US Multilateral Trade Policy Developments

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US Trade Actions

Section 232

United States to Replace Section 232 Tariff on Japanese Steel with Tariff-Rate Quota

On February 7, 2022, the United States announced that it will replace its Section 232 tariff on Japanese steel products with a tariff-rate quota (TRQ) that will allow "historically-based" volumes of 1.25 million metric tons (MMT) annually to enter the United States free of Section 232 tariffs. The TRQ for Japanese steel products will take effect on April 1, 2022. In addition to the TRQ, the United States and Japan have pledged in a Joint Statement to cooperate on trade remedy and customs issues, monitoring of steel trade, and "non-market excess capacity and carbon-intensity." Despite these outcomes, the United States has indicated that it is not ready to invite Japan to participate in the US-EU negotiations for a "Global Arrangement" addressing carbon intensity and excess capacity in the steel and aluminum industries. We provide an overview of these developments below.

TRQ arrangement for Japanese steel

The US Department of Commerce (DOC) has provided the following details regarding the TRQ for Japanese steel, which will take effect on April 1, 2022:[1]

- **TRQ volume and tariff rate.** The aggregate annual import volume under the TRQ "is set at 1.25 MMT under 54 product categories and allocated in line with the 2018-2019 historical period." Steel products from Japan that are within-quota will enter free of any Section 232 duty, while all steel products entering above-quota will continue to be subject to a Section 232 duty of 25 percent, provided that they are not subject to an exclusion.
- **Derivative Products**. Imports of "derivative" steel products from Japan will not be subject to Section 232 duties. Derivative steel products were added to the scope of the Section 232 measures by Proclamation 9980 of January 24, 2020. Derivative steel products included nails, tacks, staples, bumper stampings, and body stampings for tractors listed in the Annex to the proclamation.
- **Eligible products.** In order to be eligible for duty-free treatment under the quota, steel imports must be "melted and poured" in Japan according to current US requirements and rules implementing the TRQ arrangement. Importers will be required to "provide relevant documentation substantiating compliance with U.S. requirements." According to DOC's statement, "failure to comply could result in remedies and/or penalties as provided for under U.S. law."
- **Exclusions.** The United States "will maintain its exclusions process, as implemented under Section 232 of the Trade Expansion Act of 1962, available for steel products imported from Japan."
- **Administration.** The TRQ will be calculated for each year of the measure and administered on a quarterly basis for each product category. The quota will be allocated on a first come, first served basis. Any unused TRQ volume from the first quarter of the year, up to 4 percent of the allocated quota for that quarter, will roll over to the third quarter; any unused TRQ volume from the second quarter of the year, subject to the same limit, will roll over into the fourth quarter; and any unused TRQ volume from the third quarter, subject to the same limit, will roll over into the first quarter of the following year. The United States will provide, on a public

[1] "Announcement of Actions on Japanese Imports Under Section 232," US Department of Commerce, February 7, 2022, https://www.commerce.gov/sites/default/files/2022-02/US-Statement-on-Japan-232.pdf

website "updated information on the utilization of the quarterly quota for each product category, including information on the transferred unused TRQ volumes from one quarter to another."

- **Adjustment.** The TRQ will be adjusted each year based on the level of US steel demand (apparent consumption) in the previous year. For each 6 percent that this calculated level is above or below US steel demand in 2021, the TRQ volume would increase or decrease, respectively, by 3 percent relative to the initial level of 1.25 MMT in the subsequent twelve-month period. Should the calculated level of US steel demand not be at least 6 percent above or below the US fiscal year 2021 level, then the TRQ volume in the subsequent year would remain at 1.25 MMT.
- **Review.** Starting no later than July 1, 2022, the United States will evaluate utilization and administration of the TRQ every three months and, at the request of Japan, enter into consultations to address any substantial under-use of the TRQ

