

US Multilateral Trade Policy Developments

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US Trade Actions

President Biden Invokes Emergency Authority to Waive Antidumping and Countervailing Duties on Solar Imports from Southeast Asia for Two Years

On June 6, 2022, President Biden announced that the United States would allow solar cells and modules imported from Cambodia, Malaysia, Thailand, and Vietnam to enter the United States free from antidumping (ADD) and countervailing duties (CVD) for a 24-month period, despite ongoing circumvention inquiries initiated by the US Department of Commerce (DOC) on April 1. President Biden invoked a rarely-used emergency authority under the Tariff Act of 1930 to waive the potential duties, declaring that “threats to the availability of sufficient electricity generation capacity” in the United States constitute an emergency. Biden Administration officials, Members of Congress, and US solar installers had previously expressed concern that the threat of new tariffs on solar imports covered by the circumvention inquiries would seriously undermine the deployment of solar technology in the United States.^[1]

Background

DOC initiated its circumvention inquiries on April 1, 2022, in response to a petition filed by a US domestic producer, Auxin Solar, Inc., on February 8, 2022.^[2] The petition alleges that solar cells and modules completed in Cambodia, Malaysia, Thailand, or Vietnam using parts and components manufactured in China are circumventing the ADD and CVD orders on solar cells and modules from China, which have been in place since 2012.^[3] The petition alleges circumvention pursuant to section 781(b) of the Tariff Act of 1930, which applies to merchandise completed or assembled in third countries.^[4] Affirmative findings of circumvention would result in the application of ADD and CVD to solar imports from the countries subject to the circumvention inquiries. Importantly, DOC’s circumvention regulation gives DOC discretion to apply its circumvention determinations retroactively to all unliquidated entries dating back to the earliest suspension date under the order (normally the preliminary determination in the underlying investigation) – even to entries that occurred before the date of initiation of the circumvention inquiries.^[5]

The merchandise covered by the ADD and CVD orders is crystalline silicon photovoltaic cells, and modules, laminates, and panels, consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including, but not limited to, modules, laminates, panels and building integrated materials. Merchandise covered by the orders is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 8501.71.0000, 8501.72.1000, 8501.72.2000, 8501.72.3000, 8501.72.9000, 8501.80.1000, 8501.80.2000, 8501.80.3000, 8501.80.9000, 8507.20.8010, 8507.20.8031, 8507.20.8041, 8507.20.8061, 8507.20.8091, 8541.42.0010, and 8541.43.0010. A complete description of the scope of the orders can be found in DOC’s Initiation Memorandum.^[6]

The threat of potential retroactive tariffs on solar imports from Cambodia, Malaysia, Thailand, and Vietnam has resulted in widespread project cancellations and delays, according to trade associations and US solar installers.^[7] As a result, the Biden Administration has faced mounting pressure from US solar installers and Members of Congress to mitigate the uncertainty generated by the circumvention inquiries, and to ensure that US solar installers can continue

^[1] “Granholm ‘deeply concerned’ solar tariff probe could derail US clean energy plans,” PV-Tech.org, May 9, 2022, <https://www.pv-tech.org/granholm-deeply-concerned-solar-tariff-probe-could-derail-us-clean-energy-plans/>.

^[2] For more information on the circumvention inquiries, please refer to the W&C US Trade Alert dated March 28, 2022.

^[3] See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules from the People’s Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order*, 77 FR 73018 (December 7, 2012); and *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People’s Republic of China: Countervailing Duty Order*, 77 FR 73017 (December 7, 2012)

^[4] 19 U.S.C. § 1677j(b).

^[5] 19 C.F.R. § 351.226(l).

^[6] See Memorandum [here](#), “Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules from the People’s Republic of China: Initiation of Circumvention Inquiries,” dated March 25, 2022.

^[7] “Impact of the Auxin Solar Tariff Petition,” Solar Energy Industries Association, https://www.seia.org/sites/default/files/2022-04/FINAL%20Auxin%20Impact%20Analysis%202022-04-26_0.pdf.

to source solar cells and modules from the four Southeast Asian countries, which currently supply roughly 80% of US solar cell imports.^[8]

24-month suspension of ADD and CVD and invocation of Defense Production Act

On June 6, 2022, President Biden issued a Proclamation entitled *Declaration of Emergency and Authorization for Temporary Extensions of Time and Duty-Free Importation of Solar Cells and Modules from Southeast Asia*.^[9] The Proclamation notes that “the United States has been unable to import solar modules in sufficient quantities to ensure solar capacity additions necessary to achieve our climate and clean energy goals, ensure electricity grid resource adequacy, and help combat rising energy prices.” The Proclamation further notes the Biden Administration’s efforts to promote domestic solar manufacturing capacity, but acknowledges that “building that capacity will take time.” Given these circumstances, the Proclamation “declare[s] an emergency to exist with respect to the threats to the availability of sufficient electricity generation capacity to meet expected customer demand.”

To respond to the emergency, the Proclamation directs the Secretary of Commerce to “consider taking appropriate action . . . to permit, until 24 months after the date of this proclamation or until the emergency declared herein has terminated, whichever occurs first . . . the importation, free of the collection of duties and estimated duties [under the ADD, CVD, and circumvention statutes]” of solar cells and modules from Cambodia, Malaysia, Thailand, and Vietnam. The Proclamation cites the President’s emergency authority under Section 318(a) of the Tariff Act as the legal basis for the suspension of duties.^[10] Section 318(a) provides in the relevant part that “[w]henver the President shall by proclamation declare an emergency to exist by reason of a state of war, or otherwise, he may authorize the Secretary . . . to extend during the continuance of such emergency the time herein prescribed for the performance of any act,” and may also authorize the Secretary to permit “the importation free of duty of food, clothing, and medical, surgical, and other supplies for use in emergency relief work.” The use of this provision to suspend import duties is rare, but not unprecedented: in 1946, President Harry Truman invoked the provision to suspend import duties on lumber in response to an “emergency shortage of housing.”^[11]

Concurrent with the Proclamation, DOC issued a statement explaining that it “will issue regulations to temporarily permit for up to 24 months duty-free access to solar cells and modules from Cambodia, Malaysia, Thailand, and Vietnam.”^[12] The statement notes that DOC’s anti-circumvention proceeding “continues uninterrupted, and whatever conclusion Commerce reaches when the investigation concludes will apply once this short-term emergency period is over.” In accordance with the President’s declaration, “no solar cells or modules imported from Cambodia, Malaysia, Thailand, and Vietnam will be subject to new antidumping or countervailing duties during the period of the emergency.” DOC’s investigation is ongoing with a preliminary determination on circumvention due by August 29, 2022.

