

# TRADE LAW UPDATE



March 2022

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## HIGHLIGHTS FROM MARCH

### [U.S. Imposes More Sanctions and Export Controls against Russia and Belarus](#)

On February 24, 2022, the U.S. imposed sweeping sanctions and export controls actions in response to the Russian Federation's ("Russia") "war of choice" against Ukraine. (*Husch Blackwell summarized the February 24, 2022 actions in a Client Alert published [here](#), as well as more limited actions on February 21-22 [here](#) and [here](#).*)

### [President Biden Issues Executive Order Banning U.S. Imports of Russian Origin Oil, Gas, and Coal](#)

On March 8, 2022, President Biden issued [Executive Order 14066](#) which prohibits the following actions:

- The importation into the United States of any "crude oil; petroleum; petroleum fuels, oils, and products of their distillation; liquefied natural gas; coal; and coal products" of "Russian Federation origin";
- New investment in the Russian energy sector by U.S. persons, wherever located; and
- Any approval, financing, facilitation, or guarantee by a U.S. person, wherever located, of any transaction conducted by a non-U.S. person that would be prohibited by Executive Order 14066 if performed by a U.S. person or within the United States.

### [Biden Issues Executive Order Prohibiting Certain Imports and Calls for Congressional Action to Revoke Permanent Normal Trade Relations With Russia](#)

On March 11, 2022, President Biden [issued](#) an Executive Order ("EO") that prohibited the importation into the United States of fish, seafood, and preparations thereof; alcoholic beverages; non-industrial diamonds; and any other products of Russian Federation origin as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Secretary of Commerce. Because the Executive Order lists no effective date, implementation will be immediate. No exceptions are listed for such products that are in transit and the EO specifically states that the prohibitions apply "notwithstanding any contract entered into or license or permit granted prior to the date of this order."

## U.S. DEPARTMENT OF COMMERCE DECISIONS

### Investigations

- Organic Soybean Meal from India: On March 23, 2022, Commerce [issued](#) its final affirmative determination of sales at less than fair value.
- Organic Soybean Meal from India: On March 23, 2002, Commerce [issued](#) its final affirmative countervailing duty determination.
- Certain Walk-Behind Snow Throwers and Parts Thereof from the People's Republic of China: On March 29, 2022, Commerce [issued](#) its final affirmative countervailing duty determination.
- Certain Walk-Behind Snow Throwers and Parts Thereof from the People's Republic of China: On March 29, 2022, Commerce [issued](#) its final affirmative determination of sales at less than fair value.

### Administrative Reviews

- Certain Hot-Rolled Flat Products from the Republic of Korea: On March 7, 2022, Commerce issued its final [results](#) of the antidumping duty administrative review (2019-2020).
- Steel Propane Cylinders from Thailand: On March 7, 2022, Commerce issued its final [results](#) of the antidumping duty administrative review (2018-2020).
- Polyethylene Retail Carrier Bags From Malaysia: On March 8, 2022, Commerce issues its final [results](#) of the antidumping duty administrative review (2019-2020).
- Large Power Transformers from the Republic of Korea: On March 8, 2022, Commerce issued its final [results](#) of the antidumping duty administrative review and final determination of no shipments (2019-2020).
- Certain Steel Nails from the People's Republic of China: On March 9, 2022, Commerce issued its final [results](#) of the antidumping duty administrative review and final determination of no shipments (2019-2020).
- Carbon and Certain Alloy Steel Wire Rod from Mexico: On March 10, 2022, Commerce issued its final [results](#) of the antidumping duty administrative review (2019-2020).
- Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: On March 10, 2022, Commerce issues its final [results](#) of the countervailing duty administrative review and rescission of review (2019-2020).
- Finished Carbon Steel Flanges from India: On March 10, 2022, Commerce issued its final [results](#) of the antidumping duty administrative review (2019-2020).
- Certain Crystalline Silicon Photovoltaic Products From Taiwan: On March 10, 2022, Commerce issued its final [results](#) of the antidumping duty administrative review and final determination of no shipments (2020-2021).
- Light-Walled Rectangular Pipe and Tube from Mexico: On March 11, 2022, Commerce issued its final [results](#) of the antidumping duty administrative review (2019-2020).
- Ripe Olives from Spain: On March 11, 2022, Commerce issued its final [results](#) of the countervailing duty administrative review (2019-2020).
- Light-Walled Rectangular Pipe and Tube from the People's Republic of China: On March 11, 2022, Commerce issued its final [results](#) of the antidumping duty administrative review (2019-2020).
- Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: On March 11, 2022, Commerce issues its final [results](#) of the antidumping administrative review and final determination of no shipments (2019-2020).
- Certain Cole-Rolled Steel Flat Products form the Republic of Korea: On March 18, 2022, Commerce issued its final [results](#) of the antidumping duty administrative review (2019-2020).
- Fresh Garlic from the People's Republic of China: On March 23, 2022, Commerce issued its final [results](#) and final rescission, in part, of the 26<sup>th</sup> antidumping duty administrative review (2019-2020).
- Certain Lined Paper Products from India: On March 29, 2022, Commerce issued its final [results](#) of the antidumping duty administrative review and final determination of no shipments (2019-2020).

