

TRADE LAW UPDATE



January 2021

IN THIS ISSUE

[Presidential Actions](#)

[U.S. Department of
Commerce Decisions](#)

[U.S. International Trade
Commission Proceedings](#)

[U.S. Customs & Border
Protection Decisions](#)

[Court of International Trade
Decisions](#)

[Federal Court of Appeals
Decisions](#)

[Export Controls and
Sanctions](#)

PRESIDENTIAL ACTIONS

[CBP Issues Region-Wide WRO Against Cotton Products and Tomato Products from Xinjiang](#)

On January 13, 2021, U.S. Customs and Border Protection (“CBP”) [issued](#) a region-wide Withhold Release Order (“WRO”) against cotton products and tomato products originating from Xinjiang Uyghur Autonomous Region (“Xinjiang”) in China. The WRO also applies to all products made in whole or in part from Xinjiang cotton and tomatoes, regardless of where those downstream products are produced. According to CBP, these products include “apparel, textiles, tomato seeds, canned tomatoes, tomato sauce, and other goods made with cotton and tomatoes.” As a result of CBP’s action, all shipments seeking entry to the U.S. which are subject to the WRO will be detained, and importers can either choose to reexport the shipment or to file a protest demonstrating that the shipment is not subject to the WRO.

[USTR Suspends Section 301 DST Tariffs on Handbags and Cosmetics from France](#)

The U.S. Trade Representative (“USTR”) indefinitely [suspended](#) the Section 301 tariffs on certain handbags and cosmetics from France resulting from the investigation into France’s Digital Services Tax (“DST”). These [additional tariffs](#) were announced by USTR in July 2020 and were scheduled to go into effect on January 6, 2021. USTR suspended the tariffs while completing the Section 301 investigations of similar DSTs adopted or under consideration by ten other jurisdictions (Austria, Brazil, Czech Republic, European Union, India, Indonesia,

Italy, Spain, Turkey, and the United Kingdom). USTR will instead “promote a coordinated response in all of the ongoing DST investigations.”

[Crackdown on Evasion of Chinese Antidumping Duty Orders Through Criminal and Civil Action in the United States](#)

On December 11, 2020, U.S. Customs and Border Protection (“CBP”), through the U.S. Department of Justice, filed a civil action in the U.S. Court of International Trade (“CIT”) in New York, *United States v. Winland International, Inc. et al.* The government alleges that defendants made false statements to avoid paying the correct antidumping (“AD”) rates and instead declared that inappropriate combination rates apply, as well as undervalued certain types of tires. Fourteen individuals, as well as the company, are named in the civil case at the CIT. The press release of the U.S. Department of Justice states that the alleged violations total at least \$6.5 million in lost import duty deposits.

U.S. DEPARTMENT OF COMMERCE DECISIONS

Investigations

- Wood Mouldings and Millwork Products from the People's Republic of China: On January 4, 2021, Commerce issued its final affirmative determinations in the [antidumping](#) and [countervailing](#) duty investigations.
- Wood Mouldings and Millwork Products from Brazil: On January 4, 2021, Commerce issued its final negative [determination](#) in the antidumping duty investigation.
- Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China: On January 11, 2021, Commerce issued its final affirmative countervailing duty [determination](#) and final negative critical circumstances determination.
- Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China: On January 11, 2021, Commerce issued its final affirmative antidumping duty [determination](#) and final affirmative critical circumstances determination.
- Difluoromethane (R-32) from the People's Republic of China: On January 19, 2021, Commerce released its final affirmative [determination](#) in the antidumping duty investigation.
- Certain Corrosion Inhibitors from the People's Republic of China: On January 29, 2021, Commerce released its final affirmative determination in the [antidumping](#) and [countervailing](#) duty investigations.

