

Trade Law Update



HIGHLIGHTS FROM SEPTEMBER 2026

IN THIS ISSUE:

[U.S. Department of Commerce Decisions](#)

[International Trade Commission](#)

[U.S. Customs and Border Protection](#)

[Court of International Trade](#)

[Court of Appeals for the Federal Circuit](#)

[Export Controls and Sanctions](#)

[CBP Issues CSMS Guidance on Section 338 Canada Duties](#)

U.S. Customs and Border Protection (CBP) recently issued [guidance](#) via the Cargo Systems Messaging Service (CSMS) on filing entries for imports from Canada subject to duties under Section 338 of the Tariff Act of 1930 (Section 338). We previously covered President Trump's imposition and subsequent modification of these Section 338 tariffs [here](#), [here](#), and [here](#).

[FMC Clarifies That Charge Complaints May Be Filed Through Traditional Complaint Processes](#)

The Federal Maritime Commission (FMC) has issued a rule clarifying how Charge Complaints under 46 U.S.C. § 41310 may be filed. Shippers are not limited to the FMC's no-fee interim email process. They may also pursue Charge Complaints through the commission's traditional formal or small claims complaint procedures.

[CBP States CAPE Phase 3 Will Deploy on October 6, 2026](#)

U.S. Customs and Border Protection (CBP) has notified the Court of International Trade (CIT) that Phase 3 of its Consolidated Administration and Processing of Entries (CAPE) will deploy on October 6, 2026.

[The \\$604 Million Verdict Against C.H. Robinson and the Catch 22 for Brokers](#)

In July 2026, in *Peyton v. Lupus*, a \$604 million case arising from a fatal 2021 multi-vehicle collision in Mississippi, a jury in Dallas County, Texas found freight broker C.H. Robinson and Lupus Superior, LLC, the motor carrier that employed the driver, liable.

[Petition Summary: Certain Wooden Fence Pickets from the People's Republic of China](#)

On September 24, 2026, the American Alliance of Wooden Fence Producers, comprised of Alta Forest Products, Mendocino Forst Products, and Sierra Pacific Industries, (Petitioner) filed companion petitions requesting the imposition of antidumping and countervailing duties on imports of certain wooden fence pickets from the People's Republic of China (China).

[From Settlements to Strategy: The Fraud Division's Trade Enforcement Priority and What It Means for Importers](#)

On September 1, we posted on the [Government Enforcement, Compliance & Investigations Report](#) about how a Taiwan-based LED manufacturer and its U.S. subsidiary agreed to pay \$5.15 million to resolve False Claims Act allegations that they evaded Section 301 tariffs by transshipping Chinese-origin LEDs through Taiwan.

[Weekly Update: Week of August 31, 2026](#)

On September 2, 2026, CBP issued CSMS #69738151 providing guidance on Section 232 duties for unmanned aircraft systems (UAS) and UAS components under Presidential Proclamation 11055.

[The U.S. Trade War with Canada Escalates with Import Bans and More Products Subject to Section 338 Tariffs](#)

On September 8, 2026, President Trump issued five Proclamations that banned imports of certain products from Canada and modified the scope of products subject to 50% tariffs under Section 338 of the Tariff Act of 1930 (Section 338) including subjecting new products to the tariffs.

[Petition Summary: Corrugated Pizza Boxes from the People's Republic of China, Malaysia, and the Republic of Türkiye](#)

On September 9, 2026, the American Pizza Boxes Manufacturers Coalition (comprised of Smurfit Westrock plc and Pratt Industries, Inc.) and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW) (collectively Petitioners) filed a petition for the imposition of antidumping duties on imports of corrugated pizza boxes from the People's Republic of China (China), Malaysia, and the Republic of Türkiye (Turkey), and countervailing duties on imports from Turkey.

Trade Law Update



U.S. and China Launch Trade Board and Introduce 30-for-30 Tariff Reduction Framework

On September 27, 2026, the White House issued a [press release](#) announcing the creation of the U.S.-China Board of Trade, a new government-to-government body tasked with managing trade between the two countries. Critically, the press release indicated that the two sides released a companion “30-for-30” framework aimed at reducing tariffs on products.

