HUSCH BLACKWELL

Trade Law Update

HIGHLIGHTS FROM AUGUST 2026

IN THIS ISSUE:

President Trump Issues Proclamation Imposing Tariff-Rate Quota on Quartz Surface Products

On July 31, 2026, President Trump issued proclamation "*To Facilitate Positive Adjustment to Competition From Imports of Quartz Surface Products*," introducing a tariff-rate quota ("TRQ") that will go into effect on August 15, 2026 on imports of certain quartz surface products under Section 203 of the Trade Act. The action follows a recommendation from the International Trade Commission in May 2026, which found that increased import volumes of quartz are harming the domestic quartz industry.

Section 301 Forced Labor Tariffs Challenged Again – This Time by 25 State Attorney Generals

On August 3, 2026, the state attorney generals of twenty-five states (25) co-led by State of Oregon, Arizona and California filed a complaint in the Court of International Trade (CIT) challenging tariffs imposed under Section 301 of the Trade Act of 1974 (Section 301) to address forced labor. The complaint alleges that Section 301 forced labor tariffs are ultra vires, arbitrary, capricious and contrary to law.

BIS Proposes Expansion of Section 232 Metals Tariffs to Additional Derivative Products

On August 4, 2026 the Bureau of Industry and Security (BIS) published a notice seeking public comments on expanding tariffs applicable to certain steel, aluminum and copper derivative products under Section 232 of the Trade Expansion Act of 1962 (Section 232) to fourteen (14) additional derivative products.

Tariffs for UK Origin Patented Pharmaceuticals Reduced from 10% to Zero

The Trump Administration has officially reduced tariffs on patented pharmaceuticals and associated pharmaceutical ingredients imported from the United Kingdom (UK) from 10% to 0%. This change, effective July 31, 2026, is the result of an agreement between the United States and the UK, which created a carve out for UK origin pharmaceutical products from the recent national security tariffs imposed on patented pharmaceuticals pursuant to Section 232 of the Trade Expansion Act of 1962 (Section 232).

Petition Summary: Perfluoroalkoxy Alkane from India

On August 5, 2026, The Chemours Company FC, LLC (Petitioner or Chemours) filed a petition requesting the imposition of antidumping and countervailing duties on imports of perfluoroalkoxy alkane (PFA) from India.

Recent Post Montgomery Rulings Distinguish Cargo Theft from Roadway Safety, Preempting Claims Against Brokers

Since the May 2026 Supreme Court decision in *Montgomery v. Caribe Transport II, LLC*, four federal district courts have taken up the question of whether its safety exception applies to cargo theft claims, and they have all decided no.

White House Previews AI-Powered "Detective Border" Tool Targeting Chinese Transshipment

On August 13, 2026, the White House Office of Trade and Manufacturing Policy released a report identifying more than 40 countries it characterizes as presenting an elevated risk of illegal transshipment of Chinese-origin goods into the United States. The report also states that an artificial-intelligence-driven enforcement tool, referred to as "Detective Border," is under development to support U.S. Customs and Border Protection (CBP) in detecting and interdicting such shipments.

Panama Canal Authority Introduces New Draft Restrictions As El Niño Intensifies

In response to rapidly developing El Niño conditions, the Panama Canal Authority (ACP) has reduced maximum vessel draft limits. The situation may get worse next year, so shippers with Canal-dependent trade lanes should take mitigating steps now before conditions deteriorate further.

CBP Announces Increased Enforcement and Verification of Importer of Record Numbers

U.S. Customs and Border Protection ("CBP") issued a Federal Register notice that it is now ready to execute "executing enhanced enforcement procedures." CBP has indicated that it will start verifying importer of record information provided by each importer on CBP Form 5106, and importers of record have until September 18, 2026, to correct any errors to avoid penalties or other consequences. CBP has stated that if there is any incorrect or inaccurate information on these forms that it may result in the voiding of importer of record numbers, and penalties and other legal liability for importers of record and their brokers.

