US Multilateral Trade Policy Developments

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US Trade Actions

Upcoming EU Retaliation for Section 232 Measures to Present Early Test for President Biden

US business groups have welcomed the recent agreement by the United States and the EU to suspend for four months their retaliatory tariffs on aircraft and non-aircraft products as they seek to negotiate a resolution of their parallel WTO disputes concerning aircraft subsidies. That agreement has been viewed as an early sign of the Biden administration's willingness to de-escalate trade tensions and pursue a more cooperative trade relationship with US allies such as the EU. However, some US stakeholders have expressed frustration that the two governments failed to agree on suspending the Section 232 tariffs on European steel and aluminum and the tariffs the EU has imposed on US goods in retaliation. The EU is scheduled to significantly expand its retaliatory tariffs on June 1, which is creating additional pressure on the Biden administration to quickly resolve the Section 232 dispute with the EU. How the Biden administration responds to this pressure may provide important insights into its trade policy, including how it will manage the Section 232 disputes with other close allies such as Japan.

On March 5, President Biden and European Commission President Ursula von der Leyen agreed to pause the WTO-authorized retaliatory tariffs that the United States and the EU have imposed in connection with their parallel WTO disputes over subsidies provided to Airbus and Boeing. Prior to their discussion, press sources reported that President von der Leyen planned to seek a six-month suspension of the Airbus-Boeing tariffs, as well as the Section 232 tariffs on European steel and aluminum and the EU's retaliatory tariffs on US goods. However, the two leaders agreed only to a four-month suspension of the Airbus-Boeing tariffs and made no mention of the Section 232 dispute in their respective statements summarizing the discussion.

The Biden administration recently has made several statements expressing support for the Section 232 tariffs. On March 4, the newly-confirmed US Secretary of Commerce, Ms. Gina Raimondo, defended the Section 232 tariffs in a televised interview, stating that "the data show that those tariffs have been effective[.]" The week prior, the new US Trade Representative, Ms. Katherine Tai, responded to a question about the Section 232 tariffs by stating that "tariffs are a legitimate tool in the trade toolbox… with respect to the Section 232 tariffs on steel and aluminum, we have to acknowledge that we have, overall, a very significant global marketplace problem in the steel and aluminum markets that are driven primarily by China's overcapacity[.]" She added, without elaborating further, that addressing this problem requires "an effective solution that looks at the whole slew of policy tools[.]"

Neither Ambassador Tai nor Secretary Raimondo discussed the Biden administration's position on Section 232 in detail, including whether it will consider removing the tariffs for countries such as Japan and the EU that have close security relationships with the United States and share its desire to curtail overcapacity. Both officials have maintained that the Section 232 tariffs, along with other major trade actions taken by President Trump, are currently "under review" by the Biden administration. Nevertheless, the above statements suggest that the Biden administration is generally supportive of the Section 232 tariff regime, at least until efforts to address overcapacity in the steel and aluminum sectors have begun to show progress.

The Biden administration's posture has drawn criticism from some US stakeholders in the manufacturing and agricultural sectors, as indicated below:

- On March 17, a group representing seven US trade associations (the Coalition of American Metal Manufacturers and Users, "CAMMU") sent a letter to Secretary Raimondo disputing her claim that the Section 232 tariffs have been "effective." They cited data indicating that the tariffs have had a negative impact on employment in the US manufacturing sector, disrupted supply chains, increased consumer costs, prompted costly retaliatory tariffs, and failed to revitalize the US steel and aluminum industries.

- On March 24, a broader coalition of 37 US trade associations published a white paper that makes similar arguments to those found in the CAMMU letter and urges the Biden administration to repeal the Section 232 tariffs "as soon as possible." This broader coalition is led by the National Foreign Trade Council (NFTC) and is

comprised of associations representing the manufacturing and agricultural sectors. NFTC President Rufus Yerxa also disputed the claim that the Section 232 measures have been effective, stating that “the negative impacts on manufacturing, on consumers, on exports and on our trading relationships around the world have far outweighed any of the limited benefits to a few steel producers.”

