

TRADE LAW UPDATE



June 2022

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HIGHLIGHTS FROM JUNE

[CBP Releases Uyghur Forced Labor Prevention Act \(UFLPA\) Guidance for Importers](#)

On June 13th, Customs and Border Protection (“CBP”) released its Operational Guidance For Importers to prepare companies for the Uyghur Forced Labor Prevention Act (“UFLPA”). UFLPA enforcement is set to take effect June 21st and will apply a rebuttable presumption standard to imports tied in whole or in part to the Xinjiang Uyghur Autonomous Region or entities identified by the U.S. government on the soon to be published UFLPA Entity List.

[President Puts Hold on Tariffs and Duties On Solar Panels and Parts of Solar Panels From Vietnam, Cambodia, Malaysia, and Thailand](#)

On June 6, 2022, President Biden [declared](#) a national emergency (the “Declaration”) in relation to energy resources and temporarily extended the time of duty-free importation of solar panels and parts from Malaysia, Cambodia, Thailand, and Vietnam. This declaration comes in response to industry concerns over the implications, for ongoing solar energy projects, of the anti-circumvention inquiry by the U.S. Department of Commerce that was initiated April 1, 2022. The Declaration permits the Secretary of Commerce to waive the collection of duties and other estimated duties on

imported solar cells and modules from Thailand, Vietnam, Malaysia, and Cambodia for the next twenty-four months, regardless of the outcome of the anti-circumvention inquiry.

[BIS Adds 71 Entities to Entity List; Issues Russia/Belarus Corrections and Clarifications; and Updates EAR to Allow Immediate Publication of Charging Letters](#)

On June 2, 2022, the U.S. Department of Commerce’s Bureau of Industry and Security (“BIS”) updated the Export Administration Regulations (“EAR”) to: (i) add 71 entities to the Entity List “for acquiring or attempting to acquire U.S.-origin items in support of Russia’s military”; (ii) issue minor revisions, corrections, and clarifications to its Russia and Belarus export controls; and (iii) increase its administrative disclosure authorities to allow the publication of charging letters prior to a resolution of an administrative case. The changes went into effect immediately on June 2, 2022 and were published in the Federal Register on June 6, 2022 via two Final Rules available ([here](#)) and ([here](#)).

U.S. DEPARTMENT OF COMMERCE DECISIONS

Investigations

- Prestressed Concrete Steel Wire Strand From the Republic of Turkey: On June 6, 2022, Commerce issued its notice of court decision not in harmony with the final determination of antidumping investigation and notice of amended final [determination](#).
- Prestressed Concrete Steel Wire Strand From the Republic of Turkey: On June 7, 2022, Commerce issued its notice of court decision not in harmony with the final determination of countervailing duty investigation and notice of amended final [determination](#).
- Urea Ammonium Nitrate Solutions From the Republic of Trinidad and Tobago: On June 24, 2022, Commerce issued its final affirmative countervailing duty [determination](#).
- Urea Ammonium Nitrate Solutions From the Russian Federation: On June 24, 2022, Commerce issued its final affirmative countervailing duty [determination](#).
- Urea Ammonium Nitrate Solutions From the Republic of Trinidad and Tobago: On June 24, 2022, Commerce issued its final affirmative [determination](#) of sales at less than fair value.
- Acrylonitrile-Butadiene Rubber From Mexico: On June 24, 2022, Commerce issued its final affirmative [determination](#) of sales at less than fair value.
- Urea Ammonium Nitrate Solutions From the Russian Federation: On June 24, 2022, Commerce issued its final affirmative [determination](#) of sales at less than fair value.
- Sodium Nitrite From the Russian Federation: On June 28, 2022, Commerce issued its final affirmative countervailing duty [determination](#).

Administrative Reviews

- Certain Steel Racks and Parts Thereof From the People's Republic of China: On June 3, 2022, Commerce issued its amended final [results](#) of antidumping duty administrative review (2019-2020).
- Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: On June 3, 2022, Commerce issued its notice of court decision not in harmony with final results of countervailing duty administrative review and notice of amended final [results](#) (2016).
- Certain Passenger Vehicles and Light Truck Tires From the People's Republic of China: On June 3, 2022, Commerce issued its notice of court decision not in harmony with the results or antidumping administrative review and notice of amended final [results](#) (2015-2016).
- Forged Steel Fittings From the People's Republic of China: One June 10, 2022, Commerce issued its final [results](#) of countervailing duty administrative review (2019).
- Forged Steel Fittings From the People's Republic of China: June 10, 2022, Commerce issued its final [results](#) of antidumping duty administrative review (2019-2020).
- Polyethylene Retail Carrier Bags From the People's Republic of China: On June 13, 2022, Commerce issued its final [determination](#) of no shipments (2020-2021).
- Multilayered Wood Flooring From the People's Republic of China: One June 16, 2022, Commerce issued its final [results](#) and partial rescission of countervailing duty administrative review (2019).
- Barium Chloride From India: One June 17, 2022, Commerce issued its preliminary affirmative countervailing duty determination and alignment of final determination with final antidumping duty [determination](#) (2021).
- Sodium Nitrite From India: One June 21, 2022, Commerce issued its preliminary affirmative countervailing duty determination and alignment of final determination with the final antidumping duty [determination](#).
- Welded Line Pipe From the Republic of Korea: On June 27, 2022, Commerce issued its final [results](#) of antidumping duty administrative review (2019-2020).
- Circular Welded Non-Alloy Steel Pipe From the Republic of Korea: On June 27, 2022, Commerce issued its notice of court decision not in harmony with the results of antidumping duty administrative review and notice of amended final [results](#) (2018-2018).
- Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: On June 28, 2022, Commerce issued its final [results](#) of antidumping duty administrative review and final determination of no shipments (2019-2020).