These terms are similar to those of the TRQ that the United States implemented for EU steel products as of January 1, 2022.[2] However, the US and Japan were silent on certain key points, so there may be important differences between the two arrangements. Most notably, as part of its TRQ arrangement for the EU, the United States agreed to extend the application of exclusions granted in US fiscal year 2021 for EU steel products for a period of two calendar years without the need to reapply, *i.e.*, until December 31, 2023. In addition, the United States agreed that it would not count imports of excluded steel products from the EU against the TRQ volumes. DOC's statement provides no indication that the United States will afford the same treatment to Japanese steel products that are subject to exclusions. In a statement on the TRQ agreement, the Steel Manufacturers Association (SMA) stated that it is "particularly glad to see that exclusion-based imports of Japanese steel products will count against the quota volumes," and that "[i]n 2021, 58 percent of Japanese imports came to our shores as exclusions."[3] According to SMA, those exclusions represent "approximately 550,000 metric tons of steel products."

The United States is not establishing a TRQ for aluminum imports from Japan, which will remain subject to the 10 percent tariff under Section 232. According to published reports, US officials have stated that aluminum was excluded from the TRQ arrangement at Japan's request.[4] These officials have expressed openness to establishing a TRQ for aluminum from Japan, if Japan ensures that it does not source aluminum from "non-market" sources.

US-Japan Joint Statement

In a Joint Statement issued on February 7, the United States and Japan have pledged to take a series of actions "to address non-market capacity so as to preserve their critical steel and aluminum industries":[5]

- **Trade Remedy/Customs Cooperation.** To advance their efforts to address excess capacity, both sides agree "to expand U.S./Japan coordination involving both trade remedies and customs matters." The two countries "will also share public information and best practices, as appropriate, on topics including how detection of fraud/evasion and circumvention of duties is approached and possible self-initiation."

[2] Beginning on January 1, 2022, the United States replaced its existing Section 232 tariffs on EU steel and aluminum products with TRQs, which allow "historically-based" volumes of those products to enter the US free of Section 232 duties.

[3] "U.S. and Japan Reach Section 232 Agreement for Steel Tariff-Rate Quota," Steel Manufacturers Association, February 7, 2022, https://steelnet.org/u-s-and-japan-reach-section-232-agreement-for-steel-tariff-rate-quota/

[4] "Biden reaches deal to ease steel tariffs on Japan," Politico Pro, February 7, 2022, https://subscriber.politicopro.com/article/2022/02/biden-reaches-deal-to-ease-steel-tariffs-on-japan-00006376

[5] US-Japan Joint Statement, February 7, 2022, https://www.commerce.gov/sites/default/files/2022-02/US-Japan-Joint-Statement.pdf

- **Monitoring.** The United States and Japan "will monitor steel and aluminum trade between them."
- **Cooperation on "Non-Market Excess Capacity."** In order to establish more "market-oriented conditions" for steel, Japan "will implement appropriate domestic measures, such as antidumping, countervailing duty, and safeguard measures or other measures of at least equivalent effect, with a view to initiating formal processes for such measures within six months[.]" Japan and the United States will share import data with respect to steel and aluminum, including from third-country markets, and will "consult upon request regarding surges to ensure that each country is taking steps to address non-market excess capacity." Japan will "confer with the United States on such potential domestic measures to address non-market excess capacity and on the situation in global steel and aluminum markets[.]"
- **Cooperation on "Carbon-Intensity."** Japan and the United States "will confer on entering into discussions on global steel and aluminum arrangements to address both global non-market excess capacity as well as the carbon-intensity of the steel and aluminum industries." To facilitate these discussions and "reach shared understandings," Japan and the United States "will confer on methodologies for calculating steel and aluminum carbon-intensity and will share relevant data," including relating to emissions in the steel and aluminum sectors.
- **Review.** The United States and Japan will review the operation of the arrangement and ongoing cooperation "on an annual basis, including in light of changes in the global steel and aluminum markets, U.S. demand, and imports."

