

# TRADE NEWS WEEKLY

June 6 – June 10, 2022

A summary of international business news prepared by the Hawaii Foreign-Trade Zone 9 with the collaboration of the Research and Economic Analysis Division of the Department of Business, Economic Development & Tourism, and based on research and shipment data from *Sandler, Travis & Rosenberg P.A.*, which tracks companies involved in global trade. Other news sources may occasionally be included where indicated.

## Commerce Secretary Given Authority to Exempt Certain Solar Cells from AD/CV Duties

President Biden took executive action June 6 to boost domestic clean energy manufacturing by declaring the following industrial resources, materials, and critical technology as essential to U.S. national security under the Defense Production Act of 1950: (1) solar photovoltaic modules and module components, including ingots, wafers, solar glass, and cells; (2) electrolyzers, fuel cells, and platinum group metals; (3) transformers and electric power grid components; (4) electric heat pumps; and (5) insulation.

Additionally, the president has expanded the authority of the secretary of Commerce to exempt for a 24-month period any imports of solar cells and modules from Cambodia, Malaysia, Thailand, and Vietnam that are not already subject to antidumping or countervailing duties from any such duties that may be imposed under an ongoing anti-circumvention inquiry. A White House statement indicates that this action would “ensure the U.S. has access to a sufficient supply of solar modules to meet electricity generation needs while domestic manufacturing scales up”.

The International Trade Administration initiated earlier this year an inquiry into whether crystalline silicon photovoltaic cells, whether or not assembled into modules, that are completed in Cambodia, Malaysia, Thailand, or Vietnam using parts and components from China are circumventing the AD and CV duty orders on such goods from China. If the ITA reaches an affirmative determination, subject goods could

be hit with AD/CV duties. However, Commerce Secretary Gina Raimondo would be able to provide an exemption from any such duties through June 6, 2024, or until the end of the emergency declared on June 6, 2022, by President Biden, whichever occurs first.

The Department of Commerce signaled in a press release that such an exemption would indeed be granted in the event of an affirmative determination in the anti-circumvention inquiry.

The goods covered by the AD/CV duty orders on China are crystalline silicon photovoltaic cells, and modules, laminates, and panels consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including modules, laminates, panels, and building integrated materials. These items are currently classified in HTSUS subheadings 8501.71.0000, 8501.72.1000, 8501.72.2000, 8501.72.3000, 8501.72.9000, 8501.80.1000, 8501.80.2000, 8501.80.3000, 8501.80.9000, 8507.20.8010, 8507.20.8031, 8507.20.8041, 8507.20.8061, 8507.20.8091, 8541.42.0010, and 8541.43.0010.

**Source: Sandler, Travis & Rosenberg P.A.**

## U.S. Trade Policy May Need “Course Correction,” Tai Says

U.S. Trade Representative Katherine Tai said recently that the way policymakers think and talk about trade “needs to evolve” to better protect workers and supply chains.

In a video appearance at an event in Germany, Tai said that since World War II “we have thought about trade as something that needs to be liberalized maximally” on the premise that



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“the more we trade with each other the more peace and prosperity there will be.” This concept is what underlies “the WTO and the multilateral trading system as it has existed for the past many, many years.”

However, Tai said, there have been a number of developments in the past decade “that cause me to wonder whether this vision for globalization leading us to a better more secure world has run its course and if we don’t need a course correction.” These developments include the United Kingdom’s decision to leave the European Union and the ongoing effects, the “America First” approach of the Trump administration, the COVID-19 pandemic, and Russia’s invasion of Ukraine. “We cannot just go back to the world in 2015 and pretend like these things didn’t happen,” she said. “We feel strongly that we have to take history as it’s happened, and we have to adapt.”

Specifically, Tai said, “this ‘free trade equals good; protectionism equals bad’ dichotomy is one that I think we need to revisit.” At a separate event she noted that “there are a ton of people out there who associate trade with offshoring and outsourcing and the loss of jobs and the loss of a significant amount of America’s manufacturing industrial base.” In response, she said, policymakers should consider “how can we adapt the rules of trade to incentivize firm behavior to take into account more than just efficiency.” She acknowledged that such an approach will likely mean higher costs but suggested that is a price worth paying for “a more resilient, a stronger, more sustainable future” that is “better prepared for the next challenge” and benefits people not just as consumers but also as workers.

