

TRADE LAW UPDATE



July 2020

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PRESIDENTIAL ACTIONS

[President Trump's Executive Order Ends Hong Kong Country of Origin](#)

On July 14, 2020, President Trump signed into law an [Executive Order](#) that ends Hong Kong's differential treatment compared to the People's Republic of China ("PRC" or "China"). The President's action follows the Chinese government's decision in late May to impose new national security legislation on Hong Kong that outlaws any act of "secession," "terrorism," or "collusion" with a foreign power. While the United States government objects to this legislation and believes that it has compromised Hong Kong's autonomous status, which justified Hong Kong's differential treatment from China for a number of purposes, the new Executive Order states that "Hong Kong will now be treated the same as mainland China...no special privileges, no special economic treatments and no export of sensitive technologies."

As a result of the Executive Order, any goods imported designating Hong Kong as the country of origin should now be considered Chinese origin and could be subject to any antidumping or countervailing duty orders applicable to China, though guidance from Customs and Border Protection ("CBP") is still pending while CBP determines how to implement the Executive Order. The Trump administration has clarified that the Executive Order would not result in Section 301 tariffs being applied to goods from Hong Kong. The Executive Order also eliminates any passport preferences for persons from Hong Kong as opposed to those from the PRC and authorizes steps to end other forms of U.S.-Hong Kong cooperation unrelated to international trade, such as the Fulbright exchange program.

[USTR Announces Additional Duties on Cosmetics and Handbags from France, Delays Effective Date Until January 2021](#)

On July 10, 2020, the U.S. Trade Representative (USTR) announced that it would impose a 25 percent additional duty on certain cosmetics, soaps and cleansing products, and handbags that are products of France, valued at \$1.3 billion, due to the French Digital Services Tax (DST). Nevertheless, USTR delayed the application of the duties for as long as 180 days, which means that at the earliest, the additional duties would go into effect January 6, 2020. USTR stated that the tariffs could go into effect sooner than the 180-day suspension period, but if this change were to occur, USTR would issue a subsequent Federal Register Notice amending the effective date of implementation for the tariffs.

U.S. DEPARTMENT OF COMMERCE DECISIONS

Investigations

- Utility Scale Wind Towers from Vietnam, Indonesia, Canada, and Korea: On July 6, 2020, Commerce released the final results of the antidumping duty investigations covering [Vietnam](#), [Indonesia](#), [Canada](#), and [Korea](#). Commerce also released the final results of the countervailing duty investigations covering [Vietnam](#), [Indonesia](#), and [Canada](#).
- Polyethylene Terephthalate Sheet from the Republic of [Korea](#) and the Sultanate of [Oman](#): On July 22, 2020, Commerce released the final results of the antidumping duty investigations.

Administrative Reviews

- Carbon and Alloy Steel Wire Rod from Mexico: On July 1, 2020, Commerce released the final [results](#) of the antidumping duty administrative review (2017-2018).
- Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea: On July 10, 2020, Commerce released the final [results](#) of the antidumping duty administrative review (2017-2018).
- Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam: On July 10, 2020, Commerce released the final [results](#) of the antidumping duty administrative review (2017-2018).
- Ferrovanadium from the Republic of Korea: On July 10, 2020, Commerce released the final [results](#) of the antidumping duty administrative review (2018-2019).
- Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Romania: On July 10, 2020, Commerce released the final [results](#) of the antidumping duty administrative review (2018-2019).
- Certain Oil Country Tubular Goods from the Republic of Korea: On July 13, 2020, Commerce released the final [results](#) of the antidumping duty administrative review (2017-2018).
- Certain Cold Rolled Steel Flat Products from the Republic of Korea: On July 13, 2020, Commerce released the final [results](#) of the antidumping duty administrative review (2017-2018).
- Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Mexico: On July 13, 2020, Commerce released the final [results](#) of the antidumping duty administrative review (2017-2018).
- Certain Stilbenic Optical Brightening Agents from Taiwan: On July 14, 2020, Commerce released the final [results](#) of the antidumping duty administrative review (2018-2019).
- Emulsion Styrene-Butadiene Rubber from the Republic of Korea: On July 14, 2020, Commerce released the final [results](#) of the antidumping duty administrative review (2017-2018).
- Steel Concrete Reinforcing Bar from the Republic of Turkey: On July 14, 2020, Commerce released the final [results](#) of the countervailing duty administrative review (2017).
- Emulsion Styrene-Butadiene Rubber from Mexico: On July 17, 2020, Commerce released the final [results](#) of the antidumping duty administrative review (2017-2018).
- Honey from the People's Republic of China: On July 27, 2020, Commerce released the final [results](#) of the antidumping duty administrative review (2017-2018).

Circumvention Inquiries

- Certain Corrosion-Resistant Steel Products from the People's Republic of China: On July 13, 2020, Commerce released the final affirmative determination of circumvention of the antidumping and countervailing duty orders with respect to [Costa Rica](#) and the [United Arab Emirates](#). Commerce made a final negative determination with respect to [Guatemala](#).