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[President Trump Delays 50% Tariff on Canada by 3 Days]

President Donald Trump issued a proclamation on August 18, 2026, pushing back the effective date of 50% Section 338 tariffs on certain Canadian goods by three days, to 12:01 a.m. Eastern on August 22, 2026. The delay was announced just hours before the new Section 338 tariffs were to go into effect on August 19th.

Polysilicon and Derivative Product Imports To Be Subject to Minimum Import Price

On August 6, 2026, the White House issued another proclamation *Adjusting Imports of Polysilicon and its Derivatives into the United States*. This is the follow up to the Section 232 Investigation on polysilicon and polysilicon derivative products that was initiated in July 2025.

Section 338 Additional Duties Go Into Effect After U.S. and Canada Negotiations Suspended; Canada Retaliates With Post-Labor Day Tariffs Announcement

In the latest development in United States-Canada trade relations, 50% additional duties, announced in three separate proclamations issued on July 20, 2026, took effect as of 12:01 a.m. eastern time on August 22, 2026. President Donald Trump imposed the additional duties pursuant to Section 338 of the Tariff Act of 1930, which empowers the President to impose additional duties (not exceeding 50%) on imports from a foreign country to offset the burden or disadvantage caused by that country's unequal imposition on or discrimination against U.S. commerce.

Weekly Trade Update: August 17-20, 2026

CBP announced it is executing enhanced enforcement procedures to verify the accuracy of importer of record information provided on CBP Form 5106, and importers of record or their brokers must submit complete and accurate information by September 18 to avoid consequences. The initiative follows the June 3 executive order on customs enforcement, which directed the DHS Secretary to confirm that active importers of record are compliant with all applicable regulations. Inaccurate information may result in the voiding of the importer of record number, and CBP has indicated it will issue penalties and pursue other legal liability against importers of record and their brokers who submit false or misleading data.

State Department Removes Syria From State Sponsor of Terrorism List

On August 24, 2026, pursuant to Executive Order 14312, the U.S. Department of State took action to rescind Syria's designation as a State Sponsor of Terrorism ("SST"). Additionally, the State Department and U.S. Department of the Treasury concurrently removed Hay'at Tahrir al-Sham's ("HTS") designation as a Specially Designated Global Terrorist ("SDGT") organization and Specially Designated National ("SDN"), respectively.

Canada Finalizes List of Products Subject to Retaliatory Labor Day Tariffs

As previously reported, on August 22, 2026, Canadian Prime Minister Mark Carney announced that Canada will impose dollar-for-dollar retaliatory tariffs in response to the Section 338 additional duties that went into effect following the suspension of trade negotiations between the U.S. and Canada.

OFAC and State Department Announces New Updates to SDN List and Sanctions Related to Iran

On August 24, 2026, the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") announced numerous actions related to Iran sanctions. These actions are deemed "Operation Economic Outcast" and are meant to align with changes in the foreign policy of the United States towards Iran.

Weekly Trade Update: August 24-28, 2026

The Office of Foreign Assets Control ("OFAC") took additional actions as part of "Operation Economic Outcast", the Administration's sanctions campaign against Iran. OFAC announced the addition of an Iranian national (Reza Mohammad Taeedi) and a Hong Kong based company (Kameng Trading Limited) to the Specifically Designated Nationals and Blocked Persons List ("SDN List"). A press release issued by the Department of Treasury ("Treasury") explained that the additions to the SDN List target Iran's access to financial institutions that have assisted the Iranian government in laundering funds.

U.S. DEPARTMENT OF COMMERCE DECISIONS

Investigations

- Van-Type Trailers and Subassemblies Thereof From Canada: On August 4, 2026, Commerce issued its Preliminary Affirmative Determination of Sales at Less Than Fair Value and Extension of Provisional Measures.
- Van-Type Trailers and Subassemblies Thereof From Mexico: On August 4, 2026, Commerce issued its Preliminary Affirmative Determination of Sales at Less Than Fair Value and Extension of Provisional Measures.
- Welded Stainless Line and Pressure Pipe From India and the Republic of Türkiye: On August 10, 2026, Commerce issued its Initiation of Countervailing Duty Investigations.
- Welded Stainless Line and Pressure Pipe From India, the Republic of Türkiye, and the United Arab Emirates: On August 10, 2026, Commerce issued its Initiation of Less-Than-Fair-Value Investigations.
- Oleoresin Paprika From India: On August 21, 2026, Commerce issued its Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination, in Part.
- Fresh Winter Strawberries From Mexico: On August 21, 2026, Commerce issued its Preliminary Affirmative Determination of Sales at Less Than Fair Value and Extension of Provisional

Measures.