Outlook

The initial TRQ volume of 1.25 MMT is significantly lower than the volume of steel imports from Japan in the years prior to the imposition of the Section 232 duties. The 1.25 MMT volume represents an average of US steel imports from Japan during the 2018-2019 period while the Section 232 duties were mostly in effect, whereas such imports averaged approximately 2.03 MMT during the pre-duty 2015-2017 period. Nevertheless, the 1.25 MMT represents an increase over imports of steel products from Japan in 2020 and 2021, so the TRQ arrangement will provide significant tariff relief for Japanese exporters.

The Biden Administration has touted the new agreement with Japan as "another example of President Biden's focus on strengthening relationships with our vital Allies and partners, and working with them to address unfair practices by countries like China together."[6] Secretary of Commerce Gina Raimondo stated that the agreement "builds on the deal [the United States] struck with the EU and will further help us rebuild relationships with our allies around the world as we work to fight against China's unfair trade practices[.]"[7] However, Biden Administration officials reportedly have indicated that the United States is not ready to invite Japan to participate in the US-EU negotiations for a "Global Arrangement" addressing excess capacity and carbon intensity in the steel and aluminum industries. The proposed "Global Arrangement" would require participants to:[8]

1. Restrict market access for non-participants that do not meet conditions of market orientation and that contribute to non-market excess capacity, through application of appropriate measures including trade defense instruments;

[6] "Raimondo, Tai Statements on 232 Tariff Agreement with Japan," US Department of Commerce, February 7, 2022, https://www.commerce.gov/news/press-releases/2022/02/raimondo-tai-statements-232-tariff-agreement-japan

[7] Id.

[8] "Joint US-EU Statement on Trade in Steel and Aluminum," October 31, 2021, https://www.whitehouse.gov/briefing-room/statements-releases/2021/10/31/joint-us-eu-statement-on-trade-in-steel-and-aluminum/. *See also* "Steel and Aluminum U.S.-EU Joint Statement," October 31, 2021, https://www.commerce.gov/news/fact-sheets/2021/10/steel-and-aluminum-us-eu-joint-statement.

2. Restrict market access for non-participants that do not meet standards for low-carbon intensity;
3. Ensure that domestic policies support the objectives of the arrangements and support lowering carbon intensity across all modes of production;
4. Refrain from non-market practices that contribute to carbon-intensive, non-market oriented capacity;
5. Consult on government investment in decarbonisation; and
6. Screen inward investments from non-market-oriented actors in accordance with their respective domestic legal frameworks.

The climate-related components of the proposed Global Arrangement are intended to address "carbon leakage," *i.e.*, the situation that may occur where, for reasons of costs related to climate policies such as carbon taxes, businesses were to transfer production to other countries with less stringent emission constraints. The US and the EU have said that the Global Arrangement will be open to "like-minded economies." However, according to published reports, Biden Administration officials have stated that they will "not be in a position to move to the next level" with Japan (i.e., by including Japan in the Global Arrangement discussions) until Japan takes "steps" to address excess capacity and carbon intensity, including those to which it has committed in the Joint Statement.[9] More generally, US officials have recently indicated that the United States would prefer to negotiate at least some elements of the Global Arrangement bilaterally with the EU to ensure that they reflect "high ambitions."[10]

[9] "U.S., Japan steel deal includes focus on overcapacity, carbon intensity," Inside US Trade, February 7, 2022, https://insidetrade.com/daily-news/us-japan-steel-deal-includes-focus-overcapacity-carbon-intensity**.** *See also* "Biden reaches deal to ease steel tariffs on Japan," Politico Pro, February 7, 2022, https://subscriber.politicopro.com/article/2022/02/biden-reaches-deal-to-ease-steel-tariffs-on-japan-00006376

[10] Remarks by Ms. Greta Peisch (General Counsel, Office of the U.S. Trade Representative) on "Leveraging transatlantic cooperation for industrial decarbonization: Pathways for green steel," December 10, 2021, https://www.atlanticcouncil.org/event/leveraging-transatlantic-cooperation-for-industrial-decarbonization/**.**

