

# US Multilateral Trade Policy Developments

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**Japan External Trade Organization**

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## US Trade Policy

### United States and European Union Outline Plans for Cooperation on Trade and Technology

On May 16, 2022, senior officials from the United States and the European Union concluded the second meeting of the US-EU Trade and Technology Council (TTC) in Paris-Saclay, France. US Secretary of Commerce Gina Raimondo, US Trade Representative Katherine Tai, European Commission Executive Vice President Margrethe Vestager, and European Commission Executive Vice President Valdis Dombrovskis led the meeting as Co-Chairs of the TTC. Following the meeting, the parties issued a Joint Statement that outlines the progress of the TTC and its ten working groups since last autumn, as well as plans for future cooperation on issues such as critical supply chains, technology standards, export controls, climate, and unfair trade practices.<sup>1</sup>

In keeping with the TTC's status as forum for consultations, rather than the negotiation of binding legal outcomes, the initiatives described in the Joint Statement focus primarily on expanding information sharing between the two governments, articulating shared principles and concerns, working to voluntarily harmonize standards and approaches where possible, and advancing shared interests on a global basis. Among other things, the Joint Statement broadly affirms the participants' intentions to "continue to oppose actors who threaten the multilateral rules-based order and fundamental principles of international law," and to continue "coordinating our actions to mitigate the negative impacts of Russia's aggression against Ukraine[.]" With respect to trade, the participants have committed to "intensify our work to resolve trade disagreements to our mutual advantage, reduce unnecessary barriers to bilateral trade and investment, and strive to prevent new ones from emerging[.]" The parties also recognize "the need to reform the WTO," and to take "effective action to address trade-distortive non-market policies and practices."

Beyond these general principles, the Joint Statement incorporates reports from the TTC's ten working groups outlining progress on specific issues. Some of the most notable outcomes and commitments documented by the working groups include the following:

#### Technology Standards

Recognizing that the establishment of "better aligned and interoperable technology standards" would facilitate trade, this working group seeks to foster the development of such standards and to "reduce non-tariff barriers in key technology areas[.]" Accordingly, as of May 16, 2022, the US and EU have established a "Strategic Standardisation Information" ("SSI") mechanism with the aim to "encourage engagement in new standardization opportunities" and "explore taking coordinated action if standardization activities pose a challenge to U.S.-EU strategic interests and values." The working group is also developing a list of critical and emerging technologies that it will prioritize in its efforts coordinate technology standards. Such technologies include additive manufacturing, megawatt charging systems for heavy-duty recharging points, recycling of materials, "digital identity," and "Internet of Things."

#### Global Trade Challenges

The working group on global trade challenges has focused on four general areas: (1) avoiding unnecessary trade barriers; (2) cooperation on "non-market policies and practices;" (3) trade and labor; and (4) trade and environment. Notable outcomes and commitments in these areas include the following:

- **Avoiding unnecessary trade barriers.** The parties will seek to facilitate trade by (1) exploring the use of digital tools for regulatory approvals and conformity assessments; (2) identifying specific areas or products

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<sup>1</sup> The Joint Statement can be viewed [here](#).

where cooperation on conformity assessment could facilitate trade; (3) expanding cooperation in the area of government procurement; (4) identifying measures that will facilitate trade with Ukraine; and (5) seeking to avoid “unintended consequences of domestic requirements that could create unnecessary barriers to trade and investment, notably for critical products/areas[.]”

- **Cooperation on “non-market policies and practices.”** The parties plan to develop “joint or coordinated strategies, using available policies and tools,” aimed at countering the impact of “non-market, trade-distortive policies and practices” on technological development and competitiveness in key sectors, such as medical devices. Additional sectors may be prioritized in the future. When using domestic tools to address unfair practices, the United States and the EU “will seek to consult or coordinate with each other, with a view to avoiding or mitigating unintended consequences for each other, where possible.”
- **Labor.** The parties intend to collaborate on the promotion of internationally recognized labor rights in global supply chains, mostly through the exchange of information on best practices (e.g., for combatting forced labor) and work in multilateral fora. They have also announced the establishment of a new tripartite trade and labor dialogue (“TALD”), involving relevant representatives of the US Government, the European Commission, and US and EU trade unions and businesses.
- **Environment.** The parties intend to “take a leading role in using trade policy and tools to support climate and environmental policy goals[.]” In addition to exchanging information, they have agreed that these efforts should include cooperation on the implementation of the WTO statement on the Trade and Environmental Sustainability Structured Discussions. Such efforts will focus on (1) enabling a “trade facilitative approach” to remanufacturing, refurbishment, repair, and direct reuse; and (2) “fostering better understanding of the role of trade” in disseminating goods and services to meet environmental and climate goals.

### Climate and Clean Tech

The climate and clean tech working group is focused on three main areas: (1) promoting green public procurement policies; (2) aligning methodologies for calculating the carbon footprint of selected products, and (3) advancing electro-mobility and interoperability with smart grids. With respect to procurement, the parties “intend to work towards a joint U.S.-EU initiative incorporating sustainability considerations in public procurement,” though these discussions currently are limited to “joint mapping of policies and a joint catalogue of best practices[.]” The parties have also begun “expert-level exchanges” on methodologies for measuring the carbon footprint of selected products.

### Secure Supply Chains

The working group on secure supply chains has focused on identifying and addressing shared vulnerabilities in areas such as semiconductors, solar panels, rare earth magnets, and critical minerals. Key updates in these areas include the following:

- **Semiconductors.** US government agencies and the European Commission intend to participate in a two-month pilot to develop an “early warning system” for semiconductor supply chain disruptions. Additionally, the parties have articulated a “common goal” to limit semiconductor subsidies “to what is necessary, appropriate and proportionate to achieve public policy objectives,” in order to avoid subsidy races. The parties are “determined to provide any support for this sector in line with WTO rules.”
- **Solar products.** The parties “pledge to cooperate on respective project development and the design of financing tools” and on “bolstering solar manufacturing capacity that adheres to shared environmental, social, and quality standards[.]” They also will aim to “alleviate existing supply chain concentration, actively working

together to address market access barriers and distortions to U.S.-EU trade and investments[.]” Additionally, the parties will “work to minimise the impact of any protective measures on their respective industries[.]”

- **Rare earth magnets.** The parties plan on “redoubling and refocusing efforts” through the TTC and relevant multilateral initiatives “to continue address rare earth elements supply chain vulnerabilities and to promote undistorted trade throughout the rare earth supply chain.” Such initiatives include the Conference on Critical Materials and Minerals between the European Union, the United States, Japan, Australia and Canada. The parties have expressed their resolve “to preserve the openness of the transatlantic supply chains” in this sector.

