

TRADE LAW UPDATE



October 2020

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PRESIDENTIAL ACTIONS

[U.S. and Brazil Update Agreement to Increase Transparency and Combat Corruption](#)

The United States and Brazil [signed a new protocol](#) on anti-corruption and trade facilitation as an update to the existing 2011 Agreement on Trade and Economic Cooperation (ATEC). According to the Office of the United States Trade Representative (USTR), the protocol adds three new annexes with provisions on customs procedures, transparent regulatory practices, and anti-corruption policies.

[WTO Rules That EU Can Impose \\$4 Billion in Tariffs on U.S. Imports](#)

The World Trade Organization (WTO) issued a [decision](#) that the European Union (EU) is authorized to impose tariffs on approximately \$4 billion worth of annual imports from the United States, an amount the WTO found to be “commensurate with the degree and nature of the adverse effects determined to exist.” The WTO’s decision is part of a long-time dispute between the United States and the EU over their respective subsidies to Boeing and Airbus.

[ITC Finds That Glass Containers from China Do Not Injure U.S. Industry](#)

The U.S. International Trade Commission (ITC) found on October 20, 2020 that glass containers from China [do not injure](#) the U.S. industry, and thus made a negative determination in the final phase of the antidumping duty (AD) investigation. The ITC’s negative AD determination follows its negative countervailing duty (CVD) [determination](#) that was published in the Federal Register on July 2, 2020. This is a complete victory for the importers of the glass container products from China. As a result of the ITC determinations, there will be no further AD or CVD deposits required for imports of glass containers from China, and the importers will receive refunds of the deposits that they previously have paid.

U.S. DEPARTMENT OF COMMERCE DECISIONS

Investigations

- Forged Steel Fittings from [India](#) and [Korea](#): On October 19, 2020, Commerce issued its final affirmative determinations in the antidumping duty investigations.
- Forged Steel Fittings from India: On October 20, 2020, Commerce released its final affirmative [determination](#) in the countervailing duty investigation.

Administrative Reviews

- Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: On October 2, 2020, Commerce issued its final [results](#) in the antidumping duty administrative review (2017-2018).
- Carbazole Violet Pigment 23 from India: On October 5, 2020, Commerce issued its final [results](#) in the countervailing duty administrative review (2017).
- Certain Hot-Rolled Steel Flat Products From the Republic of Korea: On October 6, 2020, Commerce issued its final [results](#) in the antidumping duty administrative review (2017-2018).
- Certain Hot-Rolled Steel Flat Products from the Republic of Turkey: On October 6, 2020, Commerce issued its final [results](#) in the antidumping duty administrative review (2017-2018).
- Certain Hot-Rolled Steel Flat Products from Australia: On October 7, 2020, Commerce issued its final [results](#) in the antidumping duty administrative review (2017-2018).
- Steel Concrete Reinforcing Bar from Taiwan: On October 8, 2020, Commerce issued its final [results](#) in the antidumping duty administrative review (2017-2018).
- Certain Hot-Rolled Steel Flat Products from the Republic of Korea: On October 9, 2020, Commerce issued its final [results](#) in the countervailing duty administrative review (2017).
- Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: On October 19, 2020, Commerce issued its final [results](#) in the countervailing duty administrative review (2017-2018).
- Emulsion Styrene-Butadiene Rubber From the Republic of Korea: On October 23, 2020, Commerce issued its final [results](#) in the antidumping duty administrative review (2018-2019).
- Laminated Woven Sacks from the People's Republic of China: On October 23, 2020, Commerce issued its final [results](#) in the countervailing duty administrative review (2018).
- Agreement Suspending the Antidumping and Countervailing Duty Investigations on Sugar from Mexico: On October 29, 2020, Commerce issued its final results in the [antidumping](#) (2017-2018) and [countervailing](#) duty administrative reviews (2018).

Circumvention Inquiries

- Hydrofluorocarbon Blends (Indian Blends) from the People's Republic of China: On October 1, 2020, Commerce issued its affirmative final [determination](#) of circumvention of the antidumping duty order by Indian blends containing Chinese components.

Changed Circumstances Reviews

- Steel Concrete Reinforcing Bars from Belarus and Carbon and Alloy Steel Wire Rod from Belarus: On October 23, 2020, Commerce issued the final [results](#) of the antidumping duty changed circumstances reviews.

Sunset Reviews

- Certain Steel Nails From the Socialist Republic of Vietnam: On October 6, 2020, Commerce issued the final [results](#) of the countervailing duty sunset review.
- Certain Steel Nails From the Republic of Korea, Malaysia, Taiwan, and the Socialist Republic of Vietnam: On October 6, 2020, Commerce issued the final [results](#) of the antidumping duty sunset review.

U.S. INTERNATIONAL TRADE COMMISSION

Section 701/731 Proceedings

Investigations

- Glass Containers from China: On October 20, 2020, the ITC made a negative final [decision](#) in the antidumping duty investigation, finding no material injury.