Trade Remedies

President Biden Extends Safeguard Measure on Solar Products for Four Years, Doubles Tariff-Rate Quota for Solar Cells

On February 4, 2022, President Biden issued a Proclamation extending the United States' safeguard measure on imports of certain crystalline silicon photovoltaic (CSPV) cells (whether or not partially or fully assembled into other products). The Proclamation extends the safeguard measure for four years (the maximum period allowed by law), but reduces its restrictiveness by doubling the volume of the TRQ on imported CSPV cells to five gigawatts (GW). The Proclamation also preserves the exemption of bifacial solar panels from the safeguard measure, and authorizes the US Trade Representative (USTR) to negotiate agreements with Canada and Mexico, which could lead to the exclusion of those countries from the safeguard remedy.

Extension of CSPV safeguard measure

President Donald Trump imposed the safeguard measure on CSPV products beginning on February 7, 2018.[11] The measure was scheduled to remain in place for four years, and consisted of (i) an annual TRQ of 2.5 GW for imports of CSPV cells; and (ii) a tariff on imports of CSPV modules and above-quota cells, beginning at a rate of 30 percent *ad valorem* and declining gradually to 15 percent in the fourth year of the measure.[12] In August of 2021, two separate groups of domestic CSPV producers filed petitions with the US International Trade Commission (ITC) seeking the extension of the safeguard remedy for an additional four years beyond its scheduled expiration date of February 6, 2022. On November 24, 2021, the Commission recommended that the President extend the safeguard measure for four years.[13]

President Biden's Proclamation concurs with the ITC's findings that "the safeguard action. . .continues to be necessary to prevent or remedy the serious injury to the domestic industry," and that "there is evidence that the domestic industry is making a positive adjustment to import competition." The Proclamation extends the safeguard measure for four years and doubles the TRQ volume for CSPV cells, so that up to 5 GW of CSPV cells can be imported each year free of safeguard tariffs. Imports of covered CSPV cells in excess of the 5 GW TRQ, and all imports of covered CSPV modules, will be subject to additional tariffs at the rates shown below.

Safeguard measure on CSPV cells and modules, as modified and extended by Proclamation 10339				
Period	**Year 5** 2/7/2022 – 2/6/2023	**Year 6** 2/7/2023 – 2/6/2024	**Year 7** 2/7/2024 – 2/6/2025	**Year 8** 2/7/2025 – 2/6/2026
Tariff on modules and out- of-quota cells	14.75%	14.5%	14.25%	14%
In-quota quantity (cells only)	5 GW	5 GW	5 GW	5 GW

[11] Proclamation 9693 of January 23, 2018, To Facilitate Positive Adjustment to Competition From Imports of Certain Crystalline Silicon Photovoltaic Cells (Whether or Not Partially or Fully Assembled Into Other Products) and for Other Purposes.

[12] On October 10, 2020, President Trump issued Proclamation 10101, which increased the fourth year tariff rate to 18 percent and made other changes to the safeguard measure. However, on November 16, 2021, the US Court of International Trade enjoined the enforcement of this Proclamation, which had the effect of restoring the fourth year tariff rate to 15 percent. *Solar Energy Industries Assoc. et al. v. United States*, Court No. 20-03491, Slip Op. 21-154 (CIT Nov. 16, 2021).

[13] Crystalline Silicon Photovoltaic Cells, Whether or Not Partially or Fully Assembled Into Other Products, Investigation No. TA-201-075 (Extension), Publication 5266, December 2021 ("Commission Report").

The Proclamation also maintains the exclusion of bifacial CSPV panels from the safeguard measure. The Trump Administration first granted the exclusion in June of 2019, but subsequently attempted to withdraw the exclusion after finding that it had undermined the effectiveness of the safeguard measure. The US Court of International Trade ordered the reinstatement of the exclusion in November 2021, following a legal challenge initiated by the Solar Energy Industries Association (SEIA).

