

US & Multilateral Trade Policy Developments

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US General Trade Policy Highlights

President Trump Approves Global Safeguard Measures on Large Residential Washers and Crystalline Silicon Photovoltaic Cells and Modules

On January 23, 2018, President Trump signed proclamations imposing global safeguard measures on imports of large residential washers and crystalline silicon photovoltaic (CSPV) cells and modules, pursuant to Section 201 of the Trade Act of 1974. The Office of the US Trade Representative (USTR) recommended that President Trump impose the safeguard measures, based on findings by the US International Trade Commission (ITC) last year that increased imports of both products “are a substantial cause of serious injury” to U.S. domestic industries. The safeguard measures will apply to imports of the covered products from all countries, except for certain developing countries and, in the case of washers, NAFTA partner Canada. An overview of the measures is provided below.

CSPV cells and modules

The safeguard measure on CSPV products has the following elements:

- **A tariff-rate quota (TRQ)** will be imposed for a period of four years on imports of CSPV cells not partially or fully assembled into other products. The first 2.5 gigawatt (GW) of imported cells (*i.e.*, the “in-quota quantity”) will be excluded from any additional tariffs, whereas imports in excess of the quota will be subject to the additional tariffs shown below.

Although the proclamation does not expressly state the process for quota allocation, it indicates that the quota allocation will be based on a “first-in, first free” process because the proclamation does not provide for country-specific quotas or monthly GW allocations and only refers to “the aggregate annual quantity” of imports. It also provides that “[a]ny importer entering CSPV cells under subheading 9903.45.21 [*i.e.*, in-quota] shall report the electricity power output attributable to such cells to the satisfaction of U.S. Customs and Border Protection (“Customs”) and shall provide such information as Customs may require in order to permit the administration of this subheading.”

- **An additional duty** will be imposed for a period of four years on imports of CSPV modules, with annual reductions in the rates of duty in the second, third, and fourth years, as shown in the table below.

Safeguard Tariffs on Imported Solar Cells and Modules				
Period	Year 1 2/7/2018 – 2/6/2019	Year 2 2/7/2019 – 2/6/2020	Year 3 2/7/2020 – 2/6/2021	Year 4 2/7/2021 – 2/6/2022
Tariff on cells and modules	30%	25%	20%	15%
In-quota quantity (cells only)	2.5 GW	2.5 GW	2.5 GW	2.5 GW

The safeguard measure will apply with respect to goods entered, or withdrawn from a warehouse for consumption, on or after 12:01 a.m. eastern standard time on February 7, 2018.

Product coverage

The following products are covered by the safeguard measure:

- **CSPV cells.** The covered products are crystalline silicon photovoltaic cells of a thickness equal to or greater than 20 micrometers, having a p/n junction (or variant thereof) formed by any means, whether or not the cell (or subassemblies thereof provided for in subheading 8541.40.60 and imported under statistical reporting number 8541.40.6030) has undergone other processing, including, but not limited to, cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward

the electricity that is generated by the cell. Such cells include photovoltaic cells that contain crystalline silicon in addition to other photovoltaic materials. This includes, but is not limited to, passivated emitter rear contact cells, heterojunction with intrinsic thin-layer cells, and other so-called hybrid cells. The covered products include goods presented in cell form and which at the time of importation are not presented assembled into circuits, laminates or modules or made up into panels.

Several types of CSPV cells are expressly excluded from the scope, including (i) thin film photovoltaic products produced from amorphous silicon (“a-Si”), cadmium telluride (“CdTe”), or copper indium gallium selenide (“CIGS”); (ii) certain types of CSPV cells, not exceeding 10,000 mm² in surface area, that are permanently integrated into a consumer good whose primary function is other than power generation; and (iii) CSPV cells that were manufactured in the United States. These and other products excluded from the scope are detailed in Annex I to the proclamation.

- **CSPV modules.** The covered modules include the following goods provided for in subheading 8541.40.60 of the tariff schedule: a module is a joined group of CSPV cells, regardless of the number of cells or the shape of the joined group, that are capable of generating electricity. Also included as a “module” are goods each known as a “panel” comprising a CSPV cell that has undergone any processing, assembly, or interconnection (including, but not limited to, assembly into a laminate). Such CSPV cells assembled into modules or made up into panels include goods of a type reported for statistical purposes under statistical reporting number 8541.40.6020. Such goods also include (i) CSPV cells which are presented attached to inverters or batteries of subheading 8501.61.00 or 8507.20.80, respectively; and (ii) CSPV cells classifiable as DC generators of subheading 8501.31.80.

Product exclusion process

On or before February 22, 2018, USTR will publish in the *Federal Register* procedures for requests for exclusion of a particular product from the safeguard measure. If USTR determines, after consultation with the Secretaries of Commerce and Energy, that a particular product should be excluded, USTR is authorized, upon publishing a notice of such determination in the *Federal Register*, to exclude the product from the safeguard measure. Goods that are excluded under this process will not be counted toward any TRQ quantities specified for any quota period.

Country-specific exclusions

The safeguard measure will not apply to imports of any product of a developing country that is a Member of the World Trade Organization (WTO), as long as that country's share of total subject imports does not exceed 3 percent (and provided that imports of all developing countries with less than 3 percent import share collectively account for not more than 9 percent of total imports of the product). The full list of excluded developing countries is provided in Annex 1 to the CSPV proclamation.¹ Imports of solar cells from the excluded developing countries will not count toward the TRQ limits that trigger the over-quota rates of duty on CSPV cells.