- Oleoresin Paprika From India: On August 21, 2026, Commerce issued its Final Affirmative Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances.
- Citric Acid and Certain Citrate Salts From Canada: On August 26, 2026, Commerce issued its Preliminary Negative Determination of Sales at Less Than Fair Value.
- Citric Acid and Certain Citrate Salts From India: On August 26, 2026, Commerce issued its Preliminary Affirmative Determination of Sales at Less Than Fair Value.
- Van-Type Trailers and Subassemblies Thereof From the People's Republic of China: On August 31, 2026, Commerce issued its Final Affirmative Countervailing Duty Determination.
- Van-Type Trailers and Subassemblies Thereof From the People's Republic of China: On August 31, 2026, Commerce issued its Final Affirmative Determination of Sales at Less Than Fair Value.

Administrative Reviews

- Thermal Paper From Germany: On August 1, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2023–2024.
- Forged Steel Fittings From Taiwan: On August 6, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2023–2024.
- Polyethylene Retail Carrier Bags From Malaysia: On August 7, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2023– 2024.
- Polyethylene Retail Carrier Bags From the People's Republic of China: On August 7, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2024–2025.
- Aluminum Extrusions From the People's Republic of China: On August 11, 2026, Commerce issued its Final Results of Countervailing Duty Administrative Review; 2024.
- Mattresses From Malaysia: On August 11, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2024–2025.
- Ripe Olives From Spain: On August 11, 2026, Commerce issued its Final Results and Partial Rescission of Antidumping Duty Administrative Review; 2023– 2024.
- Wooden Bedroom Furniture From the People's Republic of China: On August 12, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2024.
- Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: On August 13, 2026, Commerce issued its Final Results and Rescission, in Part, of Antidumping Duty Administrative Review; 2023–2024.
- Utility Scale Wind Towers From Indonesia: On August 13, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2023–2024.
- Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: On August 14, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2023–2024.
- Large Power Transformers From the Republic of Korea: On August 14, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2023–2024.
- Aluminum Extrusions From the People's Republic of China: On August 17, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2024–2025.
- Light-Walled Rectangular Pipe and Tube From Mexico: On August 20, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2023–2024.
- Stainless Steel Flanges From India: On August 20, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2023–2024

Sunset Reviews

- Boltless Steel Shelving Units Prepackaged for Sale From the People's Republic of China: On August 4, 2026, Commerce issued its Final Results of the Expedited Second Sunset Review of the Countervailing Duty Order.
- Chassis and Subassemblies Thereof From the People's Republic of China: On August 4, 2026, Commerce issued its Final Results of the Expedited First Sunset Review of the Antidumping Duty Order.
- Non-Refillable Steel Cylinders From the People's Republic of China: On August 4, 2026, Commerce issued its Final Results of the Expedited Sunset Review of the Countervailing Duty Order.
- Prestressed Concrete Steel Wire Strand From the People's Republic of China: On August 4, 2026, Commerce issued its Final Results of the Expedited Sunset Review of the Countervailing Duty Order.
- Frozen Warmwater Shrimp From Ecuador: On August 6, 2026, Commerce issued its Final Results of Countervailing Duty Expedited Review.
- Oil Country Tubular Goods From the Republic of Tu ̈rkiye: On August 6, 2026, Commerce issued its Final Results of Countervailing Duty Administrative Review; 2023.
- Prestressed Concrete Steel Wire Strand From the People's Republic of China: On August 6, 2026, Commerce issued its Final Results of the Expedited Third Sunset Review of the Antidumping Duty Order.
- Carbazole Violet Pigment 23 From India: On August 7, 2026, Commerce issued its Final Results of Fourth Sunset Review and Revocation of Countervailing Duty Order