The safeguard measure as modified by President Biden's Proclamation is less restrictive than the remedy recommended by the ITC in its December 2021 report. The Commission recommended that the President maintain the original TRQ level of 2.5 GW for the final four years of the safeguard action, rather than increasing the level of the TRQ.[14] In the Commission's view, domestic producers of CSPV modules had derived benefits from the safeguard tariff on imported modules, but "CSPV cell producers have received less benefit to date from the safeguard measure on imports of CSPV cells, as the 2.5 GW TRQ quota level on cell imports has not yet been reached in any year and hence no duties on imports of cells have been applied under the safeguard measure." In the Commission's view, "[a]n increase in the TRQ quota from the current level of 2.5 GW would allow additional volume of CSPV cells to enter under the zero duty in-quota rate and extend the period for which CSPV cell producers have not benefitted from tariff relief under the safeguard."

The Commission did not make a formal recommendation with regard to the bifacial panels exclusion. However, the Commission concluded in its report that "the bifacial exclusion was an impediment to the domestic industry's positive adjustment to import competition during the remedy period," given "the substitutability between monofacial and bifacial modules, the small but increasing domestic production of bifacial modules at the time the bifacial exclusion went into effect, and the huge volume of imports of bifacial modules that entered free of tariffs between June 2019 and October 2020[.]"[15]

President Biden's Proclamation has drawn mixed reactions from stakeholders in the US solar industry. The SEIA, which represents companies "throughout the solar value chain, including importers, manufacturers, distributors, installers, and project developers," opposed the extension of the safeguard measure but praised the Biden Administration for arriving at a "balanced solution in upholding the exclusion for bifacial panels and increasing the tariff rate quota for cells."[16] SEIA stated that the expanded TRQ "will benefit both domestic module manufacturers and their customers in the residential, and commercial and industrial segments," and that the bifacial panels exclusion will "improve power output and lower costs in the utility-scale segment," as such panels are "not available in the United States at scale." By contrast, several US producers of CSPV products have criticized the decision,arguing that the expanded TRQ and exclusion of bifacial panels will render the safeguard measure ineffective and significantly undermine the development of a domestic solar supply chain.[17]

Negotiations with Canada and Mexico

President Biden's Proclamation instructs USTR to enter into negotiations with Canada and Mexico concerning their CSPV exports to the United States, pursuant to Section 203(f) of the Trade Act.[18] Section 203(f) authorizes the President to negotiate agreements with foreign countries "limiting the export from foreign countries and the import

[14] Commission Report at pp.50-53.

[15] Commission Report at p.29.

[16] "SEIA Supports Biden Administration's Effort to Find Balanced Solution on Section 201 Tariffs," Solar Energy Industries Association, February 4, 2022 is here.

[17] "Biden extends Trump's solar tariffs with key exemptions," E&E News, February 4, 2022 is here.

[18] 19 U.S.C. 2253(f).

into the United States" of the articles subject to an existing safeguard measure. If the President negotiates such an agreement, he may "suspend or terminate" the safeguard action, "in whole or in part[.]"

The Proclamation authorizes USTR to suspend the application of the safeguard measure "in whole or in part" with respect to imports of Canada or Mexico, if USTR concludes agreements with those countries that USTR determines "will ensure that imports of Canada or Mexico do not undermine the effectiveness of the action[.]" Canada and Mexico are relatively small exporters of CSPV products to the United States, accounting for approximately 0.4 percent and 1 percent of total US imports respectively, by value.[19] On June 18, 2021, Canada filed a dispute against the United States under the US-Mexico-Canada Agreement (USMCA), arguing that the United States violated Articles 10.2.1 and 10.2.2 of the USMCA (among other provisions) because it "failed to exclude imports from Canada" from the CSPV safeguard "despite the fact that imports from Canada did not account for a substantial share of imports and did not contribute importantly to the serious injury caused by imports."[20] The Panel completed its report in this dispute on January 3, 2022, but the report has not yet been made public.

President Biden's Proclamation can be viewed here.