- On March 23, a group of 47 US trade associations in the alcoholic beverage, retail, and hospitality sectors issued a statement lamenting that the Biden administration’s recent agreement with the EU paused only the Airbus-Boeing tariffs and did not address the Section 232 dispute, which has resulted in significant retaliatory tariffs on US exports of alcoholic beverages to the EU. The group urged the Biden administration to “prioritize[e] the resolution of this long-drawn-out tariff nightmare[.]” Other US industries affected by the EU’s retaliatory tariffs (e.g., the marine manufacturing industry) have issued similar statements.

Certain of the above stakeholders, along with members of the Senate Finance Committee, have noted with concern that the EU on June 1 will substantially expand the retaliatory tariffs it has imposed on US goods in response to the Section 232 measures. The EU has chosen to impose its retaliatory tariffs in two tranches. The first tranche, which took effect in June 2018, imposed duties of 10 to 25 percent on a list of 182 US products, having an annual trade effect of approximately EUR 2.8 billion. The second tranche, which will take effect automatically on June 1, 2021, will apply duties ranging from 10 to 50 percent on a list of 158 US products, and will have an annual trade effect of approximately EUR 3.6 billion.

Members of the Senate Finance Committee have asked USTR about the Biden administration’s plans to avert the upcoming escalation of the Section 232 dispute with the EU. However, Ambassador Tai’s written responses to these questions have been noncommittal. She has given no indication that the Biden administration is willing to negotiate a Section 232 exemption for the EU in order to avoid the second tranche of retaliatory tariffs, and has provided only the following general statement:

> I recognize that absent a negotiated resolution, the E.U.’s retaliation for the United States section 232 tariffs on steel and aluminum will increase substantially in June. I also recognize that the maintenance of a strong U.S. steel industry will require effective action to address global steel overcapacity. If confirmed, I commit to consulting closely with Congress as the Biden-Harris Administration proceeds with its review of the use of Section 232 steel and aluminum tariffs.

The Biden administration faces considerable pressure to keep the current Section 232 restrictions in place. Domestic steel producers and US labor unions have opposed any weakening of the Section 232 measures “before major steel producing countries eliminate their overcapacity and the subsidies and other trade-distorting policies that have fueled the steel crisis[.]” To support their position, they have publicized a new study issued by the Economic Policy Institute on March 24 that purports to demonstrate that “[j]obs, national security, and the steel industry itself are at risk if Section 232 measures are discontinued or weakened in the post-pandemic economy[.]” Among other findings, the study claims to show that (1) the Section 232 measures “delivered near-immediate benefits” to the US steel industry; (2) the measures “have had no meaningful real-world impact on the prices of steel-consuming products”; and (3) the effectiveness of the measures already has been “undermined by nearly 108,000 product-specific exclusions…and broad, countrywide tariff exemptions for roughly one-third of all imports[.]” The study concludes that the measures should be maintained until there is “a permanent multilateral solution to the chronic problem of excess global steel production capacity.”

Outlook

The competing stakeholder interests described above will weigh heavily on the Biden administration’s decision-making as it considers whether, and how, to respond to the EU’s planned introduction of additional retaliatory tariffs on June 1. On one hand, granting a Section 232 exemption to the EU at this stage would likely engender opposition from domestic steel producers and labor unions as a premature and unjustified weakening of the Section 232 measures, even if it is accompanied by new commitments to cooperate on efforts to address industrial

overcapacity. On the other hand, maintaining the Section 232 measures would likely result in additional, costly retaliatory tariffs targeting US industries that already face significant disruptions from the COVID-19 pandemic. It also would inject new tensions into the US-EU trade relationship, which the Biden administration is seeking to improve, and which is likely to be tested already by the EU's planned introduction of a Carbon Border Adjustment Mechanism in June and by the United States' threat to impose tariffs on European countries that have adopted digital services taxes. The Biden administration's decision with regard to the EU may provide important insights about its trade policy, including how committed it is to maintaining the Section 232 measures, how it intends to work with like-minded trading partners to address industrial overcapacity, and how it might respond to other countries, such as Japan, that seek to be excluded from Section 232 tariffs.

