

US & Multilateral Trade Policy Developments

Japan External Trade Organization

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US Trade Actions

Section 232

US Court of International Trade Confirms Limits on Section 232 Authority in Case Involving Steel Imports from Turkey

On June 14, 2020, a three-judge panel convened by the US Court of International Trade (CIT) issued its opinion in *Transpacific Steel LLC v. United States*, finding that President Trump's August 2018 Proclamation doubling the Section 232 tariff rate on steel imports from Turkey was issued in violation of mandated statutory procedures and the US Constitution's equal protection guarantees. The decision concerned the President's Section 232 action with respect to Turkish steel imports only, but the Court's central finding – that the President lacks the legal authority to modify Section 232 import restrictions once the applicable statutory deadlines have passed – is of broader significance, as it contradicts the Trump administration's stated view that the law grants the President "continuing authority and flexibility" to modify such restrictions in perpetuity. This ruling may have important implications for other pending cases before the CIT in which Presidential actions modifying Section 232 import restrictions are being challenged, and might also discourage future attempts to modify Section 232 measures outside of the statutory timeframes. We analyze the CIT's ruling and its implications below.

Ruling on Alleged Violation of Section 232's Procedural Requirements

Section 232 permits the President to "adjust imports" of an article if the Secretary of Commerce determines in the course of a Section 232 investigation that such imports "threaten to impair" national security and reports this finding to the President. The President, "[w]ithin 90 days" of receiving such a report, must determine whether he concurs with the Secretary and, if so, "determine the nature and duration of the action" to "adjust the imports of the article and its derivatives so that such imports will not threaten to impair the national security." The President "shall implement that action" no later than 15 days from his decision to take such action. In March 2018 (and within 90 days after receiving the required report from the Secretary of Commerce), President Trump issued a Proclamation imposing a 25% tariff on steel imports from most countries pursuant to Section 232. However, President Trump in August 2018 issued a subsequent Proclamation doubling the Section 232 tariff rate on steel imports from Turkey, well after the 90-day window had expired.

Plaintiffs in *Transpacific* argued that, by issuing the Turkey Steel Proclamation long after the statutory deadline had passed (and without obtaining a new, formal report from the Secretary providing a basis for the action against Turkey), the President violated the procedural requirements set forth in the Section 232 statute. The US government disagreed, arguing that Congress in Section 232 "inten[ded] to confer continuing authority and flexibility on the President to counter the [national security] threat identified[.]" In the government's view, requiring the President to act within the temporal windows in the statute would undermine the purpose of the law and would "convert the time-deadlines into impermissible sanctions," when those deadlines are in fact "directory, not mandatory." The government also argued that the Turkey Steel Proclamation was a permissible modification of the earlier, timely Proclamation of March 2018. Plaintiffs disagreed, asserting that there is no statutory basis for a purported modification of a previous proclamation and that allowing this interpretation would render the statutory timelines meaningless.

The Court rejected the government's arguments, finding that "the temporal restrictions on the President's power to take action pursuant to a report and recommendation by the Secretary is not a mere directory guideline, but a restriction that requires strict adherence." The Court took the view that the purpose and legislative history of Section 232, including legislative amendments enacted in 1988 that established the aforementioned timelines, "were very much intended to require presidential action in a timely fashion, not just encourage it." In addition, and contrary to the government's contention, the Court found nothing in the statute to support the continuing authority to modify Proclamations outside of the stated timelines, holding that "'modifications' of existing Proclamations under the current statutory scheme, without following the procedures in the statute, are not permitted." Accordingly, the Court concluded that "[t]he President exceeded his authority in issuing [the Turkey Steel Proclamation] outside of the temporal limits required by Section 232."

Notably, in explaining its view that the President lacks authority to modify Section 232 import restrictions after they have been implemented and the statutory deadlines for action have passed, the Court noted that the law may permit ongoing action by the President in other, limited circumstances. Specifically, the Court referenced 19 U.S.C. § 1862(c)(3), in which Congress authorized the President to negotiate an agreement that “limits or restricts” the subject imports as a form of “action” under Section 232. Under this provision, if such an agreement is not entered into within 180 days or is not effective in eliminating the threat to national security, the President “shall take such other actions as the President deems necessary to adjust the imports of such article[.]” The law requires publication of the new “additional actions” in the Federal Register but provides no deadline for the President to do so. The Court cited this provision to illustrate its view that “when Congress means to allow action outside of a set temporal window, it provides for it.”