### **ICTS Security and Competitiveness**

Among other initiatives, the parties have launched a dedicated task force on “joint U.S.-EU public financing for secure and resilient connectivity and ICTS supply chains in third countries.” This task force will promote the use of “trusted/non-high-risk suppliers” in third countries and share information on US and EU efforts to support “secure, resilient, and rights-respecting ICTS projects” in third countries. The task force’s efforts will support US and EU “flagship infrastructure initiatives” by prioritizing “high-quality” ICTS infrastructure projects that promote principles of security, transparency, and competition.

### **Export controls**

The export controls working group noted that the United States and EU have achieved an “unprecedented” level of cooperation in limiting exports of dual-use items and strategic technologies to Russia following its invasion of Ukraine. Going forward, the parties “intend[] to continue to regularly exchange pertinent information [on export controls], with an initial focus on Russia and other potential sanctions evaders. They also will seek to work with third countries on export controls “in a joint and structured effort to uphold international peace and security” and counter circumvention. The parties also plan to exchange information and pursue coordination with respect to licensing practices, approaches to emerging technologies, and implementation of export controls.

### **Investment Screening**

At this stage, the working group on investment screening is focused primarily on sharing information and best practices. Information exchanges thus far have focused on foreign direct investment trends, trends in investments from certain countries of origin, transaction structures of interest, and implementation of the parties’ respective investment screening regimes. Moving forward, the working group intends to continue these information exchanges, and to develop a “holistic view” of security risks related to specific sensitive technologies and policy tools for addressing them.

### **Outlook**

The TTC’s work reflects important shifts in the format, substance, and ambition of transatlantic engagement on trade issues. Prior initiatives such as the proposed Transatlantic Trade and Investment Partnership focused on liberalizing trade in a comprehensive and legally binding manner. By contrast, the TTC reflects a strong focus on mitigating shared vulnerabilities and risks – including climate, geopolitical, national security, and supply chain risks – through mostly voluntary initiatives and policy coordination. The TTC has yielded aspirational commitments to avoid “unnecessary” escalation of transatlantic trade barriers, but has dedicated relatively little attention to expanding trade, compared to other priorities. Nevertheless, some TTC initiatives such as the proposed alignment of technology standards and conformity assessments have the potential to facilitate trade, and therefore are important priorities for the US business community.

Additionally, there are indications that the TTC’s work may feed into other important bilateral and plurilateral initiatives. For example, the TTC’s efforts to align methodologies for calculating the carbon footprint of key products

may inform the ongoing US-EU negotiation for a Global Arrangement on steel and aluminum trade, and subsequent policies developed pursuant to that arrangement. Moreover, Secretary Raimondo has announced that the US and EU intend to work toward a “concrete alignment” on export controls by the time of the next TTC ministerial at the end of this year, with a likely focus on semiconductors. She suggested that this arrangement could be broadened to include additional countries such as Japan in order to enhance its effectiveness. Commissioner Vestager has raised the possibility of other “TTC spinoffs,” including a potential “framework” to spur investment in critical minerals in countries such as Canada and Australia. These initiatives could magnify the impact of the work done in the TTC.

## US Trade Actions

### Section 301

#### USTR Begins Four-Year Review of Section 301 Tariffs on Products of China

On May 3, 2022, the Office of the US Trade Representative (USTR) published a Federal Register notice commencing its quadrennial review of the tariffs imposed on China-origin goods pursuant to Section 301 of the Trade Act of 1974.<sup>2</sup> USTR initiated the review pursuant to Section 307(c) of the Trade Act, which requires USTR to review the “necessity” of Section 301 actions four years after their implementation. During the first phase of USTR’s review, domestic industries that benefit from the Section 301 tariffs on Lists 1, 2, 3, and 4A will have the opportunity to request the continuation of these actions. If USTR receives such requests, it will announce the continuation of the relevant actions and proceed to the second phase, during which interested persons will have an opportunity to comment on the effectiveness of the tariffs and their impact on the US economy. This second phase will provide an opportunity for interested persons to request the elimination of Section 301 tariffs on particular products, among other changes. This alert provides an overview of USTR’s notice.

#### Background

Section 307(c) of the Trade Act provides that Section 301 actions are to expire four years after they take effect, unless the petitioner or a representative of the domestic industry that benefits from the action submits to USTR a request for continuation of the action.<sup>3</sup> The petitioner or domestic industry representative must submit the request for continuation during the 60-day period preceding the four-year anniversary of the Section 301 action.<sup>4</sup>

If USTR receives a request for continuation of a Section 301 action (either from the petitioner or a representative of a domestic industry that benefits from the action), USTR must then conduct a “review” of the action and other actions that could be taken against the investigated country (including actions against other products or services).<sup>5</sup> In its review, USTR must assess the effectiveness of such actions in achieving the objectives of the Section 301 statute, as well as “the effects of such actions on the United States economy, including consumers.”<sup>6</sup>

USTR has imposed four rounds of tariffs on China-origin goods based on its Section 301 investigation of China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation. Following its

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<sup>2</sup> USTR’s notice can be viewed [here](#).

<sup>3</sup> 19 U.S.C. § 2417(c)(1).

<sup>4</sup> 19 U.S.C. § 2417(c)(1)(B).

<sup>5</sup> 19 U.S.C. § 2417(c)(3)(A).

<sup>6</sup> 19 U.S.C. § 2417(c)(3)(B).

investigation, USTR initially determined to impose Section 301 tariffs on approximately \$50 billion worth of annual imports from China, divided into two stages: tariffs on “List 1” goods (\$34 billion) became effective on July 6, 2018, and tariffs on “List 2” goods (\$16 billion) became effective on August 23, 2018. USTR subsequently imposed two additional rounds of tariffs: tariffs on “List 3” goods (\$200 billion) became effective on September 24, 2018, and tariffs on List 4A goods (\$126 billion) became effective on September 1, 2019.

## **Quadrennial Review of Section 301 Tariffs on China-Origin Goods**

### Scope

USTR’s Federal Register notice commences the quadrennial review of the Section 301 tariffs on Chinese goods, as required by Section 307(c) of the Trade Act. Importantly, USTR’s notice clarifies that the review will cover all four of the tariff lists that USTR has imposed in connection with the Section 301 investigation of China. Instead of treating the List 3 and 4A tariffs as Section 301 “actions” warranting their own quadrennial reviews, USTR’s notice describes Lists 3 and 4A as “modifications” to the initial List 1 and 2 “actions.” The notice then specifies that, “[i]n the four-year review, USTR will examine the [List 1] action, as *modified*, and [List 2], action, as *modified*,” and that “[t]o ensure comprehensive coverage of the review, USTR will consider the List 3 and List 4A *modifications* as applicable to both the [List 1] *action* and [List 2] *action*” (emphasis added). As explained in more detail below, this means that parties will have the opportunity to comment on the continuation and possible modification of Lists 3 and 4A, in addition to Lists 1 and 2.