US law also provides that certain US free trade agreement (FTA) partner countries may be excluded from a safeguard measure if certain conditions are met. However, the proclamation does not provide any such exclusions.

Large residential washers

The safeguard measure on large residential washers has the following elements:

¹ The developing country WTO Members excluded from the CSPV measure are Afghanistan, Albania, Algeria, Angola, Armenia, Azerbaijan, Belize, Benin, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Burkina Faso, Burma, Burundi, Cambodia, Cameroon, Cape Verde, Central African Republic, Chad, Comoros, Congo (Brazzaville), Congo (Kinshasa), Côte d'Ivoire, Djibouti, Dominica, Ecuador, Egypt, Eritrea, Ethiopia, Fiji, Gabon, The Gambia, Georgia, Ghana, Grenada, Guinea, Guinea-Bissau, Guyana, Haiti, India, Indonesia, Iraq, Jamaica, Jordan, Kazakhstan, Kenya, Kiribati, Kosovo, Kyrgyzstan, Lebanon, Lesotho, Liberia, Macedonia, Madagascar, Malawi, Maldives, Mali, Mauritania, Mauritius, Moldova, Mongolia, Montenegro, Mozambique, Namibia, Nepal, Niger, Nigeria, Pakistan, Papua New Guinea, Paraguay, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tomé and Príncipe, Senegal, Serbia, Sierra Leone, Solomon Island, Somalia, South Africa, South Sudan, Sri Lanka, Suriname, Swaziland, Tanzania, Timor-Leste, Togo, Tonga, Tunisia, Turkey, Tuvalu, Uganda, Ukraine, Uzbekistan, Vanuatu, Yemen (Republic of), Zambia and Zimbabwe.

- **A tariff-rate quota** will be imposed on imports of large residential washers for a period of three years plus one day. The first 1,200,000 units imported during each year (*i.e.*, the “in-quota quantity”) will be subject to an additional tariff of 20 percent in the first year, 18 percent in the second year, and 16 percent in the third year, as shown below. Imports in excess of the quota will be subject to an additional tariff of 50 percent in the first year, 45 percent in the second year, and 40 percent in the third year.
- **A tariff-rate quota** will be imposed on imports of covered washer parts for a period of three years plus one day. The in-quota quantity will be set at 50,000 units during the first year, 70,000 units during the second year, and 90,000 units during the third year.² Imports within these quota amounts will not be subject to any additional tariffs, whereas imports in excess of the quota will be subject to an additional tariff of 50 percent in the first year, 45 percent in the second year, and 40 percent in the third year.

Safeguard Tariffs on Large Residential Washers and Parts			
Period	Year 1 2/7/2018 – 2/6/2019	Year 2 2/7/2019 – 2/6/2020	Year 3 2/7/2020 – 2/7/2021
First 1.2 million units of imported finished washers	20%	18%	16%
All subsequent imports of finished washers	50%	45%	40%
Tariff on covered parts	50%	45%	40%
Covered parts excluded from tariff	50,000 units	70,000 units	90,000 units

Although the proclamation does not expressly state the process for quota allocation, it indicates that the quota allocation will be based on a “first-in, first free” process because the proclamation does not provide for country-specific quotas or monthly allocations and only refers to “the annual aggregate quantity” of imports of washers and covered parts.

The safeguard measure will take effect with respect to goods entered, or withdrawn from a warehouse for consumption, on or after 12:01 a.m. eastern standard time on February 7, 2018.

Product coverage

The following products are covered by the safeguard measure:

- **Large residential washers.** The covered products are automatic clothes washing machines, regardless of the orientation of the rotational axis, each with a cabinet width (measured from its widest point) of at least 62.23 cm and no more than 81.28 cm. The covered products are provided for in subheadings 8450.11.00 and 8450.20.00 of the tariff schedule. Several products are excluded from the scope, including all stacked washer-dryers and all commercial washers. Also excluded are:
 - Top-loading washers with a vertical rotational axis and a drive train consisting, *inter alia*, of (a) a permanent split capacitor motor, (b) a belt drive and (c) a flat wrap spring clutch;
 - Front-loading washers with a horizontal rotational axis and a drive train consisting, *inter alia*, of (a) controlled induction motor and (b) a belt drive; and
 - Front-loading washers with a horizontal rotational axis and a cabinet width (measured from its widest point) of more than 72.39 cm.

² These quota amounts refer to the annual aggregate quantity of all parts of residential washing machines covered by the safeguard measure.

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- **Parts of large residential washers.** The covered parts include the following goods provided for in subheading 8450.90.20 or 8450.90.60 of the tariff schedule:
 - All cabinets, or portions thereof, provided for in subheading 8450.90.60 and designed for use in the covered washing machines, the foregoing which incorporate, at a minimum, (a) a side wrapper, (b) a base and (c) a drive hub;
 - All assembled tubs provided for in subheading 8450.90.20 and designed for use in the covered washing machines which incorporate, at a minimum: (a) a tub and (b) a seal; and
 - Any combination of the foregoing parts or subassemblies, provided for in subheading 8450.90.20 or 8540.90.60.

A full description of the scope and the excluded products is provided in Annex I to the proclamation.

Country-specific exclusions

Pursuant to the NAFTA Implementation Act, the President determined that imports from Canada of washers and covered washer parts, considered individually, do not account for a substantial share of total imports and do not contribute importantly to the serious injury or threat of serious injury found by the ITC. Accordingly, imports of washers and covered washer parts that are the product of Canada are excluded from the safeguard measure.

