of hardwood plywood products from China, finding that hardwood and decorative plywood with veneers made of certain types of softwood (radiata and/or agathis pine) circumvent existing orders. This circumvention inquiry was conducted pursuant to a request from the Coalition for Fair Trade in Hardwood Plywood, which includes Columbia Forest Products (Greensboro, NC), Commonwealth Plywood, Inc. (Whitehall, NY), States Industries, Inc. (Eugene, OR), and Timber Products Company (Springfield, OR).

In this investigation, DOC determined that certain plywood products with face and back veneers of radiata and/or agathis pine that: (1) have a Toxic Substances Control Act (TSCA) or California Air Resources Board (CARB) label certifying that it is compliant with TSCA/CARB requirements; and (2) are made with a resin, the majority of which is comprised of one or more of three product types (urea formaldehyde, polyvinyl acetate, and/or soy), exported from the People's Republic of China (China), are circumventing the AD and CVD orders on certain hardwood plywood products from China.

As a result of these determinations, US Customs and Border Protection will continue to collect AD and CVD cash deposits on certain imports of hardwood plywood products produced with face and back veneers of radiata and/or agathis pine. These duties will be imposed on future imports, and on any unliquidated entries since September 18, 2018, the date on which DOC initiated this circumvention inquiry. The applicable cash deposits range from 171.55 to 183.36 percent for the AD orders, and 22.98 to 194.90 percent for the CVD orders.

In 2018, the value of imports of hardwood plywood from China were valued at an estimated \$96 million, according to DOC.

US International Trade Commission Issues Affirmative Final Determination in Investigation of Vertical Metal File Cabinets from China

On November 8, 2019, the US International Trade Commission (ITC) determined that a US industry is materially injured by reason of imports of vertical metal file cabinets from China that the US Department of Commerce (DOC) has determined are subsidized and sold in the United States at less than fair value. As a result of the ITC's affirmative determinations, DOC will issue antidumping and countervailing duty orders on imports of this product from China. Chairman David S. Johanson and Commissioners Rhonda K. Schmidlein, Jason E. Kearns, Randolph J. Stayin, and Amy A. Karpel voted in the affirmative.

DOC in October 2019 issued its final determination that imports of vertical metal file cabinets from China were sold in the United States at dumping margins of 198.5 percent and received countervailable subsidies valued at 271.79 percent. The merchandise subject to the investigations is classified under Harmonized Tariff Schedule of the United States (HTSUS) subheading 9403.10.0020. The subject merchandise may also enter under HTSUS subheadings 9403.10.0040, 9403.20.0080, and 9403.20.0090.

In 2018, imports of vertical metal file cabinets from China were valued at \$45.2 million, according to DOC.

US International Trade Commission Issues Affirmative Final Determination in Investigations of Acetone from Singapore and Spain

On November 14, 2019, the US International Trade Commission (ITC) determined that a US industry is materially injured by reason of imports of acetone from Singapore and Spain that the US Department of Commerce (DOC) has determined are sold in the United States at less than fair value. As a result of the ITC's affirmative determinations, DOC will issue antidumping duty orders on imports of this product from Singapore and Spain. Chairman David S. Johanson and Commissioners Rhonda K. Schmidlein, Jason E. Kearns, Randolph J. Stayin, and Amy A. Karpel voted in the affirmative.

DOC in October 2019 issued its final determinations that exporters from Singapore and Spain sold acetone in the United States at dumping margins ranging from 66.42 to 131.75 percent and 137.39 to 171.81 percent, respectively. The merchandise covered by these investigations is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 2914.11.1000 and 2914.11.5000. Combinations or mixtures of acetone may enter under subheadings in Chapter 38 of the HTSUS, including, but not limited to, those under heading 3814.00.1000, 3814.00.2000, 3814.00.5010, and 3814.00.5090.

In 2018, imports of acetone from Singapore and Spain were valued at an estimated \$8.5 million and \$17 million, respectively, according to DOC.