Changed Circumstances Reviews

- Acrylonitrile-Butadiene Rubber From the Republic of Korea: On June 24, 2022, Commerce issued its final affirmative determination of sales at less than fair value and final affirmative [determination](#) of critical circumstances, in part.
- Acrylonitrile-Butadiene Rubber From France: On June 24, 2022, Commerce issued its final affirmative [determination](#) of sales at less than fair value and final affirmative determination of critical circumstances, in part.

Sunset Reviews

- Certain Artist Canvas From the People's Republic of China: On June 3, 2022, Commerce issued its final [results](#) of the third expedited sunset review of the antidumping duty order.
- Certain Amorphous Silica Fabric From the People's Republic of China: On June 7, 2022, Commerce issued its final [results](#) of the expedited first sunset review of the countervailing duty order.
- Certain New Pneumatic Off-the-Road Tires From India: On June 7, 2022, Commerce issued its final [results](#) of expedited sunset review of the antidumping duty order.
- Ammonium Sulfate From the People's Republic of China: On June 8, 2022, Commerce issued its final [results](#) of the expedited first sunset review of the antidumping duty order.
- Pure Magnesium From the People's Republic of China: On June 13, 2022, Commerce issued its final [results](#) of expedited fifth sunset review of the antidumping duty order.
- Helical Spring Lock Washers From People's Republic of China and Taiwan: June 13, 2022, Commerce issued its final [results](#) of fifth sunset review and revocation of order.
- Antidumping Duty Orders on Sulfanilic Acid From India and the People's Republic of China and Countervailing Duty Order on Sulfanilic Acid From India: On June 14, 2022, Commerce issued its final [results](#) of sunset reviews and revocation of orders.

U.S. INTERNATIONAL TRADE COMMISSION Section 701/731 Proceedings

Investigations

- Certain Shingled Solar Modules, Components Thereof, and Methods for Manufacturing the Same: On June 9, 2022, the ITC issued its notice of a final [determination](#) granting a joint motion to terminate the investigation based on settlement and termination of investigation.
- Certain Integrated Circuit Products and Devices Containing the Same: On June 14, 2022 ITC issued its commission [determination](#) not to review an initial determination granting complainant's motions to terminate the investigation based on withdrawal and settlement and termination of the investigation in its entirety.
- Certain Residential Premises Security Monitoring and Automation Panels, and Components Thereof: On June 14, 2022, the ITC issued its notice of commission [determination](#) not to review an initial determination of non-infringement and termination of the investigation.
- Certain Gas Spring Nailer Products and Components Thereof: On June 22, 2022, the ITC issued its Commission [decision](#) to grant complainant's motion to terminate the investigation on remand and rescission of remedial orders and termination of the investigation.



Section 337 Proceedings

- Certain Smart Thermostat Systems, Smart HVAC Systems, Smart HVAC Control Systems, and Components Thereof: On June 28, 2022, the ITC issued its commission [decision](#) to review in part a final initial determination and commission final determination finding no violation of Section 337 and termination of investigation.

U.S. CUSTOMS & BORDER PROTECTION

[CBP Releases Uyghur Forced Labor Prevention Act \(UFLPA\) Guidance for Importers](#)

On June 13th, Customs and Border Protection (“CBP”) released its Operational Guidance For Importers to prepare companies for the Uyghur Forced Labor Prevention Act (“UFLPA”). UFLPA enforcement is set to take effect June 21st and will apply a rebuttable presumption standard to imports tied in whole or in part to the Xinjiang Uyghur Autonomous Region or entities identified by the U.S. government on the soon to be published UFLPA Entity List.

COURT OF INTERNATIONAL TRADE Summary of Decisions

[22-65 POSCO v. United States](#)

On June 13, 2022, CIT sustained Commerce’s second remand determination in the countervailing duty investigation on certain hot-rolled steel flat products from the Republic of Korea. The case was remanded from the Federal Circuit and the CIT found that Commerce complied with the CAFC’s remand when it relied on the preferential-rate standard, and therefore failed to address the impact on the South Korean electricity market as rendering cost-recovery analysis, and considered additional information from the record regarding the costs of generating electricity.

