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# Washington Tariff & Trade Letter®

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## **China Tariff Exclusions**

The United States Trade Representative (USTR) announced March 24 that it is reinstating certain previously granted and extended product exclusions in the China Section 301 investigation. The determination covers 352 exclusions, ranging from pumps and motors to mopeds, luggage and medical supplies. The reinstated exclusions are retroactive to October 12, 2021, and go through December 31, 2022, meaning importers should review the announcement to determine if refunds are due.

The result of a “review of necessity” initiated last October, the relief fell short of the total number possible. The Trump administration initially granted more than 2,200 exclusions to the tariffs, providing relief to certain industries and retailers. Most were allowed to expire, but 549 were extended for a year and expired at the end of 2020.

## **Thune-Klobuchar Ocean Shipping Reform Act Steams Ahead**

The Senate Commerce Committee unanimously approved March 22 the Ocean Shipping Reform Act to support U.S. exporters, strengthen the investigatory authority of the Federal Maritime Commission (FMC) and to improve transparency of industry practices.

“My bill would level the playing field for American farmers, exporters, and consumers by making it harder for ocean carriers to unreasonably refuse goods that are ready to export at U.S. ports,” said bill co-sponsor Sen. John Thune (R-S.D.) in a statement. “This legislation would also give the FMC greater rulemaking authority to regulate harmful practices by carriers.” A statement from its other co-sponsor, Sen. Amy Klobuchar (D-Minn.) said: “Congestion at ports and increased shipping costs pose unique challenges for U.S. exporters, who have seen the price of shipping containers increase four-fold in just two years, raising costs for consumers and hurting our businesses. Meanwhile, ocean

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carriers that are mostly foreign-owned have reported record profits.” She added: “This legislation will help level the playing field for American exporters so they can get their goods to market in a timely manner for a fair price.”

#### **The Ocean Shipping Reform Act would:**

- Prohibit ocean carriers from unreasonably declining opportunities for U.S. exports, as determined by the FMC in a new required rulemaking;
- Require ocean common carriers to report to the FMC each calendar quarter on total import/export tonnage and twenty-foot equivalent units (loaded/empty) per vessel that makes port in the United States;
- Authorize the FMC to self-initiate investigations of ocean common carrier’s business practices and apply enforcement measures; and
- Establish new authority for the FMC to register shipping exchanges to improve the negotiation of service contracts.

#### **Calls for Fertilizer Tariff Cuts**

Representatives Cindy Axne (D-Iowa), Tracey Mann (R-Kans.) and Sen. Jerry Moran (R-Kans). asked the International Trade Commission (ITC) March 18 to reconsider countervailing duty (CVD) and antidumping (AD) rulings that they argue are putting U.S. farmers at a disadvantage. The lawmakers want the commission to revise its February 2021 final CVD decision on phosphate fertilizer from Morocco and its January 2022 preliminary AD order on urea ammonium (UAN) fertilizer from Trinidad and Tobago.

Last November, Commerce implemented preliminary countervailing duties on UAN imports from Trinidad and Russia. The members said eliminating the duties would provide the most immediate opportunity for a near-term, partial remedy to the high costs of fertilizer facing U.S. farmers before the end of the 2022 planting season.

Chris Lawson, head of fertilizers at London’s CRU Group notes: ‘Since the beginning of 2020, nitrogen fertilizer prices have increased fourfold, while phosphate and potash prices over threefold. While farmers in developed markets have benefitted from high agricultural commodity prices, helping to partly offset high input prices, demand destruction is increasingly likely due to high prices and supply shortfalls.’

**In a related move, March 17, the USDA requested public comments** to identify relevant difficulties facing the fertilizer market, including competition and policy solutions.. Comments are due by May 16, 2022, and should reference docket number AMS-AMS-22-0027, Jaina Nian, Agricultural Marketing Service, at (202) 378-2541; or by email at [jaina.nian@usda.gov](mailto:jaina.nian@usda.gov).

## State Issues ITAR Consolidation and Restructuring Rule

The State Department published March 22 an interim final rule that restructures part 120 of the International Traffic in Arms Regulation (ITAR) to better organize definitions previously found in that part and in other ITAR locations and to consolidate provisions that provide background information or otherwise apply throughout the regulations. The rule will be open for public comments for 45 days.

