



# Trade Law Update

March 2024

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## HIGHLIGHTS FROM FEBRUARY

### [Petition Summary: Section 201 Global Safeguard Investigation on Fine Denier Polyester Staple Fiber](#)

On February 28, 2024, Fiber Industries LLC d/b/a Darling Fibers, Nan Ya Plastics Corporation, America, and Sun Fiber LLC (“Petitioners”) filed a Petition for Global Safeguard Relief Pursuant to Sections 201-202 of the Trade Act of 1974 on imports of Fine Denier Polyester Staple Fiber.

### [The Court of International Trade Rules That Chinese Companies Are Unlikely To Succeed In Case Challenging Their Placement On The UFLPA Entity List](#)

In a February 27, 2024 opinion issued by Judge Gary S. Katzmann, the Court of International Trade held that Ninestar Corporation and its corporate affiliates (“Ninestar”), Chinese manufacturers and sellers of laser printers and printer-related products, were unlikely to succeed on the merits of a case challenging their placement on the Uyghur Forced Labor Prevention Act (UFLPA) entity list. The Court denied Ninestar’s preliminary injunction motion seeking to stay the listing decision and the embargo against Ninestar entered into force under the UFLPA.

### [Petition Summary: 2, 4-Dichlorophenoxyacetic acid from China and India](#)

On March 14, 2024, Corteva Agriscience LLC (“Corteva” or “Petitioner”), filed a petition for the imposition of antidumping and countervailing duties on imports of 2, 4-Dichlorophenoxyacetic acid from the People’s Republic of China (“China”) and India.

### [Petition Summary: Dioctyl Terephthalate \(“DOTP”\) From Taiwan, Turkey, Malaysia, and Poland](#)

On March 26, 2024, the Eastman Chemical Company (“Petitioner”), filed a petition for the imposition of antidumping on DOTP imports from Taiwan, Turkey, Malaysia, and Poland.

### [Petition Summary: Ferrosilicon from Federative Republic of Brazil, the Republic of Kazakhstan, Malaysia, and the Russian Federation](#)

On March 28, 2024, CC Metals and Alloys, LLC (“CCMA”) and Ferroglobe USA, Inc. (“Ferroglobe”) (“Petitioners”), filed a petition for the imposition of antidumping and countervailing duties on ferrosilicon from the Federative Republic of Brazil (“Brazil”), the Republic of Kazakhstan (“Kazakhstan”), Malaysia, and the Russian Federation (“Russia”).

