

US Multilateral Trade and Policy Developments

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US Trade Policy Developments

United States and EU Sign Tariff Rate Quota Agreement

On January 17, 2023, United States Trade Representative (USTR) Katherine Tai met with European Commission Executive Vice-President and Trade Commissioner Valdis Dombrovskis in Brussels where they signed the US-EU Tariff Rate Quota Agreement pursuant to Article XXVIII of the GATT 1994.¹ The Agreement updates US-EU agricultural concessions in the aftermath of the United Kingdom's (UK) exit from the EU. The Agreement will have to be implemented to become effective.

While the exact content of their discussions have not been published, Vice-President Dombrovskis indicated that the US Inflation Reduction Act would be part of talks. Mr. Dombrovskis also stated that other "competitiveness issues" would be addressed, including high energy prices and the upcoming adjustment of EU state aid rules. During the meeting, USTR Tai also met with EU labor representatives in Brussels

Trade Ministers Launch Coalition of Trade Ministers on Climate

On January 19, 2023, the Coalition of Trade Ministers on Climate was launched on the sidelines of the World Economic Forum meetings in Davos. The Coalition is co-led by the EU, Ecuador, Kenya, and New Zealand, and comprises trade ministers representing 27 jurisdictions, including Japan and the United States,² and other economies are welcome to join. The Coalition seeks to support the dissemination of technologies necessary to achieve climate goals as well as those needed to adapt to changing condition, according to the European Commission Executive Vice President and Trade Commissioner Valdis Dombrovskis. He also reportedly suggested the formation of the Coalition based on the Coalition of Finance Ministers for Climate Action.

According to the EU Commission's press release,³ the high-level political dialogue will see the participation of Trade Ministers from different regions and income levels, as well as civil society, business, international organizations and climate and finance communities.

According to the website⁴ of the Coalition of Trade Ministers, the Coalition will seek to prioritize the following initiatives:

- "Foster international cooperation and collective action to promote trade and trade policies that pursue climate action across the WTO and relevant multilateral, plurilateral, regional and sectoral initiatives.
- Identify ways to ensure the multilateral trading system contributes to the global response to climate change and promotes a positive contribution to the climate agenda, including through focused attention across sectors on the nexus between climate and trade.

¹ "Agreement between the United States of America and the European Union Pursuant to Article XXVII of the General Agreement on Tariffs and Trade (GATT) 1994 Relating to the Modification of Concessions on All the Tariff-Rate Quotas Included in the EU Schedule CLXXV as a consequence of the United Kingdom's Withdrawal from the European Union," USTR (January 17, 2023), available at: <https://ustr.gov/sites/default/files/2023-01/EU-US%20TRQ%20Agreement.pdf>.

² The other participants are: Angola, Australia, Barbados, Cabo Verde, Canada, Colombia, Costa Rica, Iceland, the Gambia, Korea, the Maldives, Mozambique, Norway, the Philippines, Rwanda, Singapore, Switzerland, Ukraine, the United Kingdom, Vanuatu, and Zambia.

³ "Trade and Climate: EU and partner countries launch the 'Coalition of Trade Ministers on Climate,'" European Commission, (January 19, 2023), available at: https://ec.europa.eu/commission/presscorner/detail/en/IP_23_248.

⁴ The Coalition of Trade Ministers' website is here: <https://www.tradeministersonclimate.org/5>.

- Promote trade and investment that foster the diffusion, development, accessibility and uptake of goods, services and technologies that support climate mitigation and adaptation in both developed and developing countries.
- Identify trade-related strategies supportive of the most vulnerable developing and least developed countries.
- Build alliances and partnerships with climate and finance communities and relevant stakeholders to foster climate action, transitions, and climate-resilient development on the ground.”

The Coalition marks the first Ministerial-level global forum dedicated to trade and climate and sustainable development issues.

The next Ministerial meeting will take place on the sidelines of the next WTO Ministerial Conference planned in early 2024.

United States and India Hold High-Level Trade Policy Forum; No Tangible Outcomes Reached

On January 11, 2023, the United States and India held a meeting of the United States-India Trade Policy Forum (TPF) in Washington, DC. The meeting was co-chaired by US Trade Representative Ambassador Katherine Tai and Indian Minister of Commerce and Industry Shri Piyush Goyal.

