HUSCH BLACKWELL

# Trade Law Update

## HIGHLIGHTS FROM JUNE 2026

### IN THIS ISSUE:



### DOJ to Appeal CIT Order Requiring IEEPA Duty Refunds for Finally Liquidated Entries

On May 29, 2026, the U.S. Department of Justice ("DOJ") indicated that it will appeal the U.S. Court of International Trade's ("CIT") universal injunction ordering U.S. Customs and Border Protection ("CBP") to reliquidate final entries (entries more than 90 days past liquidation) and refund duties paid under the International Economic Emergency Powers Act ("IEEPA") by importers who have not themselves filed complaints with the CIT.

### USTR Initiates Section 301 Investigation on Vietnam's Intellectual Property Practices

On May 29, 2026, the Office of the U.S. Trade Representative announced it initiated an investigation of Vietnam under Section 301 of the Trade Act of 1974 ("Section 301") regarding the country's intellectual property protection and enforcement.

### President Trump Reduces Section 232 Tariffs on Certain Agricultural, Mobile Industrial, and HVAC Equipment

On June 1, 2026, President Trump issued a proclamation reducing tariff rates on certain agricultural equipment, mobile industrial equipment and machinery, and heating, ventilation and air conditioning ("HVAC") equipment under Section 232 of the Trade Expansion Act of 1962 ("Section 232"). In the same proclamation, President Trump also added aluminum lithographic plates and steel racks to the list of aluminum and steel derivative products subject to Section 232 tariffs.

### USTR Proposes 301 Tariffs on 60 Countries Following Forced Labor Findings; Requests Comments Before July 7th Hearing

On June 2, 2026, the United States Trade Representative ("USTR") proposed tariffs under Section 301 of the Trade Act of 1974 ("Section 301") on imports from 60 countries for their failure to enforce prohibitions related to forced labor. The USTR found that these failures are unreasonable and burden U.S. commerce. The proposed tariffs range from **10% to 12.5%**, though they do contain several carveouts.

### U.S. Government Files Appeal of CIT Decision Ordering Universal Refunds of IEEPA Tariffs to All Importers

In the latest developments regarding tariffs paid under the International Economic Emergency Powers Act ("IEEPA"), the U.S. Department of Justice ("DOJ") has formally appealed the U.S. Court of International Trade's ("CIT") April 17, 2026, universal injunction ordering refunds to all importers to the U.S. Court of Appeals for the Federal Circuit ("Federal Circuit"). The DOJ has also petitioned the Federal Circuit to direct the CIT that U.S. Customs and Border Protection ("CBP") Commissioner Rodney Scott may not be compelled to testify before the CIT regarding CBP's anticipated timing to comply with IEEPA refunds for all entries.

### President Trump Issues Executive Order to Bolster U.S. Customs Enforcement

On June 3, 2026, President Trump issued an executive order ("EO") directing U.S. Customs and Border Protection ("CBP") to reform many of its enforcement provisions. Titled "Strengthening Customs Enforcement," the EO targets preventing the importation of unlawful and dangerous goods, tightening eligibility and identification requirements for importers of record ("IORs"), and ensuring compliance with Federal laws and timely collection of duties.

### President Trump Reduces Section 232 Tariffs on Certain Agricultural, Mobile Industrial, and HVAC Equipment [UPDATED June 5, 2026 with CSMS Instructions]

On June 1, 2026, President Trump issued a proclamation reducing tariff rates on certain agricultural equipment, mobile industrial equipment and machinery, and heating, ventilation and air conditioning ("HVAC") equipment under Section 232 of the Trade Expansion Act of 1962 ("Section 232"). In the same proclamation, President Trump also added aluminum lithographic plates and steel racks to the list of aluminum and steel derivative products subject to Section 232 tariffs.

### Weekly Trade Update: June 1 – 5, 2026

On June 1, 2026, the United States Trade Representative ("USTR") proposed under Section 301 of the Trade Act of 1974 ("Section 301") to impose tariffs on imports of goods from Brazil due to Brazil's practices involving digital trade and electronic payment services, unfair and preferential tariffs, anti-corruption enforcement, intellectual property protection, ethanol market access, and illegal deforestation.

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# Trade Law Update

## What Supreme Court's Recent Ruling On Last-Mile Driver Arbitration Means for Inter-State Logistics

On May 28, in *Flowers Foods Inc. v. Brock*, the Supreme Court ruled unanimously that a worker transporting goods can qualify for the Federal Arbitration Act's Section 1 exemption without crossing state lines or interacting with vehicles that do.

## USTR Opens Comment Period on Proposed U.S.-China "Board of Trade"

On June 2, 2026, the Office of the United States Trade Representative ("USTR") announced a public comment period related to the development of a new government-to-government mechanism, a proposed U.S.-China "Board of Trade," intended to provide an ongoing channel for managing aspects of bilateral trade between the United States and China.