Administrative Reviews

- Uncovered Innerspring Units from the Socialist Republic of Vietnam: On January 4, 2021, Commerce issued its final [results](#) in the antidumping duty administrative review (2018-2019).
- Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: On January 5, 2021, Commerce issued its amended final [results](#) in the antidumping duty administrative review (2017-2018).
- Certain Magnesia Carbon Bricks from the People's Republic of China: On January 21, 2021, Commerce issued its final [results](#) in the antidumping duty administrative review (2018-2019).
- Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan: On January 21, 2021, Commerce issued its final [results](#) in the antidumping duty administrative review (2018-2019).
- Aluminum Extrusions from the People's Republic of China: On January 22, 2021, Commerce issued its final [results](#) in the countervailing duty administrative review (2018).
- Circular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey: On January 25, 2021, Commerce issued its final [results](#) in the countervailing duty administrative review (2018).
- Certain Uncoated Paper from [Brazil](#) and [Portugal](#): On January 27, 2021, Commerce issued its final results in the antidumping duty administrative reviews (2018-2019).
- Circular Welded Carbon Steel Pipes and Tubes from Thailand: On January 27, 2021, Commerce issued its final [results](#) in the antidumping duty administrative review (2018-2019).
- Glycine From the People's Republic of China: On January 28, 2021, Commerce issued its final [results](#) in the antidumping duty administrative review (2019-2020).
- Polyethylene Terephthalate Resin From the Sultanate of Oman: On January 28, 2021, Commerce issued its final [results](#) in the antidumping duty administrative review (2018-2019).

Circumvention Inquiries

- There have been no final determinations of circumvention by the Department of Commerce during the month of January 2021.

Changed Circumstances Reviews

- There have been no final results of changed circumstances reviews by the Department of Commerce during the month of January 2021.

Sunset Reviews

- Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China: On January 4, 2021, Commerce issued the final results of the expedited first [antidumping](#) and [countervailing](#) duty sunset reviews.
- Barium Chloride from the People's Republic of China: On January 27, 2021, Commerce issued the final [results](#) of the expedited fifth antidumping duty sunset review.
- Certain Steel Nails from the Sultanate of Oman: On January 28, 2021, Commerce issued the final [results](#) of the first antidumping duty sunset review.
- Certain Steel Grating from the People's Republic of China: On January 28, 2021, Commerce issued the final [results](#) of the expedited second antidumping duty sunset review.

U.S. INTERNATIONAL TRADE COMMISSION

Section 701/731 Proceedings

Investigations

- Fluid End Blocks from China, Germany, India, and Italy: On January 29, 2021, the ITC made affirmative final [decisions](#) in the antidumping and countervailing duty investigations, finding material injury.
- Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Netherlands, Saudi Arabia, Taiwan, Turkey, and the United Arab Emirates: On January 29, 2021, the ITC made affirmative final [decisions](#) in the antidumping and countervailing duty investigations, finding material injury.
- 4th Tier Cigarettes from Korea: On January 29, 2021, the ITC made an affirmative final [decision](#) in the antidumping duty investigation, finding material injury.



Sunset Review Decisions

- There have been no final sunset review decisions by the ITC during the month of January 2021.

Section 337 Proceedings

- There have been no final Section 337 decisions by the ITC during the month of January 2021.

U.S. CUSTOMS & BORDER PROTECTION

- In a [final rule](#) published January 22, 2021, CBP imposed import restrictions on certain archaeological materials from Morocco.
- On January 13, 2021, CBP [issued](#) a region-wide Withhold Release Order on cotton and tomato products from Xinjiang.
- In a [final rule](#) published January 12, 2021, CBP extended import restriction on certain archaeological materials from Italy for 5 years.
- CBP recently issued an October 2020 [ruling](#) finding that the origin of robotic workstations determines the classification for multi-station internal combustion engine assembly systems, not the conveyor modules.

COURT OF INTERNATIONAL TRADE

Summary of Decisions

21-1

On January 4, 2021, the CIT sustained Commerce's final remand redetermination in the 2015-2016 antidumping duty administrative review on welded line pipe from Korea. The CIT found that Commerce's redetermination is supported by substantial evidence and in accordance with law, because Commerce reasonably accounted for the selling activities of SeAH's U.S. affiliates in calculating SeAH's dumping margin.

21-2

On January 4, 2021, the CIT sustained in part and remanded in part Commerce's remand redetermination in the fourth antidumping duty administrative review on crystalline silicon photovoltaic cells, whether or not assembled into modules. The CIT remanded Commerce's decision to rely on Maersk data as a surrogate value for further consideration, but sustained Commerce's decision to increase Trina's net U.S. price.