**Source: Sandler, Travis & Rosenberg P.A.**

## Comments Sought on New U.S. Trade Initiative with Taiwan

The Office of the U.S. Trade Representative is seeking public input by July 8 on the recently announced U.S.-Taiwan Initiative on 21st-Century Trade, which is intended to develop concrete ways to deepen the bilateral economic and trade relationship, advance mutual trade priorities based on shared values, and promote innovation and inclusive economic growth for workers and businesses.

Comments may be submitted to assist USTR as it develops negotiating objectives and positions for the agreements contemplated by this new initiative. In particular, commenters should focus on issues USTR should address in any negotiations, including the following:

- general negotiating objectives for the contemplated agreements
- customs and trade facilitation issues
- transparency and good regulatory practice issues
- agriculture-related matters
- anti-corruption-related matters
- issues of particular relevance to small and medium-sized enterprises
- digital economy-related matters
- labor-related matters
- environment- and climate-related matters
- matters related to standards, technical regulations, and conformity assessment procedures
- issues related to state-owned enterprises and designated monopolies
- matters related to collaboration to address non-market policies and practices
- other measures or practices that undermine fair market opportunities for U.S. workers, farmers, ranchers, and businesses.

**Source: Sandler, Travis & Rosenberg P.A.**

## Next ACE Truck Manifest Modernization Deployments Set for June/July

CBP indicates that it will complete the deployment of enhancements to the second and third phases of the Automated Commercial Environment’s truck manifest during June-July. The enhancements to the remaining



southern border ports will be deployed June 5 while the enhancements to the remaining northern border ports will be deployed June 26. Earlier this year, CBP completed the scheduled deployments at the ports of Brownsville, Texas (Jan. 31), Buffalo, N.Y. (March 13), Laredo, Texas (April 24), and Detroit, Mich. (May 15).

The second phase of enhancements to the ACE truck manifest – also known as ACE truck manifest modernization – is focused on improving the CBP user interface for the primary and secondary processing of truck manifests. CBP notes that as part of this deployment previously relaxed validations in the legacy truck manifest application are now supported in TMM and may result in errors for some trade users.

Scheduled to be deployed July 11, the third phase of enhancements will provide trade users with new messaging regarding modifications to crew, vehicle, cargo, and seals.

**Source: Sandler, Travis & Rosenberg P.A.**

## Legislative Updates

### CTPAT

The House Homeland Security Committee reported May 24 a bill (H.R. 6826) that would require a pilot program on the participation of third-party logistics providers in the Customs Trade Partnership Against Terrorism. The Senate approved May 26 a bill (S. 2322) that would create a pilot program allowing up to ten non-asset-based third-party logistics providers to become certified in CTPAT.

### Tariffs

The Emergency Infant Formula Act (H.R. 7875, introduced May 24 by Reps. Sherman, D-Calif., and Bacon, R-Neb.) would provide for the expedited and duty-free importation of infant formula that may be lawfully marketed in the European Union, Canada, Japan, or the United Kingdom.

### Trade Agreements

The Senate approved May 25 a resolution urging the president to work to conclude negotiations on comprehensive trade agreements with the European Union and the United Kingdom.

### DHS

The Senate Committee on Homeland Security and Governmental Affairs amended and reported May 25 a bill (S. 4243) that would establish the Department of Homeland Security Trade and Economic Security Council and the position of assistant secretary for trade and economic security within the DHS.

**Source: Sandler, Travis & Rosenberg P.A.**

## Suspension of Section 232 Tariffs for Ukraine and UK Products Effective June 1

The previously announced suspension of the Section 232 tariffs for steel imports from Ukraine and steel and aluminum imports from the United Kingdom entered into force on 12:01 a.m. EDT on June 1, 2022, as detailed below:

### Ukraine

The U.S. announced in mid-May that it would suspend for one year the 25 percent Section 232 tariffs on steel imported from Ukraine. This action has now been implemented through a presidential proclamation and will be in place with respect to imports of steel articles and derivative steel articles from Ukraine entered on or after 12:01 a.m. EDT on June 1, 2022, through 11:59 p.m. EDT on June 1, 2023.