The resulting joint statement⁵ confirms that the parties covered a lot of ground, but did not reach any major tangible outcomes. Key points include:

- Discussions regarding the restoration of India’s beneficiary status under the US Generalized System of Preferences (GSP) program, which was revoked under the Trump administration in 2019. The United States noted only that “this could be considered, as warranted, in relation to the eligibility criteria determined by the US Congress”;
- Discussions on intellectual property (IP) issues, including as related to India’s ongoing domestic consultations regarding the administration of its IP regime, including on the treatment of business confidential information related to working of patents, procedures for patent application oppositions, and streamlining of trademark infringement investigations;
- The exchange of views on potential targeted tariff reductions;
- Agreement to intensify engagement under the auspices of the TPF ICT Working Group on policies impacting digital trade; and
- Launch of a new TPF Working Group on “Resilient Trade,” which will focus on:
 - Deepening engagement on trade facilitation, including on digitization of customs procedures;
 - The importance of benefitting workers and promoting sustainable and inclusive growth, including cooperative engagement to promote labor rights and workforce development;
 - Expanded dialogue on good regulatory practices; and

⁵ “Joint Statement on the United States-India Trade Policy Forum,” USTR (January 11, 2023), available at <https://ustr.gov/sites/default/files/2023-01/Joint%20Statement%20on%20the%20United%20States-India%20Trade%20Policy%20Forum.pdf>.

- The role that trade can play in contributing to environmental protection and responses to common sustainability challenges including issues related to mobilization of sustainable finance and scaling up of innovative clean technologies.

Following the TPF, Minister Goyal told reporters that the United States and India aim to find bilateral solutions to outstanding WTO disputes between the two countries within “two or three months.” Minister Goyal stated: “There was a very robust discussion – amongst officials and then today at the ministerial level – at finding solutions to the several WTO disputes that have been going on for several years between the [United States] and India. These outstanding disputes are areas where both countries have had some wins, some losses ... We have directed our officials to engage very aggressively and over the next two or three months to see if we can find bilateral settlement of some of these WTO disputes, demonstrating the trust and friendship between the two countries.”

The TPF Working Groups will continue to meet quarterly, and the Parties plan to reconvene at the Ministerial level before the end of 2023.

The meeting took place against the backdrop of ongoing Indo-Pacific Economic Framework for Prosperity (IPEF) negotiations, the second in-person session of which will convene this week in New Delhi from February 8-11, 2023. While the TPF joint statement states that both parties “fully support the [Indo-Pacific Economic Framework (IPEF)] initiative,” it is worth noting that India is not participating in the IPEF trade pillar negotiations.

Background

The TPF was supposed to take place on November 8, 2022; however, the meeting was postponed to allow both sides to work towards more “substantive outcomes.”

Key priorities for discussion during the forum for India include the liberalization of the US services sector, including requests for high skilled worker visa numbers (H1-B and L visas), fees and visa processing times; social security portability across countries; and the Generalized System of Preferences (GSP) from which India was removed in 2019. US priorities for the forum include goods market access (both agricultural and non-agricultural) and India’s overall policy environment, e.g., changes to India’s competition law and digital data laws.

US Trade Actions

Section 301

USTR Receives 1,500 Comments Regarding Section 301 Duties as Part of Four-Year Review

On January 17, 2023, the Office of the US Trade Representative (USTR) completed the public component of its statutory four-year review the actions taken under Section 301 of the Trade Act of 1974, as amended, in the investigation of China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation.