The White House has portrayed the tariff suspension as a “24-month bridge” that will ensure adequate supplies of solar materials “as domestic manufacturing rapidly scales up to ensure the reliable supply of components that U.S. solar deployers need[.]” Alongside the Proclamation, and in accordance with the goal of bolstering domestic manufacturing, President Biden issued a Memorandum authorizing the Department of Energy (DOE) to use the Defense Production Act (DPA) to support domestic manufacturing of solar panel components, including photovoltaic

^[8] “Biden Invokes Emergency Power in Bid to Resolve Solar Import Dispute,” Wall Street Journal, June 6, 2022, <https://www.wsj.com/articles/biden-administration-to-waive-solar-import-tariffs-for-two-years-11654525408>.

^[9] The Proclamation can be viewed [here](#).

^[10] 19 U.S.C. § 1318(a).

^[11] Proclamation 2708, Emergency Due to Housing Shortage-Free Importation of Timber, Lumber, and Lumber Products, October 25, 1946, <https://www.presidency.ucsb.edu/documents/proclamation-2708-emergency-due-housing-shortage-free-importation-timber-lumber-and-lumber>.

^[12] DOC’s statement can be viewed [here](#).

modules and module components.^[13] The White House also announced that it plans to use federal procurement to increase domestic solar manufacturing “by directing the development of master supply agreements, including ‘super preference’ status.”

The actions announced by President Biden are intended to strike a balance between ensuring the rapid deployment of solar technology across the United States – which is essential to meet the Administration’s climate objectives – and supporting domestic manufacturing and employment in the solar industry. Nevertheless, the petitioner in the circumvention inquiries has criticized President Biden’s decision to suspend the tariffs and has implied that it may challenge the decision in US courts, calling it an “unprecedented—and potentially illegal—action[.]”^[14]

US Authorities Begin Enforcement of Uyghur Forced Labor Prevention Act and Issue Guidance for Importers

On June 21, 2022, U.S. Customs and Border Protection (“CBP”) began to enforce the Uyghur Forced Labor Prevention Act (“UFLPA”), which prohibits the importation of goods produced wholly or in part in the Xinjiang Uyghur Autonomous Region (“XUAR”) of China, or by certain entities affiliated with the XUAR, absent “clear and convincing evidence” that such goods were not produced with forced labor.^[1] The United States has long prohibited the importation of goods produced wholly in part with forced labor, pursuant to Section 307 of the Tariff Act of 1930.^[2] However, the UFLPA goes beyond Section 307 by: (1) establishing a “rebuttable presumption” that goods produced wholly or in part in the XUAR or by certain identified entities are made with forced labor, and are therefore subject to the import prohibition; and (2) establishing a high burden of proof for importers to demonstrate otherwise. Importantly, the UFLPA contains no de minimis exception, which means that if any part of a product is produced in the XUAR or by identified entities, the final product is subject to the rebuttable presumption, regardless of the product’s country of origin for purposes of duties, or the country from which it was imported. The UFLPA’s entry into force significantly heightens the risk that CBP will detain, exclude, or seize imported goods with a nexus to the XUAR, and impose penalties. This risk is especially high for products that the U.S. government has identified as high priority for UFLPA enforcement, such as silica-based products (including polysilicon and other downstream products), textiles and apparel, and tomatoes.

In recent days, the U.S. government has published new guidance for importers concerning the implementation and enforcement of the UFLPA. This includes an “Operational Guidance” document published by CBP, and an enforcement strategy issued by the interagency Forced Labor Enforcement Task Force (“FLETF”).^[3] The guidance documents describe the types of information that importers may provide, and the actions they must take, to demonstrate: (1) that their goods are outside the UFLPA’s scope, and therefore are not subject to the rebuttable presumption; or, alternatively (2) by clear and convincing evidence, that goods within the UFLPA’s scope were not made with forced labor, that the importer’s compliance program has implemented measures identified in the FLETF strategy, and that the importer has responded fully to CBP’s related requests for information (thereby overcoming the rebuttable presumption and making the goods admissible). Satisfying these requirements is likely to prove difficult,

^[13] Concurrently, President Biden issued similar memoranda invoking the DPA to support US production of (1) critical power grid infrastructure, including transformers; (2) building insulation; (3) heat pumps; and (4) equipment for the production and use of clean electricity-generated fuels, including fuel cells, electrolyzers, and related platinum group metals.

^[14] “Biden Invokes Emergency Power in Bid to Resolve Solar Import Dispute,” Wall Street Journal, June 6, 2022, <https://www.wsj.com/articles/biden-administration-to-waive-solar-import-tariffs-for-two-years-11654525408>.

^[1] Pub. L. No. 117-78, 135 Stat. 1525 (2021).

^[2] 19 U.S.C. § 1307.

^[3] CBP’s Operational Guidance for Importers can be viewed [here](#). The FLETF’s “Strategy to Prevent the Importation of Goods Mined, Produced, or Manufactured with Forced Labor in the People’s Republic of China” is available [here](#).

given the nature and extent of the information required and the applicable legal standards, and the fact that supply chains can involve several layers of entities.