US International Trade Commission Issues Affirmative Final Determination in Investigation of Carbon and Alloy Steel Threaded Rod from Thailand

On November 15, 2019, the US International Trade Commission (ITC) determined that a US industry is materially injured by reason of imports of carbon and alloy steel threaded rod from Thailand that the US Department of

Commerce (DOC) has determined are sold in the United States at less than fair value. As a result of the ITC's affirmative determination, DOC will issue an antidumping duty order on imports of this product from Thailand. Chairman David S. Johanson and Commissioners Rhonda K. Schmidlein, Jason E. Kearns, Randolph J. Stayin, and Amy A. Karpel voted in the affirmative.

DOC in October 2019 issued its final determination that exporters from Thailand have sold carbon and alloy steel threaded rod in the United States at a dumping margin of 20.83 percent. Steel threaded rod is currently classifiable under subheadings 7318.15.5051, 7318.15.5056, and 7318.15.5090 of the Harmonized Tariff Schedule of the United States (HTSUS). Subject merchandise may also enter under subheading 7318.15.2095 and 7318.19.0000 of the HTSUS.

In 2018, imports of carbon and alloy steel threaded rod were valued at an estimated \$5.3 million, according to DOC.

US International Trade Commission Issues Affirmative Final Determination in Investigation of Mattresses from China

On November 19, 2019, the US International Trade Commission (ITC) determined that a US industry is materially injured by reason of imports of mattresses from China that the US Department of Commerce (DOC) has determined are sold in the United States at less than fair value. As a result of the ITC's affirmative determination, DOC will issue an antidumping duty order on imports of this product from China. Chairman David S. Johanson and Commissioners Rhonda K. Schmidlein, Randolph J. Stayin, and Amy A. Karpel voted in the affirmative. Commissioner Jason E. Kearns did not participate in this vote.

DOC in October 2019 issued its final determination that exporters from China have sold mattresses in the United States at dumping margins ranging from 57.03 to 1,731.75 percent. The products subject to this investigation are currently classifiable under Harmonized Tariff Schedule for the United States (HTSUS) subheadings: 9404.21.0010, 9404.21.0013, 9404.29.1005, 9404.29.1013, 9404.29.9085, and 9404.29.9087. Products subject to this investigation may also enter under HTSUS subheadings 9404.21.0095, 9404.29.1095, 9404.29.9095, 9401.40.0000, and 9401.90.5081.

The ITC also made a negative finding concerning critical circumstances with regard to imports of this product from China. As a result, imports of mattresses from China will not be subject to retroactive antidumping duties.

In 2017, imports of mattresses from China were valued at an estimated \$436.5 million, according to DOC.

US International Trade Commission Issues Affirmative Final Determination in Investigation of Aluminum Wire and Cable from China

On November 20, 2019, the US International Trade Commission (ITC) determined that a US industry is materially injured by reason of imports of aluminum wire and cable from China that the US Department of Commerce (DOC) has determined are subsidized and sold in the United States at less than fair value. As a result of the ITC's affirmative determinations, DOC will issue antidumping and countervailing duty orders on imports of this product from China. Chairman David S. Johanson and Commissioners Rhonda K. Schmidlein, Jason E. Kearns, Randolph J. Stayin, and Amy A. Karpel voted in the affirmative.

DOC in October 2019 issued its affirmative final determination that exporters from China have sold aluminum wire and cable in the United States at dumping margins ranging from 58.51 percent to 63.47 percent. In addition, DOC determined that exporters from China received countervailable subsidies at rates of 33.44 percent to 165.63 percent. The merchandise covered by the investigations is currently classifiable under subheading 8544.49.9000 of the Harmonized Tariff Schedule of the United States (HTSUS). Products subject to the scope may also enter under HTSUS subheading 8544.42.9090.

In 2018, imports of aluminum wire and cable from China were valued at an estimated \$115 million, according to DOC.

US International Trade Commission Issues Affirmative Final Determination in Investigation of Refillable Stainless Steel Kegs from China and Germany

On November 20, 2019, the US International Trade Commission (ITC) determined that the establishment of a US industry is materially retarded by reason of imports of refillable stainless steel kegs from China and Germany that the US Department of Commerce (DOC) has determined are sold in the United States at less than fair value and subsidized by the government of China. As a result of the ITC's affirmative determinations, DOC will issue antidumping duty orders on imports of this product from China and Germany and a countervailing duty order on imports of this product from China. Chairman David S. Johanson and Commissioners Rhonda K. Schmidlein and Jason E. Kearns voted in the affirmative. Commissioners Randolph J. Stayin and Amy A. Karpel did not participate in these votes.