Sunset Review Decisions

- Kitchen Appliance Shelving and Racks from China: On October 6, 2020, the ITC published its final affirmative [decision](#) to continue the antidumping and countervailing orders as revocation would lead to the recurrence or continuation of injury.
- Steel Concrete Reinforcing Bar from Mexico: On October 16, 2020, the ITC published its final affirmative [decision](#) to continue the antidumping and countervailing orders as revocation would lead to the recurrence or continuation of injury.
- Monosodium Glutamate from China and Indonesia: On October 30, 2020, the ITC published its final affirmative [decision](#) to continue the antidumping orders as revocation would lead to the recurrence or continuation of injury.



Section 337 Proceedings

- There have been no Section 337 decisions from the ITC during the month of October.

U.S. CUSTOMS & BORDER PROTECTION

- In a September 24 ruling published in October, CBP [ruled](#) that the country of origin for electric bicycles is based on the origin of the frame.
- In a September 30, 2020 [bulletin](#), CBP proposed revoking rulings and similar treatment for digital camera inspection systems.
- On October 2, 2020, CBP [published](#) updated informed compliance on the Jones Act.
- On October 2, 2020, CBP [ruled](#) that plastic head-shaped lollipop holders meet the required standards for classification as toys under HTS heading 9502.
- On October 19, 2020, CBP issued a forced labor [finding](#) on imports of stevia from China.
- On October 26, 2020, CBP issued a [CSMS message](#) announcing that the exemption for solar safeguard duties ends on October 25, 2020.

COURT OF INTERNATIONAL TRADE

Summary of Decisions

[20-140](#)

On October 8, 2020, the CIT remanded Commerce's final determination for further explanation in the antidumping duty investigation of stainless steel flanges from India. The court concluded that Commerce's decision to "collapse" multiple entities into a single entity was not adequately explained based on record evidence.

[20-141](#)

On October 8, 2020, the CIT remanded Commerce's remand results in the first countervailing duty administrative review of chlorinated isocyanurates from China. The court found that Commerce's explanation for why it was necessary to permit verification of non-use of the Export Buyer's Credit Program lacked substantial evidence and was otherwise not in accordance with law. The CIT instructed the parties to confer and jointly devise a procedure for Commerce to verify the declarations of non-use.

[20-145](#)

On October 16, 2020, the CIT sustained Commerce's remand redetermination in the second antidumping duty administrative review of oil country tubular goods from Korea. Consistent with the court's prior opinions and orders, Commerce reversed its particular market situation determination and recalculated the margins of NEXTEEL and SeAH.

[20-147](#)

On October 19, 2020, the CIT sustained in part and remanded in part Commerce's final results in the 2016-

2017 antidumping duty administrative review of circular welded non-alloy steel pipe from Korea. The court concluded that Commerce's cost-based particular market situation determination and subsequent adjustments are not in accordance with law, and further remanded for reconsideration Commerce's treatment of Hyundai Steel and Hyundai Steel (Pipe Division) as a single entity. The court sustained Commerce's differential pricing methodology as in accordance with law.

[20-148](#)

On October 19, 2020, the CIT remanded Commerce's remand redetermination in the 2017-2018 antidumping duty administrative review of circular welded carbon steel pipes and tubes from Thailand. The court concluded that Commerce's cost-based particular market situation adjustment was not in accordance with law, but did not opine on whether Commerce should have made a duty drawback adjustment.

[20-149](#)

On October 19, 2020, the CIT sustained Commerce's remand results in the fourth countervailing duty administrative review of crystalline silicon photovoltaic cells, whether or not assembled into modules, from China. The court sustained Commerce's specificity determinations related to aluminum extrusions and electricity, its use of IHS data, and its decision that it could not use Canadian Solar's import data as a tier-one metric.

COURT OF APPEALS FOR THE FEDERAL CIRCUIT

[19-1213](#)

On October 15, 2020, the CAFC vacated and remanded a CIT decision to affirm Commerce's final determination in the countervailing duty investigation on certain cold-rolled steel flat products from Korea. Because Commerce improperly based its benefit-conferred analysis on a "preferential price" standard, the CAFC concluded that Commerce's final determination was contrary to law. Additionally, Commerce's failure to investigate and include KPX's generation costs in its analysis makes its final determination unsupported by substantial evidence.

EXPORT CONTROLS AND SANCTIONS

Secretary of State Submits Hong Kong Autonomy Act Report to Congress; OFAC Publishes FAQs

On October 14, 2020, the U.S. Secretary of State, pursuant to section 5(a) of the Hong Kong Autonomy Act (“HKAA”), [submitted a report](#) to Congress identifying foreign persons who are “materially contributing to, have materially contributed to, or attempt to materially contribute to the failure of the People’s Republic of China (“PRC”) to meet its obligations under the Sino-British Joint Declaration or Hong Kong’s Basic Law.” The Secretary of State identified ten PRC and Hong Kong officials, which the U.S. Department of the Treasury’s (“the Treasury”) Office of Foreign Assets Control (“OFAC”) [added](#) to the Specially Designated Nationals (“SDN”) list.