## Husch Blackwell Secures Summary Judgment Ruling Which Reinforces Transportation Brokers' General Lack of Standing to Sue Under the Carmack Amendment

On May 27, 2026, the U.S. District Court for the Central District of California granted summary judgment in favor of Husch Blackwell client, Continuum Transportation Services Ltd. (Continuum).

## Latest Developments in IEEPA Tariff Refund Litigation

The U.S. Government withdrew its petition for a writ of mandamus at the U.S. Court of Appeals for the Federal Circuit ("Federal Circuit"). On June 9, 2026, the Federal Circuit granted the Government's request to withdraw the petition and dismissed the mandamus proceeding in *In re United States*, Fed. Cir. # 26-144, before Senior Judge Richard K. Eaton.

## Federal Circuit Stays Section 122 Tariff Injunction, Signaling Skepticism of CIT's Narrow Statutory Reading

On June 11, 2026, the U.S. Court of Appeals for the Federal Circuit (CAFC) granted the federal government's motion for a stay pending appeal, pausing enforcement of a U.S. Court of International Trade (CIT) injunction on the collection of Section 122 duties against the State of Washington and two private businesses – Burlap and Barrel, Inc. and Basic Fun, Inc.

## CBP Issues New Forced Labor Enforcement Operational Guidance for Importers

On June 12, 2026, U.S. Customs and Border Protection ("CBP"), through a Cargo Systems Messaging Service (CSMS) notice, issued a comprehensive new Forced Labor Enforcement Operational Guidance for importers.

## Chief Engineer Admits to Criminal Violation in Relation to the Francis Scott Key Bridge Casualty

The U.S. Attorney's Office for the District of Maryland announced on June 18, 2026 that the chief engineer aboard the *M/V Dali* at the time of the March 2024 Francis Scott Key Bridge allision has entered into a Deferred Prosecution Agreement (DPA) with the United States in connection with the ongoing criminal investigation arising from the bridge collapse.

## CBP Issues Guidance on June 29, 2026, CAPE Expansion

On June 23, 2026, CBP via CSMS 69035485 issued guidance explaining which reconciliation-flagged entries will be eligible for the next phase of the Consolidated Administration and Processing of Entries (CAPE) tariff refund tool, launching June 29, 2026.

## CBP Publishes Guidance on Section 232 Duty Offsets for Automobile and Medium and Heavy-Duty Vehicle Parts and ACE Filing Requirements

On June 29, 2026, U.S. Customs and Border Protection (CBP) released CSMS # 69087399, providing guidance for the import adjustment offset program applicable to Section 232 duties on automobile and medium and heavy-duty vehicle (MHDV) parts. We summarize below the latest guidance from CBP and procedural steps for claiming offsets against Section 232 duties.

## Petition Summary: Certain Choline Salts from the People's Republic of China

On June 24, 2026, BCP Ingredients, Inc. ("Petitioner") filed petitions requesting the imposition of antidumping and countervailing duties on imports of certain choline salts ("choline salts") from the People's Republic of China.

## Petition Summary: Glyphosate from the People's Republic of China

On June 30, 2026, Monsanto Company and its wholly owned subsidiary Ruveon LLC (collectively, "Petitioner") filed petitions requesting the imposition of antidumping and countervailing duties on imports of glyphosate from the People's Republic of China.

## U.S. DEPARTMENT OF COMMERCE DECISIONS

### Investigations

- N-Cyclohexylbenzothiazole-2- Sulfenamide from the People's Republic of China: On June 2, 2026, Commerce issued its Initiation of Countervailing Duty Investigation.
- N-Cyclohexylbenzothiazole-2- Sulfenamide From the People's Republic of China: On June 2, 2026, Commerce issued its Initiation of Less- Than-Fair-Value Investigation.
- Lattice Boom Crawler Cranes From Japan: On June 4, 2026, Commerce issued its Final Affirmative Determination of Sales at Less Than Fair Value.
- Certain Van-Type Trailers and Subassemblies Thereof From Mexico: On June 5, 2026, Commerce issued its Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination.
- Van-Type Trailers and Subassemblies Thereof From People's Republic of China: On June 5, 2026, Commerce issued its Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination.
- Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: On June 12, 2026, Commerce issued its Preliminary Results of Countervailing Duty Administrative Review; 2023.
- Fiberglass Door Panels From the People's Republic of China: On June 15, 2026, Commerce issued its Final Affirmative Countervailing Duty Determination.
- Fiberglass Door Panels From People's Republic of China: On June 15, 2026, Commerce issued its Final Affirmative Determination of Sales at Less Than Fair Value.
- Van-Type Trailers and Subassemblies Thereof From the People's Republic of China: On June 15, 2026, Commerce issued its Preliminary Affirmative Determination of Sales at Less Than Fair Value.
- Citric Acid and Certain Citrate Salts from Canada: On June 26, 2026, Commerce issued its Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination.
- Citric Acid and Certain Citrate Salts From India: On June 26, 2026, Commerce issued its Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination.
- Silicon Metal From Australia: On June 30, 2026, Commerce issued its Final Affirmative Countervailing Duty Determination.
- Silicon Metal From Norway: On June 30, 2026, Commerce issued its Final Affirmative Countervailing Duty Determination.