Scope Ruling

- None

Circumvention

- None

INTERNATIONAL TRADE COMMISSION

Investigations

- Difluoromethane (R–32) From China; On August 4, 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.
- Corrosion Inhibitors From China; On August 4, 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.
- Large Vertical Shaft Engines From China (Review); On August 11, 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.
- Choline Salts From China (Preliminary); On August 13, 2026, the ITC issued its affirmative determination of less-than-fair-value investigations.
- Hand Trucks and Certain Parts Thereof From China (Fourth Review); On August 18, 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.
- Light-Walled Rectangular Pipe and Tube From China, Mexico, South Korea, and Turkey (Third Review); On August 19, 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.
- Silicon Metal From Australia and Norway (Final); On August 19, 2026, the ITC issued its affirmative determination of less-than-fair-value investigations.

U.S. CUSTOMS AND BORDER PROTECTION

Customs Bulletin Weekly

On August 27, 2026, CBP, via CSMS #69668138, issued updated guidance clarifying the order of reporting Chapter 99 tariff subheadings in ACE, specifically addressing the sequencing of Section 338 duties. According to the updated guidance, the Chapter 99 classification for Section 338 tariffs must now be reported on entry summaries after any Section 301 tariff numbers and before any Section 232 tariff numbers. This update resolves the ambiguity in CBP's earlier guidance issued via CSMS #69606660, which did not specify the placement of Section 338 duties when they took effect. The previous guidance also outlined the general order for reporting tariff subheadings on entry summaries as follows: Chapter 98 (if applicable), followed by Chapter 99 for additional duties, and then trade remedies in the sequence of Section 301, Section 122, Section 232, Section 201, and Section 201 quota (if applicable). After trade remedies, Chapter 99 numbers for replacement duties and other quotas are listed, followed by the Chapter 1-97 commodity tariff. CBP reiterated that the entered value should generally be reported under Chapter 1-97, unless Chapter 98 provisions apply.

On August 18, 2026, CBP via CSMS # 69567203 clarified that HTS subheadings associated with Section 301 duties on certain Brazilian products and forced labor-related products are eligible for drawback. This update corrects an August 12, 2026, message that incorrectly disallowed drawback for these classifications. CBP stated that validations for FD07 have been corrected in production, and the drawback error dictionary has been updated to reflect this change.

On August 11, 2026, CBP updated its quota bulletin for quartz surface products, announcing an opening date of August 17, 2026, for the new tariff-rate quota. Entries submitted after 12:01 a.m. local port time and before 8:30 a.m. ET on the opening date will be assigned an entry time of 8:30 a.m. for quota qualification purposes. The quota follows President Trump's July 31, 2026, proclamation establishing restrictions on quartz surface product imports under Section 203 of the Trade Act.

On August 7, 2026, CBP announced the selection of 27 stakeholders to join the Reimbursable Services Program ("RSP"), a public-private partnership designed to meet growing demand for CBP services in high-traffic areas. The program allows stakeholders to request extended service hours, temporary personnel during peak periods, or support for special events. The application period for RSP remains open year-round, with evaluations conducted in March, July, and November.

On August 10, 2026, CBP's Office of Field Operations ("OFO") released a road map outlining its strategy through 2030 to safeguard U.S. travel, trade, and agriculture. The plan focuses on national security, economic security, integration, and workforce development. OFO aims to modernize ports of entry with advanced analytics, AI, and infrastructure upgrades while promoting informed trade and enhancing enforcement measures. In fiscal year 2025, OFO processed $3.6 trillion in imports, seized over 504,000 pounds of illegal drugs, and intercepted 1.7 million prohibited plant and animal products. The strategy also emphasizes workforce empowerment through training, succession planning, and improved support systems.

On August 4, 2026, CBP via CSMS # 69428352 issued guidance detailing new electronic payment procedures for duty, tax, and fee increases from post-summary corrections, as cash and check payments will no longer be accepted starting August 5, 2026. For debit payments, filers will receive a preliminary statement via the Automated Broker Interface ("ABI"), submit payment authorization through ABI, and receive confirmation once accepted. The filer's account is typically debited two business days after CBP accepts the authorization. For credit payments, CBP will provide filers with payment details, including routing and account numbers, which must be submitted to the filer's bank at least one day before the settlement date. Payments cannot be reversed once initiated. If the payment amount matches, CBP will post it; discrepancies will be manually reconciled. Transactions will appear on the filer's bank statement.