### Investigations

- Mattresses From Bosnia and Herzegovina: On March 1, 2024, Commerce issued its Preliminary Affirmative [Determination](#) of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances.
- Mattresses From Bulgaria: On March 1, 2024, Commerce issued its Preliminary Affirmative [Determination](#) of Sales at Less Than Fair Value.
- Mattresses From Burma: On March 1, 2024, Commerce issued its Preliminary Affirmative [Determination](#) of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances.
- Mattresses From India: On March 1, 2024, Commerce issued its Preliminary Affirmative [Determination](#) of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures.
- Mattresses From Italy: On March 1, 2024, Commerce issued its Preliminary Affirmative [Determination](#) of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances.
- Mattresses From Kosovo: On March 1, 2024, Commerce issued its Preliminary Affirmative [Determination](#) of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures.
- Mattresses From Mexico: On March 1, 2024, Commerce issued its Preliminary Affirmative [Determination](#) of Sales at Less Than Fair Value.
- Mattresses From Poland: On March 1, 2024, Commerce issued its Preliminary Affirmative [Determination](#) of Sales at Less Than Fair Value.
- Mattresses From Slovenia: On March 1, 2024, Commerce issued its Preliminary Affirmative [Determination](#) of Sales at Less Than Fair Value.
- Mattresses From Spain: On March 1, 2024, Commerce issued its Preliminary Affirmative [Determination](#) of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures.
- Mattresses From Taiwan: On March 1, 2024, Commerce issued its Preliminary Affirmative [Determination](#) of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances.
- Mattresses From the Philippines: On March 1, 2024, Commerce issued its Preliminary Affirmative [Determination](#) of Sales at Less Than Fair Value, and Preliminary Affirmative Determination of Critical Circumstances.
- Antidumping Duty Order on Hydrofluorocarbon Blends From the People’s Republic of China: On March 7, 2024, Commerce issued its Preliminary Affirmative [Determination](#) of Circumvention With Respect to R- 410B From the Republic of Turkey.
- Aluminum Extrusions From Indonesia: On March 11, 2024, Commerce issued its Preliminary Affirmative Countervailing Duty [Determination](#) and Alignment of Final Determination With the Final Antidumping Duty Determination.
- Aluminum Extrusions From Mexico: On March 11, 2024, Commerce issued its Preliminary Affirmative Countervailing Duty [Determination](#) and Alignment of Final Determination With Final Antidumping Duty Determination.
- Aluminum Extrusions From the People’s Republic of China: On March 11, 2024, Commerce issued its Preliminary Affirmative Countervailing Duty [Determination](#), and Alignment of Final Determination With Final Antidumping Duty Determination.
- Aluminum Extrusions From the Republic of Turkey: On March 11, 2024, Commerce issued its Preliminary Affirmative Countervailing Duty [Determination](#) and Alignment of Final Determination With the Final Antidumping Duty Determination.
- Melamine From Germany, India, Qatar, and Trinidad and Tobago: On March 11, 2024, Commerce issued its [Initiation](#) of Countervailing Duty Investigations.
- Melamine From Germany, India, Japan, the Netherlands, Qatar, and Trinidad and Tobago: [Initiation](#) of Less-Than-Fair-Value Investigations.
- Non-Refillable Steel Cylinders From the People’s Republic of China: On March 12, 2024, Commerce issued its Final Affirmative [Determination](#) of Circumvention of the Antidumping and Countervailing Duty Orders.

- Alloy and Certain Carbon Steel Threaded Rod From the People’s Republic of China; Carbon and Alloy Steel Threaded Rod From the People’s Republic of China: On March 14, 2024, Commerce issued its Affirmative Preliminary [Determination](#) of Circumvention of the Antidumping and Countervailing Duty Orders.
- Aluminum Extrusions From Mexico: On March 15, 2024, Commerce issued its Preliminary Affirmative Countervailing Duty [Determination](#) and Alignment of Final Determination With Final Antidumping Duty Determination.
- Certain Paper Shopping Bags From the Republic of Turkey: On March 18, 2024, Commerce issued its Final Affirmative [Determination](#) of Sales at Less Than Fair Value.
- Mattresses From Taiwan: On March 21, 2024, Commerce issued its Amended Preliminary [Determination](#) of Critical Circumstances for All Other Producers and/or Exporters.
- Carbazole Violet Pigment 23 From India: On March 27, 2024, Commerce issued its Final [Results](#) of Antidumping Duty New Shipper Review; 2021–2022.