### Administrative Reviews

- Large Diameter Welded Pipe From Canada: On May 1, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2023-2024.
- Utility Scale Wind Towers From the Republic of Korea: On June 1, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2023–2024.
- Prestressed Concrete Steel Wire Strand From Malaysia: On June 3, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2023–2024.
- Raw Honey From Brazil: On June 3, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review, 2023–2024.
- Certain Freight Rail Couplers and Parts Thereof From Mexico: On June 4, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2023–2024.
- Chlorinated Isocyanurates From Spain: On June 4, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2023–2024.
- Acetone From the Republic of Korea: On June 9, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2024–2025.
- Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel From India: On June 12, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2023–2024.
- Glycine From India: On June 12, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2023–2024.
- Raw Honey From Argentina: On June 12, 2026, Commerce issued its Final Results of the Antidumping Duty Administrative Review; 2023–2024.
- Raw Honey From the Socialist Republic of Vietnam: On June 12, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2023–2024.
- Glycine From India: On June 16, 2026, Commerce issued its Final Results of Countervailing Duty Administrative Review; 2023.
- Monosodium Glutamate From the People's Republic China: On June 16, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2023–2024.
- Finished Carbon Steel Flanges From India: On June 18, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2023– 2024.
- Raw Honey from India: On June 18, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2023–2024.
- 1,1,1,2- Tetrafluoroethane (R–134a) From the People's Republic of China: On June 22, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2024–2025.

- Carbazole Violet Pigment 23 From India: On June 22, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2023– 2024.
- Certain Steel Nails From the Republic of Korea: On June 23, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2023– 2024.
- Silicon Metal From Malaysia: On June 23, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2023–2024.
- Steel Propane Cylinders From Thailand: On June 23, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2023– 2024.

## Sunset Reviews

- Certain Large Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from The People's Republic of China: On June 3, 2026, Commerce issued its Final Results of the Expedited First Sunset Review of the Countervailing Duty Order.
- Hand Trucks and Certain Parts Thereof From the People's Republic of China: On June 5, 2026, Commerce issued its Final Results of the Expedited Fourth Sunset Review of the Antidumping Duty Order.
- Finished Carbon Steel Flanges From India: On June 8, 2026, Commerce issued its Final Results of Countervailing Duty Administrative Review; 2023.
- Silicon Metal From Republic of Kazakhstan: On June 26, 2026, Commerce issued its Final Results of the Expedited First Sunset Review of the Countervailing Duty Order.
- Twist Ties From People's Republic of China: On June 26, 2026, Commerce issued its Final Results of the Expedited First Sunset Review of the Countervailing Duty Order.
- Phosphate Fertilizers From the Russian Federation: On June 30, 2026, Commerce issued its Final Results of the Expedited First Sunset Review of the Countervailing Duty Order.
- Polyvinyl Alcohol From the People's Republic of China and Japan: On June 30, 2026, Commerce issued its Final Results of the Expedited Fourth Sunset Reviews of the Antidumping Duty Orders.
- Twist Ties From the People's Republic of China: On June 30, 2026, Commerce issued its Final Results of the Expedited First Sunset Review of the Antidumping Duty Order.
- Silicon Metal From Australia: On June 30, 2026, Commerce issued its Final Affirmative Determination of Sales at Less Than Fair Value.
- Silicon Metal From Norway: On June 30, 2026, Commerce issued its Final Affirmative Determination of Sales at Less Than Fair Value.

## Scope Ruling

- None

## Circumvention

### Commerce Circumvention Determinations Report

Circumvention enforcement continues to intensify, with Commerce issuing 162 affirmative determinations since 1988 and 56 ongoing investigations already underway in 2026. Staying current is critical for importers whose supply chains may be affected. Click here to access the latest circumvention data and assess whether your products or supply chain may be at risk