On August 19, 2026, CBP [announced] enhanced enforcement procedures to verify the accuracy of importer of record information on CBP Form 5106. Importers or their brokers must submit complete and accurate information by September 18, 2026, to avoid penalties or the voiding of their importer of record number. The initiative stems from [Executive Order 14411], signed on June 3, 2026, which directed DHS to ensure active importers comply with all regulations. CBP warned that false or misleading information may result in penalties and legal liability for importers and brokers

COURT OF INTERNATIONAL TRADE

Summary of Decisions

Slip Op. 26-85: Nura USA, LLC v. United States

The Court denied plaintiffs' motions for judgment on the agency record and sustained the U.S. International Trade Commission's ("Commission") final affirmative critical circumstances determination in the antidumping and countervailing duty investigations of high protein content pea protein from China. The plaintiffs, a domestic importer and several Chinese producers, challenged several aspects of the Commission's analysis, including its treatment of import volumes, its selection of a five-month comparison period, its consideration of inventory data, and its finding of critical circumstances based on "any other circumstances" showing that the remedial effect of the orders was likely to be seriously undermined. The Court rejected challenges to the Commission's analysis of import volumes, its five-month comparison period, its consideration of inventory data, and its reliance on "other circumstances" indicating the orders' remedial effect would be undermined. It held the Commission was not required to make an independent finding of a "massive" import surge, found no established Commission practice requiring one, and concluded the Commission's determination was supported by substantial evidence, including import timing and volume, rising inventories, market share, and underselling margins. Accordingly, the Court sustained the Commission's final affirmative critical circumstances determination.

Slip Op. 26-86 & 26-87:Kemper AIP Metals, LLC v. United States

The Court granted the motions to intervene of four proposed defendant-intervenors in an action challenging Commerce's and the Commission's affirmative antidumping duty determination on certain corrosion-resistant steel products from Brazil. The plaintiffs, an importer and foreign producer of the merchandise under investigation, opposed the intervention on the grounds that the proposed intervenors lacked constitutional standing and did not qualify as interested parties. The Court held that the proposed intervenors had established standing because they sought only affirmance of Commerce's and the Commission's final results—the same relief sought by the government. The Court further noted that the proposed intervenors were "interested parties" as domestic manufacturers or a representative union that had participated in the underlying investigation as petitioners, and that plaintiffs' merits-based objections to intervention were premature. Accordingly, the Court granted the motions to intervene as a matter of right.

Slip Op. 26-89: Mirror Metals, Inc. v. United States

The Court granted the plaintiff's motion for judgment on the agency record and remanded Commerce's denial of 63 Section 232 steel exclusion requests for flat-rolled stainless steel products. The plaintiff, an importer of specialized stainless products, argued the denials were arbitrary and capricious because Commerce unreasonably accepted a domestic producer's objections s and failed to meaningfully address the plaintiff's rebuttal evidence that the products were not domestically available. The Court agreed with the plaintiff, holding that the objector's claims that it could supply a "standard product" failed to address the specific grounds and supporting evidence in the exclusion requests, as required by the applicable regulations. The Court also held that Commerce failed to adequately explain why it discounted the plaintiff's countervailing evidence, including internal communications and website information showing that the objector could not produce the subject merchandise. The Court therefore remanded for reconsideration or further explanation and ordered that, if Commerce determines the exclusions should have been granted, it must take steps to implement them, including directing reliquidation of the affected entries.