## Administrative Reviews

- Certain Cold-Rolled Steel Flat Products From the Republic of Korea: On March 1, 2024, Commerce issued its Final [Results](#) and Partial Rescission of Countervailing Duty Administrative Review; 2021.
- Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From Ukraine: On March 6, 2024, Commerce issued its Final [Results](#) of Antidumping Duty Administrative Review; 2021–2022.
- Stainless Steel Flanges From India: On March 7, 2024, Commerce issued its Final [Results](#) of Countervailing Duty Administrative Review; 2021.
- Utility Scale Wind Towers From the Republic of Korea: On March 7, 2024, Commerce issued its Final [Results](#) of Antidumping Duty Administrative Review; 2021–2022.
- Hydrofluorocarbon Blends From the People’s Republic of China: On March 8, 2024, Commerce issued its Final [Results](#) of Antidumping Duty Administrative Review; 2021–2022.
- Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People’s Republic of China: On March 11, 2024, Commerce issued its Notice of Court Decision Not in Harmony With the Final [Results](#) of Countervailing Duty Administrative Review; Notice of Amended Final Results.
- Ripe Olives From Spain: On March 11, 2024, Commerce issued its Final [Results](#) of Antidumping Duty Administrative Review; 2021–2022.
- Ripe Olives From Spain: On March 11, 2024, Commerce issued its Final [Results](#) of Countervailing Duty Administrative Review; 2021.
- Stainless Steel Flanges From India: On March 11, 2024, Commerce issued its Final [Results](#) of Antidumping Duty Administrative Review; 2021–2022.
- Utility Scale Wind Towers From Indonesia: On March 11, 2024, Commerce issued its Final [Results](#) of Antidumping Duty Administrative Review; 2021–2022.
- Utility Scale Wind Towers From Malaysia: On March 11, 2024, Commerce issued its Final [Results](#) of Countervailing Duty Administrative Review; 2021.
- Certain Corrosion-Resistant Steel Products From the Republic of Korea: On March 12, 2024, Commerce issued its Notice of Court Decision Not in Harmony With the Final [Results](#) of Countervailing Duty Administrative Review; Notice of Amended Final Results.
- Certain Steel Nails From the Sultanate of Oman: On March 12, 2024, Commerce issued its Notice of Court Decision Not in Harmony With the Final [Results](#) of the Antidumping Duty Administrative Review; Notice of Amended Final Results.
- Light-Walled Rectangular Pipe and Tube From Mexico: On March 12, 2024, Commerce issued its Final [Results](#) of Antidumping Duty Administrative Review; 2021–2022.
- Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: On March 14, 2024, Commerce issued its Final [Results](#) and Partial Rescission of Administrative Review; 2021–2022.
- Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From Ukraine: On March 20, 2024, Commerce issued its Final [Results](#) of Antidumping Duty Administrative Review, 2021–2022; Correction.
- Certain Steel Nails From Malaysia: On March 26, 2024, Commerce issued its Final [Results](#) of Antidumping Duty Administrative Review; 2021–2022; Correction.

- Certain Cold-Rolled Steel Flat Products From the Republic of Korea: On March 28, 2024, Commerce issued its Amended Final [Results](#) of Antidumping Duty Administrative Review; 2021–2022.
- Steel Propane Cylinders From Thailand: On March 29, 2024, Commerce issued its Amended Final [Results](#) of Antidumping Duty Administrative Review; 2021–2022.

### Changed Circumstances Reviews

- Certain Frozen Warmwater Shrimp From India: On March 11, 2024, Commerce issued its Notice of Final [Results](#) of Antidumping Duty Changed Circumstances Review.
- Certain Softwood Lumber From Canada: On March 12, 2024, Commerce issued its Final [Results](#) of Countervailing Duty Changed Circumstances Review.
- Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People’s Republic of China: On March 20, 2024, Commerce issued its Final [Results](#) of Changed Circumstances Reviews, and Revocation of the Antidumping and Countervailing Duty Orders, in Part.

### Sunset Reviews

- Clad Steel Plate From Japan: On March 6, 2024, Commerce issued its Final [Results](#) of the Expedited Fifth Sunset Review of Antidumping Duty Order.
- Silicomanganese From the People’s Republic of China and Ukraine: On March 7, 2024, Commerce issued its Final [Results](#) of the Expedited Fifth Sunset Reviews of the Antidumping Duty Orders.
- Steel Concrete Reinforcing Bars From Belarus, the People’s Republic of China, Indonesia, Latvia, Moldova, Poland, and Ukraine: On March 7, 2024, Commerce issued its Final [Results](#) of the Expedited Fourth Sunset Review of the Antidumping Duty Orders.
- Rubber Bands From the People’s Republic of China and Thailand: On March 21, 2024, Commerce issued its Final [Results](#) of Sunset Reviews and Revocation of Antidumping Duty and Countervailing Duty Orders.