USTR’s notice identifies two other “modifications” to the List 1 and 2 actions: (1) product exclusions granted in response to COVID-19, set forth in 86 Fed. Reg. 63438 (November 16, 2021), as amended; and (2) reinstated product exclusions set forth in 87 Fed. Reg. 17380 (March 28, 2022). USTR’s notice indicates that its quadrennial review will cover the List 1 and 2 actions “as modified” by these exclusions.

### First Phase of the Four-Year Review

During the first phase of the four-year review, USTR will allow representatives of domestic industries that benefit from the List 1 and 2 actions (“as modified” by Lists 3 and 4A and the above-mentioned product exclusions) to request the continuation of the actions, according to the following schedule:

- For the List 1 action, any representative of a domestic industry which benefits from the action, as modified, may submit a request to continue the action between May 7, 2022, and July 5, 2022.
- For the List 2 action, any representative of domestic industries benefitting from the action, as modified, may submit a request to continue the action between June 24, 2022, and August 22, 2022.

As noted above, USTR’s notice specifies that it will consider the List 3 and List 4A “modifications” as “applicable to both the [List 1] action and [List 2] action[.]” This means that domestic industries benefitting from the List 1, 3, or 4A actions will be able to submit requests for continuation of those actions beginning on May 7, 2022. Domestic industries benefitting from the List 2 action will be able to submit requests for continuation of that action beginning on June 24, 2022. USTR will open comment portals corresponding to these actions at <https://comments.ustr.gov/s/>

USTR’s notice acknowledges that “the [List 1] action, as modified, and the [List 2] action under Section 301, as modified, will terminate on their respective four-year anniversary dates (*i.e.*, July 6, 2022 and August 23, 2022, respectively) unless a representative of a domestic industry which benefits from the respective action submits in the 60-day period prior to the four-year anniversary of the respective action a request that the action continue.” However, USTR’s notice leaves important questions about this process unaddressed. For example, the notice does not clarify how USTR will determine whether an entity is a “representative of a domestic industry that benefits from the action” and therefore has standing to submit a request for continuation. Moreover, according to USTR’s notice, “[r]equests to

continue the action will not be posted immediately, but will be summarized in the notices announcing whether the two trade actions under Section 301 will be continued[.]” This could make it difficult for other parties to evaluate the requests, including the extent to which the requesters are beneficiaries of the Section 301 action.

USTR’s notice also does not address the scope of requests for continuation, including whether such requests must be limited to specific products or can cover the relevant tariff list in its entirety. Similarly, the notice does not explain whether USTR would extend the Section 301 actions only in part, if it receives requests to continue certain tariffs but not others. USTR’s notice refers only to the possible continuation of the List 1 and 2 “actions,” as modified, and does not mention the possibility of extending only a subset of the current tariffs.

### Second Phase of the Four-Year Review

USTR’s notice states that the agency “will announce in subsequent notices whether it has received a request for continuation from a representative of a domestic industry which benefits from an action.” If USTR receives such a request, it will “announce the continuation of the action[.]” USTR’s notice does not specify the date by which this will occur.

If USTR continues an action, it will then “undertake a review of the action[.]” As part of this review, USTR intends to open a separate portal for “interested persons” to submit comments on, among other matters, the effectiveness of the action in achieving the objectives of Section 301, other actions that could be taken, and the effects of such actions on the United States economy, including consumers. This proceeding presumably would afford interested persons (including importers) the opportunity to request the elimination of Section 301 tariffs on particular products, among other changes. USTR has not indicated when it expects to initiate or conclude this comment proceeding, or when it might implement any resulting changes to the tariffs.

### **Outlook**

In recent weeks, senior Biden Administration officials have expressed interest in easing the Section 301 tariffs on certain products in order to mitigate inflation and better align the tariffs with the United States’ strategic objectives. Among other possible changes, these officials have suggested reducing or eliminating Section 301 tariffs on some List 3 and 4A products (particularly consumer goods such as clothing and sports equipment), while maintaining and possibly increasing duties on products related to critical supply chains, national security, or emerging technologies. Importantly, USTR has designed its quadrennial review process to cover not only Lists 1 and 2, which are scheduled to expire in the near future, but also Lists 3 and 4A, which are not scheduled to expire until September 2022 and September 2023, respectively. USTR’s review represents a rare and important opportunity for companies to request modifications to these tariff lists.

## **USTR Extends Section 301 Tariff Exclusions for Medical Products; Further Tariff Relief under Consideration**

On May 27, 2022, the Office of the US Trade Representative (USTR) published a Federal Register notice extending Section 301 tariff exclusions for certain China-origin medical products needed to address the COVID-19 pandemic.<sup>7</sup> USTR’s notice extends 81 product-specific exclusions for a period of six months (*i.e.*, until December 1, 2022). Separately, Biden Administration officials and Members of Congress continue to consider further Section 301 tariff relief, though no final decisions have been made.

### **Exclusions extended for COVID-related products**

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<sup>7</sup> USTR’s notice can be viewed [here](#).

USTR's latest notice extends tariff exclusions for certain types of personal protective equipment; devices used in magnetic resonance imaging (MRI), X-ray, and computed tomography (CT) equipment; microscopes, and various types of plastic containers, tubing, and coverings used in medical settings, among other products. USTR first granted exclusions for these products in December 2020 and subsequently extended the exclusions in November 2021. The exclusions were previously scheduled to expire on May 31, 2022, and will now be extended for an additional six months.

In addition to the COVID-related exclusions covered by USTR's latest notice, USTR reinstated 352 other product exclusions in a separate action announced in March 2022.<sup>8</sup> However, the vast majority of the product exclusions USTR has granted in connection with the Section 301 action have expired, and USTR currently is not accepting new exclusion requests.