- **Demonstrating that goods are outside the UFLPA’s scope.** CBP’s Operational Guidance confirms that, prior to or following an attempted entry of merchandise, an importer may argue that goods are outside the UFLPA’s scope, because the goods and any of their inputs are sourced completely from outside the XUAR and have no connection to companies on the UFLPA “Entity List.”^[4] The guidance provides a non-exhaustive list of the types of information required to establish that an importation is outside the UFLPA’s scope, including a detailed description of the supply chain of the imported merchandise and components thereof (covering all stages of mining, production, or manufacture); the roles of entities in the supply chain; a list of suppliers associated with each step of the production process; and affidavits from each company involved in the production process.^[5] If the importer succeeds in demonstrating that the goods are outside the scope of the UFLPA, CBP will release the shipments, provided they otherwise comply with U.S. law.
- **Overcoming the UFLPA’s rebuttable presumption.** If an importer acknowledges that its goods are within the scope of the UFLPA (or fails to demonstrate otherwise), it may seek to avoid seizure of the goods and penalties by rebutting the presumption that its goods were produced with forced labor. Importers seeking to do so will face a high evidentiary burden, as the UFLPA requires “clear and convincing evidence” that the goods were not produced with forced labor. CBP’s guidance indicates that, in addition to providing detailed information with respect to the due diligence an importer conducts to address forced labor risks and impacts and supply chain tracing information, importers will need to provide information on their supply chain management practices (i.e., internal controls to prevent forced labor risk), as well as information on the workers at each entity involved in the production of the goods in China (i.e., wage payments and production output per worker, worker recruitment practices, and the results of “credible audits” to identify forced labor indicators).^[6] With reference to U.S. and international standards, resources and tools (including the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises), the FLETF Strategy provides more detailed guidance on the due diligence, supply chain tracing (and chain of custody), and supply chain management measures importers would be expected to implement to demonstrate compliance with the FLETF Strategy.^[7] Importers must also respond “completely and substantively” to all CBP requests for information, and must comply with guidance set forth in the FLETF Strategy (as well as any regulations implementing that guidance.)^[8]

Now that the UFLPA has entered into force, importers of goods with a nexus to the XUAR face a significant risk that their shipments will be subject to enforcement actions by CBP, including seizure of such shipments for forfeiture and the imposition of civil penalties equivalent to the value of the merchandise involved. This risk will be especially high where the importer has not implemented internal procedures to identify, assess and address forced labor risks in its supply chain and demonstrate the absence of any nexus to XUAR or listed entities. However, even companies with robust compliance systems that integrate human rights/ESG may find it challenging to overcome the UFLPA’s rebuttable presumption. Both CBP’s Operational Guidance and the FLETF Strategy acknowledge the challenges that

^[4] Pursuant to the UFLPA, the FLETF has published a “UFLPA Entity List” identifying (1) entities in Xinjiang that allegedly produce goods using forced labor; (2) entities allegedly working with the government of Xinjiang to recruit, transport, transfer, harbor or receive forced labor or Uyghurs, Kazakhs, Kyrgyz, or members of other persecuted groups out of Xinjiang; (3) entities that allegedly export products mined, produced, or manufactured wholly or in part by the aforementioned entities; and (4) facilities and entities that allegedly source materials from Xinjiang or from persons working with the government of Xinjiang or the Xinjiang Production and Construction Corps for purposes of the “poverty alleviation” program or the “pairing-assistance” program or any other government-labor scheme that uses forced labor. The list can be viewed [here](#).

^[5] CBP Operational Guidance, Section IV, Subsections B and D.

^[6] CBP Operational Guidance, Section IV, Subsections A, B, C, and E.

^[7] FLETF Strategy at pp. 40-48.

^[8] CBP Operational Guidance, Section II.

importers may face in gathering the required information (e.g., lack of tracing technologies and inability to obtain credible audits in China), but are clear that such obstacles do not relieve importers of their obligations under the UFLPA and the applicable guidance.

The FLETF has identified four “high-priority sectors” for enforcement of the UFLPA: (1) apparel; (2) cotton and cotton products; (3) silica-based products (including polysilicon); and (4) tomatoes and downstream products.^[9] China-origin and even third-country-origin goods falling within these categories are likely to face particular scrutiny under the UFLPA, as the U.S. government considers their supply chains to present a high risk of forced labor. The prioritization of silica-based products in particular could affect a wide range of downstream goods such as aluminum alloys, silicones, polysilicon, automobiles, petroleum, concrete, glass, ceramics, sealants, electronics, and solar panels. CBP intends to take a “risk-based” enforcement approach with respect to the high-priority sectors, focusing on (1) goods imported directly from the XUAR and from entities on the UFLPA Entity List; (2) transshipped goods with inputs from the XUAR; and (3) goods imported by entities that, although not located in the XUAR, are related to an entity there, and likely to contain inputs from that region.

President Biden Increases General Rates of Duty on Imported Steel, Aluminum, Automotive Goods, and Other Products from Russia

On June 27, 2022, President Biden issued a Proclamation increasing the general rates of duty applicable to a wide range of imported goods from Russia including iron and steel; aluminum; minerals, ores, and metals; chemicals; arms and ammunition; wood and paper products; aircraft and parts; and automotive parts. President Biden issued the Proclamation pursuant to the Suspending Normal Trade Relations with Russia and Belarus Act (19 U.S.C. 2434 note) (Suspending NTR Act), which Congress passed in April 2022 in response to Russia’s actions in Ukraine. The Suspending NTR Act made Russia-origin goods ineligible for the “most-favored nation” (MFN) tariff rates the United States applies to imports from WTO Member countries, and instead subjected such goods to the duty rates set forth in “Column 2” of the Harmonized Tariff Schedule of the United States, effective April 9, 2022. The Column 2 rates average approximately 32.3% (versus an average MFN rate of 3.3%), but vary significantly depending on the product at issue, and some Column 2 rates are relatively low. For this reason, Section 3(b)(1) of the Suspending NTR Act authorized the President to proclaim increases in the Column 2 rates applicable to products from Russia.

President Biden’s Proclamation increases the Column 2 duty rate to 35 percent *ad valorem* for a list of 573 products from Russia, effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on July 27, 2022. The 35 percent duty will apply in addition to any other applicable duties such as Section 232 duties, antidumping duties, and countervailing duties. The United States imported approximately \$2.2 billion worth of the covered products from Russia in 2021, with iron and steel products accounting for approximately half of this total. The 30 product categories with the largest annual trade volumes are as follows:

HTS Number	Description	Year 2021 Imports from Russia (Value in USD)
7207.12.00	Iron or nonalloy steel semifinished products, w/less than 0.25% carbon, w/rect. cross sect. (exclud. sq.), nesoi	886,744,073

^[9] FLETF Strategy at p. 27-28.