### Scope Ruling

- Non-Malleable Cast Iron Pipe Fittings From the People’s Republic of China: On March 27, 2024, Commerce issued its Notice of Court [Decision](#) Not in Harmony With the Final Results Scope Ruling.

### Circumvention

- None

## U.S. INTERNATIONAL TRADE COMMISSION

### *Section 701/731 Proceedings*

### Investigations

- Certain Pasta From Italy and Turkey; On March 1, 2024, the ITC issued its [Institution](#) of Five-Year Reviews.
- Fine Denier Polyester Staple Fiber; On March 13, 2024, the ITC issued its [Institution](#) of Investigation, Scheduling of Public Hearings, and Determination That the Investigation Is Extraordinarily Complicated.
- Paper Plates From China, Thailand, and Vietnam; On March 15, 2024, the ITC issued its affirmative [determination](#) of less-than-fair-value investigation.
- 2,4-Dichlorophenoxyacetic Acid (“2,4- D”) From China and India; On March 20, 2024, the ITC issued its [Institution](#) of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations.

## U.S. CUSTOMS & BORDER PROTECTION

### [EAPA Case Number 7838: Various Importers](#)

On March 11, 2024, CBP issued a Notice of Investigation of M. US A. Inc. d/b/a Kings Marble and Granite (“Kings”), Musa Stone Import, Inc. (“Musa Stone”), and KMGK, LLC dba KMG Marble and Granite (KMGK) (collectively, the “Importers”) under Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015, commonly referred to as the Enforce and Protect Act (EAPA). CBP is investigating whether the Importers evaded antidumping duty (“AD”) and countervailing duty (“CVD”) orders A-570-084 and C-570-085 on quartz surface products (QSP) from the People’s Republic of China (“China”) when importing QSP into the United States. CBP has imposed interim measures because there is reasonable suspicion that the Importers entered merchandise covered by the AD/CVD orders into the customs territory of the United States through evasion.

### [EAPA Case Number 7835: Lighthouse Rock Consulting LLC](#)

On March 13, 2024, CBP issued a Notice of Initiation of Investigation under Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015, commonly referred to as the Enforce and Protect Act (“EAPA”), against U.S. importer Lighthouse Rock Consulting LLC (“Lighthouse Rock”). CBP is investigating whether Lighthouse Rock evaded antidumping duty (“AD”) order A-570-985 on xanthan gum from the People’s Republic of China (“China”). CBP finds that reasonable suspicion exists that Lighthouse Rock entered covered merchandise into the customs territory of the United States through evasion, and CBP is imposing interim measures.

### [EAPA Case Number 7821: VY Industries Inc.](#)

On March 26 2024, CBP issued a Notice of Initiation of Investigation under Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015, commonly referred to as the Enforce and Protect Act (“EAPA”), against VY Industries Inc. (“VY Industries”). CBP is investigating whether VY Industries evaded antidumping duty (“AD”) order A-570-909 on wire coated coil nails (“nails”) from the People’s Republic of China (“China”). CBP has found that reasonable suspicion exists that VY Industries entered covered merchandise into the customs territory of the United States through evasion, and CBP has imposed interim measures.

## COURT OF INTERNATIONAL TRADE

### *Summary of Decisions*

#### [Slip Op. 24-22, NEXCO S.A. v. United States et. al.](#)

The Court upheld Commerce’s use of Nexco’s acquisition costs as a stand-in for Cost of Production (COP) and its implementation of monthly-based pricing comparisons. Nexco, an exporter of raw honey from Argentina, argued that Commerce’s decisions were unreasonable and not supported by substantial evidence. The Court disagreed, ruling that using acquisition prices for raw honey as a proxy for beekeepers’ COP was reasonable because acquisition costs captured all the actual manufacturing costs of the honey that Nexco exports. Moreover, the Court ruled that the use of monthly, rather than quarterly, averages for price comparisons was justified and in line with 19 C.F.R. § 351.414(d), given the significant variances between normal values and U.S. prices throughout the period of investigation.