- Large Power Transformers from the Republic of Korea: On March 30, 2022, Commerce issued its final [results](#) of the antidumping duty administrative review (2019-2020).
- Monosodium Glutamate from the Republic of Indonesia: On March 31, 2022, Commerce issued its final [results](#) of the antidumping duty administrative review (2019-2020).
- Agreement Suspending the Antidumping Duty Investigation on Fresh Tomatoes from Mexico: On March 31, 2022, Commerce issued its final [results](#) of the 2019-2020 administrative review.

### Circumvention Inquiries

- There were no final results of circumvention inquiries during the month of March 2022.

### Changed Circumstances Reviews

- Oil Tubular Goods from the People’s Republic of China: On March 21, 2022, Commerce issued its final [results](#) of antidumping and countervailing duty changed circumstances reviews.
- Certain Frozen Fish Fillets from Socialist Republic of Vietnam: On March 21, 2022, Commerce issued its final [results](#) of the antidumping duty administrative review and final determination of no shipments (2019-2020).

### Sunset Reviews

- Seamless Refined Copper Pipe and Tube from the People’s Republic of China: On March 3, 2022, Commerce issued its final [results](#) of the expedited sunset review of the antidumping duty orders.
- Certain Iron construction Castings from Brazil, Canada, and the People’s Republic of China: On March 16, 2022, Commerce issued its final [results](#) of the fifth expedited sunset review of the antidumping duty orders.
- Stainless Steel Plate in Coils from South Africa: On March 23, 2022, Commerce issued its final [results](#) of the expedited fourth five-year sunset review of the countervailing duty order.
- Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from Indonesia: On March 24, 2022, Commerce issued its final [results](#) of the expedited second sunset review of the countervailing duty order.
- Certain Carbon and Alloy Steel Cut-to-Length from the People’s Republic of China: On March 25, 2022, Commerce issued its final [results](#) of the expedited first sunset review of the countervailing duty order.
- Certain Carbon and Alloy Steel Cut-to-Length Plate From Austria, Belgium, Brazil, the People's Republic of China, France, the Federal Republic of Germany, the Republic of Korea, Italy, Japan, South Africa, Taiwan, and the Republic of Turkey: On March 25, 2022, Commerce issued its final [results](#) of the expedited sunset reviews of the antidumping duty orders.
- Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People's Republic of China: On March 20, 2022, Commerce issued its final [results](#) of the expedited second sunset review of the countervailing duty order.

## U.S. INTERNATIONAL TRADE COMMISSION

### Section 701/731 Proceedings

#### Investigations

- There have been no final 701/731 investigation decisions from the ITC during the month of March 2022.

#### Sunset Review Decisions

- There have been no final sunset review decisions from the ITC during the month of March 2022.

#### Section 337 Proceedings



- There have been no final section 337 proceedings from the ITC during the month of March 2022.

