

TRADE LAW UPDATE



April 2022

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HIGHLIGHTS FROM APRIL

[Petition Summary: Certain Preserved Mushrooms from France, the Netherlands, Poland, and Spain](#)

On March 31, 2022, Giorgio Foods, Inc (“Giorgio” or “Petitioner”), filed a petition for the imposition of antidumping duties on imports of certain preserved mushrooms from France, the Netherlands, Poland, and Spain.

[Petition Summary: White Grape Juice Concentrate from Argentina](#)

On March 31, 2022, Delano Growers Grape Products, LLC (“Delano” or “Petitioner”), filed a petition for the imposition of antidumping and countervailing duties on imports of white grape juice concentrate from Argentina.

[Deal Reached to Ease Some Commercial Trucking Backup at the Texas-Mexico Border](#)

Some commercial truck traffic could be moving again at one border bridge as late this afternoon. On April 14, 2022, Texas Governor Greg Abbott [announced](#) an agreement with Nuevo León Governor Samuel Alejandro García Sepúlveda for heightened inspections on Mexico’s side of

the border at the Columbia bridge and the lifting of increased security measures by the Texas Department of Public Safety.

U.S. DEPARTMENT OF COMMERCE DECISIONS

Investigations

- Raw Honey From Argentina: On April 14, 2022, Commerce issued its final [determination](#) of sales at less than fair value and final affirmative determination of critical circumstances.
- Raw Honey From Brazil: On April 14, 2022, Commerce issued its final [determination](#) of sales at less than fair value.
- Raw Honey From the Socialist Republic of Vietnam: On April 14, 2022, Commerce issued its final affirmative [determination](#) of sales at less than fair value and final affirmative determination of critical circumstances.
- Raw Honey From India: On April 14, 2022, Commerce issued its final [determination](#) of sales at less than fair value and final negative determination of critical circumstances.

Administrative Reviews

- Steel Concrete Reinforcing Bar From the Republic of Turkey: On April 1, 2022 Commerce issued its final [results](#) of antidumping duty administrative review and final determination of no-shipments (2019-2020) Second Correction.
- Strontium Chromate From Austria: On April 4, 2022, Commerce issued its final [results](#) of antidumping duty administrative review (2019-2020).
- Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From the Republic of Korea: On April 7, 2022, Commerce issued its final [results](#) of antidumping duty administrative review (2019-2020).
- Certain Oil Country Tubular Goods From the Republic of Korea: On April 8, 2022, Commerce issued its final [results](#) of antidumping duty administrative review and final determination of no shipments (2019-2020).
- Certain Steel Racks and Parts Thereof From the People's Republic of China: On April 8, 2022, Commerce issued its final [results](#) of antidumping duty administrative review and final determination of no shipments (2019-2020).
- Certain Cold-Rolled Steel Flat Products From the Republic of Korea: On April 8, 2022, Commerce issued its final [results](#) of countervailing duty administrative review (2019).
- Wooden Bedroom Furniture From the People's Republic of China: On April 11, 2022, Commerce issued its final [results](#) of antidumping duty administrative review (2020).
- Certain Oil Country Tubular Goods From the Socialist Republic of Vietnam: On April 11, 2022, Commerce issued its final [results](#) of antidumping duty administrative review (2019-2020).
- Certain Carbon and Alloy Steel Cut-to-Length Plate From the Republic of Korea: On April 11, 2022, Commerce issued its final [results](#) and partial rescission of countervailing duty administrative review (2019) Correction.
- Steel Concrete Reinforcing Bar From the Republic of Turkey: On April 12, 2022, Commerce issued its final [results](#) of countervailing duty administrative review and rescission, in Part (2019).
- Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From Mexico: On April 14, 2022, Commerce issued its final [results](#) of antidumping duty administrative review (2019-2020).
- Certain Cold-Rolled Steel Flat Products From the Republic of Korea: On April 22, 2022, Commerce issued its final [results](#) of countervailing duty administrative review (2019); Correction.

Changed Circumstances Reviews

- Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From the Republic of Turkey: On April 18, 2022, Commerce issued its final [results](#) of countervailing duty changed circumstances review.

Sunset Reviews

- Certain Carbon and Alloy Steel Cut-to-Length Plate From the Republic of Korea: On April 1, 2022, Commerce issued its final [results](#) of the expedited first sunset review of the countervailing duty order.
- Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles From the People's Republic of China: On April 1, 2022, Commerce issues its final [results](#) of the expedited fifth sunset review of the antidumping duty orders.
- Heavy Iron Construction Castings From Brazil: On April 4, 2022, Commerce issued its final [results](#) of the expedited fifth sunset review of the countervailing duty order.
- Stainless Steel Plate in Coils From Belgium, South Africa, and Taiwan: On April 4, 2022, Commerce issued its final [results](#) of the expedited fourth sunset reviews of the antidumping duty orders.
- Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From Indonesia and the People's Republic of China: On April 5, 2022, Commerce issued its final [results](#) of the second expedited sunset reviews of the antidumping duty orders.
- Glycine From the People's Republic of China: On April 29, 2022, Commerce issued its final [results](#) of the expedited sunset review of the antidumping duty order.