#### [Slip Op. 24-26 Ad Hoc Coal. Of Am. SAP Producers v. United States](#)

The Court remanded the International Trade Administration’s (ITA) decision to adopt LG Chem’s suggested factors in determining the model match criteria, which are used to assign control numbers (CONNUMs) and calculate dumping margins, in the investigation into whether super-absorbent polymer products are likely to be imported at less than fair value. Initially, the ITA switched its model match criteria from those endorsed by the Ad Hoc Coalition of American SAP Producers (Coalition) to those recommended by LG Chem upon LG Chem’s request for reassessment and reconsideration. The Coalition contested this decision, as it resulted in a decrease of the dumping margin from 28.74% to 17.64%. While the Court recognized that the ITA was not bound to its preliminary model match criteria, it found that the agency’s revision of criteria was not supported by substantial evidence, noting an overreliance on limited anecdotal data, as well as the ITA’s use of unverified sales and cost data. Finally, the Court concluded that the ITA did not adequately address the Coalition’s concerns about the potential for manipulation of the dumping margin. Accordingly, the matter was remanded to ITA for further review.

### [Slip Op. 24-27 Diamond Tools Tech. LLC v. United States](#)

The Court rejected Diamond Tools' request for attorney fees arising from an Enforce and Protect Act (EAPA) investigation. Diamond Tools argued that it was entitled to legal fees because CBP exhibited "unreasonable adherence to that unlawful position in this Court" during its investigation. However, the Court found that the case presented two issues of first impression and, therefore, CBP's position was not unreasonable. The first novel issue was whether the statute was ambiguous as to "whether Customs, having referred a 'covered merchandise' matter to Commerce, is consequently bound by the timeline created by Commerce's initiation of a circumvention inquiry[.]" The second question of first impression was whether plaintiff had made a "material and false statement or act, or material omission" within the meaning of EAPA, with CBP interpreting the term "false" to mean "incorrect." In the absence of prior guidance on either issue, the Court denied plaintiff's application for attorney fees.

### [Slip Op. 24-28 Star Pipe Prods. v. United States](#)

The Court upheld Commerce's fourth remand redetermination in which it found that Star Pipe's ductile iron flanges were not subject to the existing antidumping duty order on certain cast iron pipe fittings from China. ASC Engineered Solutions, LLC ("ASC"), a defendant-intervenor in the case, challenged Commerce's determination, claiming that it was not supported by substantial evidence and not in accordance with law. However, the Court dismissed ASC's objections, pointing to evidence on the record confirming that Star Pipe's flanges fell outside the scope of the order. Particularly, the Court referenced evidence from previous legal proceedings, the related ITC Report, and the petition itself. This evidence clarified that threaded ductile iron flanges designed for the water works industry and meeting the American Water Works Association C115 specifications were not included within the scope of the order. The Court also disregarded Star Pipe's request to prevent Commerce from issuing the fourth remand redetermination "under protest," along with Commerce's comment that the "record might support a contrary conclusion." The Court concluded that the standard for review does not require Commerce to take such action.

### [Slip Op. 24-29 Fusong Jinlong Wooden Grp. Co. v. United States](#)

The Court remanded Commerce's final results in its sixth administrative review of the antidumping duty order on multilayered wood flooring from China. At issue was a challenge to Commerce's chosen method for determining the separate rate for non-selected respondents, which was taking a simple average of the two individually examined mandatory respondents' rates (a 0% rate and an 85.13% rate based entirely on AFA). The Court found that in an administrative review, when the margins calculated for the mandatory respondents are zero, de minimis, or based entirely on AFA, Commerce is expected to weight average, by volume, these rates, to determine the separate rate. When Commerce departs from the expected method, it must demonstrate that such method is not "feasible or [would result] in an average that would not be reasonably reflective of potential dumping margins for [the separate rate respondents]." Here, the Court found that the record contained quantity and value data that Commerce used for mandatory respondent selection purposes, and that appeared sufficient for the expected weight average method of calculation. As a result, the Court remanded for further explanation or reconsideration Commerce's use of a simple-average method for determining the separate rate.