US Court of International Trade Invalidates Section 232 Proclamation on "Derivative" Steel and Aluminum Products on Procedural Grounds

On April 5, 2021, the US Court of International Trade ("CIT") issued an opinion in *Prime Source Bldg. Products, Inc., v. United States,* granting summary judgment in favor of plaintiff Prime Source Building Products, Inc. ("PrimeSource") and invalidating Presidential Proclamation 9980, which expanded tariffs on steel and aluminum imports under Section 232 of the Trade Expansion Act of 1962 ("Section 232") to certain "derivative" products such as steel nails, aluminum wire and cable, and certain motor vehicle components. The CIT granted summary judgment *sua sponte* to PrimeSource after defendants failed to pursue the opportunity to present new evidence to show that Proclamation 9980 was issued in accordance with law.

This alert describes the basis for the CIT's judgment in *PrimeSource Bldg. Products, Inc.,* and the implications of the ruling.

Background

PrimeSource, a US importer of steel nails, filed a complaint with the CIT on February 4, 2020 challenging Proclamation 9980. Proclamation 9980, issued by then-President Trump on January 24, 2020, expanded the scope of the United States' Section 232 tariffs on steel and aluminum imports to cover certain "derivative" steel and aluminum products, including steel nails, effective on February 8, 2020.[1] President Trump had implemented the

[1] The products covered by Proclamation 9980 are as follows:

- Nails, tacks (other than thumb tacks), drawing pins, corrugated nails, staples (other than those of heading 8305) and similar articles, of iron or steel, whether or not with heads of other material (excluding such articles with heads of copper), suitable for use in powder-actuated handtools, threaded (described in subheading 7317.00.30)
- Nails, tacks (other than thumb tacks), drawing pins, corrugated nails, staples (other than those of heading 8305) and similar articles, of iron or steel, whether or not with heads of other material (excluding such articles with heads of copper), of one piece construction, whether or not made of round wire; the foregoing described in statistical reporting numbers 7317.00.5503 7317.00.5505, 7317.00.5507, 7317.00.5560, 7317.00.5580 or 7317.00.6560 only and not in other statistical reporting numbers of subheadings 7317.00.55 and 7317.00.65;
- Bumper stampings of steel, the foregoing comprising parts and accessories of the motor vehicles of headings 8701 to 8705 (described in subheading 8708.10.30);
- Body stampings of steel, for tractors suitable for agricultural use (described in subheading 8708.29.21).
- Stranded wire, cables, plaited bands and the like, including slings and similar articles, of aluminum and with steel core, not electrically insulated; the foregoing fitted with fittings or made up into articles (described in subheading 7614.10.50)
- Stranded wire, cables, plaited bands and the like, including slings and similar articles, of aluminum and not with steel core, not electrically insulated; the foregoing comprising electrical conductors, not fitted with fittings or made up into articles (described in subheading 7614.90.20)
- Stranded wire, cables, plaited bands and the like, including slings and similar articles, of aluminum and not with steel core, not electrically insulated; the foregoing not comprising electrical conductors, not fitted with fittings or made up into articles (described in subheading 7614.90.40);
- Stranded wire, cables, plaited bands and the like, including slings and similar articles, of aluminum and not with steel core, not electrically insulated; the foregoing fitted with fittings or made up into articles (described in subheading 7614.90.50)
- Bumper stampings of aluminum, the foregoing comprising parts and accessories of the motor vehicles of headings 8701 to 8705 (described in subheading 8708.10.30)
- Body stampings of aluminum, for tractors suitable for agricultural use (described in subheading 8708.29.21)

Section 232 duties for other steel and aluminum products nearly two years prior pursuant to Proclamations 9705 and 9704 of March 2018, based on the findings of reports submitted by the Secretary of Commerce in January 2018.