CBP Releases Updated Section 232 Guidance for Pharmaceutical Articles and Ingredients

On September 28, 2026, U.S. Customs and Border Protection (CBP) issued [CSMS #70054007](#), providing updated guidance on the implementation of the Section 232 duties on imported pharmaceuticals and pharmaceutical ingredients imposed under Presidential Proclamation 11020. The guidance also incorporates the Department of Commerce’s (DOC) September 23, 2026 Federal Register notice (91 FR 60360), which identifies products and jurisdictions eligible for certain duty-free treatment and implements several technical corrections to the pharmaceutical tariff regime.

CBP Issues Guidance on Import Prohibitions for Certain Canadian Products Pursuant to Presidential Proclamation 11061, 11062, and 11063

U.S. Customs and Border Protection (CBP) has issued guidance ([CSMS #70050970](#)) on Presidential Proclamations [11061](#) (alcohol), [11062](#) (dairy), and [11063](#) (motor vehicles), which exclude a defined list of Canadian products from importation into the United States.

Petition Summary: Certain Amine Compounds from The People’s Republic of China

On September 29, 2026, Evonik Corporation and Huntsman International LLC (“Petitioners”) filed petitions requesting the imposition of antidumping and countervailing duties on imports of certain amine compounds (“CACs”) from the People’s Republic of China.

Petition Summary: Certain Railway Tank Cars and Parts Thereof from Mexico

On September 30, 2026, UTLX Manufacturing LLC (“Petitioner” or “UTLX”) filed companion petitions requesting the imposition of antidumping and countervailing duties on imports of certain railway tank cars and parts thereof (“tank cars”) from Mexico

U.S. DEPARTMENT OF COMMERCE DECISIONS

Investigations

- Perfluoroalkoxy Alkane From India: On September 1, 2026, Commerce issued its [Initiation](#) of Countervailing Duty Investigation.
- Perfluoroalkoxy Alkane From India: On September 1, 2026, Commerce issued its [Initiation](#) of Less-Than-Fair-Value
- Investigation. Certain Oil Country Tubular Goods From Austria: On September 3, 2026, Commerce issued its Preliminary Affirmative Countervailing Duty [Determination](#) and Alignment of Final Determination With Final Antidumping Duty Determination
- Certain Linear Hydraulic Cylinders and Parts Thereof From the People’s Republic of China, India, and Mexico: On September 14, 2026, Commerce issued its Initiation of Countervailing Duty Investigations.
- Certain Linear Hydraulic Cylinders and Parts Thereof From the People’s Republic of China, India, and Mexico: On September 14, 2026, Commerce issued its [Initiation](#) of Countervailing Duty Investigations.
- Certain Linear Hydraulic Cylinders and Parts Thereof From Canada, the People’s Republic of China, India, the Republic of Korea, and Mexico: On September 14, 2026, Commerce issued its [Initiation](#) of Less-Than-Fair-Value Investigations.
- Tin Mill Products From the People’s Republic of China: On September 15, 2026, Commerce issued its Preliminary Affirmative Countervailing Duty [Determination](#), Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Determination With Final Antidumping Duty Determination.
- Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules From Indonesia: On September 16, 2026, Commerce issued its Final Affirmative Countervailing Duty [Determination](#) and Final Affirmative Determination of Critical Circumstances, in Part.
- Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules From the Lao People’s Democratic Republic: On September 16, 2026, Commerce issued its Final Affirmative Countervailing Duty [Determination](#) and Final Affirmative Determination of Critical Circumstances, in Part.
- Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From India: On September 16, 2026, Commerce issued its Final Affirmative Countervailing Duty [Determination](#) and the Final Affirmative Critical Circumstances Determination, in Part.

- Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From Indonesia: On September 16, 2026, Commerce issued its Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances.
- Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules From India: On September 16, 2026, Commerce issued its Final Affirmative [Determination](#) of Sales at Less Than Fair Value, and Final Affirmative Determination of Critical Circumstances, In Part.
- Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From Indonesia: On September 16, 2026, Commerce issued its Final Affirmative [Determination](#) of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances.
- Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the Lao People's Democratic Republic: On September 16, 2026, Commerce issued its Final Affirmative [Determination](#) of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part.
- Carbon and Alloy Steel Wire Rod From Algeria: On September 18, 2026, Commerce issued its Final Affirmative Countervailing Duty [Determination](#) and Countervailing Duty Order.
- Tin Mill Products From the People's Republic of China: On September 21, 2026, Commerce issued its Preliminary Affirmative [Determination](#) of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances and Extension of Provisional Measures.
- Certain Fatty Acids From Indonesia: On September 22, 2026, Commerce issued its Preliminary Affirmative [Determination](#) of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part, Postponement of Final Determination, and Extension of Provisional Measures.
- Certain Fatty Acids From Malaysia: On September 22, 2026, Commerce issued its Preliminary Affirmative [Determination](#) of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures.
- Certain Freight Rail Couplers and Parts Thereof From India: On September 24, 2026, Commerce issued its Final Affirmative Countervailing Duty [Determination](#).
- Tris(hydroxymethyl)aminomethane From the People's Republic of China: On September 24, 2026, Commerce issued its Preliminary Affirmative Countervailing Duty [Determination](#), Preliminary Affirmative Determination of Critical Circumstances, in Part, and Alignment of Final Determination With Final Antidumping Duty Determination.
- Certain Freight Rail Couplers and Parts Thereof From India: On September 24, 2026, Commerce issued its Final Affirmative [Determination](#) of Sales at Less Than Fair Value.
- Certain Freight Rail Couplers and Parts Thereof From the Czech Republic: On September 24, 2026, Commerce issued its Final Affirmative [Determination](#) of Sales at Less Than Fair Value.
- Large Diameter Graphite Electrodes From India: On September 30, 2026, Commerce issued its Preliminary Affirmative [Determination](#) of Sales at Less-Than- Fair-Value.
- Large Diameter Graphite Electrodes From the People's Republic of China: On September 30, 2026, Commerce issued its Preliminary Affirmative [Determination](#) of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances.

Administrative Reviews

- Circular Welded Carbon Steel Pipes and Tubes From Thailand: On September 1, 2026, Commerce issued its Final [Results](#) of Antidumping Duty Administrative Review; 2024–2025.
- Heavy Walled Rectangular Pipes and Tubes from Mexico: On September 3, 2026, Commerce issued its Final [Results](#) of Antidumping Duty Administrative Review; 2023–2024.
- Certain Frozen Warmwater Shrimp from India: On September 4, 2026, Commerce issued its Final [Results](#) of Antidumping Duty Administrative Review; 2024–2025.
- Narrow Woven Ribbons with Selvage From Taiwan: On September 4, 2026, Commerce issued its Final [Results](#) of Antidumping Duty Administrative Review; 2023–2024.
- Methionine From Spain: On September 14, 2026, Commerce issued its Final [Results](#) of Antidumping Duty Administrative Review; 2023–2024.
- Certain Aluminum Foil From the Sultanate of Oman: On September 15, 2026, Commerce issued its Final [Results](#) of Countervailing Duty Administrative Review; 2023.
- Glycine From India: On September 15, 2026, Commerce issued its Final [Results](#) of Antidumping Duty Administrative Review; 2024–2025.
- Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel From Italy: On September 16, 2026, Commerce issued its Final [Results](#) of Antidumping Duty Administrative Review; 2024–2025.
- Certain Crystalline Silicon Photovoltaic Products From Taiwan: On September 16, 2026, Commerce issued its Final [Results](#) of the Antidumping Duty Administrative Review; 2024–2025.
- Oil Country Tubular Goods From the Socialist Republic of Vietnam: On September 17, 2026, Commerce issued its Final [Results](#) of Antidumping Duty Administrative Review; 2023–2024.
- Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From the Republic of Korea: On September 21, 2026, Commerce issued its Final [Results](#) of the Antidumping Duty Administrative Review; 2023–2024.
- Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: On September 21, 2026, Commerce issued its Final [Results](#) of Antidumping Duty Administrative Review; 2024–2025.
- Forged Steel Fluid End Blocks From Italy: On September 22, 2026, Commerce issued its Final [Results](#) of Countervailing Duty Administrative Review; 2024.

- Certain Oil Country Tubular Goods From the Republic of Korea: On September 24, 2026, Commerce issued its Final [Results](#) of Antidumping Duty Administrative Review; 2023–2024.
- Certain Superabsorbent Polymers From the Republic of Korea: On September 25, 2026, Commerce issued its Final [Results](#) of Antidumping Duty Administrative Review; 2023–2024.
- Large Diameter Welded Pipe From the Republic of Türkiye: On September 25, 2026, Commerce issued its Final [Results](#) of Antidumping Duty Administrative Review; 2024–2025