The changes add text not previously found in the ITAR and clarifying revisions to existing text. State said they are the first in a series of rulemakings that will further streamline and clarify the subchapter. Among the changes, the rule will:

- Prohibit the use of ITAR exemptions for items subject to the EAR that are unaccompanied by a defense article. DDTC believes this change minimizes possible confusion regarding requirements for Commerce approval and the use of ITAR exemptions.
- Revise § 120.12 Commodity Jurisdiction Determination Requests in its entirety to a new purpose describing the process for obtaining a CJ determination.
- Persons with questions regarding the U.S. Munitions Import List (USMIL) should first address those questions to the Bureau of Alcohol, Tobacco, Firearms and Explosives.
- Distinguish between authorizations requiring a request for approval to be obtained from DDTC (i.e., the existing authorization sections), and the use of an exemption, for which no request is required to be submitted to DDTC.
- Add in § 120.17 a description of the Blue Lantern End-Use Monitoring program. This description did not previously appear in the ITAR. The Blue Lantern program monitors the end-use of defense articles, technical data, defense services, and brokering activities exported through commercial channels and subject to [DOS] licenses or other approvals.
- Add in § 120.18(a)(9) the statement that an unfavorable finding of an end-use monitoring check may be the basis for disapproving, revoking, suspending, or amending any existing license or license application.
- Add in § 120.19 a general statement in paragraph (a) of the authority to impose penalties for violations of the ITAR and a reference to part 127 (conduct that constitutes a violation), and in paragraph (b) a statement derived from existing § 127.12(a) of the Department's encouragement of the voluntary disclosure of violations when discovered.
- Add in § 120.23(c) reference to the Wassenaar Arrangement on Export Controls not formerly found in the subchapter
- Add in § 120.43(a) and (b) single instance definitions of development and production formerly found in § 120.41 specifically, modification of an existing design creates a distinct design, regardless of the modification.

*FR Doc. 2022-05629 Filed: 3/22/2022 8:45 am; Publication Date: 3/23/2022]*

## US-UK Reach Deal on Aluminum, Steel

The U.S. and United Kingdom (UK) called a mutual truce March 22 in their dispute over U.S. tariffs on British steel and aluminum and UK counter measures. Washington agreed to drop 232 tariffs on UK steel and aluminum as long as they remain at “sustainable volumes.” In return, the British are dropping retaliatory duties on \$500 million of U.S. exports, including distilled spirits, various agriculture products and consumer goods.

“In addition to novel smelt and cast requirements on aluminum, this deal also requires that any U.K. steel company owned by a Chinese entity must undertake an audit of their financial records to assess influence from the People’s Republic of China government. The results of these audits must also be shared with the United States,” said a joint Commerce-USTR statement.

The next day, USTR Katherine Tai and UK Trade Secretary Anne-Marie Trevelyan committed to closer trade ties, though what that may look like remains unclear. The joint statement included pledges to “create incentives through trade to transition to a decarbonized economy,” strengthen labor rights, and tackle forced labor, among other goals.

“Whether you call it a trade agreement or some new construct, it's incumbent upon the United States to demonstrate leadership to write the rules of the global economy at a time of immense change and conflict, and I can't think of a better trading partner to start on that path with than the United Kingdom,” said National Foreign Trade Council (NFTC) President Jake Colvin.

U.S. Chamber of Commerce International Affairs chief Myron Brilliant welcomed the pact. “When these tariffs were imposed in 2018, the Chamber warned they ‘would directly harm American manufacturers, provoke widespread retaliation from our trading partners, and leave virtually untouched the true problem of Chinese steel and aluminum overcapacity.’ All of that came to pass. This deal marks a step toward remedying these problem”

**Friends of John Barleycorn welcomed the UK’s suspension of spirits duties.** “After a four-year dry spell, it’s time to raise a toast” announced the Kentucky Distillers’ Association. In a statement, Rep John Yarmuth (D-Ky.) said: “From grain to glass, American whiskey helps power our economy here in Louisville and across our Commonwealth, and I was proud to lead the call to end these unfair tariffs and remove our distilled spirits from unrelated trade disputes.” Yarmuth is founder and Co-Chair of the Congressional Bourbon Caucus.

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## American Steel, Russian Profits

The bloom is off of **Pig Iron**. Russia and Ukraine are critical suppliers to the U.S., constituting more than 60% of imports since 2018, according to Argus. A significant share of low-phosphorus pig iron comes from producers on the Black Sea regions of Ukraine and Russia, an area from which production and shipping has ceased. As a substitute, Brazilian pig iron is typically higher in phosphorous and less desirable to steelmakers.

**Slab & Billet** in 2021, when the Argus U.S. Midwest hot-rolled coil (HRC) price measure nearly doubled to a peak of \$1,970/short ton in mid-September, Russian slab imports jumped to 1.05 million tons through November. The White House has yet to cut off these flows, which would impact costs for Russian industrialist Vladimir Lisin's Novolipetsk Steel (NLMK) and other US rerollers who rely on Russian slab as feedstock. NLMK USA produces 2.2 million tons of flat rolled steel annually.