PrimeSource's complaint made five primary arguments in support of its request that the CIT 1) find Proclamation 9980 unlawful, 2) enjoin the enforcement and implementation of the Proclamation, and 3) refund any duties paid by PrimeSource under Proclamation 9980. Among these arguments, PrimeSource alleged in Count 2 of its complaint that Proclamation 9980 was procedurally deficient because Section 232 prescribes a 90-day window within which the President must determine whether to take action against "imports of the {subject} article <u>and its derivatives</u>" (emphasis added), and requires the President to implement this action within 15 days thereafter. Prime Source argued that the timing of Proclamation 9980 violates the statute because the Proclamation was issued 653 days after the expiry of the 90-day window for the President to determine what action must be taken, and 638 days after the 15-day window to implement such action.[2]

In *PrimeSource Bldg. Prods., Inc. v. United States*, 45 CIT __, Slip. Op. 21-8 (Jan. 27, 2021) ("*PrimeSource I*"), the CIT denied plaintiff's motion for summary judgment and granted defendants' motion to dismiss as to all of plaintiff's claims except Count 2. The Court concluded in *PrimeSource I* that additional "factual information pertaining to the Secretary's inquiry on, and his reporting to the President on, the derivative articles would be required in order for us to examine whether and to what extent there was compliance by the President with the procedural requirements of Section 232 and whether any noncompliance that occurred was a 'significant procedural violation'" that warranted invalidation of the Proclamation. *See Maple Leaf Fish Co. v. United States*, 762 F.2d 86, 89 (Fed. Cir. 1985) (requiring that a procedural violation be "significant" to serve as a justification for invalidating Presidential action). The Court noted that Proclamation 9980 purportedly was based on new "assessments" made by the Secretary of Commerce after the completion of the original Section 232 steel report in January 2018. The Court took the view that there were "genuine issues of material fact that bore on the extent to which the subsequent 'assessment' or 'assessments' of the Commerce Secretary…validly could be held to have served a function analogous to that of [an original Section 232 report by the Secretary]." The Court additionally granted a preliminary injunction against the collection of 25 percent cash deposits on PrimeSource's entries of merchandise affected by Proclamation 9980, and against the liquidation of the affected entries.

Joint Status Report and Summary Judgment

The parties submitted a Joint Status Report in lieu of a scheduling order on March 5, 2021. In the Joint Status Report, defendants expressly declined to present new evidence demonstrating the existence of a genuine dispute of material fact regarding the failure to timely issue Proclamation 9980. Defendants specifically waived "the opportunity to provide additional factual information that might show that the 'essential requirements of Section 232(b)(2)(A), 19 U.S.C. § 1862(B)(2)(A)' were met," adding that "[d]efendants do not intend to pursue that argument." Defendants also informed the Court that their "position continues to be that procedural preconditions for the issuance of Proclamation 9980 were met by the Secretary's 2018 Steel Report and the timely issuance of Proclamation 9705, a position that the majority has already rejected."

In *PrimeSource Bldg. Prods., Inc. v. United States*, No. 20-00032, Slip Op. 21-36 (Ct. Int'l Trade April 5, 2021) ("*PrimeSource II*"), the CIT *sua sponte* entered summary judgement in favor of PrimeSource based on defendants' assertions in the Joint Status Report. The CIT granted summary judgment *sua sponte* in this case under USCIT Rule 56(f) because no motion for summary judgment was before the Court (the Court having denied plaintiff's motion for summary judgment in *PrimeSource I*), but no genuine dispute as to an issue of material fact remained.

The Court was influenced by defendants' assertions in the Joint Status Report expressly waiving the opportunity to present additional evidence, and maintaining a position that had already been rejected by the Court in *PrimeSource I*. The Court emphasized the significance of defendants' statement in the Joint Status Report maintaining their

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[2] For a complete discussion of PrimeSource's CIT Complaint, see the W&C US Trade Alert "US Importer Challenges Expansion of Section 232 Duties to 'Derivative' Products at US Court of International Trade" dated February 5, 2020.

position that the procedural requirements of the statute had been satisfied by the 2018 Steel Report and the timely issuance of Proclamation 9705. In the Court's view, this statement constituted a waiver of any defense that the subsequent "assessments" of the Commerce Secretary referenced in Proclamation 9980 were "the functional equivalent" of an original Section 232 report and thus could satisfy the procedural requirements of the statute. The Court additionally found that defendants, by joining the statement "the parties agree and respectfully submit that there is no reason for this Court to delay entry of final judgment," had waived any claim of prejudice resulting from the entry of summary judgment. The Court therefore found that PrimeSource was entitled to judgment as a matter of law.