### Discussions on further tariff relief

In recent weeks, senior Biden Administration officials have indicated that they are actively considering whether to provide further relief from the Section 301 tariffs, either through additional exclusion processes or other actions. On May 18, US Treasury Secretary Janet Yellen stated that interagency discussions on this topic are underway, and she expressed support for removing some of the Section 301 tariffs “not only because of inflation, but because there would be benefits to consumers and firms[.]”<sup>9</sup> Secretary Yellen argued that some of the Section 301 tariffs “seem as though they impose more harm on consumers and businesses and aren't very strategic in the sense of addressing real issues we have with China[.]” However, she acknowledged that some Administration officials have different views on the merits of further tariff relief. In recent public appearances, US Trade Representative Katherine Tai has stated that Section 301 tariff relief would have only a small impact on inflation, that she would be “very, very concerned about taking steps to be reactive to today's challenges . . . that would undermine our longer-term strategic approaches” to preserving US competitiveness.<sup>10</sup>

USTR is currently conducting a review of the necessity of the Section 301 tariffs in advance of their four-year anniversary, as required by Section 307(c) of the Trade Act.<sup>11</sup> Section 307(c) provides that Section 301 actions are to expire four years after they take effect, unless the petitioner or a representative of the domestic industry that benefits from the action submits to USTR a request for continuation of the action. USTR's review is proceeding in two stages:

- During the first stage, which is ongoing, domestic industries that benefit from the Section 301 “actions” (*i.e.*, tariff lists List 1 and 2 “as modified” by Lists 3 and 4A) can request the continuation of the actions. If USTR receives such requests, it will announce the continuation of the relevant actions. To date, USTR has received 17 submissions in connection with the first stage of the proceeding, but has not made the submissions public. The deadline for requests to continue the List 1 action is July 5, 2022; the deadline for requests to continue the remaining actions is August 22, 2022.
- During the second stage (and assuming that USTR continues each Section 301 action), USTR will undertake a review of each action. As part of this review, USTR intends to allow “interested persons” to submit comments on, among other matters, the effectiveness of the action in achieving the objectives of Section 301, other actions that could be taken, and the effects of such actions on the US economy, including consumers. This proceeding presumably would afford interested persons (including importers) the opportunity to request the

<sup>8</sup> Please refer to the W&C US Trade Alert dated March 24, 2022.

<sup>9</sup> Transcript of Press Conference from Secretary of the Treasury Janet L. Yellen in Bonn, Germany, US Treasury Department, May 18, 2022, available [here](#).

<sup>10</sup> Testimony of Ambassador Katherine Tai Before the House Ways and Means Committee, March 30, 2022, available [here](#).

<sup>11</sup> For more information on USTR's review process, please refer to the W&C US Trade Alert dated May 3, 2022.

elimination of Section 301 tariffs on particular products, among other changes. USTR officials have indicated that a forthcoming Federal Register notice will specify the criteria that commenters should address when seeking changes to the Section 301 actions.

On May 25, USTR's General Counsel, Ms. Greta Peisch, stated that USTR's "review of necessity" would likely take several months to complete. However, Ms. Peisch emphasized that USTR could provide new tariff relief before that review is completed, and is currently considering this possibility. Ms. Peisch stated that establishing a new exclusion process or otherwise modifying the tariffs "is something we are examining apart from the review . . . [i]t is certainly possible that an exclusion process or some other action will go forward before that review is finished."

Separately, the US Congress continues to debate legislation that would provide limited relief from the Section 301 tariffs. On May 12, Members of the US Senate and the House of Representatives formally convened a conference committee that will seek to reconcile differences between the US Innovation and Competition Act (S. 1260) and the America COMPETES Act (H.R. 4521). Among other notable differences, S. 1260 includes provisions that would reinstate certain Section 301 tariff exclusions and require USTR to accept new exclusion requests, whereas H.R. 4521 omits such provisions. This is expected to be among the most challenging issues to resolve in conference. Democratic leaders in Congress hope to reach agreement on a conference bill by July 4, but conferees have made little progress toward resolving differences between the trade titles of the two bills, including with respect to Section 301 tariffs.

## Trade Agreements

### **United States and 12 Indo-Pacific Countries Begin Discussions on Indo-Pacific Economic Framework, but Stop Short of Launching Formal Negotiations**

On May 23, 2022, the United States and 12 other Indo-Pacific countries agreed to launch "collective discussions towards future negotiations" on the Indo-Pacific Economic Framework (IPEF) proposed by the Biden Administration. The countries that have agreed to participate in these discussions with the United States are Australia, Brunei Darussalam, India, Indonesia, Japan, Korea, Malaysia, New Zealand, the Philippines, Singapore, Thailand, and Vietnam. In the coming weeks, these countries will discuss the potential scope of the IPEF's four "pillars," with a view to reaching agreement on the scope and launching formal negotiations at a later date. In a Joint Statement issued on May 23, the participating countries affirmed that they intend for the IPEF's four pillars to cover the following general topics: (1) Trade; (2) Supply Chains; (3) Clean Energy, Decarbonization, and Infrastructure; and (4) Tax and Anti-Corruption.<sup>12</sup>

The decision to begin a scoping discussion for the IPEF is an important first step, but a less ambitious one than the Biden Administration initially proposed when negotiating the Joint Statement with participating countries. According to reports, the United States initially proposed that the Joint Statement should announce a commitment to begin formal negotiations on the IPEF text, rather than preliminary discussions on its scope. However, some developing countries were not ready to commit to formal negotiations, owing to a lack of clarity regarding US objectives for the IPEF, as well as concerns that the Framework as currently envisioned might not offer sufficient incentives for participation. To ensure that the Joint Statement would attract a broad and diverse range of signatories, particularly from ASEAN countries, the United States reportedly agreed to scale back the ambition of the Joint Statement, accepting a commitment to begin scoping discussions that could lead to text-based negotiations at a later date. This

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<sup>12</sup> Joint Statement on Indo-Pacific Economic Framework for Prosperity, May 23, 2022, <https://www.whitehouse.gov/briefing-room/statements-releases/2022/05/23/statement-on-indo-pacific-economic-framework-for-prosperity/>

approach leaves some uncertainty as to which countries will ultimately participate in the IPEF, and how soon text-based negotiations might begin.

This alert provides an overview of the Joint Statement, the Biden Administration's stated objectives for the IPEF, key US stakeholder reactions, and next steps and challenges for the IPEF process.