Violation of Equal Protection

Plaintiffs argued that the Turkey Steel Proclamation violated the equal protection guarantees of the Fifth Amendment to the US Constitution because it discriminates between similarly situated importers based on the origin of their imports without rational justification. Though Plaintiffs acknowledged that Turkey was named in the Commerce Department’s Section 232 report, which found that steel imports threaten to impair US national security, they argued that the Secretary’s determination was based on steel imports in the aggregate, and that nothing in the report supported the imposition of additional duties on Turkish steel products alone. According to Plaintiffs, the Turkey Steel Proclamation drew an arbitrary and irrational distinction by doubling the tariff rate on Turkish steel only and was based on an impermissible purpose (*i.e.*, the President’s alleged “animus” towards US importers that do business with Turkey, which purportedly was demonstrated by the President’s public statements linking the increased duties to diplomatic tensions with Turkey unrelated to steel trade). The US government disagreed, contending that the additional duties on Turkish steel were a reasonable step toward the legitimate purpose of national security, and that Plaintiffs failed to prove an intention to discriminate against importers of Turkish steel products.

Though the Court recognized national security as a legitimate purpose, it found no “persuasive evidence” to demonstrate that the Turkey Steel Proclamation had a legitimate grounding in national security concerns. The Court’s reasoning was as follows:

- The Turkey Steel Proclamation “purportedly is based on the Steel Report, which evaluated the collective impact of global steel imports on national security, and not the impact of imports from Turkey individually.”
- The national security concerns were characterized in the Steel Report as “[t]he displacement of domestic steel by imports,” and the resulting effect on the United States economy, and the ability to “meet national security requirements.”
- Singling out steel products from Turkey, in the Court’s view, “is not a rational means of addressing that concern...[t]here is no apparent reason to treat importers of Turkish steel products differently from importers of steel products from any other country listed in the Steel Report.” The decision “to increase the tariffs on imported steel products from Turkey, and Turkey alone, without any justification, is arbitrary and irrational.”

The Court observed that Section 232 “does not ban the President from addressing concerns by focusing on particular exporters,” and that certain deviations from “the status quo under normal trade relations” (*i.e.*, equal tariff treatment of similar products regardless of country of origin) are allowable. However, the Court concluded that “such deviation cannot be arbitrarily and irrationally enforced in a way that treats similarly situated classes differently without permissible justification,” and that the Turkey Steel Proclamation therefore denies Plaintiffs the equal protection of the law.

Outlook

The Court's ruling in *Transpacific* is noteworthy, as it rejects the Trump administration's contention that the President can modify Section 232 import restrictions in perpetuity, and therefore recognizes at least some limits on the President's authority under the law. This decision may have important implications for other pending cases before the CIT in which US importers are contesting the lawfulness of President Trump's January 2020 Proclamation expanding the scope of the Section 232 tariffs to cover certain "derivative" steel and aluminum products (see, e.g., *PrimeSource Building Products, Inc. v. United States et al* and *Trinity Steel Private Limited v. United States et al.*) Like the Plaintiffs in *Transpacific*, these importers argue that the Proclamation on derivative goods violates the Section 232 statute because it was issued long after the expiration of the 90-day deadline and bypassed the required investigative and consultative steps. The *Transpacific* ruling indicates that the Court might be receptive to these claims. The ruling might also discourage the US government from modifying Section 232 measures in the future in a manner similar to the Turkey Steel Proclamation, though nothing would prevent the US government from self-initiating a new Section 232 investigation to provide a basis for the desired import restrictions, as the *Transpacific* ruling acknowledges. Nevertheless, and given the centrality of Section 232 to the Trump administration's trade policy, the US government might appeal the CIT's ruling to the US Court of Appeals for the Federal Circuit.

The CIT's ruling can be viewed [here](#).

Section 301

USTR Announces Decision to Impose 25% Tariff on Certain French Goods in Response to Digital Services Tax, With Implementation Delayed Until 2021

On July 10, 2020, the Office of the US Trade Representative (USTR) announced its determination to impose an additional 25% tariff on approximately \$1.3 billion in annual imports from France pursuant to Section 301 of the Trade Act, though USTR will delay the implementation of the tariff by 180 days (i.e., until January 6, 2021). USTR is taking this action based on its determination in December 2019 that France's digital services tax (DST) "is unreasonable or discriminatory and burdens or restricts U.S. commerce," and is therefore actionable under Section 301.