Changed Circumstances Reviews

- There have been no Changed Circumstances determinations from the ITA during the month of July 2020.

Sunset Reviews

- Tetrahydrofurfuryl Alcohol from the People's Republic of China: On July 8, 2020, Commerce released the final [results](#) of the expedited third antidumping duty sunset review.

- Commodity Matchbooks from India: On July 10, 2020, Commerce released the final [results](#) of the expedited second countervailing duty sunset review.
- Polyvinyl Alcohol from the People's Republic of China and Japan: On July 15, 2020, Commerce released the final [results](#) of the expedited antidumping duty sunset reviews.
- Certain Oil Country Tubular Goods from the People's Republic of China: On July 29, 2020, Commerce released the final [results](#) of the expedited second antidumping duty sunset review.

U.S. INTERNATIONAL TRADE COMMISSION

Section 701/731 Proceedings

Investigations

- Glass Containers from China: On July 2, 2020, the ITC published its final negative [decision](#) in the countervailing duty investigation finding no material injury.
- Certain Collated Steel Staples from China: On July 17, 2020, the ITC published its final affirmative [decision](#) in the antidumping and countervailing duty investigations finding material injury.



Sunset Review Decisions

- Certain Tow-Behind Lawn Groomers and Parts Thereof from China: On July 15, 2020, the ITC published its final affirmative [decision](#) in the antidumping duty sunset review.
- Light-Walled Rectangular Pipe and Tube from China, Korea, Mexico, and Turkey: On July 27, 2020, the ITC published its final affirmative [decision](#) in the antidumping and countervailing duty sunset reviews.

Section 337 Proceedings

- There have been no Section 337 decisions from the ITC for the month of July 2020.

U.S. CUSTOMS & BORDER PROTECTION

- CBP [issued](#) its final USMCA [implementing instructions](#) on June 30, 2020.
- CBP [ruled](#) that an importer can claim duty-free treatment under a special classification provision for goods returned without having been improved or advanced in value, even though a declaration submitted by the importer in connection with the claim only lists a range of exportation dates and not the specific date that the goods were originally exported.
- CBP would like to add a forced labor component to the Customs-Trade Partnership Against Terrorism (CTPAT) program's trade compliance requirements by the end of this fiscal year, according to a government issue [paper](#).
- On July 20, 2020, CBP [announced](#) recent EAPA actions. CBP announced antidumping and countervailing duty evasion investigations against Lionshead Specialty Tire and Wheel LLC; Tex Trail LLC; and Trailstar LLC, as well as against Lino International Inc. and Blue Star Casting Inc. An affirmative final determination was issued against InterGlobal Forest, LLC; American Pacific Plywood, Inc.; and U.S. Global Forest Inc.

COURT OF INTERNATIONAL TRADE

Summary of Decisions

20-91

On July 1, 2020, the CIT sustained in part and remanded in part Commerce's remand redetermination in the antidumping duty investigation of biodiesel from Argentina. On remand, Commerce reconsidered its decision to account for renewable identification numbers ("RINs") by increasing normal value and instead account for RINs by decreasing export and constructed export price ("U.S. price"). The CIT sustained Commerce's decision to account for RINs by adjusting the U.S. price, but remanded Commerce's particular market situation determination for further explanation or reconsideration.

20-92

On July 2, 2020, the CIT sustained in part and remanded in part Commerce's final results in the countervailing duty administrative review of certain corrosion-resistant steel products from Korea. The CIT found that the Plaintiff failed to exhaust its administrative remedies on the issue of whether government equity infusions were countervailable. The CIT remanded Commerce's finding that private loans cannot be used as a benchmark, citing a lack of substantial evidence in support of its finding. The court also found that Commerce's determination that Dongbu's loan restructuring was specific is not supported by substantial evidence and that Commerce's cited references in the IDM do not directly address Dongbu's argument. The CIT sustained Commerce's determination that Hyundai Steel and Hyundai Green Power were not cross-owned.

20-94

On July 7, 2020, the CIT sustained Commerce's final results of redetermination in the antidumping duty administrative review of certain uncoated paper from Portugal. According to the court, the Petitioners failed to exhaust their administrative remedies for failing to present their argument to Commerce. The CIT also found that the Petitioners' argument failed on the merits because Commerce supplied a reasoned explanation to support its use of neutral facts available, and its uniform application of a neutral weighted-average value.

20-97

On July 14, 2020, the CIT sustained in part and remanded in part Commerce's remand redetermination in the seventh antidumping duty administrative review of

diamond sawblades and parts thereof from China. The court sustained Commerce's calculation of Chengdu's rate, but remanded Commerce's determination of the rate applicable to Bosun and the separate rate respondents for further explanation or consideration.

20-98

On July 14, 2020, a three-judge panel unanimously determined that Proclamation 9772 imposing additional Section 232 duties on Turkish steel violated statutorily mandated procedures under Section 232 and the Constitution's Fifth-Amendment Equal Protection guarantees.