## **U.S. CUSTOMS & BORDER PROTECTION**

[EAPA Consolidated Case 7673: Uni-Tile & Marble, Inc., Durian Kitchen Depot Inc., Kingway Construction and Supplies Co., Inc., Lonlas Building Supply Inc., Maika'i Cabinet & Stone Inc., and Top Kitchen Cabinet Inc.](#)

- On March 10, 2022, CBP initiated an investigation on the above importers for evading antidumping duty order A-570-0106 and countervailing duty order C-570-107 by entering the United States Chinese-origin wooden cabinets and vanities that were transshipped through Malaysia or not declaring the correct entry type. CBP has reasonable suspicion of AD/CVD duties and has therefore launched the investigation.

[EAPA Cons. Case 7621: Phoenix Metal Co., Ltd. \(Notice of Initiation of Investigation and Interim Measures, March 28, 2022\)](#)

- On March 28, 2022, CBP initiated an investigation on the above importers for evading antidumping duty order A-570-079 and countervailing duty order C-570-080 by entering the United States Chinese-origin cast iron soil pipe products that were transshipped through Cambodia or not declaring the correct entry type. CBP has reasonable suspicion of AD/CVD duties and has therefore launched the investigation.

## **COURT OF INTERNATIONAL TRADE**

### **Summary of Decisions**

#### [22-18 Garb Tube Export LLP v. U.S.](#)

On March 11, 2022, the CIT sustained in part and remanded in part Commerce's remand redetermination and final results in the review of the antidumping duty order on welded carbon steel standard pipes and tubes from India. Commerce determined that there was a particular market situation (PMS) and therefore an adjustment of Garb Tube's costs were proper. However, the Court held that Commerce's determination of a PMS was not supported by substantial evidence and remanded to Commerce to further explain the use of PMS or to not use PMS at all.

#### [22-24 Ancientree Cabinet Co. v. U.S.](#)

On March 21, 2022, the CIT sustained Commerce's final results of its redetermination concerning the final affirmative antidumping duty determination in the investigation of wood cabinets and vanities from China.

On Remand, Commerce provided explanations for its use of certain financial ratio calculations in determining surrogate country values for the calculation of normal value. The Court held that the financial ratio calculation were supported by substantial evidence.

#### [22-25 Bldg. Sys. De Mexico S.A. de C.V. v. U.S.](#)

On March 21, 2022, the CIT remanded Commerce's final determination in the less-than-fair-value investigation of certain fabricated structural steel from Mexico. Plaintiff contended that Commerce inaccurately, calculated its contrasted value profit rate, applied AFA, used of purchase order date rather as the date of sale for calculation of exchange rate, and calculated constructed export price. The Court agreed with plaintiff and remanded to Commerce for further consideration of each point.

## **COURT OF APPEALS FOR THE FEDERAL CIRCUIT**

[21-1334 Nexteel Co., Ltd., Seah Steel Corp. v. United States, Maverick Tube Corporation, Tenaris Bay City, Inc., U.S. Steel Corporation](#)

On March 11, 2022, the CAFC affirmed the CIT's decision that substantial evidence did not support Commerce's finding of a particular market situation in the antidumping duty review of oil country tubular goods from the Republic of Korea. However, the CAFC vacated the CIT's decision to the extent that it directs Commerce to have a certain outcome. The CAFC

held that the CIT is not able to outright reverse a decision of Commerce, the most it can do is remand for further consideration.

## **EXPORT CONTROLS & ECONOMIC SANCTIONS**

### **[U.S. Imposes More Sanctions and Export Controls against Russia and Belarus](#)**

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### **[Why Russia Sanctions Matter – Even if You're Not an Oligarch](#)**

Husch Blackwell's [latest podcast](#), The Justice Insiders, provides a unique perspective on some of the country's most interesting criminal cases and issues related to compliance, internal investigations and regulatory enforcement.

### **[U.S. Imposes More Russian Sanctions and Export Controls on Consumer Items and Luxury Goods, U.S. Dollar-Denominated Banknote Transactions, and Russian Oligarchs](#)**

On Friday, March 11, 2022, the White House issued Executive Order ("EO") [14068](#) announcing more sanctions and export controls against the Russian Federation ("Russia"). Concurrent with that announcement, the U.S. Commerce Department's Bureau of Industry and Security ("BIS") released new export controls restricting the flow of "luxury goods" to Russia, Belarus, and Russian/Belarusian "oligarchs and malign actors" while the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") issued dozens of Specially Designated Nationals and Blocked Persons List ("SDN List") designations and published four (4) new general licenses.