9306.30.41	Cartridges nesoi and empty cartridge shells	165,486,185
7106.91.10	Silver bullion and dore	143,915,983
7115.90.05	Precious metal articles, incl. metal clad w/precious metal,rectangle/near rectangle shape,99.5%/ or pure,marked only by wgt/identity	89,817,934
7801.10.00	Refined lead, unwrought	86,308,554
7408.11.60	Refined copper, wire, w/maximum cross-sectional dimension over 6 mm but not over 9.5 mm	70,889,893
7605.11.00	Aluminum (o/than alloy), wire, with a maximum cross-sectional dimension over 7 mm	60,498,979
7224.90.00	Alloy (o/than stainless) steel, semifinished products	57,216,310
7306.29.20	Iron or nonalloy steel, seamed, w/ext. diam 406.4mm or less or o/than circ. x-sect, n/threaded/coupled, casing kind used drill for oil/gas	47,994,555
7304.29.20	Iron (o/than cast) or nonalloy steel, seamless casing pipe, not threaded or coupled, of a kind used in drilling for oil or gas	39,431,838
4002.19.00	Styrene-butadiene rubber (SBR), carboxylated styrene-butadiene rubber (XSBR), except latex, in primary forms or in plates, sheets or strip	36,034,575
4011.10.10	New pneumatic radial tires, of rubber, of a kind used on motor cars (including station wagons and racing cars)	35,716,818
4407.12.00	Fir and spruce wood sawn or chipped lengthwise, sliced or peeled, over 6 mm thick	33,583,765
7202.30.00	Ferrosilicon manganese	31,817,486
7606.12.30	Aluminum alloy, plates/sheets/strip, w/thick. o/0.2mm, rectangular (incl. sq), not clad	28,421,412
7202.41.00	Ferrochromium containing by weight more than 4 percent of carbon	26,222,875
7202.11.50	Ferromanganese containing by weight more than 4 percent of carbon	23,148,991
4002.39.00	Halo-isobutene-isoprene rubber (CIIR or BIIR), in primary forms or in plates, sheets or strip	22,991,074
7604.29.30	Aluminum alloy, bars and rods, having a round cross section	15,791,681
8607.19.12	Parts of railway/tramway locomotives/rolling stock, wheels, whether or not fitted with axles	15,103,119

4002.31.00	Isobutene-isoprene (butyl) rubber (IIR), in primary forms or in plates, sheets or strip	14,299,043
3904.61.00	Polytetrafluoroethylene (PTFE), in primary forms	13,890,339
2902.20.00	Benzene	13,245,849
7304.29.50	Iron (o/than cast) or nonalloy, seamless tubing, of a kind used in drilling for oil or gas	12,246,858
4002.20.00	Butadiene rubber (BR), in primary forms or in plates, sheets or strip	12,043,885
2901.22.00	Propene (Propylene)	11,745,974
4011.20.10	New pneumatic radial tires, of rubber, of a kind used on buses or trucks	11,207,080
4407.11.00	Pine wood sawn or chipped lengthwise, sliced or peeled, over 6 mm thick	10,899,180
2916.12.50	Nonaromatic esters of acrylic acid	8,981,130
9306.21.00	Cartridges, for shotguns	7,860,169

The Proclamation does not set an end date for the increased Column 2 duty rate on the covered products. Instead, the Proclamation states that the 35 percent duty rate “shall continue in effect, unless such actions are expressly reduced, modified, or terminated.” The White House has stated that the measure is designed to “restrict Russia’s ability to benefit economically from sales to the U.S. market,” and that President Biden intends to work with Congress to ensure that revenues collected from the additional tariffs are used to assist Ukraine. The Proclamation follows other recent actions by the US government to limit imports from Russia, namely:

- Executive Order 14066 of March 8, 2022, which prohibited, *inter alia*, the importation into the United States of the following products of Russian origin: crude oil; petroleum; petroleum fuels, oils, and products of their distillation; liquefied natural gas; coal; and coal products.
- Executive Order 14068 of March 11, 2022, which prohibited, *inter alia*, the importation into the United States of the following products of Russian origin: fish, seafood, and preparations thereof; alcoholic beverages; and non-industrial diamonds.
- The Ending Importation of Russian Oil Act (22 U.S.C. 8923 note), which President Biden signed on April 8, 2022, and which prohibits imports of all products of Russia classified under chapter 27 of the HTSUS, in a manner consistent with the implementation of Executive Order 14066.

President Biden’s Proclamation can be viewed [here](#).

Trade Agreements

United States and Taiwan Launch New “Initiative on 21st Century Trade”

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.”^[1] 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. As a first step, the two sides will seek to develop a “roadmap for negotiations” on the issues covered by the initiative, with the goal of subsequently “reaching agreements with high-standard commitments and economically meaningful outcomes[.]”

US officials have emphasized that the bilateral initiative will not involve tariff liberalization or other market access commitments – much like the proposed Indo-Pacific Economic Framework (IPEF), which the Biden Administration is seeking to negotiate with 13 Indo-Pacific countries, and which will cover a similar subset of trade issues.^[2] Taiwan has sought to join the IPEF, but the United States has not invited it to do so, reportedly due to concerns that this would stoke geopolitical tensions and deter some Indo-Pacific countries from participating in the IPEF. After launching preliminary discussions on the IPEF with a group of 12 countries last week, the United States announced that it had decided to pursue “deeper bilateral engagement with Taiwan” on a separate track.

Scope of the US-Taiwan trade initiative and relationship to other bilateral dialogues

In a Joint Statement on their new trade initiative, the United States and Taiwan have indicated that they will seek negotiated outcomes in the following areas: (1) trade facilitation; (2) regulatory practices; (3) agriculture; (4) anti-corruption; (5) small- and medium-sized enterprises; (6) digital trade; (7) labor; (8) environment; (9) standards; (10) state-owned enterprises (SOEs); and (11) non-market policies and practices. These issues overlap considerably with those that the United States has proposed to cover in the IPEF’s trade pillar. However, the bilateral initiative covers some additional issues that the United States has not sought to address in the IPEF – namely SOEs and non-market practices. Addressing these issues in the IPEF would be difficult given the diverse range of participating countries. However, it may be more achievable in a bilateral negotiation with Taiwan, which is currently seeking to join other agreements, such as the CPTPP, that include substantial SOE disciplines.