# INTERNATIONAL TRADE COMMISSION

## Investigations

- Prestressed Concrete Steel Wire Strand From Brazil, India, Japan, Mexico, South Korea, and Thailand (Fourth and Sixth Review); On June 2, 2026, the ITC issued its determination to continue the antidumping and countervailing duty orders as revocation would lead to the recurrence or continuation of material injury within a reasonably foreseeable time.
- Tris (Hydroxymethyl) Aminomethane and Tris (Hydroxymethyl) Aminomethane Hydrochloride ("Tris and Tris HCl") From China (Preliminary); On June 10, 2026, the ITC issued its affirmative determination of less-than-fair-value investigations.
- Certain Crystalline Silicon Photovoltaic Products From China and Taiwan (Second Review); On June 11, 2026, the ITC issued its determination to continue the countervailing and antidumping duty orders as revocation would lead to the recurrence or continuation of material injury within a reasonably foreseeable time.
- Chassis and Subassemblies From Mexico, Thailand, and Vietnam (Final); On June 11, 2026, the ITC issued its affirmative determination of less-than-fair-value investigations.
- Commodity Matchbooks From India (Third Review); On June 15, 2026, the ITC issued its determination to continue the antidumping and countervailing duty orders as revocation would lead to the recurrence or continuation of material injury within a reasonably foreseeable time.

- Air Compressors From China, Malaysia, and Vietnam (Preliminary); On June 18, 2026, the ITC issued its affirmative [determination](#) of less-than-fair-value investigations.
- Unwrought Palladium From Russia (Final); On June 18, 2026, the ITC issued its affirmative [determination](#) of less-than-fair-value investigations.
- Certain Frozen Fish Fillets From Vietnam (Fourth Review); On June 24, 2026, the ITC issued its [determination](#) to continue the antidumping duty order as revocation would lead to the recurrence or continuation of material injury within a reasonably foreseeable time.
- Wood Mouldings and Millwork Products From China (Review); On June 24, 2026, the ITC issued its [determination](#) to continue the antidumping and countervailing duty orders as revocation would lead to the recurrence or continuation of material injury within a reasonably foreseeable time.
- N-Cyclohexylbenzothiazole-2- Sulfenamide ("CBS") From China (Preliminary); On June 25, 2026, the ITC issued its affirmative [determination](#) of less-than-fair-value investigations.

## U.S. CUSTOMS AND BORDER PROTECTION

### Enforce and Protect Act

#### EAPA Cons. Case 8294: Clark Core Services

On June 9, 2026, CBP issued the notice of initiation of investigation and implemented interim measures for EAPA Case 8294 filed by the U.S. Department of Commerce, against U.S. importer Clark Core Services (Clark Core) for evasion of the antidumping and countervailing (AD/CVD) duty orders on disposable aluminum containers, pans, trays, and lids (disposable aluminum containers) from the People's Republic of China (A-570-170 and C-570-171). Specifically, the allegations suggested that Clark Core imported disposable aluminum containers from the People's Republic of China into the United States via transshipment through Cambodia and failed to declare the correct country of origin at the time of entry.

#### EAPA Case 8267: Lightweight Thermal Paper from China

On June 15, 2026, U.S. Customs and Border Protection (CBP) issued its notification of initiation of investigation and interim measures as to evasion by Joyful Trading LLC and Winmark Group LLC (collectively, the Importers) in Enforce and Protect Act (EAPA) investigation 8267, examining the evasion of antidumping duty (AD) and countervailing duty (CVD) orders A-570-920 and C-570-921 on lightweight thermal paper (LWTP) from the People's Republic of China (China). CBP found there was a reasonable suspicion that the Importers had been entering covered merchandise from China through misclassification.

#### EAPA Cons. Case 8163: Solar Cells

On June 23, 2026, CBP issued the notice of determination as to evasion by Waaree Energies Ltd. (Waaree) in Enforce and Protect Act (EAPA) consolidated investigation 8163, investigating evasion of antidumping (AD) and countervailing (CVD) duty orders on crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells), from the Socialist Republic of Vietnam (Vietnam) (A-552-841, C-552-842), Malaysia (A-557-830, C-557-831), and the U.S. Department of Commerce's (Commerce's) circumvention determination with respect to Vietnam (A-570-979, C-570-980). Based on the record of the investigation, CBP determined there is substantial evidence that Waaree entered covered merchandise into the customs territory of the United States through evasion by failing to declare the merchandise as subject to AD/CVD duties.

#### EAPA Cons. Case 8143: Oil Country Tubular Goods

On June 29, 2026, CBP issued the notice of determination as to evasion for EAPA case 8143 filed by the U.S. OCTG Manufacturers Association, Inc. against U.S. importers Commercial Steel Products LLC (CSP) and JOL Tubular, Inc. (JOL Tubular) for evasion of AD/CVD orders A-570-943 and C-570-944 on oil country tubular goods from China. Specifically, evidence on the record indicates that CSP and JOL Tubular entered Chinese-origin oil country tubular goods that were transshipped through Thailand. As such, CBP has determined that there is substantial evidence of evasion of AD/CVD duties by CSP and JOL Tubular and, therefore, issued a formal notice of determination as to evasion and has taken enforcement actions.