USTR initiated the review on May 5, 2022 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.⁶ During the first phase of USTR’s review, domestic industries that benefit from the Section 301 tariffs on Lists 1, 2, 3, and 4A had the opportunity to request the continuation of these actions. During the second phase of the review, which ran from November 1, 2022 until January 17, 2023, USTR solicited comments from all interested parties regarding the economy-wide, industry-wide, and tariff-line-specific impacts of the Section 301 duties.⁷

Specific questions included the following:

- The effectiveness of the actions in obtaining the elimination of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation;
- The effectiveness of the actions in counteracting China's acts, policies, and practices related to technology transfer, intellectual property, and innovation;
- Other actions or modifications that would be more effective in obtaining the elimination of or in counteracting China's acts, policies, and practices related to technology transfer, intellectual property, and innovation;
- The effects of the actions on the US economy, including US consumers;
- The effects of the actions on domestic manufacturing, including in terms of capital investments, domestic capacity and production levels, industry concentrations, and profits;
- The effects of the actions on US technology, including in terms of US technological leadership and US technological development;
- The effects of the actions on US workers, including with respect to employment and wages;
- The effects of the actions on US small businesses;
- The effects of the actions on US supply chain resilience;

⁶ “Initiation of Four-Year Review Process: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation,” 87 Fed. Reg. 26,797 (May 5, 2022), available here: <https://www.federalregister.gov/documents/2022/05/05/2022-09688/initiation-of-four-year-review-process-chinas-acts-policies-and-practices-related-to-technology>.

⁷ “Request for Comments in Four-Year Review of Actions Taken in the Section 301 Investigation: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation,” 87 FR 62,914 (October 17, 2022), available here: <https://www.federalregister.gov/documents/2022/10/17/2022-22469/request-for-comments-in-four-year-review-of-actions-taken-in-the-section-301-investigation-chinas>.

- The effects of the actions on the goals of US critical supply chains outlined in Executive Order 14017 and in subsequent reports and findings; and
- Whether the actions have resulted in higher additional duties on inputs used for additional manufacturing in the United States than the additional duties on particular downstream product(s) or finished good(s) incorporating those inputs.

USTR received 1,497 sets of comments, including those in opposition to, as well as in support of, continuation of the duties.

USTR has not specified a date by which it will conclude its review or implement any resulting modifications to the Section 301 actions.

Outlook

There appears to be little support in either political party for removing or substantially easing Section 301 tariffs unless China makes significant reforms to its trade and industrial policies, particularly with respect to subsidies and state-owned enterprises.

While some Biden Administration officials have argued that the Section 301 tariffs were poorly designed and should be recalibrated to better align with US priorities and inflation concerns, other Administration officials have emphasized the importance of maintaining the tariffs, based on the view that they provide “leverage” for future negotiations between the United States and China, or that they could promote supply chain “resiliency.”

In general, maintaining and increasing economic pressure on China is a core focus of the Republican policy agenda, and Republicans generally oppose easing the current Section 301 tariffs on China (absent significant commitments from China to reform its trade and economic practices). Among other suggestions, Republicans have proposed maintaining the Section 301 tariffs, strictly enforcing the Phase One trade agreement, and pursuing a “Phase Two” negotiation with China.

For these reasons, though some adjustments to product coverage are possible, major changes to the Section 301 tariff regime appear unlikely.

The public comments are available here: <https://comments.ustr.gov/s/docket?docketNumber=USTR-2022-0014>

USTR Solicits Comments on Extension of Section 301 Exclusions for Certain Medical-Care Products

On February 2, 2023, the USTR announced that it would accept comments on whether to further extend a small number of Section 301 tariff exclusions covering 81 medical-care products. These exclusions were originally granted in December 2020 to support the United States’ response to the COVID-19 pandemic. The exclusions were extended several times, most recently to February 28, 2023.⁸ In order to consider public comments, USTR issued an interim extension to May 15, 2023.

In its request for comments, USTR notes that “the rates of infection of COVID in the United States continue to fluctuate, [and] [d]omestic production of certain products covered by these exclusions also has increased.” It further notes that “USTR will evaluate each exclusion on a case-by-case basis. The evaluation will examine whether it

⁸ “Notice of Product Exclusion Extensions: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation,” 87 Fed. Reg. 73,383 (November 29, 2022), available at <https://www.federalregister.gov/documents/2022/11/29/2022-25990/notice-of-product-exclusion-extensions-chinas-acts-policies-and-practices-related-to-technology>.

remains appropriate to exclude certain products from the additional Section 301 duties in light of the changing circumstances, including the spread of variants or subvariants and the increased domestic production and availability of certain products, and taking account of the overall impact of these exclusions on the goals of this Section 301 investigation.”