The Office of the US Trade Representative (USTR) will lead the discussions under the initiative for the United States, under the auspices of the American Institute in Taiwan (AIT). The United States already engages with Taiwan on trade issues through the existing US-Taiwan Trade and Investment Framework Agreement (TIFA), but the TIFA primarily serves as a forum for consultations, rather than the negotiation of binding trade agreements. The precise details of the new initiative remain unclear, but US and Taiwanese officials have portrayed it as more ambitious than the TIFA, emphasizing that the initiative is aimed at negotiating bilateral agreements on the covered issues.

The new bilateral initiative focuses on trade, and does not cover other issues proposed for inclusion in the IPEF such as supply chain security and infrastructure cooperation. The United States has recently launched other dialogues with Taiwan that cover supply chains and infrastructure, and US officials have indicated that these will continue in parallel with the new initiative. One such dialogue is the Technology Trade and Investment Collaboration (TTIC) Framework, which the two sides launched in December 2021, and which aims to strengthen bilateral cooperation on supply chains for semiconductors and other key products such as electric vehicles.^[3] The two sides also launched an

^[1] The Joint Statement can be viewed [here](#).

^[2] For an overview of the IPEF initiative, please refer to the W&C US Trade Alert dated May 24, 2022. See also “U.S., Taiwan to launch trade talks after island excluded from Indo-Pacific group,” Reuters, June 1, 2022, <https://www.reuters.com/markets/asia/us-taiwan-launch-trade-talks-after-biden-excludes-island-indo-pacific-group-2022-06-01/>.

^[3] For an overview of the TTIC, please refer to the W&C US Trade Alert dated December 9, 2021.

“Economic Prosperity Partnership Dialogue” in November 2020, covering issues such as infrastructure cooperation, telecommunications security and renewable energy. These dialogues are led by the US Departments of Commerce and State, respectively. To date, however, the dialogues have yielded little progress.

Objectives of the US-Taiwan trade initiative

The United States and Taiwan have described the general objectives of their new trade initiative as follows:

- **Trade facilitation.** Objectives on trade facilitation include accelerated implementation of the WTO’s Trade Facilitation Agreement, adopting provisions on digitalization of trade facilitation measures, “ensuring inclusivity in accessing customs procedures,” and potential provisions on electronic payments, risk management, and protection of trader information.
- **Regulatory practices.** The two sides will seek “provisions supporting sound, transparent regulatory practices, including timely online accessibility to information about regulations and regulatory processes, adequate time for public consultations and consideration of comments, and ensuring that regulatory decisions are based on high quality information, science, and evidence.” The two sides will also explore potential provisions on transparency and good governance in services.
- **Agriculture.** The two sides “intend to explore provisions to facilitate agricultural trade through science and risk-based decision making and through the adoption of sound, transparent regulatory practices.”
- **Anti-corruption.** The two sides intend to explore provisions that preclude the tax deductibility of bribes and establish measures regarding the recovery of proceeds of corruption and the denial of a safe haven for foreign public officials who engage in corruption.
- **SMEs.** The two sides “aim to support and enhance U.S.-Taiwan SME trade, by collaborating to identify and overcome barriers to trade for SMEs, focusing on trade facilitation for SMEs, sharing and promoting best practices, and working together on activities to promote and support SMEs[.]”
- **Digital trade.** The two sides will pursue outcomes aimed at “building consumer trust in the digital economy,” promoting access to information, facilitating use of digital technologies, promoting “resilient and secure” digital infrastructure, and addressing “discriminatory and trade-distortive practices” in the digital economy.
- **Labor.** The two sides “aim to work to develop more durable and inclusive trade policies,” and to support the protection of labor rights, including the elimination of forced labor in global supply chains.
- **Environment and climate.** The two sides seek to “deepen their cooperation and joint approaches on trade and the environment,” including promoting decarbonization of their economies “consistent with COP26 outcomes,” exchanging information, and “supporting businesses, green jobs, and the growth of low-carbon economies.”
- **Standards.** The two sides will explore provisions “consistent with their shared view that the preparation, adoption, and application of standards, technical regulations, and conformity assessment procedures should be non-discriminatory, should not create unnecessary barriers to trade, and should serve legitimate policy objectives.” The two sides also recognize the role of standards in “supporting greater regulatory alignment and good regulatory practices and in promoting resilience in trade.”
- **State-owned enterprises.** The two sides seek to develop provisions to “create a level playing field” for workers and businesses when competing against SOEs, state-controlled enterprises, and government designated monopolies in the international marketplace, including by “ensuring that these entities act in a commercial manner, are regulated impartially, and do not provide or receive trade-distorting non-commercial assistance.”

- **Non-market policies and practices.** The two sides “understand the harm that can be caused by trade partners that deploy non-market policies and practices,” and therefore intend to “collaborate on ways to address” such practices.

The two sides intend to “work at pace under the auspices of AIT and [t]he Taipei Economic and Cultural Representative Office in the United States (TECRO)] to develop an ambitious roadmap for negotiations for reaching agreements” in the above areas. They expect to hold the first meeting of the initiative, under the auspices of AIT and TECRO, later this month in Washington, DC.

Outlook

The United States’ decision to move beyond the TIFA by pursuing negotiated agreements with Taiwan on select trade issues is an important development. Taiwan plays a critical role in global technology and manufacturing supply chains and is the United States’ 8th-largest merchandise trading partner (\$114.1 billion in total goods trade), as well as a major destination for US services exports and investment. Bilateral agreements with Taiwan, particularly in areas such as digital trade and agriculture, have the potential to provide important benefits. On the other hand, the new initiative is far less ambitious than a bilateral free trade agreement (FTA), and it may encounter some of the same obstacles as the IPEF, given its similar design. Most notably, the exclusion of market access from the initiative raises questions as to whether any obligations undertaken by the parties can be enforced in a manner that provides certainty for business.

Taiwanese officials have expressed hope that the new initiative can serve as a stepping stone to a bilateral FTA with the United States, and the US business community has expressed similar sentiments.^[4] At this stage, however, the Biden Administration has not expressed interest in negotiating an FTA with Taiwan or any other trading partner.