### Customs Ruling Revocations Report

Each quarter, we will be including a direct link to the most recent U.S. Customs and Border Protection (CBP) Ruling Revocations in our newsletter. These revocations can significantly impact import classifications, duty rates, and compliance requirements, so staying current is essential for your business operations. Reviewing these updates quarterly will help ensure your import procedures remain compliant with the latest CBP guidance. [Click here](#) to access this quarter's list of revoked rulings and see if any affect your products or supply chain.

### Customs Bulletin Weekly

On June 29, 2026, CBP via CSMS # [69066837](#) announced the deployment of CAPE Phase 2. According to an earlier CSMS [69035485](#) (June 23, 2026), CBP stated that the CAPE Phase 2 will allow tariff refunds for reconciliation-flagged entries (types 01, 02, and 06) only if the related reconciliation entry (type 09) has not yet been filed. Entries with filed reconciliation entries will be addressed in a future phase. Eligible entries must also be unliquidated or within 80 days of liquidation. Once reconciliation-flagged entries are accepted on a CAPE declaration, filers can proceed with reconciliation filings, but those entries will no longer qualify for CAPE Phase 2. CBP advised prioritizing reconciliation filings if deadlines are less than 30 days away.

On June 26, 2026, CBP via CSMS 69056621 [announced](#) it will deactivate importer of record ("IOR") numbers in ACE that haven't been used for over a year and have no outstanding post-entry transactions, per a CSMS message. To reactivate an IOR, brokers can submit a Transaction Processing message with Action Code A and Form 5106 data elements. Importers unable to reactivate through this method can submit a revised Form 5106 with mandatory data elements for reactivation.

On June 25, 2026, CBP and Australia [signed ](#)a Customs Mutual Assistance Agreement ("CMAA") in Brussels to enhance cooperation in preventing, detecting, and investigating customs-related crimes. The CMAA enables the exchange of information and mutual assistance in enforcing customs laws, supporting judicial proceedings, and facilitating trade. CBP stated that the agreement strengthens U.S.-Australia collaboration on securing borders, combating drug trafficking, and disrupting transnational criminal organizations. The CMAA provides a legal framework for information sharing to enforce laws and address customs offenses

On June 23, 2026, CBP [issued ](#)new rules and a pilot program for international mail entries, effective July 24, 2026. Only parties with the right to make entry or licensed customs brokers can file informal entries for shipments under $2,500. Entries subject to Chapter 99 duties or partner government agency ("PGA") requirements are excluded, though a Type 13 informal entry pilot will launch on September 22, 2026, to test a new process for such shipments. Under the new process, filers must submit detailed data, including HTS codes and duty rates, via Excel to CBP and pay duties through Pay.gov by the seventh day of the month after arrival. CBP will no longer prepare entry forms or collect duties upon delivery. A 90-day compliance period will allow certain excluded shipments to adjust until October 22, 2026. Comments on the interim rules are due by July 24, 2026.

On June 12, 2026, CBP [published ](#)updated operational guidance for importers on forced labor enforcement, consolidating information on 19 U.S.C. 1307, the Uyghur Forced Labor Prevention Act ("UFLPA"), and the Countering America's Adversaries Through Sanctions Act ("CAATSA"). The guidance includes enforcement process maps for UFLPA, CAATSA, and Withhold Release Orders, along with step-by-step instructions for importers on responding to detentions or exclusions.

On June 9, 2026, CBP [reported ](#)continued progress in refunding IEEPA tariffs, despite the administration's appeal of the order to refund all payments. Brandon Lord, CBP's executive director for trade programs, informed the Court of International Trade that as of June 5, 2026, $23.7 billion in refunds and interest had been processed through the CAPE platform and sent to the Treasury Department for disbursement. Refund delays persist due to 5,535 consolidated refunds lacking bank account details for ACH transfers, an increase of 1,350 over 15 days. About $61 billion in refunds are still undergoing validations, and this phase of CAPE covers 63% of entries that owed IEEPA tariffs. The next CAPE phase, addressing reconciliation entries, is set to launch around June 29, 2026. CBP and the plaintiffs will meet in a closed conference with Judge Richard Eaton on June 11, 2026, to discuss progress.

## COURT OF INTERNATIONAL TRADE

### Summary of Decisions

### Slip Op. 26-58: LANXESS Corp. v. United States

The Court granted the government's motion for summary judgment and denied the motion filed by LANXESS Corporation, a U.S. importer, in a customs classification dispute concerning Axion CA 1330, a chemical used as a component in catalyst systems for producing polyolefins such as polypropylene and polyethylene. The dispute centered on whether the merchandise was properly classified as a chemical preparation of the chemical or allied industries under subheading 3824.99.28, HTSUS, as asserted by the government, or under a different tariff provision advocated by LANXESS.