The Court concluded that Proclamation 9980 failed to comply with the procedural requirements of Section 232. It recalled its previous conclusions in *PrimeSource I* that:

- "[T]he action taken by Proclamation 9980 to adjust imports of derivatives was not implemented during the 105-day time period set forth in § 1862(c)(1), if that time period is considered to have commenced upon the President's receipt of the Steel Report;" and
- The time limitations set forth in Section 232 are not "merely directory" as defendants asserted; rather, they "expressly confine the exercise of the President's discretion[.]" Thus, "any determination the President could have made to adjust the duties on imports of derivatives…was required by the statute to have been made during the 90-day period commencing with the President's receipt of a report of the Commerce Secretary satisfying the requirements of Section 232(b)(3)(A), and any action to implement that determination was required to have been taken, if at all, during the 15-day period following that determination."

In light of these findings, and because defendants declined to argue that the requirements of Section 232 were satisfied by means other than the 2018 Steel Report (*e.g.*, by the Secretary's subsequent "assessments"), the Court concluded that (1) Proclamation 9980 was issued after the President's delegated authority to impose duties on derivative products had expired; and (2) this untimeliness constituted "a significant procedural violation." The Court therefore declared Proclamation 9980 to be invalid, directed that entries affected by the litigation be liquidated without the assessment of duties pursuant to Proclamation 9980, and ordered that PrimeSource be refunded any deposits that may have been collected pursuant to Proclamation 9980. The Court also directed that for any PrimeSource entries that may have been liquidated with the assessment of 25 percent duties pursuant to Proclamation 9980, PrimeSource is entitled to reliquidation of those entries and a refund of any duties deposited or paid, with interest.

Outlook

This is the second time that the CIT has invalidated a Section 232 action for failing to comply with the procedural requirements of the statute. In *Transpacific Steel LLC v. United States*, No.19-00009, Slip Op. 20-98 (Ct. Int'l Trade July 14, 2020), the CIT similarly invalidated Proclamation 9772 (imposing additional Section 232 duties on Turkish steel) because that proclamation was issued well outside the law's 90- and 15-day deadlines. Though the CIT consistently has rejected other, broader challenges concerning the lawfulness of the initial Section 232 tariffs and the constitutionality of the statute itself, its affirmation that the law's procedural requirements are binding might discourage future attempts to expand Section 232 measures outside of the statutory timeframes. The CIT's decision in *PrimeSource II* may also presage similar rulings granting relief to the other importers that have challenged the Section 232 tariffs on "derivative" goods on the same grounds as PrimeSource.

It remains possible that the US government will appeal the CIT's decision to the US Court of Appeals for the Federal Circuit ("CAFC"), which would mean that the CIT's decision could be overturned, and Proclamation 9980 could be reinstated if that appeal is successful. Any party may appeal a CIT decision to the CAFC within 60 days of the decision. It is unclear at this stage whether the US government intends to appeal the decision, given that it waived its opportunity to present additional evidence before the CIT to show that Proclamation 9980 was lawful. Nevertheless, it is notable that the CIT's ruling in *PrimeSource II* contained a dissenting opinion from Judge M. Miller Baker, who argued that a president's timely action to restrict imports under Section 232 permits him to later modify such restrictions.

Petitions and Investigations

US Department of Commerce Initiates Antidumping and Countervailing Duty Investigations of Organic Soybean Meal from India

On April 21, 2021, the US Department of Commerce (DOC) announced the initiation of antidumping (AD) and countervailing duty (CVD) investigations of organic soybean meal from India. DOC initiated these investigations in response to petitions filed by the Organic Soybean Processors of America and the following processors: American Natural Processors, LLC (Dakota Dunes, SD), Organic Production Services, LLC (Weldon, NC), Professional Proteins Ltd. (Washington, IA), Sheppard Grain Enterprises, LLC (Phelps, NY), Simmons Grain Co. (Salem, OH), Super Soy, LLC (Brodhead, WI), and Tri-State Crush (Syracuse, IN).