### [Slip Op. 24-30 MCC Holdings v. United States](#)

The Court upheld Commerce's redetermination, made under protest, that plaintiff's flanges are outside the scope of the antidumping duty order on certain pipe fittings from China. Contrary to the position of defendant-intervenor SC Engineered Solutions, LLC ("ASC"), the Court found that Commerce appropriately applied 19 C.F.R. § 351.225(k)(1), as dictated by the plain language of the regulation, to determine whether the flanges were subject to the order. Additionally, the Court rejected ASC's claim that the redetermination was not supported by substantial evidence, pointing to the ITC report, the original petition, as well as industry standard which does not consider flanges to be "fittings" as all supporting Commerce's conclusion.

### [Slip Op. 24-31 Tenaris Bay City, Inc. v. United States](#)

The Court sustained in part and remanded in part Commerce's final determinations in its antidumping investigation concerning oil country tubular goods ("OCTG") from Argentina. Plaintiffs challenged Commerce's reliance on certain data, including "anomalous" 2020 market data and shipment data instead of production data. Plaintiffs also contested Commerce's assumption that OCTG tallied for finishing operations were not double counted in industry support calculations. The Court held that Commerce's decision to utilize alternative data, including 2018-2019 shipment data as well as incomplete production data from 2020, was justified under 19 C.F.R. § 351.203(e)(1). The Court further noted that plaintiffs did not offer their own production data or challenge the authoritative basis from which the selected shipment data was derived. The Court found, however, that Commerce did not sufficiently address the possibility of potential double

counting in the industry support calculations and remanded for Commerce to offer additional explanations or to reconsider its decision.

#### [Slip Op. 24-32 Daikin Am., Inc. v. United States](#)

The Court remanded Commerce's calculation of the dumping rate of Gujarat Fluorochemicals Limited ("Gujarat"), the sole Indian mandatory respondent in the antidumping investigation of granular polytetrafluoroethylene resin from India and Russia. Dainkin America Inc. ("Dainkin"), a domestic producer, argued that Commerce was obligated to apply facts otherwise available to the calculation of shipping expenses, because Gujarat failed to provide transaction-specific information. Dainkin also challenged Commerce's decision to allow Gujarat a constructed export price offset, stating that Gujarat did not adequately demonstrate significant differences in selling activities between the home and U.S. markets. The Court concurred with Dainkin on both points, instructing Commerce to re-evaluate the feasibility of Gujarat supplying its shipping costs on a transaction-specific basis or, if that is not possible, to consider whether the company's expenses were calculated on as specific a basis as possible, and whether its reporting of those expenses caused inaccuracies or distortions. The Court also found that Commerce did not have substantial evidence to authorize the constructed export price offset. It noted that Gujarat received merely a warning for failing to carry its burden under 19 C.F.R. § 351.401(b)(1) and was given another opportunity to prove eligibility for the offset, which it declined to use. The Court, therefore, remanded the case for reconsideration.