[22-67 Hyundai Steel Co. v. United States](#)

On June 15, 2022, CIT sustained in part and remanded in part Commerce’s third remand results of the 2015-2016 administrative review of the antidumping duty order on circular welded non-alloy steel pipe from the Republic of Korea. The judge went through each factor of the PMS adjustment and found that they were not backed by substantial evidence on the record. The Court concluded that Commerce calculated the dumping margin improperly using an average of dumping rates based in part on a particular market situation determination that is unsupported by substantial evidence, and remanded for Commerce to recalculate the dumping margin.

[22-68 Coal. of Am. Millwork Producers v. United States](#)

On June 15, 2022, CIT sustained Commerce’s final negative determination in the 2019 antidumping investigation of wood mouldings and millwork products from Brazil. The Court ruled that Commerce properly combined the three mandatory respondents into a single entity and correctly did not apply the major input rule. Commerce was also right to revise the general and administrative expenses of one of the three respondents for fair value adjustments associated with the annual revaluation of trees in the entity’s unharvested forests.. resulting in a zero percent dumping margin for the collapsed entity. The Court also considered whether Commerce should have used a higher interest rate provided by the Small Business Lending Survey when recalculating one of the respondents’ imputed credit expenses and inventory carrying costs, but ultimately approved of Commerce’s use of the 2.16% interest rate from the Federal Reserve Bank of New York as reasonable and in accordance with the law.

[22-69 NEXTEEL Co. v. United States](#)

On June 16, 2022, CIT sustained Commerce’s remand results in the 2017-2018 administrative review of the antidumping duty order on circular welded non-alloy steel pipe from the Republic of Korea. Since the question of whether Commerce can make such an adjustment was settled by *Hyundai Steel v. U.S.* at the CAFC, Commerce cannot now make a PMS adjustment to the mandatory respondents’ cost of production when conducting a sales-below-cost test for calculating normal value as the law no longer permits this. The remand determination was affirmed based upon the fact that Commerce, eliminated the PMS adjustment in recalculating the antidumping duty margin.

[22-73 PrimeSource Bldg. Prods. Inc. v. United States](#)

On June 16, 2022, the CIT sustained Commerce’s use of the expected method in its calculation of the non-selected respondents’ rate in the antidumping duty review of certain steel nails from Taiwan. The CIT ruled that the burden was on the plaintiffs to establish that the expected method should not be used. Given that the Plaintiffs did not provide

substantial evidence to back their claim that the expected method was not reasonably reflective of their actual margins, the Court affirmed Commerce's use of the methodology.

COURT OF APPEALS FOR THE FEDERAL CIRCUIT

[21-1726 USP Holdings, Inc. v. United States](#)

On June 9, 2022, CAFC dismissed a challenge to Section 232 steel and aluminum tariffs. Plaintiffs argued Commerce's report preceding the Section 232 action failed to describe an imminent threat to domestic industry as Plaintiffs argued is required by the statute. Plaintiffs also argued Commerce's report failed to provide substantial evidence. A three-judge panel ruled against Plaintiffs, holding there is no "imminence requirement." The Court also ruled that the "arbitrary and capricious" standard is not the appropriate standard when reviewing a threat determination. Rather, Commerce's action "is only reviewable for compliance with the statute."

EXPORT CONTROLS & ECONOMIC SANCTIONS

[OFAC and State Department Designate Severstal, Nord Gold and Additional Russians as SDNs](#)

On June 2, 2022, the Office of Foreign Assets Control (OFAC) added new Russian vessels and aircraft used by Russian elites, new top Russian government officials, and their companies and operations to the Specially Designated Nationals (SDN) List for aiding in the continued war effort by Russia against Ukraine. Notably, these designations include more Russian government officials and oligarchs, and two of the largest mining companies in Russia, Severstal PJSC (Severstal) and Nord Gold PLC (Nord Gold). This means that U.S. persons cannot engage in any transactions with Severstal or Nord Gold unless authorized by a license.

[BIS Adds 71 Entities to Entity List; Issues Russia/Belarus Corrections and Clarifications; and Updates EAR to Allow Immediate Publication of Charging Letters](#)

On June 2, 2022, the U.S. Department of Commerce's Bureau of Industry and Security ("BIS") updated the Export Administration Regulations ("EAR") to: (i) add 71 entities to the Entity List "for acquiring or attempting to acquire U.S.-origin items in support of Russia's military"; (ii) issue minor revisions, corrections, and clarifications to its Russia and Belarus export controls; and (iii) increase its administrative disclosure authorities to allow the publication of charging letters prior to a resolution of an administrative case. The changes went into effect immediately on June 2, 2022 and were published in the Federal Register on June 6, 2022 via two Final Rules available ([here](#)) and ([here](#)).