The merchandise subject to the investigation is certified organic soybean meal. Certified organic soybean meal results from the mechanical pressing of certified organic soybeans into ground products known as soybean cake, soybean chips, or soybean flakes, with or without oil residues. The products covered by these investigations are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings 1208.10.0010 and 2304.00.0000. Certified organic soybean meal may also enter under HTSUS 2309.90.1005, 2309.90.1015, 2309.90.1010, 2309.90.1030, 2309.90.1032, 2309.90.1035, 2309.90.1045, 2309.90.1050, and 2308.00.9890.

The dumping margin alleged in the petition is 158.89%. There are 50 alleged subsidy programs, including numerous tax and grant programs, the provision of land for less than adequate remuneration, preferential lending, and a price support program alleged for more than adequate remuneration.

The US International Trade Commission (ITC) is scheduled to issue its preliminary injury determination on or before May 17, 2021. If the ITC makes an affirmative preliminary determination, the investigations will continue, and DOC will be scheduled to issue its preliminary CVD determination by June 24 and its preliminary AD determination by September 7. If the International Trade Commission makes negative preliminary determinations of injury, the investigations will be terminated.

According to DOC, imports from India under HTSUS subheadings 1208.10.0010 and 2304.00.0000 were valued at approximately $249 million in 2020.

US Department of Commerce Initiates Antidumping and Countervailing Duty Investigations of Certain Walk-Behind Snow Throwers and Parts Thereof from China

On April 20, 2021, the US Department of Commerce (DOC) announced the initiation of antidumping (AD) and countervailing duty (CVD) investigations of certain walk-behind snow throwers and parts thereof from China. DOC initiated these investigations in response to petitions filed by MTD Products Inc. (Valley City, OH).

The merchandise covered by these investigations consists of gas-powered, walk-behind snow throwers (also known as snow blowers), which are snow moving machines that are powered by internal combustion engines and primarily pedestrian-controlled. The scope of the investigations covers certain snow throwers (also known as snow blowers), whether self-propelled or non-self-propelled, whether finished or unfinished, whether assembled or unassembled, and whether containing any additional features that provide for functions in addition to snow throwing. Subject merchandise also includes finished and unfinished snow throwers that are further processed in a third country or in the United States, including, but not limited to, assembly or any other processing that would not otherwise remove the merchandise from the scope of the investigations if performed in the country of manufacture of the in-scope snow throwers. The snow throwers subject to these investigations are typically entered under Harmonized Tariff Schedule of the United States (HTSUS) subheading 8430.20.0060. Certain parts of snow throwers subject to these investigations may also enter under HTSUS 8431.49.9095.

The dumping margin alleged in the petition is 89.96%. There are 17 alleged subsidy programs, including the provision of non-steel and steel inputs for less than adequate remuneration (LTAR), preferential lending programs, tax programs, grants and currency undervaluation.

The US International Trade Commission (ITC) is scheduled to issue its preliminary injury determination on or before May 14, 2021. If the ITC makes an affirmative preliminary determination, the investigations will continue, and DOC will be scheduled to issue its preliminary CVD determination by June 23 and its preliminary AD determination by September 7. If the International Trade Commission makes negative preliminary determinations of injury, the investigations will be terminated.

According to DOC, imports from China under HTSUS subheading 8430.20.0060 were valued at approximately $86.5 million in 2020.

US Department of Commerce Issues Affirmative Final Determinations in Antidumping Investigations of Prestressed Concrete Steel Wire Strand from Indonesia, Italy, Malaysia, South Africa, Spain, Tunisia, and Ukraine

On April 6, 2021, the US Department of Commerce (DOC) announced its affirmative final determinations in the antidumping duty (AD) investigations of prestressed concrete steel wire strand from Indonesia, Italy, Malaysia, South Africa, Spain, Tunisia, and Ukraine. In its investigations, DOC determined that imports of the subject merchandise were sold in the United States at the following dumping margins:

Country	Dumping Margin
Indonesia	5.76-72.28%
Italy	3.59-19.26%
Malaysia	3.94-26.95%
South Africa	155.10%
Spain	14.75%
Tunisia	30.58%
Ukraine	19.30%

The merchandise covered by these investigations is prestressed concrete steel wire strand (PC strand), produced from wire of non-stainless, non-galvanized steel, which is suitable for use in prestressed concrete (both pretensioned and post-tensioned) applications. The product definition encompasses covered and uncovered strand and all types, grades, and diameters of PC strand. The PC strand subject to these investigations is currently classifiable under subheadings 7312.10.3010 and 7312.10.3012 of the Harmonized Tariff Schedule of the United States (HTSUS).