### Joint Statement on the IPEF

The Joint Statement begins by acknowledging that the signatories' economic policy interests in the Indo-Pacific region "are intertwined," and that "deepening economic engagement among partners is crucial for continued growth, peace, and prosperity." The signatories therefore "are launching the process to establish the Indo-Pacific Economic Framework for Prosperity," which is intended "to advance resilience, sustainability, inclusiveness, economic growth, fairness, and competitiveness for our economies[.]" Specifically, the signatories are "launch[ing] collective discussions toward future negotiations on the following pillars" of the IPEF:

- **Trade.** The signatories "seek to build high-standard, inclusive, free, and fair trade commitments and develop new and creative approaches in trade and technology policy that advance a broad set of objectives that fuels economic activity and investment, promotes sustainable and inclusive economic growth, and benefits workers and consumers." These efforts "include, but are not limited to, cooperation in the digital economy."
- **Supply Chains.** The signatories "are committed to improving transparency, diversity, security, and sustainability in our supply chains to make them more resilient and well-integrated." They seek to coordinate crisis response measures; expand cooperation to better prepare for and mitigate the effects of disruptions; improve logistical efficiency and support; and ensure access to key raw and processed materials, semiconductors, critical minerals, and clean energy technology.
- **Clean Energy, Decarbonization, and Infrastructure.** In line with the signatories' Paris Agreement goals and economic priorities, they "plan to accelerate the development and deployment of clean energy technologies to decarbonize our economies and build resilience to climate impacts." This involves "deepening cooperation on technologies, on mobilizing finance, including concessional finance, and on seeking ways to improve competitiveness and enhance connectivity by supporting the development of sustainable and durable infrastructure and by providing technical assistance."
- **Tax and Anti-Corruption.** The signatories "are committed to promoting fair competition by enacting and enforcing effective and robust tax, anti-money laundering, and anti-bribery regimes in line with existing multilateral obligations, standards, and agreements to curb tax evasion and corruption in the Indo-Pacific region." This involves "sharing expertise and seeking ways to support capacity building necessary to advance accountable and transparent systems."

The Joint Statement further notes that the signatories "are continuing to identify additional areas of cooperation," and that they "invite participation from additional Indo-Pacific partners that share our goals, interests, and ambitions for the region[.]"

The Joint Statement does not discuss how participation in the IPEF will be structured. The United States has proposed a modular approach that would allow countries to participate only in those pillars of the IPEF that they select, and to decline participation in others. In the United States' view, this approach is essential to ensuring that a broad range of countries are willing to participate in the IPEF in some form. The Joint Statement alludes to this structure by stating that the signatories will "maintain a flexible approach" to the discussions, but does not elaborate.

Importantly, the Joint Statement does not commit any of the signatories to participation in formal negotiations on the text of the IPEF once the initial scoping discussions are complete. Moreover, the Joint Statement does not indicate

which pillars of the IPEF each signatory intends to join. This approach reflects the relatively cautious attitude that some Indo-Pacific countries have taken towards the IPEF and its trade pillar, despite welcoming as a general proposition the United States' efforts to engage more deeply with the region.

### US statements on IPEF objectives

Alongside the Joint Statement, the White House has issued its own statement summarizing, in general terms, the Biden Administration's objectives for each IPEF pillar.<sup>13</sup> Some of the US objectives go beyond those mentioned in the Joint Statement, particularly in the area of trade, suggesting that the United States' ambitions in this area may exceed that of some of the other signatories. Officials expect that the trade pillar will be the most challenging aspect of the IPEF to negotiate, and that securing broad participation in the trade pillar may prove difficult given the level of US ambition in this area.

- **Trade.** For the trade pillar, the United States will seek: (1) "high-standard rules of the road in the digital economy, including standards on cross-border data flows and data localization;" (2) commitments that facilitate e-commerce, while "addressing issues such as online privacy and discriminatory and unethical use of Artificial Intelligence;" (3) "strong labor and environment standards;" (3) unspecified "corporate accountability provisions;" (4) commitments on trade facilitation, including for "accelerated implementation" of the World Trade Organization's Trade Facilitation Agreement; (5) commitments on transparency and regulatory practices; and (6) commitments that facilitate agricultural trade "through science-based decision making and the adoption of sound, transparent regulatory practices."<sup>14</sup>
- **Supply Chains.** The United States intends to promote supply chain resiliency by "establishing an early warning system, mapping critical mineral supply chains, improving traceability in key sectors, and coordinating on diversification efforts."
- **Clean Energy, Decarbonization, and Infrastructure.** The United States "will pursue concrete, high-ambition targets that will accelerate efforts to tackle the climate crisis, including in the areas of renewable energy, carbon removal, energy efficiency standards, and new measures to combat methane emissions." The United States will also seek "first-of-their-kind commitments" on infrastructure, though the White House statement does not elaborate on this point.
- **Tax and Anti-Corruption.** The United States will seek commitments "to enact and enforce effective tax, anti-money laundering, and anti-bribery regimes that are in line with our existing multilateral obligations[.]" These will include provisions on the exchange of tax information, criminalization of bribery in accordance with UN standards, and "effective implementation" of beneficial ownership recommendations to address corruption.

The United States has previously made clear that it will not discuss market access, including tariff liberalization, in the context of the IPEF. US Trade Representative Katherine Tai reiterated this position in public remarks on May 23, arguing that the United States' average most-favored nation (MFN) tariff rate of 2.4 percent is already "very low," and

<sup>13</sup> "FACT SHEET: In Asia, President Biden and a Dozen Indo-Pacific Partners Launch the Indo-Pacific Economic Framework for Prosperity," The White House, May 23, 2022, <https://www.whitehouse.gov/briefing-room/statements-releases/2022/05/23/fact-sheet-in-asia-president-biden-and-a-dozen-indo-pacific-partners-launch-the-indo-pacific-economic-framework-for-prosperity/>

<sup>14</sup> On-the-Record Press Call on the Launch of the Indo-Pacific Economic Framework," The White House, May 23, 2022, <https://www.whitehouse.gov/briefing-room/press-briefings/2022/05/23/on-the-record-press-call-on-the-launch-of-the-indo-pacific-economic-framework/>

that the focus on tariff liberalization in “traditional” US trade agreements has made those agreements politically fragile.<sup>15</sup>

### Next steps

The United States has indicated that the signatories will begin discussions in the coming weeks to determine the scope of the IPEF and the pillars in which each country will participate.<sup>16</sup> The United States has not laid out a timetable for concluding the scoping discussion and moving to text-based negotiations, but US Secretary of Commerce Gina Raimondo has suggested that this could take months to achieve.<sup>17</sup> The Administration previously indicated that it hoped to conclude the IPEF negotiation in 2022, but this now appears unlikely, and the Administration reportedly is now aiming to conclude the negotiation within 18 to 24 months.