Slip Op. 26-92: Archer Daniels Midland Co. v. United States

The Court sustained Commerce's second remand redetermination in the 2020 to 2021 countervailing duty administrative review of phosphate fertilizers from Russia. After two prior remands criticizing Commerce's tier three benchmark for excluding sedimentary phosphate rock without evidence that ore origin materially affects world prices, Commerce reopened the record and concluded that global prices are driven by bone phosphate of lime content, not by whether the rock is igneous or sedimentary. Commerce then rebuilt the benchmark to include previously excluded sedimentary export data from Iran and Togo and found the mandatory respondent received no measurable benefit from the government's provision of mining rights. Domestic producers challenged Commerce's revised benchmark. The Court rejected domestic producers' challenges to the revised benchmark, including the claim that igneous and sedimentary rock are not interchangeable, because the intervenor cited no record evidence of a meaningful price difference once grade was taken into account. Accordingly, the Court upheld Commerce's second remand results.

Slip Op. 26-93: Salvi Chem. Indus. Ltd. v. United States

The Court denied a domestic glycine producer's motion to intervene as defendant-intervenor in a challenge to Commerce's final results in a changed circumstances review of the antidumping duty order on glycine from China. The Court held that, although the producer was an "interested party," it was not a "party to the proceeding" before Commerce because it did not submit factual information or briefing during the review and entered an appearance only after the final results were issued and after the complaint was filed. The Court also held that permissive intervention is unavailable in actions under 28 U.S.C. § 1581(c) and that, even if it were available, the motion was untimely because it was filed two months after the 30-day deadline without good cause. Accordingly, the Court denied intervention.

Slip Op. 26-94: Axle of Dearborn, Inc. v. Dep't of Com.

The Court denied the plaintiff's motion for partial summary judgment and granted summary judgment to the government on the challenge to the President's rescission of the de minimis tariff exemption, but denied the government's cross-motion on the plaintiff's separate challenge to IEEPA-based tariffs. The plaintiff argued that IEEPA did not authorize rescission of the de minimis exemption and that the implementing agency actions were arbitrary and capricious under the

APA. The Court held that IEEPA's authority to "nullify, void, prevent or prohibit" the exercise of any "right, power, or privilege" reaches the de minimis exemption because Congress has described duty-free treatment under that provision as a "privilege." The Court also noted that there was no separation-of-powers violation. The Court further found the implementing agency actions were purely ministerial and thus not reviewable under the APA. However, because the Supreme Court's decision in *Learning Resources* held that IEEPA does not authorize the imposition of tariffs, the Court denied summary judgment to the government on the plaintiff's separate claim challenging IEEPA tariff authority and deferred decision on that count.

Slip Op. 26-95: Camel Group Co. v. United States

The Court granted in part and denied in part the plaintiff's motion for judgment on the agency record challenging the Forced Labor Enforcement Task Force's denial of its request for removal from the Uyghur Forced Labor Prevention Act ("UFLPA") Entity List. The plaintiff, a Chinese battery-products manufacturer listed based on evidence tying it to a Xinjiang labor transfer program, argued that FLETF exceeded its authority by using a "reasonable cause to believe" standard, misread the statutory phrase "out of" the Xinjiang Uyghur Autonomous Region ("XUAR"), and failed to provide a reasoned, substantial-evidence explanation for denying removal. The Court held that an entity seeking removal bears the burden before the agency and must prove by clear and convincing evidence that it does not meet (or no longer meets) the statutory listing criteria. The Court, rejecting both parties' proposed readings, also interpreted "out of" the XUAR to modify only the movement of persecuted groups from within the region to outside it (recruitment/transport/transfer/harboring/receipt), and not to limit FLETF's authority over forced-labor recruitment occurring within the XUAR. Finally, the Court rejected the plaintiff's arguments that FLETF had to account for Customs' entry-specific admissibility determinations, violated due process, or improperly relied on new evidence, finding FLETF's explanation adequate and the due process/conflict allegations unsupported. The Court therefore denied vacatur but remanded the removal denial for further proceedings consistent with the clear-and-convincing-evidence standard.

Slip Op. 26-96: Tianjin Magnesium Int'l Co. v. United States

The Court denied plaintiffs' motion for reconsideration of its prior opinion sustaining in part and remanding in part Commerce's final results in the 2022-2023 administrative review of the antidumping duty order on pure magnesium from China. The plaintiffs, Chinese magnesium producers, argued the earlier opinion was internally inconsistent because it upheld Commerce's use of Turkish surrogate production data while also stating that Bulgaria produced identical merchandise during the period of review. The Court rejected that characterization, explaining that the earlier reference to "Bulgarian production data for arguably comparable merchandise" was a screenshot describing a different, non-covered aluminum product—not the export data showing Bulgaria produced identical merchandise. The Court further found plaintiffs were conflating production data with export data to relitigate issues already decided. Accordingly, the Court denied the motion for reconsideration.