Though France and the United States have agreed to delay the imposition of the DST and any US retaliatory tariffs while they seek to negotiate a multilateral agreement on digital services taxation under the auspices of the OECD, USTR faced a July 10 statutory deadline to issue its determination in the Section 301 investigation, and USTR's notice confirms that it is delaying the new tariffs by 180 days "to allow additional time for bilateral and multilateral discussions that could lead to a satisfactory resolution[.]" Thus, while USTR's formal determination to impose tariffs could be interpreted as an escalation of the DST dispute, it likely reflects statutory constraints, as well a desire to preserve the United States' ability to retaliate should the OECD talks fail to produce an agreement this year. We provide an overview of USTR's determination below.

Section 301 Tariffs on Products of France

The list of French products on which USTR has determined to impose tariffs is narrower than that set forth in USTR's proposed determination of December 2019, which had an annual import value of approximately \$2.4 billion and covered various dairy products, cosmetics, sparkling wine, and leather goods. The final list has an annual import value of approximately \$1.3 billion and is limited to certain cosmetics and leather goods classified under Chapters 34 and 42, respectively, of the Harmonized Tariff Schedule of the United States. Moreover, whereas USTR's December 2019 notice also contemplated possible fees or restrictions on services of France in response to the DST, USTR's latest determination imposes no such restrictions. According to USTR, the retaliatory action is designed to result in the collection of tariffs at a level comparable to the tax revenue France will collect from US companies as a result of the DST.

As indicated above, USTR has stated that it is exercising its authority under Section 305(a) of the Trade Act to delay implementation of the action to be taken for up to 180 days in order to provide additional time for bilateral and multilateral discussions to resolve the matter. The additional 25 percent tariff is therefore scheduled to take effect with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern standard time on January 6, 2021. However, USTR's notice contemplates the possibility that the 180-day suspension will be shortened, and notes that in such circumstances "USTR will issue a subsequent notice amending the effective date."

Outlook

Though USTR has delayed the effective date of the tariffs to allow negotiations at the OECD to continue, the decision signals that the United States is willing to proceed with the tariffs should the negotiations fail, and has been received positively by Members of Congress and the US technology sector. For example, Senate Finance Committee Chairman Chuck Grassley (R-IA) and Ranking Member Ron Wyden (D-OR) stated that, while retaliatory tariffs "aren't ideal," France's action "leaves our government with no choice[.]" Moreover, negotiations at the OECD on digital services taxation have proven contentious. In mid-June, the United States expressed frustration that the talks had reached an "impasse" and reiterated its intention to impose countermeasures against countries that unilaterally adopt DSTs, while also suggesting a "pause" in the negotiations so that governments could focus on the COVID-19 pandemic. It is therefore possible that the United States will proceed with the announced tariffs on French goods next year and impose similar measures in response to other digital services taxes that USTR is currently investigating under Section 301 (i.e., those adopted or under consideration by Austria, Brazil, the Czech Republic, the European Union, India, Indonesia, Italy, Spain, Turkey, and the United Kingdom).

USTR's determination and the list of covered products of France can be viewed [here](#).

USTR Requests Comments on Possible One-Year Extension of Section 301 Tariff Exclusions for "List 1" Goods Currently Set to Expire in October 2020

On July 31, 2020, the Office of the US Trade Representative (USTR) announced that it is now considering whether to extend for up to 12 months the Section 301 tariff exclusions for "List 1" goods that were granted in October 2019, December 2019, and February 2020. USTR has initiated similar extension request proceedings for prior tranches of "List 1" exclusions, and has made determinations to extend certain exclusions that were subject to those proceedings. The exclusions that are now eligible for possible extension are set forth in the following Federal Register notices issued by USTR:

- 84 FR 52567 (October 2, 2019)
- 84 FR 69016 (December 17, 2019)
- 85 FR 7816 (February 11, 2020)

All of the exclusions covered by the new extension request proceeding are currently scheduled to expire on October 2, 2020. USTR's notice contemplates the potential extension of these exclusions through October 1, 2021.

Public Docket and Comment Deadline

USTR has issued a Federal Register notice requesting comments from interested parties on the possible extension of the covered List 1 exclusions, with a comment deadline of August 30, 2020.

On August 1, 2020, the public docket (Docket Number USTR-2020-0030) on the web portal at <https://comments.USTR.gov> will be opened for parties to submit comments on the possible extension of the covered exclusions.

Criteria for Granting Extensions

USTR is inviting public comments on whether to extend the covered List 1 exclusions “for up to 12 months.” USTR will evaluate the possible extension of each exclusion “on a case-by-case basis.” According to USTR, the focus of the evaluation will be whether, despite the first imposition of the additional duties on List 1 goods in July 2018, the particular product remains available only from China. In addressing this factor, USTR states that commenters should address specifically:

- Whether the particular product and/or a comparable product is available from sources in the United States and/or in third countries.
- Any changes in the global supply chain since July 2018 with respect to the particular product or any other relevant industry developments.
- The efforts, if any, the importers or U.S. purchasers have undertaken since July 2018 to source the product from the United States or third countries.