In addition, the safeguard measure will not apply to imports of any product of

a developing country that is a WTO Member, as long as that country's share of total imports of the product does not exceed 3 percent, and provided that imports from all such countries with less than 3 percent import share collectively account for not more than 9 percent of total imports of the product. The full list of excluded developing countries is provided in Annex 1 to the proclamation.³

Imports from Canada and the excluded developing country WTO members will not be counted toward the TRQ limits that trigger the over-quota rates of duty.

The presidential proclamations regarding CSPV and large residential washers are attached for reference.

USTR Report on China's WTO Compliance Lays Groundwork for Unilateral Trade Actions

On January 18, 2018, the Office of the US Trade Representative (USTR) published its annual reports assessing China's and Russia's implementation of their respective World Trade Organization (WTO) commitments.⁴ The reports promise much tougher trade enforcement by the United States in 2018, including through the use of WTO dispute settlement, in order to target the alleged failures of China and Russia to adopt market-oriented trade regimes and comply with their WTO obligations and accession commitments. More importantly, however, the report on China argues that WTO rules and dispute settlement alone are insufficient to constrain China's market-distorting behavior and economic policies, and that the United States therefore is prepared to act unilaterally to combat these practices. These statements appear to be aimed at preemptively justifying potential unilateral trade actions targeting China, several of which are currently being contemplated by the Trump administration.

³ The developing country WTO Members excluded from the washers measure are Afghanistan, Albania, Algeria, Angola, Armenia, Azerbaijan, Belize, Benin, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Burkina Faso, Burma, Burundi, Cambodia, Cameroon, Cape Verde, Central African Republic, Chad, Comoros, Congo (Brazzaville), Congo (Kinshasa), Côte d'Ivoire, Djibouti, Dominica, Ecuador, Egypt, Eritrea, Ethiopia, Fiji, Gabon, The Gambia, Georgia, Ghana, Grenada, Guinea, Guinea-Bissau, Guyana, Haiti, India, Indonesia, Iraq, Jamaica, Jordan, Kazakhstan, Kenya, Kiribati, Kosovo, Kyrgyzstan, Lebanon, Lesotho, Liberia, Macedonia, Madagascar, Malawi, Maldives, Mali, Mauritania, Mauritius, Moldova, Mongolia, Montenegro, Mozambique, Namibia, Nepal, Niger, Nigeria, Pakistan, Papua New Guinea, Paraguay, Philippines, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tomé and Príncipe, Senegal, Serbia, Sierra Leone, Solomon Island, Somalia, South Africa, South Sudan, Sri Lanka, Suriname, Swaziland, Tanzania, Timor-Leste, Togo, Tonga, Tunisia, Turkey, Tuvalu, Uganda, Ukraine, Uzbekistan, Vanuatu, Yemen (Republic of), Zambia and Zimbabwe.

⁴ Click [here](#) to view the report on China and [here](#) to view the report on Russia.

Overview of the reports

Both reports take an uncompromising approach and conclude that “... the global trading system is threatened by major economies who do not intend to open their markets to trade and participate fairly.” The report on China states that “... it seems clear that the United States erred in supporting China’s entry into the WTO on terms that have proven to be ineffective in securing China’s embrace of an open, market-oriented trade regime.” In the case of Russia, “Russia’s accelerating withdrawal from the market-opening rules of the WTO is creating barriers to U.S. exports of goods and services” and “It was a mistake to allow Russia to join the WTO if it is not fully prepared to live by WTO rules.” Both reports call for increased use of WTO dispute settlement to hold these countries strictly to adhere to their WTO obligations. However, with regard to China USTR states that “The notion that our problems with China can be solved by bringing more [dispute settlement] cases at the WTO alone is naïve”, because the dispute settlement mechanism “... is not effective in addressing a trade regime that broadly conflicts with the fundamental underpinnings of the WTO system.” Accordingly, the United States intends also to use other enforcement mechanisms available under its trade laws, such as Section 301 of the Trade Act of 1974 and the “non-market economy” (NME) methodology in anti-dumping investigations of Chinese imports.

2017 Report to Congress on China’s WTO Compliance

The theme of the USTR report on China is that China has failed to live up to its commitments taken in its Protocol of WTO Accession to dismantle its state-led policies and practices. The report states that while some progress was made in that direction in the early years after China’s accession, in the past five years the state’s role in the economy has increased and China has reversed the steps it took initially towards a market economy. According to the report, China now pursues a wide range of interventionist policies and practices to maintain the state’s leading role in the economy, aimed at limiting market access for imported goods and services and pursuing “... industrial policies that promote, guide and support domestic industries while simultaneously and actively seeking to impede, disadvantage and harm their foreign counterparts.” Meanwhile, the benefits China has reaped from its WTO membership have allowed it to become a dominant player in international trade, causing serious problems for business in the United States and other countries and causing China’s bilateral trade imbalance with the United States to grow exponentially.

Bilateral dialogues between the United States and China have failed to resolve significant trade irritants or to encourage China to pursue market-oriented policies, according to the report. The report claims that this is because Chinese policymakers were not interested in moving toward a true market economy.

The report states that the United States will continue to hold China strictly accountable for adherence to its WTO obligations by using the WTO dispute settlement mechanism as an enforcement tool and raising concerns in meetings of WTO committees and councils. However, the report alleges that WTO rules were not formulated with a state-led economy in mind. Although some of China’s state-led policies and practices were disciplined in its Protocol of WTO Accession, and some others have been successfully challenged through WTO dispute settlement, the Chinese Government has been adept at replacing these with other means of maintaining state control over its economy and over its imports and exports in particular, according to USTR. The report states that “It is now clear that the WTO rules are not sufficient to constrain China’s market-distorting behavior”, and that “it is simply unrealistic to believe that WTO enforcement actions alone can ever have a significant impact on an economy as large as China’s economy, unless the Chinese government is truly committed to market-based competition.”