The Biden Administration has indicated that it may seek to implement certain elements of the IPEF as they are completed, rather than waiting until the entire framework is finalized. White House National Security Advisor Jake Sullivan cited the proposed “early warning system” for critical supply chains as one potential early-harvest outcome that could be implemented before the full framework is complete.<sup>18</sup>

### US stakeholder reactions

The launch of the IPEF process has generated mixed reactions among US stakeholders:

- The US Chamber of Commerce stated that the IPEF is “a positive step toward strengthening economic ties in the region,” but “seems bound to fall short of the high standards and robust benefits of the U.S. trade agreements negotiated with several regional economies, including Australia, Korea, and Singapore.”<sup>19</sup> The Chamber lamented that the IPEF will not cover market access, adding that “it’s hard to see how [the IPEF] can be enforceable without such a provision[.]” The Chamber also expressed disappointment that Biden Administration in some instances “is trying to use trade policy tools to achieve goals that would be better addressed by domestic policy reforms.”
- The United Steelworkers Union (USW) stated that its support for the IPEF “will depend on the substance of any agreement and the results it provides to our workers[.]”<sup>20</sup> USW indicated that its members appreciate the value of cooperation with allies, but warned that “workers will not hesitate to oppose bad trade and economic initiatives.” USW also indicated that it intends to engage with the administration “across all issues, as well as on which countries may be suitable partners.” In public comments submitted to USTR in April, the Labor Advisory Committee on Trade Policy and Negotiations (which includes the USW and other US labor unions) expressed concern about including countries such as Malaysia, Thailand, the Philippines, and Indonesia in the IPEF, citing alleged “labor and human rights challenges” in those countries.<sup>21</sup>

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<sup>15</sup> Id.

<sup>16</sup> Id.

<sup>17</sup> Id.

<sup>18</sup> Id.

<sup>19</sup> “Chamber Welcomes Launch of Indo-Pacific Economic Framework,” May 23, 2022, <https://www.uschamber.com/international/chamber-welcomes-official-announcement-of-indo-pacific-economic-framework>

<sup>20</sup> “USW Commits to Engaging Administration in Pursuit of Successful Indo-Pacific Economic Framework Agreement,” United Steelworkers Union, May 23, 2022, <https://www.usw.org/news/media-center/releases/2022/usw-commits-to-engaging-administration-in-pursuit-of-successful-indo-pacific-economic-framework-agreement>

<sup>21</sup> Submission from Labor Advisory Committee on the Indo-Pacific Economic Framework, April 11, 2022, [https://downloads.regulations.gov/USTR-2022-0002-1187/attachment\\_1.pdf](https://downloads.regulations.gov/USTR-2022-0002-1187/attachment_1.pdf)

- Senate Finance Committee Chairman Ron Wyden (D-OR) welcomed the IPEF as an opportunity “to write the rules of the road for trade,” calling it a “crucial counterweight to the Chinese government’s model[.]”<sup>22</sup> Senator Wyden praised President Biden for “recognizing the need for a fresh and innovative approach to trade policy and trade agreements that puts American values first.” Congressional Republicans offered a more critical response, however. House Ways and Means Committee Ranking Member Kevin Brady (R-TX) stated that the IPEF is a “strong opportunity” but “isn’t nearly ambitious enough,” and argued that the Biden Administration “must obtain Congressional approval [of the IPEF] as the Constitution requires.”<sup>23</sup>

## Outlook

Deepening US engagement with Indo-Pacific countries is a central component of the Biden Administration’s strategy to counter China’s influence in the region. The Administration has acknowledged that this effort must extend beyond security cooperation to include the expansion of US trade and economic relationships with Indo-Pacific countries. The Joint Statement demonstrates that a diverse range of Indo-Pacific countries are similarly interested in expanding their trade and economic relationships with the United States. However, the Joint Statement does little to answer the main outstanding questions surrounding the IPEF, including which countries will ultimately participate, what level of ambition can be achieved, and how any trade commitments undertaken in the IPEF can be enforced. The IPEF’s relevance for the business community will depend in part on how these questions are resolved. Some of the key challenges and considerations are as follows:

- **Balancing inclusivity with high ambition.** The Biden Administration has expressed a desire to secure broad participation in the IPEF, while also ensuring that the Framework includes high standard commitments in politically sensitive areas such as digital trade, labor, and the environment. This will be difficult to achieve, given the differing levels of development and divergent policy approaches of the Joint Statement’s signatories. The Administration has suggested that making participation in certain IPEF pillars optional would facilitate broad membership in the overall framework, while allowing like-minded countries to pursue high standard outcomes in the most sensitive areas such as trade. However, this approach could greatly limit the IPEF’s commercial significance. The US Chamber of Commerce recently warned that the IPEF’s impact “will be most felt only if countries like Vietnam, Malaysia and Korea sign up for a high-standard digital framework.”<sup>24</sup>
- **Exclusion of market access.** The United States’ decision to exclude market access from the IPEF will increase the difficulty of achieving broad participation and high standard commitments that meaningfully influence domestic policies. In past US trade agreements, the promise of duty-free access to the US market has been critical for securing commitments on labor, the environment, digital trade, and other sensitive issues. The exclusion of market access from the IPEF has caused some countries to question the incentives for participation, particularly in the trade pillar. This week, Secretary Raimondo suggested that the IPEF will incentivize participation in other ways, noting that the infrastructure pillar will involve “sources of public and private capital flowing from the United States . . . into infrastructure projects in countries in the region.”<sup>25</sup> At this

<sup>22</sup> “Wyden Statement on Launch of Indo-Pacific Economic Framework,” Senate Finance Committee, May 23, 2022, <https://www.finance.senate.gov/chairmans-news/memorandum-wyden-statement-on-launch-of-indo-pacific-economic-framework->

<sup>23</sup> “Brady and A. Smith: Indo-Pacific Economic Framework Presents Strong Opportunity, But Isn’t Nearly Ambitious Enough,” House Ways and Means Committee, May 23, 2022, <https://gop-waysandmeans.house.gov/brady-and-smith-indo-pacific-economic-framework-presents-strong-opportunity-isnt-nearly-ambitious-enough/>

<sup>24</sup> “Joe Biden waters down Indo-Pacific Economic Framework to win more support,” Financial Times, May 20, 2022, <https://www.ft.com/content/91207c37-c9bd-4737-abf5-afc71200f8a1>

<sup>25</sup> “On-the-Record Press Call on the Launch of the Indo-Pacific Economic Framework,” The White House, May 23, 2022, <https://www.whitehouse.gov/briefing-room/press-briefings/2022/05/23/on-the-record-press-call-on-the-launch-of-the-indo-pacific-economic-framework/>

stage, however, the details of these proposed arrangements are unclear. Moreover, and as noted above, the United States has proposed a flexible structure that would allow countries to participate only in those pillars of the IPEF that they select. It is therefore unclear whether, or how, the United States intends for benefits associated with the infrastructure pillar to incentivize participation in other pillars, including trade.