In addition, USTR will continue to consider “whether the imposition of additional duties on the products covered by the exclusion will result in severe economic harm to the commenter or other U.S. interests.”

Procedures for Submitting Requests

To submit a comment regarding the extension of a particular exclusion granted under the above referenced exclusion notices, commenters must first register on the portal at <https://comments.USTR.gov>. As noted above, the public docket (Docket Number USTR-2020-0030) on the portal will be open from August 1, 2020 to August 30, 2020. After registration, the commenter may submit an exclusion extension comment form to the public docket. The form requires commenters to provide the following information:

- The number for the exclusion at issue, as provided in the annex of the Federal Register notice granting the exclusion and the description. For descriptions amended or corrected by a later issued notice of product exclusions, parties should use the amended or corrected description.
- Whether the product or products covered by the exclusion are subject to an antidumping or countervailing duty order issued by the U.S. Department of Commerce.
- Whether you support or oppose extending the exclusion and an explanation of your rationale. Commenters must provide a public version of their rationale, even if the commenter also intends to submit a more detailed BCI rationale.
- Whether the products covered by the exclusion or comparable products are available from sources in the U.S. or in third countries. USTR also requests information concerning any changes in the global supply chain since July 2018 with respect to the particular product.
- The efforts you have undertaken since July 2018 to source the product from the United States or third countries.
- The value and quantity of the Chinese-origin product covered by the specific exclusion request purchased in 2018 and 2019, and whether these purchases are from a related company (and if so, the name of and relationship to the related company).
- Whether Chinese suppliers have lowered their prices for products covered by the exclusion following the imposition of duties.

- The value and quantity of the product covered by the exclusion purchased from domestic and third country sources in 2018 and 2019.
- If applicable, the commenter's gross revenue for 2018 and 2019.
- Whether the Chinese-origin product of concern is sold as a final product or as an input.
- Whether the imposition of duties on the products covered by the exclusion will result in severe economic harm to the commenter or other U.S. interests.

Parties seeking to comment on more than one exclusion must submit a separate comment for each exclusion.

USTR's July 31, 2020 notice is available [here](#). It is scheduled to be published on the Federal Register on August 3, 2020.

Trade Remedies

US Department of Commerce Issues Final Rulings in Self-Initiated Circumvention Inquiries Concerning Corrosion-Resistant Steel Products Exported from Costa Rica, Guatemala, and the United Arab Emirates

On July 7, 2020, the US Department of Commerce (DOC) announced two affirmative final rulings in its self-initiated circumvention inquiries concerning imports of certain corrosion-resistant steel products (CORE) made with hot-rolled steel and/or cold-rolled steel substrate from China. In its inquiries, DOC determined that Chinese substrate that is shipped to Costa Rica and the United Arab Emirates (UAE) for minor processing, and is then exported to the United States as CORE, is circumventing the antidumping (AD) and countervailing duty (CVD) orders on CORE from China. DOC also issued a negative circumvention ruling regarding CORE exported from Guatemala after finding that CORE from Guatemala was not made with Chinese substrate.

As a result of the affirmative rulings, DOC will instruct US Customs and Border Protection to continue to collect AD and CVD cash deposits on imports of CORE completed in Costa Rica and the UAE using Chinese-origin substrate. The applicable AD cash deposit rates are as high as 199.43 percent, which is the rate established for the China-wide entity from the underlying investigation. The applicable CVD cash deposit rates are as high as 39.05 percent, which is the rate established for all other Chinese producers and/or exporters from the underlying investigation. However, CORE produced by certain exporters and producers in Costa Rica and the UAE who cooperated with the circumvention inquiries may be eligible to be imported free of AD/CVD cash deposits, provided that the importer and exporter certify that the CORE is not produced with Chinese substrate.

DOC's circumvention inquiries on CORE from Costa Rica, Guatemala, and the UAE were particularly noteworthy because they were among the first circumvention inquiries that DOC has self-initiated based on its own monitoring of trade patterns. Four other self-initiated circumvention inquiries remain pending, including three pertaining to CORE exported from Malaysia and South Africa and one pertaining to stainless steel sheet and strip exported from Vietnam.

DOC's announcement on these rulings can be viewed [here](#).