Accordingly, the report states that the United States will continue to rigorously enforce U.S. trade remedy laws when U.S. interests are being harmed by unfairly traded or surging imports from China, and that it will take all other steps necessary to rein in harmful state-led, mercantilist policies and practices pursued by China, even when they do not fall squarely within WTO disciplines. As evidence for the latter, the report cites USTR’s ongoing Section 301 investigation of Chinese technology transfer policies and practices. The report also implicitly echoes many of the arguments set forth in the United States’ third party submission in DS516 (*European Union – Measures Related to Price Comparison Methodologies*), which defended WTO Members’ use of alternative calculation methodologies in anti-dumping cases against Chinese imports on the grounds that such methodologies were needed to address situations in which pervasive state intervention renders domestic prices and costs distorted or unreliable.

2017 Report on the Implementation and Enforcement of Russia's WTO Commitments

The USTR report on Russia is less confrontational than the report on China but it is very critical, nonetheless, of what it claims is Russia's widespread failure to comply with WTO principles or its WTO accession commitments. It highlights failings in Russia's import licensing and customs regimes, its export restrictions and its trade regulations, particularly in the agricultural sector. It targets Russia's industrial policies, particularly its subsidies and its local content requirements, Russia's localization policies in services, and its alleged failure to provide adequate protection to intellectual property. The report concludes that: "If the United States finds that Russia is not acting consistent with its WTO commitments, it will investigate and use all appropriate means to resolve the matter and keep Russia's markets open to U.S. exports."

Outlook

Ambassador Lighthizer has asserted previously that WTO rules are insufficient to address China's industrial policies, but USTR's new report elaborates on that argument and emphasizes the Trump administration's position that unilateral trade actions targeting China are warranted. In this context, the report directly references USTR's Section 301 investigation of China's intellectual property rights policies, which is expected to be completed in the coming weeks and appears increasingly likely to result in unilateral action targeting China-origin imports and/or investments into the United States. USTR's new report appears to be aimed at preemptively justifying such actions, and other unilateral measures that the Trump administration might take in the coming months (e.g., import restrictions resulting from the Section 232 investigations of steel and aluminum imports, which have now reached the presidential determination stage and must be completed by April 11 and 19, respectively). It also reiterates the United States' view that NME anti-dumping methodologies remain appropriate for China.

The specter of increased U.S. unilateralism has raised serious concerns among some supporters of the multilateral trading system who fear that significant U.S. actions outside of the WTO, accompanied by U.S. government statements questioning the system's efficacy, would undermine WTO rules, negotiations and dispute settlement. These outcomes would be exacerbated if U.S. actions lead to unilateral retaliation by China or extend to other countries whose economies are alleged to feature significant government intervention (thus potentially leading to additional unilateral retaliation).

On the other hand, USTR's reports on China and Russia have also raised concerns that the United States may be about to ramp up significantly its WTO dispute settlement challenges against both countries. This possibility is ominous because the WTO dispute settlement mechanism is already straining to deal with its existing caseload in part because U.S. recalcitrance on approving the appointment of new Appellate Body (AB) members has diminished the AB's capacity. A second concern is that high profile cases against China or Russia could provide further ammunition for the United States to continue to criticize the WTO dispute settlement mechanism as inefficient at best, and biased against U.S. trade interests at worst. This could lead to additional U.S. forays into unilateralism. The third concern is that after the failure of its Ministerial Conference last December to reach any agreement, the WTO badly needs more political support and cooperation from its key Members if it is to make progress on the multilateral agenda this year; having the United States and China, in particular, locked in litigation is likely to prevent that from happening.

TPP-11 Countries Conclude CPTPP Negotiations; Signing Expected in March 2018

Senior trade officials from the 11 remaining member states of the Trans-Pacific Partnership (TPP) including Australia, Brunei, Canada, Chile, Japan, Malaysia, New Zealand, Peru, Singapore, and Vietnam (TPP-11 countries) met in Tokyo from January 22-23 to finalize the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP).⁵ The conclusion of negotiations comes one year after US President Donald Trump withdrew the United States from the Agreement.

⁵ The CPTPP is a revised version of the original Trans-Pacific Partnership (TPP), which incorporates all previous commitments from the TPP, with a few notable exceptions.

During the two-day high-level meeting in Tokyo, senior trade officials were able to resolve all outstanding issues, finalize the list of suspended provisions, and complete the legal verification of the Agreement. The four key outstanding issues included: (i) state-owned enterprises (Annex IV for Malaysia), specifically as indicated by the Malaysian Ministry of Trade and Industry (MITI), 'Malaysia's request for more flexibility to conduct preferential purchases for the upstream oil and gas sector in which the commitment to limit the transition period will now commence on the date of entry into force, instead of the date of signing as per the previous arrangement; (ii) services and investment non-conforming measures concerning market access for the coal industry (Annex II for Brunei); (iii) dispute settlement (trade sanctions) (Article 28.20 for Vietnam); and (iv) exceptions for cultural industries and content for Canada. Specifically, suspension requests from Malaysia and Brunei related to state-owned enterprises and coal, respectively, were granted, whereas cultural exemptions for Canada, and the grace period to prepare labor legislation allowing workers to form unions in Vietnam (among other rights) were settled by adopting bilateral side letters.