The Court held that tariff classification is determined based on the condition of the merchandise as imported and concluded that Axion CA 1330 is properly classified under HTSUS subheading 3824.99.28. The Court explained that, although the product is not itself a catalyst when imported, it is specifically prepared for use in a chemical reaction because it activates a metallocene catalyst after importation and functions as an essential component of a supported catalyst system. The Court found that the undisputed record established Axion CA 1330's sole commercial purpose is to facilitate the polymerization of olefins, making it a chemical preparation of the chemical industry.

The Court further rejected LANXESS's argument that reliquidation at a higher duty rate would be impermissible, concluding that because the merchandise was correctly classified under subheading 3824.99.28, the applicable 6.5% ad valorem duty rate governed the entries. Accordingly, the Court entered judgment in favor of the government.

### Slip Op. 26-59: Fuzhou Hengli Paper Co. v. United States

The Court remanded Commerce's final determination in the 2024 antidumping duty investigation of paper plates from China. The plaintiff, Fuzhou Hengli Paper Co., Ltd., ("Fuzhou") a Chinese producer and exporter of paper plates, challenged Commerce's decision to assign it a 515.40% dumping margin based on total adverse facts available ("AFA") after Commerce concluded that Fuzhou failed to cooperate during the investigation. The Court, however, held that Commerce failed to adequately explain several aspects of its application of total adverse facts available. In particular, the Court found that Commerce did not sufficiently demonstrate that Fuzhou failed to cooperate to the best of its ability with respect to the requested information, nor did it adequately explain why the identified deficiencies justified rejecting all of Fuzhou's reported data and resorting to total AFA. The Court emphasized that Commerce must distinguish between missing or deficient information and a failure to cooperate and must reasonably connect its selected adverse inferences to the specific deficiencies in the record. Accordingly, the Court remanded the determination for further explanation or reconsideration.

### Slip Op. 26-60: Meyer Corp., U.S. v. United States

*This* opinion *is confidential. The public version will be posted as soon as it is available.*

### Slip Op. 26-61: Giti Tire Glob. Trading Pte. Ltd. v. United States

The Court denied plaintiffs' motion for judgment on the agency record and sustained Commerce's Amended Final Results in the seventh administrative review of the antidumping duty order on passenger vehicle and light truck tires from China. The plaintiffs, foreign producers and exporters of subject tires, challenged Commerce's calculation of the surrogate value for ocean freight and its anticipated liquidation instructions. The Court held that Commerce reasonably corrected its ocean freight calculation by removing an additional distance factor and using Maersk data on a per-kilogram basis, finding that plaintiffs' proposed per-kilogram, per-kilometer calculation could distort the record data. The Court also rejected plaintiffs' challenge to future liquidation instructions as premature because Commerce had not yet issued final instructions to CBP. Because Commerce's ocean freight valuation was supported by substantial evidence and the liquidation issue was not ripe for review, the Court sustained the Amended Final Results.

### Slip Op. 26-62: Marmen Inc. v. United States

The Court sustained Commerce's Second Remand Redetermination in the antidumping duty investigation of utility-scale wind towers from Canada. The plaintiffs challenged Commerce's revised differential pricing methodology and its treatment of additional cost reconciliation information following the remand from the Court of Appeals for the Federal Circuit. The Court held that Commerce complied with the

Federal Circuit's remand instructions by accepting plaintiff's previously rejected cost reconciliation information and incorporating the exchange-rate adjustment into its cost calculations. The Court also upheld Commerce's replacement of the Cohen's d test with a new price difference test as the first step of its differential pricing analysis, finding that Commerce reasonably explained why the revised methodology better identified patterns of significant price differences while avoiding the statistical shortcomings identified by the Federal Circuit. The Court further concluded that Commerce adequately justified its continued use of the ratio test and meaningful difference test to determine whether the average-to-transaction methodology was appropriate. As a result, the Court sustained the Second Remand Redetermination and entered judgment accordingly.

## Slip Op. 26-63: Jiangsu Dingsheng New Materials Joint-Stock Co. v. United States

*This* opinion *is confidential. The public version will be posted as soon as it is available.*

## Slip Op. 26-64: Cornerstone Chemical Co. v. United States

The Court sustained in part and remanded in part Commerce's final determination in the antidumping duty investigation of melamine from Qatar. The plaintiffs challenged Commerce's calculation of normal value, including its selection of the comparison market and treatment of affiliated-party input costs. The Court upheld Commerce's decision not to adjust the reported cost of natural gas purchased from an affiliated supplier, concluding that Commerce reasonably found the transactions exceeded the prevailing market price in Qatar and therefore did not require an adjustment under the affiliated-party cost provisions. However, the Court remanded Commerce's decision to use Turkey as the third-country comparison market after excluding Qatar's home-market sales based on a particular market situation. The Court found that Commerce did not adequately explain why Turkey constituted an appropriate comparison market or sufficiently address record evidence concerning the comparability of the Turkish and Qatari markets. The Court emphasized that, when Commerce departs from the statutory preference for home-market sales and relies on a third-country market to determine normal value, it must provide a reasoned explanation demonstrating that the selected market is appropriate and supported by the record. Because Commerce failed to adequately justify its third-country market selection, the Court remanded that issue for further explanation or reconsideration while otherwise sustaining the final determination.