The US International Trade Commission (ITC) is scheduled to issue its final injury determinations by May 20, 2021. If the ITC issues affirmative final determinations of injury, DOC will issue antidumping orders on imports of the subject merchandise.

According to DOC, imports under HTSUS subheadings 7312.10.3010 and 7312.10.3012 in 2020 were valued approximately as follows: $1.3 million (for Indonesia); $10.3 million (for Italy); $11 million (for Malaysia); $5.5 million (for South Africa); $14.2 million (for Spain); $2.3 million (for Tunisia); and $0.5 million (for Ukraine).

US International Trade Commission Finds Imports of Mattresses from Cambodia, Indonesia, Malaysia, Serbia, Thailand, Turkey, and Vietnam Injure US Industry

On April 21, 2021, the US International Trade Commission (ITC) determined that a US industry is materially injured by reason of imports of mattresses from Cambodia, Indonesia, Malaysia, Serbia, Thailand, Turkey, 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 government of China. Chair Jason E. Kearns, Vice Chair Randolph J. Stayin, and Commissioners David S. Johanson, Rhonda K. Schmidtlein, and Amy A. Karpel voted in the affirmative.

As a result of the Commission's affirmative determinations, DOC will issue antidumping duty orders on imports of this product from Cambodia, Indonesia, Malaysia, Serbia, Thailand, Turkey, and Vietnam and a countervailing duty order on imports of this product from China.

In its investigations, DOC determined that imports of the subject merchandise were sold in the United States at the following dumping margins and subsidy rates:

Country	Dumping Margin	Subsidy Rate
Cambodia	45.34%	NA
China	NA	97.78%
Indonesia	2.22%	NA
Malaysia	42.92%	NA
Serbia	112.11%	NA
Thailand	37.48-762.28%	NA
Turkey	20.03%	NA
Vietnam	144.90-668.38%	NA

The products covered by these investigations are all types of youth and adult mattresses. The term "mattress" denotes an assembly of materials that at a minimum includes a "core," which provides the main support system of the mattress, and may consist of innersprings, foam, other resilient filling, or a combination of these materials. The products subject to these investigations are currently properly classifiable under HTSUS subheadings: 9404.21.0010, 9404.21.0013, 9404.29.1005, 9404.29.1013, 9404.29.9085, and 9404.29.9087. Products subject to these investigations may also enter under HTSUS subheadings: 9404.21.0095, 9404.29.1095, 9404.29.9095, 9401.40.0000, and 9401.90.5081.

According to the ITC, imports of the subject merchandise were valued at $794.4 million in 2019.

US International Trade Commission Finds Imports of Non-Refillable Steel Cylinders from China Injure US Industry

On April 21, 2021, the US International Trade Commission (ITC) determined that a US industry is materially injured by reason of imports of non-refillable steel cylinders from China that the US Department of Commerce (DOC) has determined are subsidized and sold in the United States at less than fair value. Chair Jason E. Kearns, Vice Chair Randolph J. Stayin, and Commissioners David S. Johanson, Rhonda K. Schmidtlein, and Amy A. Karpel voted in the affirmative.

As a result of the Commission's affirmative determinations, DOC will issue antidumping and countervailing duty orders on imports of this product from China. In its investigations, DOC determined that imports of the subject merchandise were sold in the United States at dumping margins ranging from 74.33 to 112.21 percent and received countervailable subsidies ranging from 21.28 to 186.18 percent.

The merchandise covered by the investigation is certain seamed (welded or brazed), non-refillable steel cylinders meeting the requirements of, or produced to meet the requirements of, US Department of Transportation (USDOT) Specification 39, TransportCanada Specification 39M, or United Nations pressure receptacle standard and otherwise meeting the description provided below (non-refillable steel cylinders). The subject non-refillable steel cylinders are portable and range from 300-cubic inch (4.9 liter) water capacity to 1,526-cubic inch (25 liter) water capacity. Subject non-refillable steel cylinders may be imported with or without a valve and/or pressure release device and unfilled at the time of importation. Specifically excluded are seamless non-refillable steel cylinders. The subject merchandise is classified under statistical reporting numbers 7311.00.0060 and 7311.00.0090 of the Harmonized Tariff Schedule of the United States (HTSUS).