The conclusion of the CPTPP negotiations comes three months after the TPP-11 Ministers met in Vietnam to assess final options to bring the TPP Agreement into force expeditiously following the withdrawal of the United States in January 2017. The Ministers agreed on the proposed Agreement and announced its substantive conclusion with a certain number of provisions suspended temporarily⁶ and some outstanding issues to be finalized. Specifically, the CPTPP contains seven key elements: (i) incorporation of the original TPP; (ii) suspension of the application of certain provisions; (iii) entry into force; (iv) withdrawal; (v) accession; (vi) review; and (vii) authentic texts. Market access commitments for goods under the TPP remain unchanged.

According to Japan's Minister for Economic Revitalization Toshimitsu Motegi, the Parties will sign the CPTPP on March 8, 2018 in Chile. Once signed, the Agreement will take effect upon ratification by six countries, which could occur as soon as 2019. The Parties have finalized the English text of the Agreement. Following the completion and verification of the same text in French and Spanish, the legal text is expected to be released in the next few weeks.

⁶ The Parties agreed to suspend 20 provisions, mostly relating to the investment and intellectual property chapters of the original TPP as follows: (i) express shipments (Article 5.7.1(f)); (ii) Investment Agreement and investment authorization including investor-to-state dispute settlement (ISDS) (Article 9.1), and provisions concerning submission of claim to arbitration (Article 9.19.1, 9.19.2, 9.19.3) and selection of arbitrators (9.22.5); (iii) express delivery services (Annex 10-B); (iv) minimum standard of treatment in the Investment Agreement (Article 11.2); (v) resolution of telecommunications disputes (Article 13.21.1(d)); (vi) commitments relating to labor rights in conditions for participation (Article 15.8.5); (vii) further negotiations on the Investment Agreement (Article 15.24.2); (viii) national treatment (Article 18.8, footnote 4); (ix) patentable subject matter (Article 18.37.2 and 18.37.4); (x) patent term adjustment for unreasonable granting authority delays (Article 18.46); (xi) patent term adjustment for unreasonable curtailment (Article 18.48); (xii) protection of undisclosed test or other data (Article 18.50); (xiii) biologics (Article 18.51); (xiv) term of protection for copyright and related rights (Article 18.63); (xv) technological protection measures (TPMs) (Article 18.68); (xvi) rights management information (RMI) (Article 18.69); (xvii) protection of encrypted program-carrying satellite and cable signals (Article 18.79); (xviii) legal remedies and safe harbors (Article 18.82, Annexes 18-E and 18-F); (xix) conservation and trade (Article 20.17.5); and (xx) transparency and procedural fairness for pharmaceutical products and medical devices (Annex 26A).

Petitions and Investigations Highlights

US Department of Commerce Issues Affirmative Preliminary Determinations in Antidumping Investigations of Citric Acid and Certain Citrate Salts from Belgium, Colombia, and Thailand

On January 2, 2018, the US Department of Commerce (DOC) announced its affirmative preliminary determinations in the antidumping duty (AD) investigations concerning imports of citric acid and certain citrate salts from Belgium, Colombia, and Thailand.⁷ In its investigations, DOC preliminarily determined that imports of the subject merchandise were sold in the United States at the following dumping margins:

Country	Exporter/Producer	Dumping Margin
Belgium	S.A. Citrique Belge N.V.	24.41%
	All others	24.41%
Colombia	Sucroal SA	27.48%
	All others	27.48%
Thailand	COFCO Biochemical (Thailand) Co., Ltd.	15.73%
	Niran (Thailand) Co., Ltd.	12.95%
	Sunshine Biotech International Co., Ltd.	4.77%
	All others	10.55%

As a result of the preliminary affirmative determinations, DOC will instruct US Customs and Border Protection (CBP) to require cash deposits based on these preliminary rates.

The products covered by the investigations are all grades and granulation sizes of citric acid, sodium citrate, and potassium citrate in their unblended forms, whether dry or in solution, and regardless of packaging type. The scope also includes blends of citric acid, sodium citrate, and potassium citrate; as well as blends with other ingredients, such as sugar, where the unblended form(s) of citric acid, sodium citrate, and potassium citrate constitute 40 percent or more, by weight, of the blend. A number of products are excluded from the scope.

Citric acid and sodium citrate are classifiable under subheadings 2918.14.0000 and 2918.15.1000 of the Harmonized Tariff Schedule of the United States (HTSUS), respectively. Potassium citrate and crude calcium citrate are classifiable under 2918.15.5000 and, if included in a mixture or blend, 3824.99.9295 of the HTSUS. Blends that include citric acid, sodium citrate, and potassium citrate are classifiable under 3824.99.9295 of the HTSUS.

DOC is scheduled to announce its final determinations on or around May 14, 2018. If DOC makes affirmative final determinations, and the US International Trade Commission (ITC) makes affirmative final determinations that that imports of citric acid and certain citrate salts from Belgium, Colombia, or Thailand materially injure, or threaten material injury to, the domestic industry, DOC will issue AD orders.

In 2016, imports of citric acid and certain citrate salts from Belgium, Colombia, and Thailand were valued at an estimated USD 10.2 million, USD 26.5 million, and USD 49.9 million, respectively.

US International Trade Commission Issues Affirmative Final Determination in Countervailing Duty Investigation of Tool Chests and Cabinets from China

On January 3, 2018, the US International Trade Commission (ITC) determined that a US industry is materially injured by reason of imports of tool chests and cabinets from China.⁸ The US Department of Commerce (DOC) determined

⁷ Click [here](#) to view the DOC fact sheet on these investigations.