## Slip Op. 26-65: Assan Aluminyum Sanayi ve Ticaret A.S. v. United States

The Court sustained Commerce's Third Remand Redetermination in the antidumping duty investigation of common alloy aluminum sheet from Turkey. The plaintiff challenged Commerce's continued refusal to grant a duty drawback adjustment, its rejection of supplemental information submitted on remand, and its decision to cancel verification. The Court, however, held that Commerce reasonably rejected plaintiff's untimely supplemental information because it exceeded the scope of the remand and would have required reopening the record. The Court further agreed that Commerce reasonably concluded the existing record lacked sufficient evidence to quantify a duty drawback adjustment under Turkey's Inward Processing Regime ("IPR"), which permits import duties on raw materials to be waived when specified export requirements are satisfied. Although plaintiff argued that Commerce should have verified additional information, the Court found that verification would not have cured the absence of the necessary record evidence and that Commerce therefore acted within its discretion in canceling verification. As a result, the Court sustained the Third Remand Redetermination.

## Slip Op. 26-66: United States v. Franco Tire Distrib., Inc.

The Court granted the government's motion for default judgment in this customs civil penalty action under 19 U.S.C. § 1592 involving the negligent omission of antidumping and countervailing duty information on imports of truck and bus tires from the China. The government, alleged that Franco Tire Distribution, Inc., a U.S. importer, failed to declare the applicable antidumping and countervailing duty case numbers on two entry summaries, resulting in a potential loss of $27,941.49 in estimated cash deposits at the time of entry. The Court agreed, holding that the government established a negligent violation of § 1592 because the omitted case numbers were material, as they directly affected CBP's ability to assess the applicable antidumping and countervailing duties. Although defendant later corrected the entry summaries and paid the owed cash deposits after CBP identified the omissions, the Court explained that the correction did not eliminate the earlier violation or the resulting potential loss of revenue. The Court further noted that, after the government demonstrated a material omission, the burden shifted to defendant to prove that it exercised reasonable care. Because Franco failed to appear or otherwise defend the action, it admitted the well-pleaded factual allegations and failed to rebut the government's showing of negligence. Accordingly, the Court entered default judgment against Franco in the amount of $55,882.98, representing twice the potential loss of revenue, together with post-judgment interest and costs.

## Slip Op. 26-67: Nanjing Dongsheng Shelf Manufacturing Co., Ltd. v. United States

The Court sustained Commerce's Remand Redetermination in the 2021-2022 administrative review of the antidumping duty order on certain steel racks from China. The plaintiff, a Chinese producer and exporter of steel racks, challenged Commerce's remand determination after the Court previously held that Commerce improperly failed to select Nanjing as a mandatory respondent and improperly rejected its Separate Rate Certification as untimely. On remand, Commerce accepted Nanjing's Separate Rate Certification, treated Nanjing as a mandatory respondent, calculated a 25% weighted-average dumping margin, and denied Nanjing's request for a by-product (scrap) offset. The Court held that Commerce complied with the remand order by accepting Nanjing's Separate Rate Certification and recalculating its dumping margin as a mandatory respondent. The Court declined to consider Nanjing's challenge to Commerce's denial of the scrap offset because Nanjing failed to raise that issue during the remand proceedings before Commerce, despite having the opportunity to do so. The Court emphasized that parties generally must exhaust their administrative remedies by presenting all relevant arguments to Commerce before seeking judicial review, and that none of the recognized exceptions to the exhaustion doctrine applied. Because Commerce fully complied with the Court's remand instructions and Nanjing waived its objections to the scrap offset by failing to exhaust its administrative remedies, the Court sustained the Remand Redetermination and entered judgment accordingly

## Slip Op. 26-68: YDD Corp. LLP v. United States

The Court granted in part Plaintiffs' motion for judgment on the agency record and remanded Commerce's Final Determination in the antidumping duty investigation of ferrosilicon from Kazakhstan. The plaintiffs, YDD Corporation LLP and TNC Kazchrome JSC ("YDD"), challenged multiple aspects of Commerce's final determination, including Commerce's inclusion of YDD's sales allegedly destined for Canada in its dumping margin calculation, its application of partial adverse facts available ("AFA:), its use of zeroing, and its selection of the shipment date rather than the invoice date as the date of sale for Kazchrome's U.S. sales. The Court held that Commerce's determination to include YDD's sales in the dumping margin calculation was unsupported by substantial evidence because Commerce failed to cite record evidence supporting its conclusion that the merchandise was destined for the United States and failed to address contrary evidence indicating the merchandise was intended for shipment to Canada. The Court, however, found that Commerce did not adequately explain why

YDD's purchase orders, customer letter, and other documentation failed to satisfy Commerce's own "knowledge test" for excluding merchandise destined for another market. Because Commerce's treatment of those sales affected its application of partial AFA, use of zeroing, and calculation of YDD's weighted-average dumping margin, the Court deferred ruling on those issues pending remand. The Court also concluded that Commerce must reconsider Kazchrome's challenge to the use of the shipment date as the date of sale because Commerce was required to adequately explain its decision in light of the record evidence regarding when the material terms of sale became fixed. Accordingly, the Court remanded the Final Determination for Commerce to provide further explanation and reconsider its determinations consistent with the Court's opinion.