US Department of Commerce Initiates Antidumping and Countervailing Duty Investigations of Imports of Certain Metal Lockers and Parts Thereof from China

On July 30, 2020, the US Department of Commerce (DOC) announced the initiation of antidumping (AD) and countervailing duty (CVD) investigations to determine whether certain metal lockers and parts thereof (metal lockers) from China are being dumped in the United States, and to determine if producers of these products from China are receiving countervailable subsidies. The petitions were filed by List Industries, Inc. (Deerfield Beach, Fla.), Lyon LLC (Montgomery, Ill.), Penco Products, Inc. (Greenville, N.C.), and Tenssco LLC (Dickson, Tenn.). The dumping margins alleged in the petitions range from 245.96 to 322.25 percent, and the alleged subsidies include remuneration programs, preferential lending programs, export programs, tax programs, and grant programs.

The scope of this investigation covers certain metal lockers, with or without doors, and parts thereof (certain metal lockers). The subject certain metal lockers are metal storage devices less than 27 inches wide and less than 27 inches deep, whether floor standing, installed onto a base or wall-mounted. The subject certain metal lockers are classified under Harmonized Tariff Schedule of the United States (HTSUS) subheading 9403.20.0078. Parts of subject certain metal lockers are classified under HTS subheading 9403.90.8041.

The US International Trade Commission (ITC) will make its preliminary injury determinations in these investigations by August 24. If the ITC preliminarily determines that there is a reasonable indication of material injury or threat of

material injury, DOC's investigations will continue, with the preliminary CVD determination scheduled for October 2, and the preliminary AD determination scheduled for December 16, unless these deadlines are extended.

If DOC preliminarily determines that dumping and/or countervailable subsidization is occurring, then it will instruct US Customs and Border Protection to start collecting cash deposits from all US companies importing metal lockers from China, as appropriate.

Final determinations by DOC in these cases are scheduled for December 16, for the CVD investigation, and March 1, 2021, for the AD investigation, but these dates may be extended. If DOC makes affirmative findings in these investigations, and if the ITC determines that dumped and/or subsidized imports of metal lockers from China materially injure, or threaten material injury to, the US industry, DOC will impose duties on those imports in the amount of dumping and/or countervailable subsidization found to exist.

US Department of Commerce Initiates Antidumping and Countervailing Duty Investigations of Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the Czech Republic (AD), Russia (AD/CVD), South Korea (AD/CVD), and Ukraine (AD)

On July 29, 2020, the US Department of Commerce announced the initiation of new antidumping (AD) investigations on imports of seamless carbon and alloy steel standard, line, and pressure pipe (seamless pipe) from the Czech Republic, Russia, South Korea (Korea), and Ukraine, and countervailing duty (CVD) investigations for these products from Russia and Korea. The petitions were filed by Vallourec Star, LP (Houston, Texas). The dumping margins alleged in the petition range from 50.45 to 51.70 percent, 41.07 to 273.47 percent, 114.80 to 131.31 percent, and 42.38 to 42.88 percent for the Czech Republic, Russia, Korea, and Ukraine, respectively. For Russia, DOC also will investigate 11 subsidy programs, including preferential lending, grant programs, and the provision of natural gas for less than adequate remuneration. For Korea, DOC will investigate 38 subsidy programs, including preferential lending, tax programs, export insurance, grants, and electricity subsidies.

The merchandise covered by the scope of these investigations is seamless carbon and alloy steel (other than stainless steel) pipes and redraw hollows, less than or equal to 16 inches (406.4 mm) in nominal outside diameter, regardless of wall-thickness, manufacturing process (e.g., hot-finished or cold-drawn), end finish (e.g., plain end, beveled end, upset end, threaded, or threaded and coupled), or surface finish (e.g., bare, lacquered or coated). Subject seamless standard, line, and pressure pipe are normally entered under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7304.19.1020, 7304.19.1030, 7304.19.1045, 7304.19.1060, 7304.19.5020, 7304.19.5050, 7304.31.6050, 7304.39.0016, 7304.39.0020, 7304.39.0024, 7304.39.0028, 7304.39.0032, 7304.39.0036, 7304.39.0040, 7304.39.0044, 7304.39.0048, 7304.39.0052, 7304.39.0056, 7304.39.0062, 7304.39.0068, 7304.39.0072, 7304.51.5005, 7304.51.5060, 7304.59.6000, 7304.59.8010, 7304.59.8015, 7304.59.8020, 7304.59.8025, 7304.59.8030, 7304.59.8035, 7304.59.8040, 7304.59.8045, 7304.59.8050, 7304.59.8055, 7304.59.8060, 7304.59.8065, and 7304.59.8070.