20-99

On July 14, 2020, the CIT sustained Commerce's final results in the antidumping duty administrative review of polyethylene terephthalate film, sheet, and strip ("PET Film") from India. The CIT found that Commerce had not unreasonably departed from prior agency practice in using the 2015 CVD Final Results to calculate export subsidy rate and offset.

20-103

On July 23, 2020, the CIT sustained in part and remanded in part Commerce's remand results in the first antidumping duty administrative review of welded line pipe from Korea. The court sustained Commerce's decision to reverse its particular market situation determination and to calculate SeaH's normal value using third country sales. The court remanded Commerce's determination not to apply a constructed export price offset to SeaH's Canadian sales for further explanation or reconsideration.

20-105

On July 28, 2020, the CIT sustained Commerce's third remand results of the antidumping duty administrative review of welded carbon steel standard pipe and tube products from Turkey. On remand, Commerce had granted Plaintiff Toscelik a duty drawback adjustment without making a circumstance of sale adjustment, changing Toscelik's weighted-average dumping margin from 3.33 percent to 0.00 percent. Commerce's remand results were consistent with the court's prior opinions and orders.

COURT OF APPEALS FOR THE FEDERAL CIRCUIT

2019-1869

On July 2, 2020, the CAFC affirmed the CIT's finding that the Apple iPad 2 Smart Cover is properly classified under HTSUS subheading 3926.90.99 and not 6307.90.98. Apple Inc. appealed the decision of the CIT to deny Apple's motion for summary judgment and granting the Government's, concluding that the iPad 2 Smart Cover was properly classified under HTSUS subheading 3926.90.99.

2019-1400, 1562, 1563

On July 15, 2020, the CAFC vacated the underlying decision by the CIT and remanded the matter for further review. Prosperity Tieh Enterprise Co., Ltd. and Yieh Phui Enterprise Co., Ltd. appealed the decision of the CIT arising from an antidumping duty investigation covering certain corrosion-resistant steel products from Taiwan. In its investigation, Commerce "collapsed" into a single entity three Taiwanese producers of subject merchandise. The CAFC concluded that Commerce's collapsing determination was contrary to law and unsupported by substantial evidence, and that the CIT erred when it reversed Commerce's determination that Prosperity submitted inaccurate questionnaire responses.

EXPORT CONTROLS AND SANCTIONS

[U.S. Increases Pressure on Russian Gas Pipelines with Imposition of New CAATSA Secondary Sanctions; Issues New General Licenses for Companies Doing Business with GAZ Group](#)

The U.S. Department of State recently published [updated guidance](#) pertaining to Section 232 of the [Countering America's Adversaries Through Sanctions Act](#) ("CAATSA"). The revised guidelines subject energy export pipelines originating from Russia, particularly the Nord Stream 2 and TurkStream pipelines, to secondary Section 232 sanctions (not to be confused with Section 232 of the Trade Expansion Act of 1962). The sanctions' focus is on any persons who, according to the Secretary of State, on or after August 2, 2017 knowingly made an investment or "sells, leases, or provides to the Russian Federation goods or services" which meet the Section 232(a) fair market value thresholds and which "directly and significantly facilitate the expansion, construction, or modernization" of energy export pipelines by Russia.

The U.S. has repeatedly expressed its opposition to the construction of the Nord Stream 2 and TurkStream pipelines, which the U.S. view as means of creating "national and regional dependencies" on Russian energy which Russia exploits to "expand its political, economic, and military influence and undermine U.S. national security and foreign policy interests."

[UK to Ban Huawei Equipment from its 5G Network While U.S. Announces Visa Restrictions](#)

On July 14, 2020, the United Kingdom [announced that it will ban](#) Huawei Technologies, Co. Ltd. ("Huawei") equipment from its 5G network. Effective December 31, 2020, Telecoms operators in the UK can no longer purchase Huawei equipment and have until 2027 to remove Huawei technology from their networks, with broadband companies receiving an additional two years to do so. The older 2G, 3G, and 4G networks will not need to have existing Huawei equipment removed.

The UK's decision arrives after UK intelligence determined that they could no longer be confident in the security of the new equipment provided by Huawei. This announcement marks a change in policy from six months ago, when UK Prime Minister Boris Johnson had previously agreed that Huawei could take up to a 35 percent share of the 5G market.

[OFAC Issues General License 5D for Venezuela Sanctions](#)

The U.S. Department of Treasury's Office of Foreign Assets Controls ("OFAC") issued [General License 5D](#) pertaining to the Venezuela sanctions. Effective July 15, 2020, General License 5D replaces and supersedes General License 5C, which authorizes transactions related to the state-owned oil company Petróleos de Venezuela, S.A ("PDVSA") 2020 8.5 percent bond that would be prohibited by the Venezuela Sanctions Regulations (31 C.F.R. part 591 or "VSR"). General License 5D does not authorize any transactions or activities otherwise prohibited by the VSR.