A list of the 81 currently excluded products is available in the Federal Register here.⁹ The list includes products such as blood pressure monitors, magnetic resonance imaging (MRI) equipment, x-ray machine equipment, hand-sanitizer dispensers, and others.

USTR will accept comments between February 6 and March 7, 2023. The docket is available here: <http://comments.USTR.gov> (Docket Number USTR-2023-0001).

⁹ “Notice of Product Exclusion Extensions: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation,” 86 Fed. Reg. 63,438, at Annex (November 16, 2021) available at <https://www.federalregister.gov/documents/2021/11/16/2021-24918/notice-of-product-exclusion-extensions-chinas-acts-policies-and-practices-related-to-technology>.

Trade Agreements

US Bilateral Trade Agreements

United States and Taiwan Hold Second Negotiating Round for “Initiative on 21st Century Trade”

On January 14-17, 2023, trade delegations from the United States and Taiwan (under the auspices of the American Institute in Taiwan (AIT) and the Taipei Economic and Cultural Representative Office in the United States (TECRO), met in Taipei for the second in-person negotiating round for the US-Taiwan Initiative on 21st Century Trade. According to the Readout by USTR, the two sides exchanged views on proposed texts covering trade facilitation, anticorruption, small and medium-sized enterprises (SMEs), good regulatory practices, and services domestic regulation.

The officials also reportedly reached consensus on a number of other areas and committed to maintaining an ambitious negotiating schedule in the months ahead. The first round was held over two days in New York in early November 2022. According to the Readout, the next negotiating round will be announced at a later stage.

The bilateral US-Taiwan trade negotiations are conducted in accordance with the United States’ One China Policy and guided by the Taiwan Relations Act, the three US-China Joint Communiques, and the Six Assurances.

Background

Senior trade officials from the United States and Taiwan announced the launch of a US-Taiwan Initiative on 21st-Century Trade on June 1, 2022. 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 for Prosperity (IPEF). 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.

In a Joint Statement on their new trade initiative released in June 2022,¹⁰ the United States and Taiwan indicated that they will seek negotiated outcomes in the following areas: (i) trade facilitation; (ii) regulatory practices; (iii) agriculture; (iv) anti-corruption; (v) SMEs; (vi) digital trade; (vii) labor; (viii) environment; (ix) standards; (x) state-owned enterprises (SOEs); and (xi) 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 challenging given the diverse range of participating economies. However, it may be more achievable in a bilateral negotiation with Taiwan, which is currently seeking to join other agreements, such as the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), which include substantial SOE disciplines.

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

¹⁰ “United States and Taiwan Announce the Launch of the U.S.-Taiwan Initiative on 21st-Century Trade,” USTR (June 1, 2022), available at: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2022/june/united-states-and-taiwan-announce-launch-us-taiwan-initiative-21st-century-trade>.

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 US-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.”
- **SOEs.** 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.

Taiwan plays a critical role in global technology and manufacturing supply chains and is the United States’ 8th-largest merchandise trading partner (US \$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 FTA, and it may encounter some of the same obstacles as the IPEF, given its similar design.

The USTR Readout is here: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2023/january/readout-january-negotiating-round-under-us-taiwan-initiative-21st-century-trade-3>

RCEP

More Than 100 Groups Urge the Philippine Senate to Vote Against RCEP

Even as the Philippine Department of Trade and Industry (DTI) Secretary Fred Pascual called for the ratification of the Regional Comprehensive Economic Partnership Agreement (RCEP) during a meeting held on December 12, 2022 with the Senate Committee on Foreign Relations, strong opposition to the RCEP from farmers, fishers, workers, civil society, and private sector organizations continues. More than 100 groups and individuals, comprising 104 organizations and 23 high-profile individuals, including former senators and Cabinet secretaries, have signed a joint opposition letter urging the Senate during the 18th Congress to reconsider its position.¹¹

The opposition letter reportedly references the Philippines' economic underperformance following entry into force of several FTAs and even since the country's accession into the WTO in 1995. The groups highlighted that the national agricultural deficit has soared to more than US \$7 billion since joining the WTO in 1995, while the contribution of the agricultural sector to the country's GDP has fallen from more than 20% to around 10%, resulting in more than 1 million job losses. The timing of the opposition letter comes nearly a week after the Presidential Communications Office (PCO) revealed that President Ferdinand "Bongbong" Marcos Jr. is pushing the Senate to ratify the RCEP.