President Biden Proposes to Negotiate “Americas Partnership for Economic Prosperity” with Countries in Western Hemisphere

On June 8, 2022, the Biden Administration announced that it would seek to negotiate an “Americas Partnership for Economic Prosperity” (APEP) with countries in the Western Hemisphere. President Biden announced the proposal at the ninth Summit of the Americas in Los Angeles, which was attended by representatives of 15 countries in the region.^[1] The proposed scope and structure of the APEP would resemble that of the Indo-Pacific Economic Framework (IPEF) that the Biden Administration is pursuing with Indo-Pacific countries, covering supply chains, clean energy, infrastructure, and a small subset of trade issues, among other topics. The Biden Administration intends to hold initial consultations with like-minded partners in the region over the coming months, with the goal of reaching agreement on the scope the APEP and launching formal negotiations this autumn.

Structure and objectives of the APEP

The Biden Administration has proposed that the APEP should consist of five “pillars,” covering the following topics:^[2]

- **“Sustainable and Inclusive Trade.”** This pillar would focus on “how to better cooperate on customs facilitation, advance transparency and good regulatory practices, pursue high standards on the digital economy, responsibly

^[4] “US and Taiwan launch trade ‘initiative,’” Financial Times, June 1, 2022, <https://www.ft.com/content/37c4a153-a1ac-4679-9414-6548219e4f81>. See also “US-Taiwan Business Council Comments on the ‘U.S.-Taiwan Initiative on 21st-Century Trade,’” June 1, 2022, <https://www.us-taiwan.org/resources/ustbc-comments-on-the-us-taiwan-initiative-on-21st-century-trade/>.

^[1] The following countries participated in the Summit: Argentina, Brazil, Canada, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, Guatemala, Honduras, Mexico, Panama, Paraguay, Peru, and Uruguay.

^[2] “President Biden Announces the Americas Partnership for Economic Prosperity,” The White House, June 8, 2022, <https://www.whitehouse.gov/briefing-room/statements-releases/2022/06/08/fact-sheet-president-biden-announces-the-americas-partnership-for-economic-prosperity/>.

support emerging technologies, build resilience in our energy and food supply chains, advance strong labor and environment standards, and incentivize corporate accountability and a race to the top to foster regional economic development.”

- **“Reinvigorating Regional Economic Institutions and Mobilizing Investment.”** The United States proposes to work with partners “to pivot our public institutions and financing mechanisms to leverage far greater levels of private investment.” This would involve “reinvigorat[ing] the hemisphere’s regional economic institutions, such as the Inter-American Development Bank, including through reforms to drive climate ambition, social inclusion and private sector development with the possibility of future capital for IDB Invest, and ensure international financial and economic institutions adequately prioritize the region.”
- **“Making More Resilient Supply Chains.”** The United States seeks to “work to create resilient supply chains,” while prioritizing workforce development and taking steps to ensure that supply chains are “transparent and free of exploitative labor conditions.”
- **“Updating the Basic Bargain.”** The United States wishes to “explore how to broaden participation in the formal economy, including tax and anti-corruption measures, as well as cooperation and infrastructure investments in areas such as migration, education, health, unemployment and retirement, childcare, and women’s economic empowerment.”
- **“Creating Clean Energy Jobs and Advancing Decarbonization and Biodiversity.”** The United States seeks to work with partners “to accelerate clean energy technology, more sustainable forest conservation and management, and low emission and resilient agricultural practices.” The United States also seeks to “decarbonize our economies, enhance biodiversity, and build resilience to climate impacts,” and to “deepen cooperation on technologies and best practices, mechanisms to increase public and private investment, and explore technical assistance to advance quality infrastructure and programming.”

Much like the IPEF, which has a similar scope, the APEP is not expected to involve tariff liberalization or other market access commitments, and the Administration has indicated that it does not intend to submit the APEP to Congress for approval.^[3] Biden Administration officials have also proposed that the APEP should utilize the same “flexible structure” as the IPEF. This structure would allow countries to choose which APEP pillars they will join, rather than requiring countries to join all five pillars.

Next steps

As a first step, the Biden Administration plans to consult with countries in the region to determine the scope of each pillar of the APEP, and to gauge the level of interest in each pillar. Administration officials expect these consultations to last two to three months. They have indicated that the Administration will prioritize engagement with the United States’ “most likeminded economic partners” in the region during the early stages of the consultation, but will subsequently open the process to additional countries, with the goal of achieving “widespread support” from countries in the region.^[4] The Administration hopes to launch formal negotiations on the substance of the APEP this autumn. At this stage, however, the Administration has not specified whether any countries have agreed to participate in formal negotiations, nor has it listed the countries from which it hopes to secure participation.

^[3] “Background Press Call by Senior Administration Officials Previewing the 9th Summit of the Americas Economic Deliverables,” The White House, June 8, 2022, <https://www.whitehouse.gov/briefing-room/press-briefings/2022/06/08/background-press-call-by-senior-administration-officials-previewing-the-9th-summit-of-the-americas-economic-deliverables/>.

^[4] Id.

Administration officials have emphasized that a key objective of the APEP is to update the foundation laid by the United States' existing network of free trade agreements (FTAs) in the Western Hemisphere. These include the US-Mexico-Canada Agreement (USMCA), the Dominican Republic-Central America FTA (CAFTA-DR), which includes Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and the Dominican Republic, and bilateral FTAs with Chile, Colombia, Panama, and Peru. With the exception of the USMCA, these FTAs were signed between 15 and 20 years ago. Administration officials have stated that they view the APEP as an opportunity to build on these FTAs by securing new commitments in areas such as labor, the environment, and "corporate accountability" that reflect "innovations" from more recent trade agreements. The US business community has also expressed hope that the APEP could promote deeper economic integration through "concrete commitments" and "commercially meaningful outcomes" in areas such as customs and trade facilitation and digital trade.^[5] Securing and enforcing commitments in these areas without offering new access to the US market may prove difficult, and may depend on the incentives offered by the non-trade pillars of the APEP. In any event, and much like the IPEF, the APEP is unlikely to satisfy those in Congress and the US business community that have urged the Biden Administration to pursue a more ambitious trade agenda.

^[5] "NFTC Welcomes Launch of Americas Partnership for Economic Prosperity," National Foreign Trade Council, June 8, 2022, <https://www.nftc.org/newsflash/newsflash.asp?Mode=View&id=236&articleid=5335&category=All>.