⁸ Click [here](#) to view the ITC's press release on the investigation.

in November 2017 that imports of tool chests and cabinets from China sold in the United States received countervailable subsidies ranging from 14.03 to 15.09 percent.

As a result of the ITC's affirmative final determination, DOC will issue a countervailing duty order on imports of the subject merchandise from China, which are classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) primarily under item numbers 9403.20.0021, 9403.20.0026, 9403.20.0030 and 7326.90.8688, but may also be classified under 7326.90.3500. The ITC withheld the annual value of imports of tool chests and cabinets from China to avoid disclosure of business proprietary information.

The ITC's public report on the investigation will be available by February 6, 2018.

US International Trade Commission Issues Affirmative Final Determinations in Countervailing Duty Investigations of Cold-Drawn Mechanical Tubing from China and India

On January 5, 2018, the US International Trade Commission (ITC) determined that a US industry is materially injured by reason of imports of cold-drawn mechanical tubing from China and India.⁹ The US Department of Commerce (DOC) determined in December 2017 that imports of cold-drawn mechanical tubing from China received countervailable subsidies ranging from 18.27 to 21.41 percent, and that imports of the same from India received countervailable subsidies ranging from 8.02 to 42.60 percent.

As a result of the ITC's affirmative final determinations, DOC will issue countervailing duty orders on imports of the subject merchandise from China and India, which are classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) primarily under item numbers 7304.31.3000, 7304.31.6050, 7304.51.1000, 7304.51.5005, 7304.51.5060, 7306.30.5015, 7306.30.5020, and 7306.50.5030, but may also be classified under item number 7326.90.3500. According to the ITC, imports of cold-drawn mechanical tubing from China and India in 2016 were valued at estimated USD 29.4 million and USD 25 million, respectively.

The ITC's public report on the investigation will be available by February 14, 2018.

US Department of Commerce Issues Affirmative Final Determinations in Antidumping Investigations of Carbon and Alloy Steel Wire Rod from South Africa and Ukraine

On January 9, 2018, the US Department of Commerce (DOC) announced its affirmative final determinations in the antidumping (AD) investigations concerning imports of carbon and alloy steel wire rod from South Africa and Ukraine.¹⁰ In these investigations, DOC determined that imports of carbon and alloy steel wire rod from South Africa were sold in the United States at dumping margins ranging from 135.46 to 142.26 percent, and that imports of the same from Ukraine were sold in the United States at dumping margins ranging from 34.98 to 44.03 percent.

The products subject to the investigation are certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, less than 19.00 mm in actual solid cross-sectional diameter. Several products are specifically excluded from the scope. The subject products are currently classifiable under subheadings 7213.91.3011, 7213.91.3015, 7213.91.3020, 7213.91.3093, 7213.91.4500, 7213.91.6000, 7213.99.0030, 7227.20.0030, 7227.20.0080, 7227.90.6010, 7227.90.6020, 7227.90.6030, and 7227.90.6035 of the Harmonized Tariff Schedule of the United States (HTSUS). Products entered under subheadings 7213.99.0090 and 7227.90.6090 of the HTSUS also may be included in the scope if they meet the physical description of subject merchandise.

The US International Trade Commission (ITC) is scheduled to announce its final determinations in these investigations on or around February 22, 2018. If the ITC makes affirmative final determinations that imports of carbon and alloy steel wire rod from South Africa and/or Ukraine materially injure or threaten material injury to the domestic industry, DOC will issue AD orders.

⁹ Click [here](#) to view the ITC's press release on the investigation.

¹⁰ Click [here](#) to view the DOC fact sheet on these investigations.

According to DOC, imports of carbon and alloy steel wire rod from South Africa and Ukraine in 2016 were valued at an estimated USD 7.1 million and USD 55 million, respectively.

US Department of Commerce Issues Affirmative Preliminary Determination in Countervailing Duty Investigation of Uncoated Groundwood Paper from Canada

On January 9, 2018, the US Department of Commerce (DOC) announced its affirmative preliminary determination in the countervailing duty (CVD) investigation concerning imports of uncoated groundwood paper from Canada.¹¹ In its investigation, DOC preliminary determined that imports of the subject merchandise from Canada received countervailable subsidies at the following rates:

Country	Exporter/Producer	Subsidy Rate
Canada	Catalyst Paper Corporation	6.09%
	Kruger Trois-Rivieres L.P.	9.93%
	Resolute FP Canada Inc.	4.42%
	White Birch Paper Canada Company NSULC	0.65% (<i>de minimis</i>)
	All others	6.53%

As a result of the preliminary affirmative determination, DOC will instruct US Customs and Border Protection (CBP) to require cash deposits based on these preliminary rates.

The merchandise covered by the investigation is certain paper that has not been coated on either side and with 50 percent or more of the cellulose fiber content consisting of groundwood pulp, including groundwood pulp made from recycled paper, weighing not more than 90 grams per square meter. Groundwood pulp includes all forms of pulp produced from a mechanical pulping process, such as thermo-mechanical process (TMP), chemi-thermo mechanical process (CTMP), bleached chemithermo mechanical process (BCTMP) or any other mechanical pulping process. The scope includes paper shipped in any form, including but not limited to both rolls and sheets. Certain uncoated groundwood paper includes but is not limited to standard newsprint, high bright newsprint, book publishing, directory, and printing and writing papers. The scope includes paper that is white, off-white, cream, or colored. Specifically excluded from the scope are imports of certain uncoated groundwood paper printed with final content of printed text or graphic. Also excluded are papers that otherwise meet this definition, but which have undergone a supercalendering process.