"My team and I are closely monitoring the situation regarding Russian sanctions, particularly as it relates to NLMK Pennsylvania," Rep. Mike Kelly, (R-Pa.), told the Sharon Herald. "For years, I've supported NLMK's Farrell plant because I know what these strong, well-paying jobs mean to the Farrell and Sharon communities. I encourage the Biden administration to find a balanced approach that both combats Russia's military aggression while protecting the hundreds of employees at the Farrell plant."

Evrast Steel, with operations in Colorado, Oregon and Canada continues production for now. The company is controlled by Roman Abramovich, Alexander Abramov and Alexander Frolov, all sanctioned individuals. "Ottawa isn't ruling out sanctions against Russian-owned companies operating in Canada following the invasion of Ukraine—a list that could include the steelmaker Evrast, one of Regina [Saskatchewan]'s largest employers and whose majority shareholder is a Russian oligarch," reports the CBC.

## Japan Beef Triggers Eased

March 24 U.S. and Japan agreed to increase the beef safeguard trigger level under the U.S.-Japan Trade Agreement. The new three-trigger safeguard mechanism will allow U.S. exporters to meet Japan's growing demand for beef and reduce the probability that Japan will impose higher tariffs in the future. The three triggers are:

1. Imports from the United States must exceed the original beef safeguard trigger level under the U.S.-Japan Trade Agreement;
2. The aggregate volume of beef imports from the U.S. and the original signatories of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) must exceed the CPTPP beef safeguard; and
3. Imports from the United States must exceed the total amount of beef imports from the U.S. during the previous year.

## Call for Nominations - US India CEO Forum

The Forum works in tandem with and provides input to the government-to-government U.S.-India Commercial Dialogue. Commerce will accept nominations on a rolling basis for membership on the Forum for terms that will begin upon appointment and will expire on December 31, 2024. The Forum includes U.S. and Indian private sector members; the U.S. Section will consist of up to 20 Chief Executives. There will be U.S. and Indian public and private sector co-chairs. The Secretary of Commerce will serve as a public sector cochair, along with her Indian counterpart. **Applications from individuals representing companies in all sectors and of all sizes will be considered.** For inquiries and an application, please contact Noor Sclafani, International Trade Specialist, Office of South Asia, Commerce: [noor.sclafani@trade.gov](mailto:noor.sclafani@trade.gov).

### \*\*\* Calendar\*\*\*

**BIS / Emerging Technology Technical Advisory Committee (ETTAC)** will meet on April 8, at 11 a.m., EDT. Topic: Bringing the Chipmakers Home—Attracting Manufactures and the Talent to Sustain Them. The Committee advises on the identification of emerging and foundational technologies with potential dual-use applications within the United States and abroad. To join the teleconference, contact Yvette Springer at [Yvette.Springer@bis.doc.gov](mailto:Yvette.Springer@bis.doc.gov) no later than April 1, 2022.

**U.S.– Caribbean Business Conference** April 12-13, Hilton Miami Airport.

Organized by the South Florida District Export Council in collaboration with Enterprise Florida and the U.S. Commercial Service. Priority sectors include: energy, transportation, design & construction, ICT, and healthcare. The program will include U.S. diplomats, industry professionals, trade and international business experts and high-level government officials from Dominican Republic, Barbados & the Eastern Caribbean, Bahamas, Trinidad & Tobago, Jamaica, Haiti, Suriname, ExIm Bank, The Advocacy Center and SBA.

### \*\*\* Briefs \*\*\*

**RUSSIAN TIMBER:** The Program for the Endorsement of Forest Certification, (PEFC) the global alliance of national forest certification systems announced that **timber originating from Russia and Belarus is 'conflict timber' and therefore cannot be used in PEFC-certified products.** PEFC defines conflict timber in its regulatory as “Timber that has been traded at some point in the chain of custody by armed groups, be they rebel factions or regular soldiers, or by a civilian administration involved in armed conflict or its representatives, either to perpetuate conflict or take advantage of conflict situations for personal gain. (...) Conflict timber is not necessarily illegal.”

**COATED PAPER:** Commerce found March 23 that revocation of the countervailing duty order on certain **coated paper suitable for high-quality print graphics** using sheet-fed presses (certain coated paper) from Indonesia would be likely to lead to continuation or recurrence of countervailable subsidies

**SOYBEANS:** Commerce determined March 23 that countervailable subsidies are being provided to producers and exporters of **organic soybean meal** from India.

**STEEL PLATE:** Commerce found March 25 that revocation of the antidumping duty orders on certain **carbon and alloy steel cut-to-length plate (CTL plate)** from Austria, Belgium, Brazil, the People's Republic of China (two cases), France, Germany Italy, Japan, the Republic of Korea South Africa, Taiwan, and the Turkey would be likely to lead to continuation or recurrence of dumping.