Petitions and Investigations

US Department of Commerce Issues Affirmative Final Determination in the Countervailing Duty Investigation of Sodium Nitrite from Russia

On June 23, 2022, the US Department of Commerce (DOC) announced its affirmative final determination in the countervailing duty (CVD) investigation of sodium nitrite from Russia. In its investigation, DOC determined that imports of the subject merchandise from Russia received countervailable subsidies valued at 386.24 percent.

The petitioner in this investigation is Chemtrade Chemicals US LLC (Parsippany, NJ). The product covered by this investigation is sodium nitrite in any form, at any purity level. In addition, the sodium nitrite covered by this investigation 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 NaNO_2 , and it is generally classified under subheading 2834.10.1000 of the Harmonized Tariff Schedule of the United States (HTSUS).

The US International Trade Commission (ITC) is scheduled to issue its final injury determination in this investigation by August 8, 2022. If the ITC determines that imports of the subject merchandise materially injure a US industry, DOC will issue a countervailing duty order on imports of the subject merchandise from Russia. If the ITC reaches a negative final determination of injury, the investigation will be terminated.

US Department of Commerce Issues Affirmative Final Determinations in Antidumping and Countervailing Duty Investigations of Urea Ammonium Nitrate Solutions From Russia and Trinidad & Tobago

On June 21, 2022, the US Department of Commerce (DOC) announced its affirmative final determinations in the antidumping duty (AD) and countervailing duty (CVD) investigations of urea ammonium nitrate solutions from Russia and Trinidad & Tobago. In its investigations DOC determined that imports of the subject merchandise were sold in the United States at the following dumping margins and subsidy rates:

Country	Dumping Margin	Subsidy Rate
Russia	8.16 to 122.93 percent	6.27 to 9.66 percent
Trinidad and Tobago	111.71 percent	1.83 percent

The petitioner in these investigations is CF Industries Nitrogen, LLC (Deerfield, IL) and its subsidiaries, Terra Nitrogen, Limited Partnership and Terra International (Oklahoma). The merchandise covered by this investigation is all mixtures of urea and ammonium nitrate in aqueous or ammonia solution, regardless of nitrogen concentration by weight, and regardless of the presence of additives, such as corrosion inhibitors and soluble micro or macronutrients (UAN). Subject merchandise includes merchandise matching the above description that has been processed in a third country, including by commingling, diluting, adding or removing additives, or performing any other processing that would not otherwise remove the merchandise from the scope of the investigations if performed in the subject country. The scope also includes UAN that is commingled with UAN from sources not subject to these investigations. Only the subject component of such commingled products is covered by the scope of these investigations. The covered merchandise is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 3102.80.0000.

The US International Trade Commission (ITC) is scheduled to issue its final injury determinations in these investigations by August 1, 2022. If the ITC determines that imports of the subject merchandise materially injure a

US industry, DOC will issue AD and CVD orders. If the ITC reaches negative final determinations of injury, the investigations will be terminated.

According to DOC, imports from Russia and Trinidad and Tobago under HTSUS subheading 3102.80.0000 were valued at approximately \$262.6 million and \$231 million, respectively, in 2021.

US Department of Commerce Issues Final Determinations in Antidumping Duty Investigations of Acrylonitrile-Butadiene Rubber from France, Mexico, and South Korea

On June 21, 2022, the Department of Commerce (DOC) announced its affirmative final determinations in the antidumping duty (AD) investigations of acrylonitrile-butadiene rubber from France, Mexico, and South Korea. In its investigations, DOC determined that imports of the subject merchandise were sold in the United States at the following dumping margins:

Country	Dumping Margin
France	81.86 percent
Mexico	18.45 percent
South Korea	18.80 to 35.31 percent

The petitioners in these investigations are Zeon Chemicals L.P. and Zeon GP, LLC (Louisville, KY). The product covered by these investigations is commonly referred to as acrylonitrile butadiene rubber or nitrile rubber (AB Rubber). AB Rubber is a synthetic rubber produced by the emulsion polymerization of butadiene and acrylonitrile with or without the incorporation of a third component selected from methacrylic acid or isoprene. This scope covers AB Rubber in solid or non-aqueous liquid form. The scope also includes carboxylated AB Rubber.

Excluded from the scope of this investigation is AB Rubber in latex form (commonly classified under Harmonized Tariff Schedule of the United States (HTSUS) subheading 4002.51.0000). Latex AB Rubber is commonly either (a) acrylonitrile/butadiene polymer in latex form or (b) acrylonitrile/butadiene/methacrylic acid polymer in latex form. The broader definition of latex refers to a water emulsion of a synthetic rubber obtained by polymerization. Also excluded from the scope of this investigation is: (a) AB Rubber containing additives incorporated during the compounding, mixing, molding, or use of AB Rubber comprising greater than twenty percent of the total weight of the product. Additives would include, but are not limited to, fillers (e.g., carbon black, silica, clay); reinforcement agents (e.g., fibers, carbon black, silica); vulcanization agents (e.g., sulfur, sulfur complexes, peroxide); or AB Rubber containing extension oils making up greater than forty percent of the total weight of the product. Such products would be generally classified under HTSUS subheading 4005; (b) AB Rubber containing polyvinyl chloride (PVC) making up greater than twenty percent of total weight of the product; (c) hydrogenated AB Rubber (commonly referred to as AB Rubber) produced by subsequent dissolution and hydrogenation of AB Rubber; and (d) reactive liquid polymers containing acrylonitrile and butadiene with amine, epoxy, carboxyl or methacrylate vinyl chemical functionality. Subject merchandise includes material matching the above description that has been finished, packaged, or otherwise processed in a third country, including by modifying physical form or packaging with another product, or performing 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 AB Rubber. The merchandise subject to this investigation is classified in the HTSUS at subheading 4002.59.0000.

The US International Trade Commission (ITC) is scheduled to issue its final injury determinations in these investigations by August 1, 2022. If the ITC determines that imports of the subject merchandise materially injure a

US industry, DOC will issue antidumping orders. If the ITC reaches negative final determinations of injury, the investigations will be terminated.

According to DOC, imports from France, Mexico, and South Korea under HTSUS subheading 4002.59.0000 were valued at \$40.4 million, \$14.8 million, and \$36.2 million, respectively, in 2021.