- **Enforceability and effectiveness.** The absence of market access commitments from the IPEF has also raised questions as to how its trade obligations could be enforced. Market access commitments play an essential role in the enforcement of trade agreements: WTO and FTA dispute settlement mechanisms allow a complaining party to suspend market access concessions (e.g., by raising tariffs) where a dispute settlement panel finds that the respondent party has violated its obligations. Though the United States has suggested that benefits other than market access (e.g., infrastructure financing) could attract participants to the IPEF, such benefits are untested as a means of enforcing trade commitments. On May 23, Secretary Raimondo stated that “there will be incentives to . . . live up to the commitments that will be part of the [IPEF] agreement,” and that “the greatest enforcement is that if you don’t hold up your end of the bargain, you don’t receive the benefits[.]” However, she did not elaborate on how this would work.

Taiwan’s absence from the list of signatories to the Joint Statement has also caused some observers to question whether the IPEF will include meaningful outcomes on semiconductor supply chains. Taiwan has expressed a desire to join the IPEF, but it is not included in the initial group of signatories, presumably due to the tensions this would create with China (which in turn could make it difficult for some countries to participate in the IPEF). The Biden Administration has indicated that it plans to pursue “deeper bilateral engagement with Taiwan on trade and economic matters” on a separate track, which will allow the United States “to enhance our economic partnership with Taiwan and also to carry IPEF forward with this diverse range of countries.”<sup>26</sup> Subsequently, on June 1, 2022, senior trade officials from the United States and Taiwan announced the launch of a new “U.S.-Taiwan Initiative on 21st-Century Trade.” Under the initiative, the United States and Taiwan will pursue negotiated outcomes on digital trade, regulatory practices, trade facilitation, agriculture, state-owned enterprises, and other trade issues.

- **Implications for CPTPP.** Few Indo-Pacific countries appear to view the IPEF as comparable to US participation in the CPTPP, in terms of the economic benefits it would deliver and the level of commitment that it would signal to the region. Some observers have expressed hope that the IPEF could serve as a stepping stone for an eventual US accession to the CPTPP, but the Biden Administration has repeatedly downplayed this possibility.

Moreover, Administration officials have sought to portray the CPTPP (and FTAs generally) as an outdated approach to trade policymaking that is ill-suited to current priorities, arguing that the IPEF represents a better approach focused on “resilience, sustainability, and inclusion[.]”<sup>27</sup> It is too early to tell whether a successful conclusion of the IPEF would facilitate an eventual US accession to the CPTPP or, alternatively, make it easier for the United States to justify remaining outside the agreement.

- **Durability.** The Biden Administration has indicated that it does not intend to seek congressional approval of the IPEF, and will instead treat it as an executive agreement. This approach avoids the challenges associated with securing congressional approval, but also raises questions as to the durability of US support for the IPEF. Members of Congress may feel less invested in an agreement implemented by executive action than one that goes through the challenging process of congressional approval, which normally requires bipartisan support. Some US negotiating partners may therefore question whether the United States will support the IPEF and

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<sup>26</sup> Id.

<sup>27</sup> Id.

remain committed to its implementation over the long term – particularly given the recent experience of the United States’ withdrawal from the TPP after obtaining difficult concessions from Indo-Pacific partners.

## Petitions and Investigations

### US Department of Commerce Issues Preliminary Determinations in Antidumping Duty Investigations of Oil Country Tubular Goods from Argentina, Mexico, and Russia

On May 5, 2022, the US Department of Commerce (DOC) announced its affirmative preliminary determinations in the antidumping duty (AD) investigations of oil country tubular goods from Argentina, Mexico, and Russia. In its investigations, DOC preliminarily determined that imports of the subject merchandise were sold in the United States at the following dumping margins:

- Argentina: 76.43 percent
- Mexico: 69.56 percent
- Russia: 11.82 to 121.11 percent

The petitioners in these investigations are Borusan Mannesmann Pipe U.S., Inc. (Baytown, TX); PTC Liberty Tubulars LLC (Liberty, TX); U.S. Steel Tubular Products, Inc. (Pittsburgh, PA); United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC (Pittsburgh, PA); and Welded Tube USA, Inc. (Lackawanna, NY).

The merchandise covered by the investigations is certain oil country tubular goods (OCTG), which are hollow steel products of circular cross-section, including oil well casing and tubing, of iron (other than case iron) or steel (both carbon and alloy), whether seamless or welded, regardless of end finish (e.g., whether or not plain end, threaded, or threaded and coupled) whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished (including limited service OCTG products) or unfinished (including green tubes and limited service OCTG products), whether or not thread protectors are attached. The scope of this investigation also covers OCTG coupling stock. Subject merchandise includes material matching the above description that has been finished, packaged, or otherwise processed in a third country, including by performing any heat treatment, cutting, upsetting, threading, coupling, or any other finishing, packaging, or processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the OCTG.

The merchandise subject to this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.29.1010, 7304.29.1020, 7304.29.1030, 7304.29.1040, 7304.29.1050, 7304.29.1060, 7304.29.1080, 7304.29.2010, 7304.29.2020, 7304.29.2030, 7304.29.2040, 7304.29.2050, 7304.29.2060, 7304.29.2080, 7304.29.3110, 7304.29.3120, 7304.29.3130, 7304.29.3140, 7304.29.3150, 7304.29.3160, 7304.29.3180, 7304.29.4110, 7304.29.4120, 7304.29.4130, 7304.29.4140, 7304.29.4150, 7304.29.4160, 7304.29.4180, 7304.29.5015, 7304.29.5030, 7304.29.5045, 7304.29.5060, 7304.29.5075, 7304.29.6115, 7304.29.6130, 7304.29.6145, 7304.29.6160, 7304.29.6175, 7305.20.2000, 7305.20.4000, 7305.20.6000, 7305.20.8000, 7306.29.1030, 7306.29.1090, 7306.29.2000, 7306.29.3100, 7306.29.4100, 7306.29.6010, 7306.29.6050, 7306.29.8110, and 7306.29.8150.

The merchandise subject to this investigation may also enter under the following HTSUS item numbers: 7304.39.0024, 7304.39.0028, 7304.39.0032, 7304.39.0036, 7304.39.0040, 7304.39.0044, 7304.39.0048, 7304.39.0052, 7304.39.0056, 7304.39.0062, 7304.39.0068, 7304.39.0072, 7304.39.0076, 7304.39.0080,

7304.59.6000, 7304.59.8015, 7304.59.8020, 7304.59.8025, 7304.59.8030, 7304.59.8035, 7304.59.8040, 7304.59.8045, 7304.59.8050, 7304.59.8055, 7304.59.8060, 7304.59.8065, 7304.59.8070, 7304.59.8080, 7305.31.4000, 7305.31.6090, 7306.30.5055, 7306.30.5090, 7306.50.5050, and 7306.50.5070.