Certain uncoated groundwood paper is classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) in several subheadings, including 4801.00.0120, 4801.00.0140, 4802.61.1000, 4802.61.2000, 4802.61.3110, 4802.61.3191, 4802.61.6040, 4802.62.1000, 4802.62.2000, 4802.62.3000, 4802.62.6140, 4802.69.1000, 4802.69.2000, and 4802.69.3000. Subject merchandise may also be imported under several additional subheadings including 4805.91.5000, 4805.91.7000, and 4805.91.9000.

DOC is scheduled to announce its final determination in the CVD investigation on or around May 23, 2018, unless the statutory deadline is extended. If DOC makes an affirmative final determination, and the US International Trade Commission (ITC) makes an affirmative final determination that that imports of uncoated groundwood paper from Canada materially injure or threaten material injury to the domestic industry, DOC will issue a CVD order. If either DOC's or the ITC's final determination is negative, no CVD order will be issued.

In 2016, imports of uncoated groundwood paper from Canada were valued at an estimated USD 1.27 billion.

¹¹ Click [here](#) to view the DOC fact sheet on these investigations.

US Department of Commerce Issues Affirmative Preliminary Determinations in Countervailing Duty Investigations of Stainless Steel Flanges from China and India

On January 17, 2018, the US Department of Commerce (DOC) announced its affirmative preliminary determinations in the countervailing duty (CVD) investigations concerning imports of stainless steel flanges from China and India.¹² In its investigations, DOC preliminary determined that imports of the subject merchandise from China and India received countervailable subsidies at the following rates:

Country	Exporter/Producer	Subsidy Rate
China	Both Well (Jiangyan) Steel Fittings Co., Ltd.	174.73%
	Hydro Fluid Controls Ltd.	174.73%
	Jiangyin Shengda Brite Line Kasugai Flange Co., Ltd.	174.73%
	Qingdao I-Flow Co., Ltd.	174.73%
	All others	174.73%
India	Bebitz Flanges Works	239.61%
	Echjay Forgings Private Limited	5.00%
	All others	5.00%

As a result of the preliminary affirmative determinations, DOC will instruct US Customs and Border Protection (CBP) to require cash deposits based on these preliminary rates.

The products covered by these investigations are certain forged stainless steel flanges, whether unfinished, semi-finished, or finished (certain forged stainless steel flanges). Certain forged stainless steel flanges are generally manufactured to, but not limited to, the material specification of ASTM/ASME A/SA182 or comparable domestic or foreign specifications. Certain forged stainless steel flanges are made in various grades such as, but not limited to, 304, 304L, 316, and 316L (or combinations thereof). The term “stainless steel” used in the scope refers to an alloy steel containing, by actual weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements.

The subject merchandise is typically classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7307.21.1000 and 7307.21.5000.

DOC is scheduled to announce its final determinations on April 3, 2018, and May 29, 2018, for China and India, respectively, unless the statutory deadlines are extended. If DOC makes affirmative final determinations, and the US International Trade Commission (ITC) makes affirmative final determinations that imports of stainless steel flanges from China and/or India materially injure or threaten material injury to the domestic industry, DOC will issue CVD orders.

In 2016, imports of stainless steel flanges from China and India were valued at an estimated USD 16.3 million and 32.1 million, respectively.

US Department of Commerce Issues Affirmative Final Determinations in Countervailing Duty Investigations of Fine Denier Polyester Staple Fiber from China and India

On January 17, 2018, the US Department of Commerce (DOC) announced its affirmative final determinations in the countervailing duty (CVD) investigations concerning imports of fine denier polyester staple fiber from China and India.¹³ DOC determined that imports of the subject merchandise from China received countervailable subsidies at

¹² Click [here](#) to view the DOC fact sheet on these investigations.

¹³ Click [here](#) to view the DOC fact sheet on these investigations.

rates ranging from 38 to 47.57 percent, and that imports of the subject merchandise from India received countervailable subsidies at rates ranging from 13.38 to 27.36 percent.

The merchandise subject to these investigations is fine denier polyester staple fiber, not carded or combed, measuring less than 3.3 decitex (3 denier) in diameter. The scope covers all fine denier PSF, whether coated or uncoated. The DOC fact sheet on these investigations details the exclusion of certain products. The subject products are currently classifiable under subheading 5503.20.0025 of the Harmonized Tariff Schedule of the United States.

The US International Trade Commission (ITC) is scheduled to announce its final determinations in these investigations on or around March 2, 2018. If the ITC makes affirmative final determinations that imports of fine denier polyester staple fiber from China and India materially injure or threaten material injury to the domestic industry, DOC will issue CVD orders.

According to DOC, imports of fine denier polyester staple fiber from China and India in 2016 were valued at an estimated USD 79.4 million and USD 14.7 million, respectively.

US International Trade Commission Issues Negative Final Determinations in AD/CVD Investigations of 100- to 150-Seat Large Civil Aircraft from Canada

On January 26, 2018, the US International Trade Commission (ITC) determined that a U.S. industry is not materially injured or threatened with material injury by reason of imports of 100- to 150-seat large civil aircraft from Canada.¹⁴ The ITC's vote was unanimous, with Chairman Rhonda K. Schmidlein, Vice Chairman David S. Johanson, and Commissioners Irving A. Williamson and Meredith M. Broadbent voting in the negative.

As a result of the ITC's negative final determinations, no antidumping or countervailing duty orders will be issued. The US Department of Commerce (DOC) in December 2017 made affirmative final determinations in its antidumping and countervailing duty investigations of large civil aircraft from Canada, calculating a dumping margin of 79.82 percent and a countervailable subsidy rate of 212.39 percent for Bombardier, Inc., the Canadian producer of the subject merchandise.