The ITC will make its preliminary injury determinations in these investigations by August 24. If the ITC preliminarily determines that there is a reasonable indication of material injury or threat of material injury, DOC's investigations will continue, with the preliminary CVD determinations scheduled to be announced October 2, and the preliminary AD determinations scheduled to be announced December 16, unless these deadlines are extended. If DOC preliminarily determines that dumping and/or subsidization is occurring, it will instruct US Customs and Border Protection to start collecting cash deposits from all US companies importing subject merchandise from Czech Republic, Russia, Korea, and/or Ukraine, as appropriate.

DOC's final determinations in these cases are scheduled to be announced December 16, for the CVD investigations, and March 2, 2021, for the AD investigations, but these dates may be extended. If DOC makes affirmative findings in these investigations, and if the ITC determines that dumped and/or subsidized imports of seamless pipe from the Czech Republic, Russia, Korea, and/or Ukraine materially injure, or threaten material injury to, the US industry, DOC will impose duties on those imports in the amount of dumping and/or countervailable subsidization found to exist.

The 2019, imports of seamless pipe from the Czech Republic, Russia, Korea, and Ukraine were valued at approximately \$37.1 million, \$39.5 million, \$24.4 million, and \$40.6 million respectively, according to DOC.

US Department of Commerce Initiates Antidumping (AD) and Countervailing Duty (CVD) Investigations of Standard Steel Welded Wire Mesh from Mexico

On July 21, 2020, the US Department of Commerce (DOC) announced the initiation of antidumping (AD) and countervailing duty (CVD) investigations to determine whether imports of standard steel welded wire mesh from Mexico are being dumped in the United States, and to determine if producers are receiving countervailable subsidies. The petitions were filed by Insteel Wire Products Company (Mount Airy, N.C.), Mid-South Wire Company (Nashville, Tenn.), National Wire LLC (Conroe, Texas), Oklahoma Steel & Wire Co. (Madill, Okla.), and Wire Mesh Corp. (Houston). The dumping margins alleged in the petitions range from 64.07 to 152.68 percent. The alleged subsidy programs include preferential lending, tax programs, tariff exemptions, grants, and regional subsidies.

The scope of this investigation covers uncoated standard welded steel reinforcement wire mesh (wire mesh) produced from smooth or deformed wire. Subject wire mesh is produced in square and rectangular grids of uniformly spaced steel wires that are welded at all intersections. Merchandise subject to this investigation is classified under Harmonized Tariff Schedule of the United States (HTSUS) categories 7314.20.0000 and 7314.39.0000.

The US International Trade Commission (ITC) will make its preliminary injury determination by August 14. If the ITC preliminarily determines that there is a reasonable indication of material injury or threat of material injury, DOC's investigations will continue, with the preliminary CVD determination scheduled for September 23, and the preliminary AD determination scheduled for December 7, unless these deadlines are extended. If DOC preliminarily determines that dumping and/or subsidization is occurring, it will instruct US Customs and Border Protection to start collecting cash deposits from all US companies importing standard steel welded wire mesh from Mexico, as appropriate.

Final determinations by DOC in these cases are scheduled for December 7, for the CVD investigation, and February 22, 2021, for the AD investigation, but these dates may be extended. If DOC makes affirmative findings in these investigations, and if the ITC determines that dumped and/or subsidized imports of standard steel welded wire mesh from Mexico materially injure or threaten material injury to the US industry, DOC will impose duties on those imports in the amount of dumping and/or countervailable subsidization found to exist.

The 2019, imports of standard steel welded wire mesh from Mexico were valued at approximately \$46.7 million, according to DOC.

US Department of Commerce Initiates Antidumping Investigation of Seamless Refined Copper Pipe and Tube from Vietnam

On July 21, 2020, the U.S. Department of Commerce announced the initiation of a new antidumping (AD) investigation to determine whether seamless refined copper pipe and tube from Vietnam is being dumped in the United States. The petition was filed by the American Copper Tube Coalition and its constituent members which include Mueller Copper Tube Products, Inc., Mueller Copper Tube West Co., Mueller Copper Tube Company, Inc.,

Howell Metal Company, and Linesets, Inc. (collectively, Mueller Group) (Collierville, Tenn.), and Cerro Flow Products, LLC (Sauget, Ill.). The dumping margin alleged in the petition is 111.82 percent.