According to the ITC, imports of the subject merchandise from China were valued at $35.3 million in 2019.

US International Trade Commission Finds Imports of Chassis and Subassemblies from China Injure US Industry

On April 13, 2021, the US International Trade Commission (ITC) determined that a US industry is materially injured by reason of imports of chassis and subassemblies from China that the US Department of Commerce (DOC) has determined are subsidized by the government of China. Chair Jason E. Kearns, Vice Chair Randolph J. Stayin, and Commissioners David S. Johanson, Rhonda K. Schmidtlein, and Amy A. Karpel voted in the affirmative.

As a result of the Commission's affirmative determinations, DOC will issue a countervailing duty order on imports of this product from China. In its CVD investigation, DOC determined that imports of the subject merchandise from China received countervailable subsidies of 39.14 percent.

The merchandise covered by this investigation is chassis and subassemblies thereof, whether finished or unfinished, whether assembled or unassembled, whether coated or uncoated, regardless of the number of axles, for carriage of containers, or other payloads (including self-supporting payloads) for road, marine roll-on/roll-off (RORO) and/or rail transport. Chassis are typically, but are not limited to, rectangular framed trailers with a suspension and axle system, wheels and tires, brakes, a lighting and electrical system, a coupling for towing behind a truck tractor, and a locking system or systems to secure the shipping container or containers to the chassis using twistlocks, slide pins or similar attachment devices to engage the corner fittings on the container or other payload. The finished and unfinished chassis subject to this investigation are typically classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 8716.39.0090 and 8716.90.5060. Imports of finished and unfinished chassis may also enter under HTSUS subheading 8716.90.5010.

According to DOC, imports from China under HTSUS subheadings 8716.39.0090 and 8716.90.5060 were valued at $361.5 million in 2019.

US International Trade Commission Finds Vertical Shaft Engines from China Injure US Industry

On April 6, 2021, the US International Trade Commission (ITC) determined that a US industry is materially injured by reason of imports of small vertical shaft engines from China that the US Department of Commerce (DOC) has determined are subsidized and sold in the United States at less than fair value. Chair Jason E. Kearns, Vice Chair Randolph J. Stayin, and Commissioners David S. Johanson, Rhonda K. Schmidtlein, and Amy A. Karpel voted in the affirmative.

As a result of the ITC's affirmative determinations, DOC will issue antidumping and countervailing duty orders on imports of this product from China. DOC determined in March that imports of the subject merchandise from China

were sold in the United States at dumping margins ranging from 304.35 to 535.48 percent and received countervailable subsidies of 2.84 to 18.13 percent.

The ITC also made affirmative critical circumstances findings in the antidumping and countervailing duty investigations. As a result, certain imports from China will be subject to countervailing and antidumping duties retroactive 90 days from the dates of DOC's preliminary countervailing and antidumping duty determinations, respectively.

The merchandise covered by these investigations consists of spark-ignited, non-road, vertical shaft engines, whether finished or unfinished, whether assembled or unassembled, whether mounted or unmounted, primarily for walk-behind lawn mowers. Engines meeting this physical description may also be for other non-hand-held outdoor power equipment, including but not limited to, pressure washers. The subject engines are spark ignition, single-cylinder, air cooled, internal combustion engines with vertical power take off shafts with a minimum displacement of 99 cubic centimeters (cc) and a maximum displacement of up to, but not including, 225cc. The engines subject to these investigations are predominantly classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 8407.90.1010. The engine subassemblies that are subject to these investigations enter under HTSUS 8409.91.9990. The mounted engines that are subject to these investigations enter under HTSUS 8433.11.0050, 8433.11.0060, and 8424.30.9000. Engines subject to these investigations may also enter under HTSUS 8407.90.1020, 8407.90.9040, and 8407.90.9060.

According to DOC, imports from China under HTSUS subheading 8407.90.1010 were valued at $61.5 million in 2020.