Slip Op. 26-97: Natural Resources Defense Council, Inc. v. Lutnick

The Court denied as moot plaintiffs' motion to enforce a settlement agreement requiring the government to implement the Marine Mammal Protection Act Import Provisions, which restrict imports of fish caught using methods that kill or seriously injure marine mammals beyond United States standards. Plaintiffs argued the government breached the settlement when, after denying comparability findings for certain swimming crab fisheries, a separate case brought by importers and trade associations resulted in a stay that delayed the related import ban past the agreed deadline. While the motion was pending, the government issued comparability findings for the remaining fisheries and implemented the import ban, and the parties agreed there was no longer a controversy. The Court therefore denied the motion as moot and dismissed the case without prejudice.

Slip Op. 26:98: Universal Tube & Plastic Indus., Ltd. v. United States

The Court sustained Commerce's second remand redetermination in the 2020-2021 administrative review of the antidumping duty order on circular welded carbon quality steel pipe from the United Arab Emirates. The plaintiff challenged Commerce's use of an inter quarter comparison in the differential pricing analysis while using a same quarter comparison for cost calculations, and objected to Commerce's numerical thresholds, including the 2 percent price difference threshold and the 33 percent ratio test cutoff. The Court held the inter quarter and same quarter comparisons serve different statutory functions and do not conflict. It explained that cost volatility can distort normal value calculations, making a same quarter approach appropriate for costs, whereas the inter quarter comparison in the differential pricing analysis does not involve normal value and is not affected by those distortions. The Court also upheld the 2 percent and 33 percent cutoffs as reasonable exercises of Commerce's discretion consistent with Federal Circuit precedent. Accordingly, the Court sustained Commerce's second remand results.

Slip Op. 26-99: JBF Bahrain W.L.L. v. United States

The Court denied the plaintiff's motion for partial summary judgment and granted the government's cross-motion, holding that a Customs regulation adopting a tariff-shift test for determining whether goods qualify for preferential treatment under the United States-Bahrain Free Trade Agreement is invalid because it conflicts with the governing statute. The plaintiff, an importer of film manufactured in Bahrain using third-country inputs, argued that a single change in tariff classification was sufficient for the cost of a third-country input to count toward the agreement's 35 percent value-content requirement, relying on a Customs regulation that traced back to a side letter exchanged between the United States and Bahrain when the agreement was signed. The Court held that General Note 30 of the Harmonized Tariff Schedule, which Congress adopted through the implementing statute, unambiguously requires a third-country input to undergo "double substantial transformation," and that the Customs regulation's competing tariff-shift definition of "new or different article of commerce" was ultra vires because the agency's rulemaking authority was limited to issuing regulations consistent with the statute. The Court further held that even if the tariff-shift regulation applied, the plaintiff misread it, because the regulation requires a tariff shift to occur twice, first when the third-country input becomes an intermediate good and again when that good becomes the final product, and the record showed no second tariff shift occurred here. Accordingly, the Court denied the plaintiff's motion for partial summary judgment and granted the government's cross-motion.

Slip Op. 26-100: Inspired Ventures, LLC v. United States

The Court granted in part and denied in part the plaintiff's motion for summary judgment regarding two detained entries of rubber tires from China. The plaintiff, the importer, argued that Customs had already released both entries and that there was no legal basis to keep withholding them. The government disputed that either entry had been legally released and contended that the second entry could not be released because unpaid antidumping and countervailing duties barred delivery.