The products covered by this investigation are all seamless circular refined copper pipes and tubes, including redraw hollows, greater than or equal to 6 inches (152.4 mm) in actual length and measuring less than 12.130 inches (308.102 mm) in actual outside diameter (OD), regardless of wall thickness, bore (e.g., smooth, enhanced with inner grooves or ridges), manufacturing process (e.g., hot finished, cold-drawn, annealed), outer surface (e.g., plain or enhanced with grooves, ridges, fins, or gills), end finish (e.g., plain end, swaged end, flared end, expanded end, crimped end, threaded), coating (e.g., plastic, paint), insulation, attachments (e.g., plain, capped, plugged, with compression or other fitting), or physical configuration (e.g., straight, coiled, bent, wound on spools). The products subject to this investigation are currently classifiable under subheadings 7411.10.1030 and 7411.10.1090 of the Harmonized Tariff Schedule of the United States (HTSUS). Products subject to the investigation may also enter under HTSUS subheadings 7407.10.1500, 7419.99.5050, 8415.90.8065, and 8415.90.8085

The US International Trade Commission (ITC) will make its preliminary injury determination by August 14. If the ITC preliminarily determines that there is a reasonable indication of material injury or threat of material injury, DOC's investigation will continue, with the preliminary AD determination scheduled for December 7, unless this deadline is extended. If DOC preliminarily determines that dumping is occurring, it will instruct US Customs and Border Protection to start collecting cash deposits from all US companies importing seamless refined copper pipe and tube from Vietnam, as appropriate.

DOC's final determination in this case is scheduled for February 22, 2021, but this date may be extended. If DOC makes an affirmative finding in this investigation, and if the ITC determines that dumped imports of seamless refined copper pipe and tube from Vietnam materially injure, or threaten material injury to, the US industry, DOC will impose duties on those imports in the amount of dumping found to exist.

In 2019, imports of seamless refined copper pipe and tube from Vietnam were valued at approximately \$146.5 million, according to DOC.

US Department of Commerce Initiates Antidumping Duty Investigations of Silicon Metal from Bosnia and Herzegovina, Iceland, and Malaysia; Countervailing Duty Investigation of Imports from Kazakhstan

On July 21, 2020, the US Department of Commerce (DOC) announced the initiation of antidumping duty (AD) investigations to determine whether imports of silicon metal from Bosnia and Herzegovina, Iceland, and Malaysia are being dumped in the United States, and a countervailing duty (CVD) investigation to determine whether imports of silicon metal from Kazakhstan are benefiting from countervailable subsidies. The petitions were filed by Globe Specialty Metals, Inc. (Beverly, Ohio) and Mississippi Silicon LLC (Burnsville, Miss.). The dumping margins alleged in the petitions are 21.41 percent for Bosnia and Herzegovina, 28.12-47.54 percent for Iceland, and 11.49-16.92 percent for Malaysia. The alleged subsidy programs include income tax, property tax, land tax, and customs duty exemptions; the provision of electricity, water, and drainage system services for less than adequate remuneration; and debt forgiveness.

The scope of these investigations covers all forms and sizes of silicon metal, including silicon metal powder. Silicon metal contains at least 85.00 percent but less than 99.99 percent silicon, and less than 4.00 percent iron, by actual weight. Semiconductor grade silicon (merchandise containing at least 99.99 percent silicon by actual weight and classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 2804.61.0000) is excluded from the scope of these investigations. Silicon metal is currently classifiable under subheadings 2804.69.1000 and 2804.69.5000 of the HTSUS.

The US International Trade Commission (ITC) will make its preliminary injury determinations by August 14. If the ITC preliminarily determines that there is a reasonable indication of material injury or threat of material injury, DOC's investigations will continue, with the preliminary CVD determination scheduled for September 23, and the preliminary AD determinations scheduled for December 7, unless these deadlines are extended. If DOC preliminarily determines that dumping and/or subsidization is occurring, it will instruct US Customs and Border Protection to start collecting cash deposits from all US companies importing silicon metal from Bosnia and Herzegovina, Iceland, Kazakhstan, and Malaysia, as appropriate.

DOC's final determinations in these cases are scheduled for December 7, for the CVD investigation, and February 22, 2021, for the AD investigations, but these dates may be extended. If DOC makes affirmative findings in these investigations, and if the ITC determines that dumped and/or subsidized imports of silicon metal from Bosnia and Herzegovina, Iceland, Kazakhstan, and/or Malaysia materially injure, or threaten material injury to, the US industry, DOC will impose duties on those imports in the amount of dumping and/or countervailable subsidization found to exist.

According to DOC imports of silicon metal from Bosnia and Herzegovina, Iceland, Kazakhstan, and Malaysia in 2019 were valued at approximately \$19.5 million, \$11.6 million, \$14.9 million, and \$6 million, respectively.