U.S. INTERNATIONAL TRADE COMMISSION

Section 701/731 Proceedings



Investigations

- Certain Wrapping Material and Methods for Use in Agricultural Applications: On April 1, 2022, the ITC issued its notice of commission [determination](#) to grant a joint motion to terminate the investigation on the basis of a settlement agreement and motion to stay the deadlines; termination of the investigation.
- In the Matter of Certain High-Potency Sweeteners, Processes for Making Same, and Products Containing Same: On April 7, 2022, ITC issued its notice of a commission determination not to review an initial [determination](#) granting summary determination of no violation of section 337; terminating the investigation.
- Certain Tunable Lenses and Products Containing the Same: On April 7, 2022, the ITC issued its notice of the commission's [determination](#) not to review an initial determination terminating the investigation on the basis of settlement; termination of the investigation.
- Certain In Vitro Fertilization Products, Components Thereof, and Products Containing the Same: On April 11, 2022, the ITC issued its notice of commission final [determination](#) to issue a limited exclusion order and a cease and desist order; termination of the investigation.

Section 337 Proceedings

- Certain Apparatus and Methods of Opening Containers: On April 22, 2022, the ITC issued its notice of a final [determination](#) finding violations of Section 337; Issuance of a general exclusion order; termination of the investigation.

COURT OF INTERNATIONAL TRADE

Summary of Decisions

[22-27 Wind Tower Trade Coalition v. United States](#)

In a March 24, 2022 opinion made public on April 4, the CIT remanded in part the results of the 2018 countervailing duty review on utility scale wind towers from Vietnam for the Commerce Department to respond to petitioner Wind Tower Trade Coalition's positions that CS Wind Vietnam manipulated the duty rate by shifting revenue and profits from Vietnam to the related entity CS Wind Korea in South Korea and that Commerce ignored evidence that CS Wind Vietnam's steel plate inputs were, in fact, imported.

[22-32 In Re Section 301 Cases](#)

On April 1, 2022, the CIT remanded the Office of the United States Trade Representative's determinations with respect to List 3 and list 4A; granting in part and denying in part Defendants' Motion to Correct the administrative record. The CIT found the USTR "properly exercised its authority" under the Section 307 modification provisions when it imposed the lists 3 and 4A Section 301 tariffs. However, the CIT also concurred with the plaintiffs that the USTR "failed to respond adequately" to the thousands of comments responding to the lists 3 and 4A rulemakings as was required under the Administrative Procedure Act. The plaintiffs attempted to vacate the tariffs on grounds that the lists 3 and 4A were unlawful without USTR launching a new Section 301 investigation. The court ordered that lists 3 and 4A be remanded to USTR "for reconsideration or further explanation consistent with this opinion," and that USTR file its remand results on or before June 30, 2022. The tariffs remain in place until the USTR provides its rationale as directed by the CIT's remand. A joint status report from the plaintiffs and DOJ will be due 14 days after the remand results are filed, along with a proposed schedule "for the further disposition of this litigation."

[22-33 Risen Energy Co. v. United States](#)

On April 4, 2022, the CIT sustained in part and remanded in part the U.S. Department of Commerce's final determination in the 2017-2018 antidumping administrative review of crystalline silicon photovoltaic cells, where or not assembled into modules, from the People's Republic of China. The judge held that Commerce reasonably explained that Malaysia has the best data to be a surrogate country since it is the only country that makes both solar cells and solar modules and has a complete financial statement from a

producer of both of these types of merchandise. The judge ruled that commerce failed to show that the respondents did not cooperate to the best of their ability and that the respondents had the leverage to induce the suppliers' cooperation.

[22-34 Dongkuk Steel Mill Co. v. United States](#)

On April 14, 2022, the CIT denied steel company SSAB Enterprises attempt to intervene in a 2019 countervailing duty review challenge relating to CTL plates from South Korea that the company itself requested. According to Commerce's regulations, a "party to the proceeding" is one that "actively participates, through written submissions of factual information or written argument" in a segment of the proceeding. The CIT ruled that steel company SSAB Enterprises does not satisfy this definition because it "sat on the sidelines" and, therefore, the company is not a party to the proceeding.