21-3

On January 6, 2021, the CIT sustained in part and remanded in part Commerce's remand results in the thirteenth antidumping duty administrative review on certain frozen fish fillets from Vietnam. The CIT remanded to Commerce its determination regarding the dumping margin for separate rate plaintiffs.

21-4

On January 8, 2021, the CIT sustained Commerce's final determination in the antidumping duty investigation of certain steel nails from Taiwan. The CIT sustained

Commerce's decision to use a simple average to calculate a pooled standard deviation as part of its differential pricing analysis.

21-5

On January 19, 2021, the CIT sustained Commerce's remand redetermination in the 2015-2016 antidumping duty administrative review on certain cased pencils from China. The CIT found that Commerce's remand redetermination complied with the Court's previous remand order and was supported by substantial evidence.

21-7

On January 21, 2021, the CIT remanded Commerce's second remand redetermination in the antidumping duty administrative review on certain steel nails from China. The CIT concluded that Commerce should make its scope determination in accordance with the Court of Appeals' product-specific analysis of the scope of the Vietnam orders.

21-9

On January 28, 2021, the CIT sustained Commerce's second remand results in the antidumping duty changed circumstances review on stainless steel bar from India. The CIT found Venus' argument for the use of total AFA to be moot because Commerce's calculation is above *de minimis* and the assessment of duties will occur based on the results of subsequent administrative reviews.

COURT OF APPEALS FOR THE FEDERAL CIRCUIT

20-1478

On January 27, 2021, the CAFC affirmed in part and remanded in part a decision of the CIT to uphold Commerce's final results in the antidumping duty administrative review of diamond sawblades from China. The CAFC remanded for further proceedings to determine the extent to which Commerce used "the facts otherwise available" under 19 U.S.C. § 1677e(a) and drew adverse inferences under 19 U.S.C. § 1677e(b) on Bosun's country-of-origin information. Although there were gaps in Bosun's country-of-origin information, the adverse inference was not supported for all of the country-of-origin information, only that information which had gaps. The CAFC left to the Court of International Trade the decision whether a further remand to Commerce is needed.

EXPORT CONTROLS AND SANCTIONS

BIS Amends EAR to Implement Rescission of Sudan's State Sponsor of Terrorism Designation

On January 14, 2021, the U.S. Department of Commerce's Bureau of Industry and Security ("BIS") [announced](#) that it has [amended](#) the Export Administration Regulations ("EAR") to formally implement the [rescission](#) of Sudan's designation as a State Sponsor of Terrorism ("SSOT"), which was rescinded by the Secretary of State on December 14, 2020. BIS has amended the EAR accordingly by removing Sudan from Country Group E:1 (Terrorist supporting countries), which lists destinations subject to Anti-Terrorism ("AT") controls. Sudan is now under Country Group B. As a result, most shipments destined for Sudan qualify for a general 25 percent de minimis level and shipments may now qualify for several additional license exceptions under the EAR.

Commerce Publishes Interim Final Rule Addressing "Foreign Adversaries" in ICTS Supply Chain

On January 19, 2021, the U.S. Department of Commerce (Commerce) published a long-awaited [interim final rule](#) to address the use of goods or services sourced from "foreign adversaries" in the U.S. supply chain for information communications technology and services (ICTS) transactions. When the interim final rule (ICTS Rules) take effect on March 20, 2021, they will enable the U.S. Secretary of Commerce (the Secretary) to block any ICTS transaction involving goods or services designed, developed, manufactured or supplied from "foreign adversaries" or companies organized in a "foreign adversary" country, conducting operations in a "foreign adversary" country or otherwise subject to the direction or control of a "foreign adversary." These rules will have especially broad application, but Commerce has also indicated that it will continue to accept comments on the rules for the next 60 days. Commerce will also publish procedures for a "safe harbor" licensing program within the next 60 days and will then implement that licensing program within the next 120 days. Therefore, concerned parties still have an opportunity to submit feedback on the ICTS Rules and also have some remaining time to evaluate whether their transactions or activities might require licensing from Commerce.