US Department of Commerce Initiates Countervailing Duty Investigations of Phosphate Fertilizers from Morocco and Russia

On July 17, 2020, the US Department of Commerce (DOC) announced the initiation of new countervailing duty (CVD) investigations to determine whether producers of phosphate fertilizers in Morocco and Russia are receiving countervailable subsidies. The petitions were filed by The Mosaic Company (Plymouth, Minn.). For Morocco, there are eight alleged subsidy programs, including loan programs, tax programs, less than adequate remuneration programs, and a creditworthiness allegation. For Russia, there are eight alleged subsidy programs, including less than adequate remuneration programs, tax programs, and a loan program.

The merchandise covered by these investigations is phosphate fertilizers in all physical forms (i.e., solid or liquid form), with or without coating or additives such as anti-caking agents. Phosphate fertilizers in solid form are covered whether granular, prilled (i.e., pelletized), or in other solid form (e.g., powdered). The covered merchandise is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings 3103.11.0000; 3103.19.0000; 3105.20.0000; 3105.30.0000; 3105.40.0010; 3105.40.0050; 3105.51.0000; and 3105.59.0000. Phosphate fertilizers subject to these investigations may also enter under subheadings 3103.90.0010, 3105.10.0000, 3105.60.0000, 3105.90.0010, and 3105.90.0050.

The US International Trade Commission (ITC) will make its preliminary determinations by August 10. If the ITC preliminarily determines that there is a reasonable indication of material injury or threat of material injury, DOC's investigations will continue, with the preliminary determinations scheduled for September 21, unless this deadline is extended. If DOC preliminarily determines that countervailable subsidization is occurring, it will instruct US Customs and Border Protection to start collecting cash deposits from all US companies importing phosphate fertilizers from Morocco and/or Russia, as appropriate.

Final determinations by DOC in these cases are scheduled for December 7, but this date may be extended. If DOC makes affirmative findings in these investigations, and if the US International Trade Commission (ITC) determines that subsidized US imports of phosphate fertilizers from Morocco and/or Russia materially injure, or threaten material injury to, the US industry, DOC will impose duties on those imports in the amount of unfair subsidization found to exist.

In 2019, imports of phosphate fertilizers from Morocco were valued at approximately \$729.4 million, and imports from Russia were valued at approximately \$299.4 million.

US Department of Commerce Issues Affirmative Final Determinations in Antidumping Investigations of PET Sheet from South Korea and Oman

On July 17, 2020, the US Department of Commerce (DOC) announced its affirmative final determinations in the antidumping duty (AD) investigations of imports of polyethylene terephthalate sheet (PET sheet) from South Korea and Oman. In its investigations, DOC determined that exporters from South Korea have dumped PET sheet in the United States at margins ranging from 7.19 percent to 52.01 percent, and that exporters from Oman have dumped PET sheet in the United States at a margin of 4.74 percent.

The US International Trade Commission (ITC) is currently scheduled to make its final injury determinations on or around August 31. If the ITC makes affirmative final injury determinations, DOC will issue antidumping 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 PET sheet from South Korea and Oman were valued at an estimated \$90 million and \$208 million, respectively, according to DOC.

US International Trade Commission Issues Affirmative Final Determinations in Antidumping and Countervailing Duty Investigations of Utility Scale Wind Towers from Canada, Indonesia, Korea, and Vietnam

On July 30, 2020, the US International Trade Commission (ITC) determined that a US industry is materially injured by reason of imports of utility scale wind towers from Canada, Indonesia, Korea, and Vietnam that the US Department of Commerce (DOC) has determined are sold in the United States at less than fair value and subsidized by the governments of Canada, Indonesia, and Vietnam. As a result of the ITC's affirmative determinations, DOC will issue antidumping duty orders on imports of this product from Canada, Indonesia, Korea, and Vietnam and countervailing duty orders on imports of this product from Canada, Indonesia, and Vietnam.

In its antidumping investigations, DOC determined that producers and/or exporters from Canada, Indonesia, South Korea, and Vietnam have sold utility scale wind towers at less than fair value in the United States at rates of 4.94 percent for Canada, 8.53 percent for Indonesia, 5.41 percent for South Korea, and 65.96 percent for Vietnam. In its countervailing duty investigations, DOC determined that producers and/or exporters from Canada, Indonesia, and Vietnam received countervailable subsidies at rates of 1.18 percent for Canada, 5.90 percent for Indonesia, and 2.84 percent for Vietnam.

In 2019, imports of utility scale wind towers from Canada, Indonesia, South Korea, and Vietnam were valued at an estimated \$56.6 million, \$108.8 million, \$78.7 million, and \$106.1 million, respectively, according to DOC.

The ITC's public report on these investigations will contain the views of the Commission and information developed during the investigations, and will be published by September 2, 2020.