US Department of Commerce Initiates Antidumping and Countervailing Duty Investigations of Sodium Nitrate from India and Russia

On February 3, 2022, the US Department of Commerce (DOC) announced the initiation of antidumping duty (AD) and countervailing duty (CVD) investigations of sodium nitrite from India and Russia. DOC initiated these investigations in response to petitions filed by Chemtrade Chemicals US LLC (Parsippany, NJ).

The product covered by these investigations is sodium nitrite in any form, at any purity level. In addition, the sodium nitrite covered by these investigations may or may not contain an anti-caking agent. Examples of names commonly used to reference sodium nitrite are nitrous acid, sodium salt, anti-rust, diazotizing salts, erinitrit, and filmerine. Sodium nitrite's chemical composition is NaNO2, and it is Start Printed Page 7127 generally classified under subheading 2834.10.1000 of the Harmonized Tariff Schedule of the United States (HTSUS). The American Chemical Society Chemical Abstract Service (CAS) has assigned the name "sodium nitrite" to sodium nitrite. The CAS registry number is 7632-00-0. A complete description of the scope can be found in DOC's Federal Register notice.

The dumping margins alleged in the petition are 207.17 percent (for Russia) and range from 53.43 to 153.30 percent for India. The subsidy allegations include the following:

- In the India petition, there are 21 alleged subsidy programs, comprised of five SEZ programs, seven state-level subsidy programs, and nine GOI programs. These alleged programs include 14 tax programs, two LTAR programs, and four grant programs, and one loan program.
- In the Russia petition, there are 11 alleged subsidy programs, comprised of two tax reduction programs, six lending programs, two LTAR programs, and one transportation subsidy program.

The US International Trade Commission (ITC) determined on February 25 that that there is a reasonable indication that a US industry is materially injured by reason of the subject imports of sodium nitrite from India and Russia. As a result of the ITC's affirmative determinations, DOC will continue its investigations of imports of sodium nitrite from India and Russia, with its preliminary countervailing duty determinations due on or about April 8, 2022, and its preliminary antidumping duty determinations due on or about June 22, 2022.

[19] Commission Report at Table H-1.

[20] Request for the establishment of a panel by Canada, June 18, 2021 is here.

According to DOC, imports under HTSUS subheading 2834.10.1000 were valued at $3.9 million (for India) and $479,355 (for Russia) in 2020.

US Department of Commerce Initiates Antidumping and Countervailing Duty Investigations of Barium Chloride from India

On February 2, 2022, the US Department of Commerce (DOC) announced the initiation of antidumping duty (AD) and countervailing duty (CVD) investigations of barium chloride from India. DOC initiated these investigations in response to a petition filed by Chemical Products Corporation (Cartersville, GA).

The merchandise covered by this investigation is barium chloride, a chemical compound having the formulas $BaCl_2$ or $BaCl_2$ -$2H_2$ O, currently classifiable under subheading 2827.39.4500 of the Harmonized Tariff Schedule of the United States (HTSUS). A complete description of the scope can be found in DOC's Federal Register notice.

The AD petition alleges that imports of the subject merchandise from India have been sold in the United States at a dumping margin of 233.34 percent. The CVD petition identifies 43 alleged subsidy programs, including tax programs, grant programs, and the provision of electricity, land, and water for less than adequate remuneration.

The US International Trade Commission (ITC) determined on February 25 that that there is a reasonable indication that a US industry is materially injured by reason of the subject imports of barium chloride from India. As a result of the ITC's affirmative determinations, DOC will continue its investigations of imports of barium chloride from India, with its preliminary countervailing duty determination due on or about April 7, 2022, and its preliminary antidumping duty determination due on or about June 21, 2022.

According to DOC, imports from India under HTSUS subheading 2827.39.4500 were valued at $1.47 million in 2020.