Background

The Philippines' RCEP ratification has been delayed by the country's election cycle. Former President Rodrigo Duterte endorsed the RCEP in September 2021, but the Senate failed to give its concurrence to the ratification due to concerns about agriculture before the new administration of President Ferdinand Marcos Junior took office in June, 2022.

In June 2022, President Marcos decided to reassess the costs and benefits of the RCEP following his inauguration. The DTI has offered reassurances to the Cabinet that highly sensitive agricultural products, including swine and poultry meats, potatoes, onions, garlic, cabbage, sugar, carrots, and rice are excluded from the tariff elimination list. The DTI also highlighted that the Philippines is a net importer of fertilizers (with imports accounting for 95% of the total), and that 74% of fertilizer imports come from RCEP members, including China, Korea and Japan.

It remains to be seen whether the Senate Committee on Foreign Relations will approve the RCEP ratification as proposed by the DTI. If approved, the Agreement will then be submitted to the Senate for ratification, which requires two-thirds vote of the 24-member chamber, or 16 votes in favor. The DTI remains optimistic that the Senate will eventually concur with the country's participation in the RCEP to ensure that the Philippines will not be left out from the benefits of joining the multilateral trade agreement. Following the completion of internal domestic procedures, the RCEP will enter into force 60 days after the Philippines submits its instrument of ratification to the ASEAN Secretariat.

¹¹ The list of signatories on the opposition letter is available here (please note that we were unable to obtain a government source for this information): https://issuu.com/inquirerdotnet/docs/no_to_rcep_signatories_final_as_of_1_feb_.docx_1.

Petitions and Investigations

US Department of Commerce Issues Final Affirmative Antidumping and Countervailing Duty Determinations in Investigations of Sodium Nitrite from India

On January 6, 2023, the Department of Commerce (DOC) published its final affirmative determinations in the antidumping duty (ADD)¹² and countervailing duty (CVD)¹³ investigations of sodium nitrite from India. The DOC calculated a dumping margin of 44.82% and a subsidy rate of 2.40%.

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 anticaking agent. Examples of names commonly used to reference sodium nitrite are nitrous acid, sodium salt, anti-rust, diazotizing salts, erinitrit, and filmerine. Sodium nitrite's chemical composition is NaNO₂, and it is generally classified under subheading 2834.10.1000 of the Harmonized Tariff Schedule of the United States (HTSUS). The American Chemical Society Chemical Abstract Service (CAS) has assigned the name "sodium nitrite" to sodium nitrite. The CAS registry number is 7632-00-0.

If the US International Trade Commission (ITC) determines that the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of sodium nitrite from India, the DOC will issue ADD and CVD orders directing CBP to assess, upon further instruction by Commerce, antidumping and countervailing duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

US Department of Commerce Issues Final Affirmative Countervailing Duty Determination in Investigation of Barium Chloride from India

On January 6, 2023, the DOC published its final affirmative CVD determination in its investigation of barium chloride from India.¹⁴ The DOC calculated a subsidy rate of 23.57%. On the same day, the DOC published a final negative determination of sales at less than fair value covering the same subject merchandise, having calculated a 0.00% dumping margin.

The merchandise covered by this investigation is barium chloride, a chemical compound having the formulas BaCl₂ or BaCl₂·2H₂O, currently classifiable under HTUS subheading 2827.39.4500.

If the ITC determines that the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of barium chloride from India, the DOC will issue a CVD order directing CBP to assess, upon further instruction by Commerce, countervailing duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

¹² "Sodium Nitrite From India: Final Affirmative Determination of Sales at Less Than Fair Value," 88 FR 1052, International Trade Administration (January 6, 2022), available at: <https://www.federalregister.gov/documents/2023/01/06/2023-00072/sodium-nitrite-from-india-final-affirmative-determination-of-sales-at-less-than-fair-value>.