Sunset Reviews

- Certain Steel Grating From the People’s Republic of China: On September 1, 2026, Commerce issued its Final Results of the Expedited Third Sunset Review of the Antidumping Duty Order.
- Welded Line Pipe From the Republic of Türkiye: On September 1, 2026, Commerce issued its Final Results of the Expedited Second Sunset Review of the Countervailing Duty Order.
- Certain Steel Nails From the Socialist Republic of Vietnam: On September 2, 2026, Commerce issued its Final Results of the Expedited Second Sunset Review of the Countervailing Duty Order.
- Welded Line Pipe From the Republic of Korea and the Republic of Türkiye: On September 2, 2026, Commerce issued its Final Results of the Expedited Second Sunset Review of the Antidumping Duty Orders.
- Certain Steel Nails From the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, and the Socialist Republic of Vietnam: On September 3, 2026, Commerce issued its Final Results of the Expedited Second Sunset Reviews of the Antidumping Duty Orders.
- Steel Grating From the People’s Republic of China: On September 9, 2026, Commerce issued its Final Results of the Expedited Third Sunset Review of the Countervailing Duty Order.
- Passenger Vehicle and Light Truck Tires From the Republic of Korea, Taiwan, and Thailand: On September 30, 2026, Commerce issued its Final Results of the Expedited First Sunset Reviews of the Antidumping Duty Orders

Scope Ruling

- None

Circumvention

- Certain Vertical Shaft Engines Between 99cc and 225cc, and Parts Thereof, From the People’s Republic of China: On September 24, 2026, Commerce issued its Affirmative Final [Determinations](#) of Circumvention of the Antidumping and Countervailing Duty Orders-5C65Mo and BC70Mo Engines

INTERNATIONAL TRADE COMMISSION

Investigations

- Silicon Metal From Bosnia and Herzegovina, Iceland, Kazakhstan, and Malaysia (Review); On September 3, 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
- Welded Stainless Steel Line and Pressure Pipe From India, Turkey, and the United Arab Emirates (Preliminary); On September 3, 2026, the ITC issued its affirmative [determination](#) of less-than-fair-value investigations.
- L-Lysine From China (Final); On September 8, 2026, the ITC issued its affirmative [determination](#) of less-than-fair-value investigations.
- Hardwood and Decorative Plywood From China, Indonesia, and Vietnam (Final); On September 9, 2026, the ITC issued its affirmative [determination](#) of less-than-fair-value investigations.
- Polyvinyl Alcohol From China and Japan (Fourth Review); On September 11, 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.
- Steel Concrete Reinforcing Bar From Bulgaria, Egypt, and Vietnam; On September 15, 2026, the ITC issued its affirmative [determination](#) of less-than-fair-value investigations.
- Standard Steel Welded Wire Mesh From Mexico (Review); On September 23, 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.
- Perfluoroalkoxy Alkane From India (Preliminary); On September 24, 2026, the ITC issued its affirmative [determination](#) of less-than-fair-value investigations.
- Boltless Steel Shelving Units Prepackaged for Sale From China (Second Review); On September 29, 2026, the ITC issued its [determination](#) to continue the antidumping and countervailing duty

U.S. CUSTOMS AND BORDER PROTECTION

Enforce and Protect Act

EAPA Cons. Case 8308: Various Importers – Thermoformed Molded Fiber Products

On September 9, 2026, U.S. Customs and Border Protection (CBP) issued its notification of initiation of investigation and interim measures as to evasion by Teh Tung Corporation (Teh Tung), Acadian Crossing Consumer Products, LLC (Acadian Crossing), and Verde Winsight Group, Inc. (Verde Winsight) (collectively, the Importers) in Enforce and Protect Act (EAPA) investigation 8308, examining the evasion of Antidumping (AD) and Countervailing Duty (CVD) Orders on thermoformed molded fiber products from the People's Republic of China (China), case numbers A-570-182 and C-570-183. CBP found there was a reasonable suspicion that the Importers had been entering covered merchandise from China that was transshipped through Malaysia.

EAPA Investigation 8225: Dymatec USA, LLC

On November 21, 2025, CBP initiated EAPA Investigation 8225 pursuant to Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015, because the allegation reasonably suggested that Dymatec USA, LLC (DUSA) entered diamond sawblades from China into the customs territory of the United States by means of evasion.