US Department of Commerce Issues Affirmative Final Determination in the Antidumping Investigation of Mobile Access Equipment and Parts Thereof from China

On February 15, 2022, the US Department of Commerce (DOC) announced its affirmative final determination in the antidumping duty (AD) investigation of mobile access equipment and parts thereof from China. In its investigation, DOC determined that imports of the subject merchandise from China were sold in the United States at dumping margins ranging from 31.70 to 165.30 percent.

The merchandise covered by this investigation consists of certain mobile access equipment, which consists primarily of boom lifts, scissor lifts, and material telehandlers, and subassemblies thereof. Mobile access equipment combines a mobile (self-propelled or towed) chassis, with a lifting device (e.g., scissor arms, boom assemblies) for mechanically lifting persons, tools and/or materials capable of reaching a working height of ten feet or more, and a coupler that provides an attachment point for the lifting device, in addition to other components. The scope of this investigation covers mobile access equipment and subassemblies thereof whether finished or unfinished, whether assembled or unassembled, and whether the equipment contains any additional features that provide for functions beyond the primary lifting function.

Certain mobile access equipment subject to this investigation is typically classifiable under subheadings 8427.10.8020, 8427.10.8030, 8427.10.8070, 8427.10.8095, 8427.20.8020, 8427.20.8090, 8427.90.0020 and 8427.90.0090 of the Harmonized Tariff Schedule of the United States (HTSUS). Parts of certain mobile access equipment are typically classifiable under subheading 8431.20.0000 of the HTSUS. A complete description of the scope can be found in DOC's Federal Register notice.

The US International Trade Commission (ITC) is scheduled to issue its final determination in this investigation by March 31, 2022. If the ITC determines that imports of the subject merchandise from China materially injure or threaten material injury to the domestic industry, DOC will issue an antidumping order.

According to DOC, imports from China under HTSUS subheadings 8427.10.8030, 8427.10.8070, 8427.10.8095, 8427.20.8020, 8427.20.8090, 8427.10.8010, 8427.10.8020, 8427.10.8090, and 8427.20.8000 were valued at $195.3 million in 2020.

US International Trade Commission Finds Imports of Granular Polytetrafluoroethylene (PTFE) Resin from India and Russia Injure US Industry

On February 16, 2022, the US International Trade Commission (ITC) determined that a US industry is materially injured by reason of imports of granular polytetrafluoroethylene (PTFE) resin from India and Russia 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 India and Russia. 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 countervailing duty and antidumping duty orders on imports of this product from India and Russia.

The ITC made a negative finding concerning critical circumstances with regard to imports of this product from India that are sold in the United States at less than fair value and subsidized by the government of India. As a result, these imports will not be subject to retroactive antidumping and countervailing duties.

The product covered by these investigations is granular PTFE resin. Granular PTFE resin is covered by the scope of these investigations whether filled or unfilled, whether or not modified, and whether or not containing co-polymer, additives, pigments, or other materials. Also included is PTFE wet raw polymer. The chemical formula for granular PTFE resin is C_2F_4, and the Chemical Abstracts Service (CAS) Registry number is 9002-84-0. Granular PTFE resin is classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 3904.61.0010. Subject merchandise may also be classified under HTSUS subheading 3904.69.5000.

Subject merchandise includes material matching the above description that has been finished, packaged, or otherwise processed in a third country, including by filling, modifying, compounding, packaging with another product, or performing any other finishing, packaging, or processing that would not otherwise remove the merchandise from the scope of the investigations if performed in the country of manufacture of the granular PTFE resin. The product covered by these investigations does not include dispersion or coagulated dispersion (also known as fine powder) PTFE. PTFE further processed into micropowder, having particle size typically ranging from 1 to 25 microns, and a melt-flow rate no less than 0.1 gram/10 minutes, is excluded from the scope of these investigations. A complete description of the scope can be found in DOC's Federal Register notice.

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

Country	Dumping Margin	Subsidy Rate
India	10.01	31.89
Russia	17.36	2.53

According to DOC, imports from India and Russia under HTSUS subheading 3904.61.0010 were valued at $12 million and $10 million, respectively, in 2019.