The Court held that neither entry had been legally "released" under the customs statutes, rejecting the plaintiff's reliance on its broker's informal references to "release," which the broker's own declaration clarified did not reflect legal release by CBP. On the merits, the Court found the first entry satisfied the statutory requirements for release because it was properly marked, had liquidated, and all required duties had been paid, and the government identified no lawful basis for continued detention. The Court ordered CBP to release the first entry and waive storage fees. The Court denied relief as to the second entry because applicable law prohibit delivery of subject merchandise unless estimated antidumping and countervailing duties are deposited, and the plaintiff had not paid the outstanding duties. The Court therefore ordered release of the first entry, denied summary judgment as to the second, and dismissed the claims relating to the second entry.

COURT OF APPEALS FOR THE FEDERAL COURT

Summary of Decisions

Appeal No. 24-2159, 24-2162 Archroma U.S., Inc. v. Commerce

The Federal Circuit reversed the CIT's judgment invalidating Commerce's regulatory requirement that domestic interested parties file a notice of intent to participate in a sunset review within 15 days of the notice of initiation. The dispute arose after Commerce rejected an untimely notice of intent to participate from a domestic importer and consequently revoked the antidumping duty order on paper whitening chemicals from China and Taiwan when no other domestic interested party responded within the regulatory deadline. The Federal Circuit held that the governing statute's broad grant of authority to Commerce to issue regulations "necessary" to implement the Tariff Act, combined with the statute's silence on interim deadlines, delegated to Commerce the authority to "fill up the details" of the sunset review process, including setting the 15-day deadline. The Federal Circuit further held that the 15-day requirement reflected reasoned decision-making because it served the goals of eliminating needless reviews and promoting administrative efficiency, imposed only minimal burdens, and allowed for extensions upon a showing of good cause or extraordinary circumstances Accordingly, the Federal Circuit reversed the CIT's judgment and remanded for entry of judgment in favor of Commerce, the Commission, and the intervenor.

Appeal No. 25-1196 Fusong Jinlong Wooden Group Co., Ltd. v. U.S.

The Federal Circuit affirmed the CIT's judgment sustaining Commerce's separate rate for non individually examined Chinese exporters of multilayered wood flooring, holding that the exporters forfeited their appellate arguments. Commerce assigned the two mandatory respondents margins of 0 percent and 85.13 percent, the latter based on adverse facts available, and calculated the separate rate for other exporters as a simple average, producing 42.57 percent. The exporters challenged that rate at the CIT as improperly driven by the adverse facts available margin and as "aberrational," but never explained what would make a rate aberrational. The CIT remanded twice on other issues and each time reserved the aberrational rate claim depending on Commerce's recalculation. On the second remand, Commerce replaced the simple average with a volume weighted average, lowering the separate rate to 31.63 percent. The exporters then told the CIT the new method was lawful and asked the court to uphold it, and the CIT sustained the 31.63 percent rate as unopposed. When the exporters attempted to revive the aberrational rate argument on appeal, the Federal Circuit held it was forfeited because aberrationality turns on the specific rate amount and the earlier objection to 42.57 percent did not preserve a challenge to the different 31.63 percent rate, and the exporters never signaled to the CIT that they still contested the recalculated rate after endorsing it. Accordingly, the Federal Circuit affirmed.

Appeal No. 26-1160 Fedmet Resources Corporation. v. U.S.

The Federal Circuit affirmed the CIT's decision sustaining Commerce's redetermination, issued under protest, that refractory bricks containing five percent or less alumina are outside the scope of the antidumping and countervailing duty orders on magnesia carbon bricks from Mexico and China. In a covered merchandise referral stemming from a Customs evasion investigation, Commerce applied a five percent alumina threshold, drawn from prior scope rulings, to treat bricks at or below that level as in scope magnesia carbon bricks rather than out of scope magnesia alumina carbon bricks. The Federal Circuit agreed with the CIT that its earlier decision in *Fedmet I* established that any addition of alumina removes a brick from the scope, because the petitioner had disclaimed coverage of magnesia alumina carbon bricks in the original investigation without proposing any technical cutoff. Commerce therefore could not later impose a percentage threshold absent support in the scope language or the sources underlying the orders. The Federal Circuit held that the five percent threshold would impermissibly expand the scope beyond what *Fedmet I* allowed, while noting that the domestic industry could instead pursue a circumvention inquiry under 19 U.S.C. § 1677j for minor alterations. Accordingly, the Federal Circuit affirmed.