### Slip Op. 26-69: Ellwood City Forge Co. v. United States

The Court sustained in part and remanded in part Commerce's Second Remand Redetermination in the antidumping duty investigation of forged steel fluid end blocks from Germany. The dispute arose after the Court previously remanded Commerce's use of particular market situation ("PMS") adjustments to the production costs of BGH Edelstahl Siegen GmbH ("BGH"), a German producer and mandatory respondent.

On the second remand, Commerce corrected a mathematical error, recalculated BGH's dumping margin from zero to 3.08%, and further explained why alternative statutory avenues for making PMS adjustments were unavailable. Domestic producers challenged Commerce's interpretation of the statute, while BGH contested Commerce's continued PMS findings relating to electricity and ferrochrome inputs. The Court upheld Commerce's interpretation of 19 U.S.C. § 1677b(f)(1)(A), agreeing that Commerce reasonably concluded it could not use that provision as an alternative means to impose cost-based PMS adjustments after the Federal Circuit's decision in *Hyundai Steel*. The Court also sustained Commerce's finding that distortions in the German electricity market supported a PMS determination with respect to electricity costs. However, the Court found that Commerce did not adequately support its PMS adjustment relating to ferrochrome inputs, concluding that the agency failed to sufficiently demonstrate that the alleged market distortions materially affected BGH's production costs or adequately connect the record evidence to the adjustment it imposed. Accordingly, the Court sustained Commerce's remand determination in part and remanded in part for further explanation or reconsideration consistent with the Court's opinion

## COURT OF APPEALS FOR THE FEDERAL COURT

### Summary of Decisions.

### Appeal No. 24-2242 Eregli Demir Ve Celik Fabrikalari T.A.S. v. ITC

The Court affirmed the judgments of the CIT, holding that the U.S. International Trade Commission ("ITC") properly denied Ereğli Demir ve Çelik Fabrikaları T.A.Ş. 's ("Erdemir") requests to (1) institute a changed-circumstances review, (2) reconsider its 2016 material injury determination, and (3) revoke the antidumping duty order on certain hot-rolled steel flat products from Turkey. After Commerce's remand proceedings reduced fellow Turkish producer Çolakoğlu's dumping margin to zero and removed it from the antidumping duty order, Erdemir argued that this constituted a fundamental change requiring the ITC to revisit its original injury determination and revoke the order as to Turkey. The Federal Circuit, however, rejected those arguments, concluding that the ITC reasonably determined that a changed-circumstances review would provide no relief beyond the contemporaneous sunset review, in which the Commission had already evaluated whether revocation of the order would likely lead to the continuation or recurrence of material injury. The Court further held that the CIT correctly dismissed Erdemir's challenge to the ITC's refusal to reconsider its 2016 injury determination because such a claim fell outside the court's residual jurisdiction under 28 U.S.C. § 1581(i); any challenge to the original injury determination should have been brought within the statutory time for judicial review in 2016. The Court therefore affirmed all three CIT decisions.

### Appeal No. 24-2316 International Rights Advocates v. Mullin

The Court affirmed the judgment of the CIT's prior ruling, holding that International Rights Advocates ("IRAdvocates") lacked Article III organizational standing to challenge CBP's alleged delay in acting on petitions seeking a Withhold Release Order for cocoa and cocoa products imported from Côte d'Ivoire that were allegedly produced using forced child labor. IRAdvocates filed suit under the Administrative Procedure Act after CBP investigated its petitions for several years without issuing either a Withhold Release Order or a final denial, arguing that the agency's delay forced the organization to spend significant resources gathering updated evidence and advocating for enforcement. The Federal Circuit concluded that these expenditures did not constitute a concrete injury sufficient for organizational standing because they reflected voluntary efforts to advance the organization's advocacy mission rather than impairment of its core activities. Relying on the Supreme Court's decision in *FDA v. Alliance for Hippocratic Medicine*, the Court explained that an organization cannot "spend its way into standing" by devoting additional resources to investigating, petitioning, or lobbying against government inaction. Accordingly, because IRAdvocates failed to establish a concrete injury-in-fact, the Court held that it lacked standing and affirmed the CIT's dismissal of the action.