DOC in October 2019 issued its affirmative final determinations that exporters from China and Germany have sold stainless-steel kegs in the United States at dumping margins of up to 77.13 percent and 7.47 percent, respectively. In addition, DOC determined that exporters from China received countervailable subsidies at rates ranging from 16.21 to 145.23 percent. The merchandise covered by these investigations is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7310.10.0010, 7310.10.0050, 7310.29.0025, and 7310.29.0050.

In 2018, imports of stainless-steel kegs from China and Germany were valued at an estimated \$16.4 million and \$2.9 million, respectively, according to DOC.

US International Trade Commission Votes to Continue Investigations of Glass Containers from China

On November 8, 2019, the US International Trade Commission determined that there is a reasonable indication that a US industry is materially injured by reason of imports of glass containers from China that are allegedly subsidized and sold in the United States at less than fair value. Chairman David S. Johanson and Commissioners Rhonda K. Schmidlein, Jason E. Kearns, Randolph J. Stayin, and Amy A. Karpel voted in the affirmative.

The merchandise covered by these investigations is certain glass containers with a nominal capacity of 0.059 liters (2.0 fluid ounces) up to and including 4.0 liters (135.256 fluid ounces) and an opening or mouth with a nominal outer diameter of 14 millimeters up to and including 120 millimeters. Glass containers subject to this investigation are specified within the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7010.90.5005, 7010.90.5009, 7010.90.5015, 7010.90.5019, 7010.90.5025, 7010.90.5029, 7010.90.5035, 7010.90.5039, 7010.90.5045, 7010.90.5049, and 7010.90.5055.

As a result of the ITC's affirmative determinations, the US Department of Commerce will continue with its antidumping and countervailing duty investigations concerning imports of these products from China, with its preliminary countervailing duty determination due on or about December 19, 2019, and its preliminary antidumping duty determination due on or about March 3, 2020.

In 2018, imports of glass containers from China were valued at an estimated \$370.8 million, according to DOC.

US International Trade Commission Institutes Five-Year Sunset Review of Antidumping Order on Non-Oriented Electrical Steel from Japan

On November 1, 2019, the US Department of Commerce (DOC) announced that it has instituted a five-year sunset review of the anti-dumping duty order on non-oriented electrical steel (NOES) from Japan. In its review, DOC will

determine whether revocation of the order would be likely to lead to the continuation or recurrence of dumping. The US International Trade Commission (ITC) concurrently instituted its five-year sunset review of the same order, in which it will determine whether the revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry.

The merchandise subject to the order consists of non-oriented electrical steel (NOES), which includes cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material.¹⁰ The term “substantially equal” means that the cross grain direction of core loss is no more than 1.5 times the straight grain direction (*i.e.*, the rolling direction) of core loss. NOES has a magnetic permeability that does not exceed 1.65 Tesla when tested at a field of 800 A/m (equivalent to 10 Oersteds) along (*i.e.*, parallel to) the rolling direction of the sheet (*i.e.*, B800 value). NOES contains by weight more than 1.00% of silicon but less than 3.5% of silicon, not more than 0.08% of carbon, and not more than 1.5% of aluminum. NOES has a surface oxide coating, to which an insulation coating may be applied.

The subject merchandise is provided for in subheadings 7225.19.0000, 7226.19.1000, and 7226.19.9000 of the HTSUS. Subject merchandise may also be entered under subheadings 7225.50.8085, 7225.99.0090, 7226.92.5000, 7226.92.7050, 7226.92.8050, 7226.99.0180 of the HTSUS.

If DOC determines to conduct a full sunset review, it normally will issue its preliminary results within 110 days after initiation and will issue its final results within 240 days after initiation. If DOC determines to conduct an expedited review, it normally will issue its final results within 120 days after initiation. The ITC normally will complete full five-year reviews within 360 days of initiation and expedited reviews within 150 days.

¹⁰ A full description of the scope is available here: <https://www.federalregister.gov/documents/2014/12/03/2014-28405/non-oriented-electrical-steel-from-the-peoples-republic-of-china-germany-japan-the-republic-of-korea>