#### [Slip Op. 24-33 United States v. Aegis Sec. Ins. Co.](#)

The Court granted Aegis Security Insurance Company's ("Aegis") motion for summary judgment in a case involving a bond underwritten by Aegis for an importer of garlic from China. Aegis issued the bond in 2002, when Congress allowed importers applying for Commerce's new shipper program to post a bond for entries subject to antidumping or countervailing duties, instead of requiring cash deposits. The bond was originally secured by a reinsurance contract with a company that dissolved in 2009. As part of Commerce's review of the relevant antidumping order, entries subject to the bond were suspended, but they were deemed liquidated after Commerce assigned a rate and lifted the suspension, and CBP then failed to liquidate the entries within the required time. CBP claimed that for the next eight years, it was unaware of the entries' deemed liquidation status, but after it learned of their status, it sent a bill for additional antidumping duties owed. After the importer failed to pay, Aegis also refused to pay, claiming that the applicable statute of limitations had run. The Court held that the statute of limitations had not passed, because it ran from the date of billing, not the date of liquidation. However, the Government's contract with Aegis contained a demand requirement that in turn, contained an implied reasonable time requirement. CBP's eight-year delay was not reasonable, the Court held, and this delay breached the Government's contract with Aegis and precluded recovery under the bond. Finally, the Court held that Aegis' impairment of suretyship claimed failed, because its reinsurer could have paid CBP's bills had they been issued within a reasonable time.

#### [Slip Op. 24-34 Cleveland-Cliffs Inc. v. United States](#)

The court upheld the ITC's determination not to cumulatively assess imports from Brazil in its sunset review of AD/CVD orders on cold-rolled steel flat products ("CRS"), in which it determined that revoking the orders would not likely lead to the continuation of material injury to US industry. The Court found that the ITC did not engage in "circular" reasoning by relying on likely absolute volume (set by quotas under Section 232 of the Trade Expansion Act of 1962) as the sole factor in both its cumulation analysis and its ultimate injury determination, because the ITC analyzed the data in different, non-duplicative ways. The Court also found that the ITC's treatment of Section 232 measures was consistent with prior sunset reviews, and that plaintiff had not identified any inconsistent sunset reviews with analogous circumstances. The Court also determined that the ITC adequately explained the difference between production and export levels of Brazil and South Korea, as South Korea is also subject to a Section 232 maximum quota but did not have its AD/CVD orders revoked. Finally, the Court concluded that the ITC's reference to section 232 measures in its conditions-of-competition analysis was adequately explained and supported by substantial evidence, and that the ITC sufficiently considered the likelihood of the President lifting the quota on Brazilian imports of CRS.

#### [Slip Op. 24-35 Deer Park Glycine, LLC v. United States](#)

The Court denied plaintiff's motion to consolidate an action challenging Commerce's final determination that calcium glycinate is outside the scope of the antidumping and countervailing duty orders on glycine from India, Japan, Thailand, and China, with an action challenging the Commerce's rejection to initiate a second scope ruling on the same product. The Court found that there were no common issues of law, as one action challenged Commerce's scope ruling, whereas the other challenged Commerce's decision not to initiate an inquiry in the first place.

[Slip Op. 24-36 Trina Solar \(Changzhou\) Sci. & Tech. Co. v. United States](#)

The Court upheld Commerce’s remand results in a case challenging the agency’s final results in its 2021 countervailing duty administrative review of crystalline silicon photovoltaic products from China. Commerce had requested remand to either reconsider or further explain its ocean freight calculation in its administrative review. On remand, Commerce changed the way it calculated ocean freight, and no party objected to the new calculation.

**COURT OF APPEALS FOR THE FEDERAL CIRCUIT**

*Summary of Decisions*

[Appeal No. 23-1210, RKW Klerks Inc. v. United States](#)

The Federal Circuit upheld CBP’s classification of RWK’s net wrap products, which are synthetic fabrics used to wrap round bales of harvested crops released from baling machines. CBP classified the products under subheading 6005.39.00, HTSUS as “warp knit fabric,” whereas RKW argued that they should be classified in subheading 8433.90.50 as “parts” of harvesting machinery or alternatively, under subheading 8436.99.00 as “parts” of other agricultural machinery. The Federal Circuit held that the products are not “parts” because they are used as inputs to baling machines but do not remain affixed to the machines, and because the products serve their key functions of ensuring that bales maintain their compressed structure and are easier to transport outside of the baling machine.