The ITC's public report will contain the views of the Commission and the information developed during the investigations. The report will be available by March 2, 2018.

US Department of Commerce Issues Affirmative Preliminary Determination in Antidumping Duty Investigation of Certain Tapered Roller Bearings from Korea

On January 30, 2018, the US Department of Commerce (DOC) announced its affirmative preliminary determination in the antidumping duty (AD) investigation of certain tapered roller bearings from Korea.¹⁵ In its investigation, DOC preliminarily determined that imports of the subject merchandise from Korea were sold in the United States at dumping margins ranging from 21.23 to 45.53 percent.

The products subject to these investigations are tapered roller bearings with a nominal outside cup diameter of eight inches and under, regardless of type of steel used to produce the bearing, whether of inch or metric size, and whether the tapered roller bearing is a thrust bearing or not. Certain products are specifically excluded from the scope. The subject products are primarily classifiable under subheadings 8482.20.0040, 8482.20.0061, 8482.20.0070, 8482.20.0081, 8482.91.0050, 8482.99.1550, and 8482.99.1580 of the Harmonized Tariff Schedule of the United States (HTSUS). Parts may also enter under subheading 8482.99.4500.

DOC is scheduled to announce its final determination on or around April 17, 2018, unless the statutory deadline is extended. If DOC makes an affirmative final determination, and the US International Trade Commission (ITC) makes

¹⁴ Click [here](#) to view the ITC's press release on the investigations.

¹⁵ Click [here](#) to view the DOC fact sheet on the investigation.

an affirmative final determination that imports of certain tapered roller bearings from Korea materially injure or threaten material injury to the domestic industry, DOC will issue an AD order.

According to DOC, imports of the subject merchandise from Korea in 2016 were valued at an estimated USD 60 million.

US Department of Commerce Issues Affirmative Preliminary Determinations in Antidumping Duty Investigations of Low Melt Polyester Staple Fiber from Korea and Taiwan

On January 29, 2018, the US Department of Commerce (DOC) announced its affirmative preliminary determinations in the antidumping duty (AD) investigations of low melt polyester staple fiber (PSF) from Korea and Taiwan.¹⁶ In its investigations, DOC preliminarily determined that imports of the subject merchandise from Korea and Taiwan were sold in the United States at dumping margins of 16.48 percent and 52 percent, respectively.

The products subject to these investigations are synthetic staple fibers, not carded or combed, specifically bicomponent polyester fibers having a polyester fiber component that melts at a lower temperature than the other polyester fiber component (low melt PSF). The scope includes bi-component polyester staple fibers of any denier or cut length. The subject merchandise may be coated, usually with a finish or dye, or not coated. Low melt PSF is currently classifiable under subheading 5503.20.0015. Excluded from the scope are any products covered by the existing antidumping duty orders on certain polyester staple fiber from Korea and Taiwan.

DOC is scheduled to announce its final determinations on or around June 19, 2018. If DOC makes affirmative final determinations, and the US International Trade Commission (ITC) makes affirmative final determinations that imports of low melt PSF from Korea and/or Taiwan materially injure or threaten material injury to the domestic industry, DOC will issue AD orders.

According to DOC, imports of low melt PSF from Korea and Taiwan in 2016 were valued at an estimated USD 76.6 million and USD 26.8 million, respectively.

¹⁶ Click [here](#) to view the DOC fact sheet on the investigations.

Multilateral Policy Highlights

United States Counter-Notifies Alleged State-Trading Enterprises of Vietnam

The United States has made a counter-notification in the WTO of eight of Vietnam's most important industrial corporations, alleging that they are state-trading enterprises (STEs) and that Vietnam has failed to meet its obligation to notify them under the WTO Understanding on the Interpretation of Article XVII of the GATT 1994. This follows the United States' counter-notification of seven of China's largest STEs at the end of last year and its counter-notification of China's subsidy programs in steel, aluminum and fisheries early last year. The US counter-notification continues a pattern of activism, supported by the EU and Japan, in claiming that the WTO's transparency and notification obligations are very poorly respected, particularly in the areas of subsidies and state-owned enterprises, and in using the counter-notification procedure to try to bring pressure to bear to correct the situation.

The United States notes that Vietnam identified only two of its corporations as STEs in its 2016 notification after acknowledging at the time of its WTO accession in 2007 that it had 15 STEs in operation. The United States apparently discussed this issue with Vietnam bilaterally on several occasions in 2016 and 2017 but Vietnam claimed that the previously-identified STEs were now operating under market economy principles or were re-organized to become subsidiaries of parent companies. The United States disputes that claim and says that it has determined on the basis of readily-available public information about the export-import activities of the counter-notified Vietnamese corporations that they are continuing to operate as STEs. The United States requests Vietnam to notify promptly full details of the operations of these corporations and to provide all of the information that is needed to comply with its notification obligations on STEs.

The counter-notification is designed to increase the pressure on Vietnam to meet its notification obligations in the WTO and to make its trade policies more transparent. The counter-notification will be discussed at the next meeting of the WTO Committee on STEs (in May 2018) along with the United States' counter-notification against China; other Members, such as Japan and the EU, can be expected to support the United States. In the case of China, the counter-notifications on subsidies by the United States did result in China providing additional information about its subsidy programs, although still not enough to constitute a full and up-to-date notification in the view of the United States.

A copy of the US counter-notification is attached for reference.

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