A full description of the scope can be found in DOC's Federal Register notice.<sup>28</sup>

DOC is scheduled to issue its final determinations in these investigations by September 23, 2022. If DOC reaches affirmative final determinations, the US International Trade Commission will be scheduled to issue its final determinations of injury by November 7, 2022.

### **US Department of Commerce Issues Final Determination in Countervailing Duty Investigation of Certain Freight Rail Couplers and Parts Thereof from China**

On May 17, 2022, the US Department of Commerce (DOC) announced its affirmative final determination in the countervailing duty (CVD) investigation of certain freight rail couplers and parts thereof from China. In its investigation, DOC determined that imports of the subject merchandise from China received countervailable subsidies at a rate of 265.99 percent.

The petitioner in this investigation is the Coalition of Freight Coupler Producers, the members of which are McConway and Torley, LLC (M&T) (Pittsburgh, PA) and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC (the USW) (Washington, DC).

The scope of this investigation covers freight rail car coupler systems and certain components thereof. Freight rail car coupler systems are composed of, at minimum, four main components (knuckles, coupler bodies, coupler yokes, and follower blocks, as specified below) but may also include other items ( e.g., coupler locks, lock lift assemblies, knuckle pins, knuckle throwers, and rotors). The components covered by the investigation include: (1) E coupler bodies; (2) E/F coupler bodies; (3) F coupler bodies; (4) E yokes; (5) F yokes; (6) E knuckles; (7) F knuckles; (8) E type follower blocks; and (9) F type follower blocks, as set forth by the Association of American Railroads (AAR). The freight rail coupler components are included within the scope of the investigation when imported individually, or in some combination thereof, such as in the form of a coupler fit (a coupler body and knuckle assembled together), independent from a coupler system.

The coupler systems that are the subject of this investigation are currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) statistical reporting number 8607.30.1000. Unfinished subject merchandise may also enter under HTSUS statistical reporting number 7326.90.8688. Subject merchandise attached to finished rail cars may also enter under HTSUS statistical reporting numbers 8606.10.0000, 8606.30.0000, 8606.91.0000, 8606.92.0000, 8606.99.0130, 8606.99.0160, or under subheading 9803.00.5000 if imported as an Instrument of International Traffic. A full description of the scope can be found in DOC's Federal Register notice.<sup>29</sup>

The US International Trade Commission (ITC) is scheduled to issue its final injury determination by June 30, 2022. If the ITC reaches an affirmative final determination of injury, DOC will issue a countervailing duty order.

### **US Department of Commerce Issues Final Determination in Antidumping Duty Investigation of Certain Freight Rail Couplers and Parts Thereof from China**

On May 24, 2022, the US Department of Commerce (DOC) announced its affirmative final determination in the antidumping duty (AD) investigation of certain freight rail couplers and parts thereof from China. In its investigation,

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<sup>28</sup> Available [here](#).

<sup>29</sup> Available [here](#).

DOC determined that imports of the subject merchandise from China were sold in the United States at a dumping margin of 116.70 percent.

The petitioner in this investigation is the Coalition of Freight Coupler Producers, the members of which are McConway and Torley, LLC (M&T) (Pittsburgh, PA) and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC (the USW) (Washington, DC).

The scope of this investigation covers freight rail car coupler systems and certain components thereof. Freight rail car coupler systems are composed of, at minimum, four main components (knuckles, coupler bodies, coupler yokes, and follower blocks, as specified below) but may also include other items ( e.g., coupler locks, lock lift assemblies, knuckle pins, knuckle throwers, and rotors). The components covered by the investigation include: (1) E coupler bodies; (2) E/F coupler bodies; (3) F coupler bodies; (4) E yokes; (5) F yokes; (6) E knuckles; (7) F knuckles; (8) E type follower blocks; and (9) F type follower blocks, as set forth by the Association of American Railroads (AAR). The freight rail coupler components are included within the scope of the investigation when imported individually, or in some combination thereof, such as in the form of a coupler fit (a coupler body and knuckle assembled together), independent from a coupler system.

The coupler systems that are the subject of this investigation are currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) statistical reporting number 8607.30.1000. Unfinished subject merchandise may also enter under HTSUS statistical reporting number 7326.90.8688. Subject merchandise attached to finished rail cars may also enter under HTSUS statistical reporting numbers 8606.10.0000, 8606.30.0000, 8606.91.0000, 8606.92.0000, 8606.99.0130, 8606.99.0160, or under subheading 9803.00.5000 if imported as an Instrument of International Traffic. A full description of the scope can be found in DOC's Federal Register notice.<sup>30</sup>

The US International Trade Commission (ITC) is scheduled to issue its final injury determination by July 7, 2022. If the ITC reaches an affirmative final determination of injury, DOC will issue an antidumping duty order.

### **US International Trade Commission Determines Imports of Raw Honey from Argentina, Brazil, India, and Vietnam Injure US Industry**

On May 11, 2022, the US International Trade Commission (ITC) determined that a US industry is materially injured by reason of imports of raw honey from Argentina, Brazil, India, and Vietnam that the US Department of Commerce (DOC) has determined are 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. Schmidlein, and Amy A. Karpel voted in the affirmative. As a result of the ITC's affirmative determinations, DOC will issue antidumping duty orders on imports of this product from Argentina, Brazil, India, and Vietnam. The ITC made a negative critical circumstances finding with regard to imports of this product from Argentina, and an affirmative critical circumstances finding with regard to imports of this product from Vietnam.

DOC announced its final determinations in the AD investigations of raw honey from Argentina, Brazil, India, and Vietnam on April 8, 2022. In its investigations, DOC determined that imports of raw honey from the subject countries were sold in the United States at the following dumping margins:

- Argentina: 9.17 to 49.44 percent
- Brazil: 7.89 to 83.72 percent

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<sup>30</sup> Available [here](#).

- India: 5.52 to 6.24 percent
- Vietnam: 58.74 to 61.27 percent

The merchandise covered by this investigation is raw honey. Raw honey is honey as it exists in the beehive or as obtained by extraction, settling and skimming, or coarse straining. Raw honey has not been filtered to a level that results in the removal of most or all of the pollen, e.g., a level that removes pollen to below 25 microns. The subject products include all grades, floral sources and colors of raw honey and also include organic raw honey.

Excluded from the scope is any honey that is packaged for retail sale (e.g., in bottles or other retail containers of five (5) lbs. or less).

The merchandise subject to this investigation is currently classifiable under statistical subheading 0409.00.0005, 0409.00.0035, 0409.00.0045, 0409.00.0056, and 0409.00.0065 of the Harmonized Tariff Schedule of the United States (HTSUS).

The Commission's public report on this investigation will be available by June 20, 2022.