US International Trade Commission Determines That Freight Rail Coupler Systems and Components Thereof from China Do Not Injure US Industry

On June 14, 2022, the US International Trade Commission (ITC) determined that a US industry is not materially injured or threatened with material injury by reason of imports of freight rail coupler systems and components from China that the US Department of Commerce (DOC) has determined are subsidized and sold in the United States at less than fair value. Chair Jason E. Kearns, Vice Chair Randolph J. Stayin, and Commissioners David S. Johanson, Rhonda K. Schmidlein, and Amy A. Karpel voted in the negative. As a result of the ITC’s negative determinations, DOC will not issue antidumping duty and countervailing duty orders on imports of these products from China.

The scope of this investigation covered 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 included: (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 were 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.

In its investigations DOC determined that imports of the subject merchandise from China were sold in the United States received countervailable subsidies of 265.99 percent, and were sold in the United States at a dumping margin of 116.70 percent.

The ITC’s public report on this investigation will be made available by July 21, 2022.

US Department of Commerce Issues Preliminary Determinations in Countervailing Duty Investigations of Certain Steel Nails from India, Oman, Sri Lanka, Thailand, and Turkey

On June 1, 2022, the US Department of Commerce (DOC) announced its affirmative preliminary determinations in the countervailing duty (CVD) investigations of certain steel nails from India, Oman, Sri Lanka, and Turkey, and announced a negative preliminary determination in the CVD investigation of certain steel nails from Thailand. In its investigation, DOC preliminarily determined that imports of the subject merchandise received countervailable subsidies in the following amounts:

Country	Subsidy Rate
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India	2.73 to 2.93 percent
Oman	2.49 percent
Sri Lanka	4.12 percent
Thailand	0.04 to 0.10 percent (de minimis)
Turkey	1.33 to 3.88 percent

The petitioner in this investigation is Mid Continent Steel & Wire, Inc. (Poplar Bluff, MO).

The merchandise covered by this investigation is certain steel nails having a nominal shaft or shank length not exceeding 12 inches. Certain steel nails include, but are not limited to, nails made from round wire and nails that are cut from flat-rolled steel or long-rolled flat steel bars. Certain steel nails may be of one piece construction or constructed of two or more pieces. Examples of nails constructed of two or more pieces include, but are not limited to, anchors comprised of an anchor body made of zinc or nylon and a steel pin or a steel nail; crimp drive anchors; split-drive anchors, and strike pin anchors. Also included in the scope are anchors of one piece construction.

Certain steel nails subject to this investigation are currently classified under HTSUS subheadings 7317.00.5501, 7317.00.5502, 7317.00.5503, 7317.00.5505, 7317.00.5507, 7317.00.5508, 7317.00.5511, 7317.00.5518, 7317.00.5519, 7317.00.5520, 7317.00.5530, 7317.00.5540, 7317.00.5550, 7317.00.5560, 7317.00.5570, 7317.00.5580, 7317.00.5590, 7317.00.6530, 7317.00.6560 and 7317.00.7500. Certain steel nails subject to this investigation also may be classified under HTSUS subheadings 7318.15.5090, 7907.00.6000, 8206.00.0000 or other HTSUS subheadings.

DOC is scheduled to issue its final determinations in these investigations by August 15, 2022. If DOC reaches affirmative final determinations, the investigations will continue, and the US International Trade Commission will be scheduled to issue its final determinations on injury by September 29, 2022.

According to DOC, imports under the above referenced HTSUS subheadings were valued at approximately \$43.9 million (for India); \$120 million (for Oman); \$33.9 million (for Sri Lanka); \$66.8 million (for Thailand); and \$56.4 million (for Turkey) in 2021.

US Department of Commerce Issues Affirmative Preliminary Determination in Antidumping Duty Investigation of Superabsorbent Polymers from Korea

On June 1, 2022, the Department of Commerce (DOC) announced its affirmative preliminary determination in the antidumping duty (AD) investigation of certain superabsorbent polymers from the Republic of Korea. In its investigation, DOC preliminarily determined that imports of the subject merchandise from Korea were sold in the United States at a dumping margin of 28.74 percent.

The petitioner in this investigation is the Ad Hoc Coalition of American SAP Producers, whose members are BASF Corporation (Florham Park, NJ), Evonik Superabsorber LLC (Greensboro, NC), and Nippon Shokubai America Industries, Inc. (Pasadena, TX).

The merchandise covered by this investigation is superabsorbent polymers (SAP), which is cross-linked sodium polyacrylate most commonly conforming to Chemical Abstracts Service (CAS) registry number 9003-04-7, where at least 90 percent of the dry matter, by weight on a nominal basis, corrected for moisture content, is comprised of a polymer with a chemical formula of $(C_3H_3O_2NaxH_{1-x})_n$, where x is within a range of 0.00-1.00 and there is no limit to

n. The subject merchandise also includes merchandise with a chemical formula of $\{(C_2H_3)COONa_yH(1-y)\}_n$, where *y* is within a range of 0.00-1.00 and there is no limit to *n*. The subject merchandise includes SAP which is fully neutralized as well as SAP that is not fully neutralized. The subject merchandise may also conform to CAS numbers 25549-84-2, 77751-27-0, 9065-11-6, 9033-79-8, 164715-58-6, 445299-36-5, 912842-45-6, 561012-86-0, 561012-85-9, or 9003-01-4.

All forms and sizes of SAP, regardless of packaging type, including but not limited to granules, pellets, powder, fibers, flakes, liquid, or gel are within the scope of this investigation. The scope also includes SAP whether or not it incorporates additives for anticaking, anti-odor, antiyellowing, or similar functions. The scope also includes SAP that is combined, commingled, or mixed with other products after final sieving. For such combined products, only the SAP component is covered by the scope of this investigation. SAP that has been combined with other products is included within the scope, regardless of whether the combining occurs in third countries. A combination is excluded from this investigation if the total SAP component of the combination (regardless of the source or sources) comprises less than 50 percent of the combination, on a nominal dry weight basis.

SAP is classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 3906.90.5000. SAP may also enter the United States under HTSUS 3906.10.0000.

DOC is scheduled to issue its final determination by October 20, 2022. If DOC reaches an affirmative final determination, the investigation will continue, and the US International Trade Commission will be scheduled to issue its final determination on injury by December 5, 2022.

According to DOC, imports from Korea under HTSUS subheading 3906.90.5000 were valued at approximately \$108 million in 2021.