¹³ "Sodium Nitrite From India: Final Affirmative Countervailing Duty Determination," 88 FR 1042, International Trade Administration (January 6, 2022), available at: <https://www.federalregister.gov/documents/2023/01/06/2023-00073/sodium-nitrite-from-india-final-affirmative-countervailing-duty-determination>.

¹⁴ "Barium Chloride From India: Final Affirmative Countervailing Duty Determination," 88 FR 1044, International Trade Administration (January 6, 2022), available at: <https://www.federalregister.gov/documents/2023/01/06/2023-00086/barium-chloride-from-india-final-affirmative-countervailing-duty-determination>.

US International Trade Commission Determines that US Industry is Materially Injured by Imports of Certain Preserved Mushrooms from France

On January 12, 2023, the ITC issued its determination that a US industry is materially injured by reason of imports of certain preserved mushrooms from France that the DOC has determined are sold in the United States at less than fair value. The DOC previously published its final affirmative determination on November 28, 2022.

As a result of the ITC's affirmative determination, an antidumping duty order was imposed on imports of certain preserved mushrooms from France, effective January 19, 2023.¹⁵

The merchandise covered by this order is certain preserved mushrooms, whether imported whole, sliced, diced, or as stems and pieces. The preserved mushrooms covered under this order are the genus *Agaricus*. "Preserved mushrooms" refer to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heat sterilized in containers each holding a net drained weight of not more than 12 ounces (340.2 grams), including but not limited to cans or glass jars, in a suitable liquid medium, including but not limited to water, brine, butter, or butter sauce. Preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces.

Excluded from the scope are "marinated," "acidified," or "pickled" mushrooms, which are prepared or preserved by means of vinegar or acetic acid, but may contain oil or other additives. To be prepared or preserved by means of vinegar or acetic acid, the merchandise must be a minimum 0.5% by weight acetic acid.

The merchandise subject to this order is classifiable under HTSUS subheadings 2003.10.0127, 2003.10.0131, and 2003.10.0137, but may also be classified under HTSUS subheadings 2003.10.0143, 2003.10.0147, and 2003.10.0153.

US Industry Files New AD/CVD Petition Targeting Tin Mill Products From Canada, China, Germany, Netherlands, South Korea, Taiwan, Turkey, and United Kingdom

On January 18, 2023, US producer Cleveland-Cliffs Inc. and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union ("United Steelworkers") filed ADD and CVD petitions alleging that tin mill products from Canada, China, Germany, Netherlands, South Korea, Taiwan, Turkey, and United Kingdom are being, or are likely to be, sold in the United States at less than fair value, and that the US industry is injured as a result. The petitioners further allege that the Government of China is providing countervailable subsidies with respect to the manufacture, production, and export of tin mill products.

The ITC published a Federal Register notice on January 18, 2023 to commence the preliminary investigation phase.¹⁶

The petitioners allege the following dumping margins:

Country	Alleged dumping margin
Canada	78.29%

¹⁵ "Certain Preserved Mushrooms From France: Antidumping Duty Order," 88 FR 3382, International Trade Administration (January 19, 2022), available at: <https://www.federalregister.gov/documents/2023/01/19/2023-00931/certain-preserved-mushrooms-from-france-antidumping-duty-order>.

¹⁶ "Tin Mill Products From Canada, China, Germany, Netherlands, South Korea, Taiwan, Turkey, and United Kingdom; Institution of Anti-Dumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations," 88 FR 4206 (January 18, 2023), available at: <https://www.federalregister.gov/documents/2023/01/24/2023-01325/tin-mill-products-from-canada-china-germany-netherlands-south-korea-taiwan-turkey-and-united-kingdom>.