[22-35 Oman Fasteners, LLC v. United States](#)

On April 15, 2022, the CIT ordered Oman Fasteners to post duty deposits to protect potential government revenue pending defendants' appeal of a previous judgment challenging the institution of Section 232 tariffs on steel derivative products. The Court concluded that plaintiff Oman Fasteners had not presented a convincing argument as to why the court should establish and administer an escrow procedure to provide for security on its potential Section 232 duty liability during the remainder of the stay pending appeal as opposed to merely depositing the estimated duties for the affected entries.

[22-36 Z.A. Sea Foods Priv. Ltd. v. United States](#)

On April 19, 2022, the CIT granted Plaintiffs' motion for judgment upon the agency record and remanded for further action in an antidumping duty administrative review on frozen warmwater shrimp from India. The Court ruled Commerce could not use an antidumping evasion finding to reject AD review sole mandatory respondent Z.A. Sea Foods Private Limited's (ZASF) Vietnamese data when calculating the normal value of ZASF's shrimp. Since ZASF is not mentioned in the Enforce and Protect Act investigation cited by Commerce as the basis for rejecting the Vietnamese data, the Court stated it is therefore not clear how Commerce ZASF's Vietnamese sales wound up in the U.S.

[22-37 NEXTEEL Co. v. United States](#)

On April 19, 2022, the CIT sustained in part and remanded in part the U.S. Department of Commerce's final determination in the 2017-2018 antidumping administrative review of welded line pipe from South Korea. The Court sustained Commerce's decision to cap SeAH Steel Corporation's freight revenue, but remanded Commerce's particular market situation (PMS) adjustment and determination methodology, application of a PMS adjustment to SeAH's home market sales for the sales-below-cost test, denial of a constructed export price offset for SeAH, reallocation of NEXTEEL's suspended loss and non-prime product costs, and separate rate calculation.

[22-39 Power Steel Co., Ltd. v. United States](#)

On April 28, 2022, the CIT ordered, adjudged, and decreed that the remand results of the United States department of Commerce are sustained. The Remand Results comply with the court's remand order. Plaintiff, Defendant, and defendant-Intervenor have indicated that they do not intend to submit further filings, and no other party submitted further filings over the Remand Results.

COURT OF APPEALS FOR THE FEDERAL CIRCUIT

[20-2230 Red Sun Farms v. United States](#); [20-2232 Confederacion De Asociaciones v. United States](#); [20-2265 Bioparques De Occidente v. United States](#)

On April 14, 2022, the U.S. Court of Appeals for the Federal Circuit (CAFC) issued three precedential opinions (20-2230, 20-2232, and 20-2265) and one non-precedential opinion relating to an antidumping duty investigation to determine whether fresh Mexican tomatoes were imported into the U.S. and sold at less than fair value. The Court remanded the cases after finding – contrary to the CIT's position that it had no jurisdiction – that companies may judicially challenge an antidumping duty investigation final determination that is subject to a suspension agreement. CAFC also disagreed with the CIT, which took the position that would-be plaintiffs needed to file a lawsuit within 30 days of publication of the suspension agreement. Instead, plaintiffs need only file within 30 days of a final determination.

[21-1747 Mid Continent Steel & Wire v. United States](#)

On April 21, 2022, the CAFC remanded an antidumping duty order covering steel nails from Taiwan. The CAFC found the relevant statistical literature cited by Commerce uniformly uses weighted averaging in the Cohen's *d* denominator calculation and that Commerce has not explained why the basic choice of weighted averaging of unequal-size groups fails to apply to this context. Commerce must either provide an adequate explanation for its choice of simple averaging or make a different choice, such as use of weighted averaging or use of the standard deviation for the entire population.

[21-1679 M S International, Inc. v. United States](#)

On April 24, 2022, the CAFC affirmed CIT's decision upholding Commerce's scope modification. In parallel antidumping and countervailing duty investigations of quartz surface products from China, the Department of Commerce amended the scope of its investigations to prevent producers and exporters in China from evading its orders by using glass in place of quartz. There is substantial evidence that supports Commerce's factual findings.

EXPORT CONTROLS & ECONOMIC SANCTIONS

[Summary of Changes in Russia/Belarus Export Controls and Sanctions Occurring From March 31, 2022 to April 22, 2022](#)

This blog post covers several new sanctions and export controls that the U.S. government imposed on Russia and Belarus in the time period occurring between March 31, 2022 and April 21, 2022. As regular readers are aware, these restrictions are subject to frequent and sudden change. For summaries of previously imposed sanctions and coverage on any future sanctions announcements concerning Russia, Belarus and Ukraine, we recommend that you visit the [Husch Blackwell Russia Sanctions Resource Library](#).