Any imports of steel articles from Ukraine that were admitted into a U.S. foreign trade zone under privileged foreign status as defined in 19 CFR 146.41 prior to 12:01 a.m. EDT on June 1, 2022, will be subject upon entry for consumption made on or after 12:01 a.m. EDT on June 1, 2022, to the 25 percent duty imposed by Proclamation 9705, as amended.

### UK

Beginning on 12:01 a.m. EDT on June 1, 2022, the U.S. is replacing its Section 232 tariffs on steel and aluminum from the UK with tariff-rate quotas allowing up to 500,000 tons of UK steel under 54 product categories as well as 21,600 tons of UK aluminum (900 tons of unwrought aluminum under two product categories, 11,400 tons of semi-finished wrought aluminum other than foil under 12 product categories, and 9,300 tons of foil under two product categories) to enter the U.S. duty-free each year, though those amounts may be adjusted annually. Imports in excess of these amounts will be subject to the existing tariffs, which are 25 percent and 10 percent, respectively.



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Steel products must be melted and poured in the UK to enter under the TRQ, although a small amount may be further processed in the EU. Semi-finished (wrought) aluminum products may not contain primary aluminum from China, Russia, or Belarus to qualify for the TRQ.

To benefit from the TRQ, any UK steel producer owned by a Chinese entity must provide an annual attestation based on an annual strategic audit conducted by an independent third party to the effect that there is no evidence of market-distorting practices by that producer in the UK that would materially contribute to non-market excess capacity of steel. If such attestation is not provided annually, the DOC may temporarily block the applicable UK producer from accessing the TRQ.

Any imports of subject merchandise from the UK that were admitted into a U.S. FTZ under privileged foreign status prior to 12:01 a.m. EDT on June 1, 2022, will be subject upon entry for consumption made on or after 12:01 a.m. EDT on June 1, 2022, to the provisions of the TRQ in effect at the time of the entry for consumption.

**Source: Sandler, Travis & Rosenberg P.A.**

## U.S. Further Tightens Sanctions Against Russia

The White House announced on June 2 additional actions to further tighten the current U.S. sanctions on Russia and Belarus. For more information on the wide range of trade restrictions the U.S. has imposed on Russia and how to ensure your company is in compliance, please contact attorney Kristine Pirnia at (202) 730-4964 or via email.

A White House fact sheet states that the Department of Treasury is targeting prominent Russian government officials and business leaders, the luxury property of elites, and luxury asset management and service companies key to Russian attempts to evade the sanctions, as well as additional Russian oligarchs and elites close to President Putin.

As a result, all property and interests in property of any designated persons that are in the U.S. or in the possession or control of U.S. persons are blocked and must be reported to

the Office of Foreign Assets Control. In addition, any entities that are owned, directly or indirectly, 50 percent or more by one or more blocked persons are also blocked. All transactions by U.S. persons or within (or transiting) the U.S. that involve any property or interests in property of designated or otherwise blocked persons are prohibited, unless authorized by a general or specific license issued by OFAC or exempt. These prohibitions include the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any blocked person and the receipt of any contribution or provision of funds, goods, or services from any such person.

In addition, the Department of Commerce's Bureau of Industry and Security is further restricting the Russian military's ability to obtain technologies and other items it needs to sustain its aggression and project power by adding 71 entities located in Russia and Belarus to the Entity List. Sixty-six of these entities will be subject to the Russia/Belarus direct product rule – which imposes controls on exports of goods made outside the U.S. with certain U.S. technology that, if exported from the U.S., would require a license – because they have been identified as Russian or Belarusian military end users.

BIS states that this rule imposes a license requirement for exports, reexports, or transfers (in-country) to and within Russia/Belarus for covered goods and specifies that applications for such licenses will generally be reviewed under a policy of denial.

For the changes being made in this rule, shipments of items removed from eligibility for a license exception or for export, reexport, or transfer (in-country) without a license (NLR) as a result of this action that were en route aboard a carrier to a port of export, reexport, or transfer on June 2 pursuant to actual orders for export, reexport, or transfer to or within a foreign destination may proceed to that destination under the previous eligibility.

**Source: Sandler, Travis & Rosenberg P.A.**