Country	Alleged dumping margin
China	130.88%
Germany	43.64%
Netherlands	124.17% ~ 294.27%
South Korea	13.46% ~ 110.84%
Taiwan	47.22% ~ 60.12%
Turkey	96.51% ~ 106.43%
United Kingdom	110.81%

The products within the scope of these investigations are tin mill flat-rolled products that are coated or plated with tin, chromium, or chromium oxides. Flat-rolled steel products coated with tin are known as tinplate. Flat-rolled steel products coated with chromium or chromium oxides are known as tin-free steel or electrolytic chromium-coated steel. The scope includes all the noted tin mill products regardless of thickness, width, form (in coils or cut sheets), coating type (electrolytic or otherwise), edge (trimmed, untrimmed or further processed, such as scroll cut), coating thickness, surface finish, temper, coating metal (tin, chromium, chromium oxide), reduction (single- or double-reduced), and whether or not coated with a plastic material. All products that meet the written physical description are within the scope of the investigations unless specifically excluded.

The merchandise subject to these investigations is currently classified under HTSUS subheadings 7210.11.0000, 7210.12.0000, 7210.50.0000, 7212.50.0020, 7212.50.0090, 7212.10.0000, and 7212.50.0000 if of non-alloy steel and under HTSUS subheadings 7225.99.0090, and 7226.99.0180 if of alloy steel.

US Department of Commerce Initiates Investigation of AD Investigations of Gas Powered Pressure Washers from China and Vietnam, and a CVD Investigation of Gas Powered Pressure Washers from China

On January 20, 2023, the DOC announced the initiation of ADD investigations on gas powered pressure washers (GPPW) from China and Vietnam, and a CVD investigation on GPPW from China. The cold water GPPW subject to this investigation are classified in the HTSUS at subheadings 8424.30.9000 and 8424.90.9040.

The petitioner in these investigations is US producer FNA Group, Inc. The petition was filed on December 29, 2022. The petitioner alleges dumping margins for China ranging from 136.70% to 242.34%; and for Vietnam ranging from ranging from 110.23% to 225.65%. The ITC instituted its parallel preliminary investigation on December 30, 2022.

The merchandise covered by this investigation is cold water GPPW (also commonly known as power washers), which are machines that clean surfaces using water pressure that are powered by an internal combustion engine, air-cooled with a power take-off shaft, in combination with a positive displacement pump. This combination of components (*i.e.*, the internal combustion engine, the power take-off shaft, and the positive displacement pump) is defined as the "power unit." The scope of the investigation covers cold water GPPW, whether finished or unfinished, whether assembled or unassembled, and whether or not containing any additional parts or accessories to assist in the function of the "power unit," including, but not limited to, spray guns, hoses, lances, and nozzles. The scope of the investigation covers cold water gas powered pressure washers, whether or not assembled or packaged with a frame, cart, or trolley, with or without wheels attached.

For purposes of this investigation, an unfinished and/or unassembled cold water GPPW consists of, at a minimum, the power unit or components of the power unit, packaged or imported together. Importation of the power unit whether or not accompanied by, or attached to, additional components including, but not limited to a frame, spray guns, hoses, lances, and nozzles constitutes an unfinished cold water GPPW for purposes of this scope. The

inclusion in a third country of any components other than the power unit does not remove the cold water gas powered pressure washer from the scope. A cold water GPPW is within the scope of this investigation regardless of the origin of its engine. Subject merchandise also includes finished and unfinished cold water GPPW that are further processed in a third country or in the United States, including, but not limited to, assembly or any other processing that would not otherwise remove the merchandise from the scope of this investigation if performed in the country of manufacture of the in-scope cold water GPPW.

Cold water GPPW are easily distinguishable from hot water GPPW and have different physical characteristics. While a hot water pressure washer also includes an engine and a pump, it must also include a boiler to heat the water as it leave the pump. The boiler also includes a heating coil. The boiler needs a separate energy source such as natural gas, butane, propane, kerosene or diesel fuel. In addition, it needs a burner system to ignite the boiler. Hot water pressure washers are generally larger in size than cold water pressure washers due to the need for the boiler. The scope does not include hot water GPPW.

Also specifically excluded from the scope of this investigation is merchandise covered by the scope of the antidumping and countervailing duty orders on certain vertical shaft engines between 99cc and up to 225cc, and parts thereof from the People's Republic of China.

The ITC preliminary determinations are scheduled for February 13, 2023. The DOC preliminary determinations are scheduled for June 8, 2023 (ADD) and March 27, 2023 (CVD).