### **[The United States and the United Kingdom Agree to Cessation of Section 232 Tariffs on Steel and Aluminum](#)**

On March 22, 2022, the United States and the United Kingdom [announced](#) in a [joint statement](#) that the U.S. will halt Section 232 tariffs on imports of steel and aluminum from the U.K, effective June 1, 2022, and that the U.K. will also lift retaliatory tariffs on over \$500 million worth of U.S. exports to the U.K. The Section 232

tariffs were instituted in March 2018 on all imports of steel and aluminum from multiple countries. During the summer of 2018 there were negotiated exclusions on a country-by-country basis. In May 2019 with the signing of the USMCA Free Trade Agreement, Section 232 duties were dropped on imports from Canada and Mexico as well. The U.S. and U.K agreement is the latest in continuing efforts by the U.S. to address the issue of Chinese overcapacity in both the steel and aluminum industries. One unique aspect of the U.S.-U.K. agreement is that the U.S. will require that any U.K. steel company owned by a Chinese entity must undertake a financial audit to determine and assess the extent of influence on that entity from the Chinese Government, the results of which the U.K must share with the U.S.

### **[USTR Reinstates 352 Section 301 China Tariff Exclusions. Importers May Have Opportunities For Refunds](#)**

On March 23, 2022 the U.S. Trade Representative (“USTR”) reinstated 352 Section 301 China tariff exclusions that had expired December 31, 2020. The list of reinstated exclusions can be found here: [Reinstatement of Certain Exclusions Previously Extended | United States Trade Representative \(ustr.gov\)](#) The 352 reinstated tariff exclusions are retroactive to October 12, 2021 and extend forward through December 31, 2022.

### **[BIS Signals Aggressive Enforcement Approach to Russia-Related EAR Violations](#)**

On March 18, 2022, the U.S. Department of Commerce’s Bureau of Industry and Security (“BIS”) [publicly identified](#) certain commercial and private aircraft that have entered Russia in likely violation of the Export Administration Regulations (“EAR”). BIS provided an initial listing of nearly 100 Boeing aircraft owned and/or operated by Aeroflot, AirBridgeCargo, Aviastar-TU, Azur Air, Nordwind, and Utair (in addition to one Gulfstream G650ER owned by Roman Abramovich). Secretary of Commerce Gina M. Raimondo was quoted in the press release as stating: “We are publishing this list to put the world on notice—we will not allow Russian and Belarusian companies and oligarchs to travel with impunity in violation of our laws.” Importantly, BIS indicated in the press release that the list of aircraft is not exhaustive and may be “updated as circumstances warrant.”

### **[OFAC Announces Hundreds of New SDN Designations Targeting Russia’s Duma, Defense Sector and Bank Officials; Issues New General Licenses](#)**

On March 24, 2022, the U.S. Department of the Treasury’s Office of Foreign Assets Control (“OFAC”) [updated](#) the Specially Designated Nationals and Blocked Persons List (“SDN List”) with hundreds of new designations pursuant to [Executive Order 14024](#).

### **[BIS Modifies and Expands List of Russian-Controlled Aircraft Subject to the EAR Known or Suspected to Have Violated the EAR](#)**

On March 30, 2022, the U.S. Department of Commerce’s Bureau of Industry and Security (“BIS”) [modified and expanded](#) a list of aircraft that have flown into Russia in apparent violation of the Export Administration Regulations (“EAR”). We more thoroughly discussed the implications of this list – which was first published on March 18, 2022 – in our blog post [here](#). The updated list adds 73 additional Boeing-manufactured aircraft and modifies tail and/or serial number information for 13 aircraft previously listed on March 18, 2022. The full list of owners/operators include Aeroflot, AirBridge Cargo, Aviastar-TU, Alrosa, Atran, Azur Air, Nordstar, Nordwind, Pegas Fly, Pobeda, Rossiya, Royal Flight, S7 Airlines, and Utair (FC Chelsea owner Roman Abramovich’s private Gulfstream jet is also on the list).