Customs Bulletin Weekly

On September 28, 2026, CBP via CSMS #[70050970](#) issued guidance on Presidential Proclamations 11061 (alcohol), 11062 (dairy), and 11063 (motor vehicles), prohibiting the importation of specified Canadian products into the US starting 12:01 a.m. ET on September 29, 2026. Covered goods will be barred from entry into Foreign Trade Zones (FTZs), bonded warehouses, in-bond transportation, or consumption entry, and any such entries will be unconditionally rejected. A grace period allows goods imported before the effective date, including those in FTZs or bonded warehouses, to be entered for consumption, but they remain subject to a 50% ad valorem duty under prior proclamations.

On September 22, 2026, CBP via CSMS # [69990649](#) issued guidance on technical corrections for Section 301 product exclusions recently announced by USTR. ACE functionality for processing the amended exclusions will be available starting 12 p.m. ET on September 23, 2026. Importers seeking refunds for affected entries should file a post-summary correction ("PSC") if within the PSC time frame or a protest if not. For example, for goods entered between July 1, 2026, and September 22, 2026, PSCs can be filed starting September 23, 2026.

On September 21 2026, CBP [announced](#) in the *Federal Register* that IRS interest rates for calculating interest on overdue accounts and customs duty refunds will remain unchanged for the quarter starting October 1, 2026. The rates are 7% for underpayments (corporations and non-corporations) and 7% for overpayments by non-corporations, while corporations will have a 6% overpayment rate.

On September 15, 2026, CBP [announced](#) that customs brokers will serve as the importer of record for the new Entry Type 13, set to launch on September 22 for mail shipments subject to partner government agency ("PGA") requirements or additional Chapter 98/99 classifications. CBP explained that brokers will be responsible for validating shipment data and will bear the same liability as any importer of record. CBP also noted that, initially, there will be no manifest connected to Entry Type 13, but CBP is working on a solution. Brokers must coordinate with carriers, as shipments cannot be filed without the carrier creating a master manifest that aligns with the broker's tracking numbers. CBP also stated that customs release procedures will mirror those for formal entries. CBP emphasized that foreign postal services are assisting brokers with required data, but shipments lacking complete data may be rejected after October 22, 2026, when interim processes will end.

On September 15, 2026, CBP [announced](#) that the third phase of its CAPE refund system will launch on October 6, 2026. According to Brandon Lord, executive director of CBP's trade programs directorate, importers who submitted valid importer of record numbers by July 30, 2026, will be eligible to file CAPE declarations in this phase, which focuses on finally liquidated entries subject to IEEPA tariffs. This phase applies to importers who filed lawsuits at the CIT and received reliquidation orders under a July ruling by Judge Richard Eaton.

On September 15, 2026, CBP via CSMS #[69851916](#) updated its guidance on Section 338 tariffs for Canadian goods, effective for entries or withdrawals after 12:01 a.m. ET on August 22, 2026. Under the update, only goods classified under Harmonized Tariff Schedule subheading 9903.03.13 can claim subheading 9903.03.15, which covers aluminum, steel, copper, vehicles and their parts, semiconductors, and patented pharmaceuticals, with no additional duty rate. The changes align with recent presidential proclamations imposing additional tariffs and import bans on certain Canadian goods.

COURT OF INTERNATIONAL TRADE

Summary of Decisions

Slip Op. 26-101: U.S. Aluminum Extruders Coal v. United States

The Court denied plaintiffs' motion for judgment on the agency record and sustained in full the Commission's final negative determination in the antidumping and countervailing duty investigations of aluminum extrusions from fourteen countries. The plaintiffs, a domestic producer coalition and a labor union, argued that the Commission's price effects, adverse impact, and threat of material injury analyses were unsupported by substantial evidence, principally because the Commission relied on quarterly pricing product data showing

predominant overselling by subject imports rather than on other record evidence the plaintiffs argued showed pervasive underselling. The Court held that the Commission reasonably considered and addressed each of the eleven underselling factors the plaintiffs identified, reasonably found the quarterly pricing data more probative than purchaser perceptions, average unit value data, lost sales allegations, and dumping margins, and did not disregard any detracting evidence in violation of the Commission's obligation to consider the record as a whole. The Court also held that the Commission's finding that the domestic industry's declining performance resulted from its own supply constraints in 2021 and 2022, rather than from subject imports, was supported by substantial evidence, including data showing that the largest domestic producers

faced supply shortages and extended lead times during that period. Finally, the Court held that the Commission's threat determination was reasonable because it was based on the same supply constraints and underselling findings already sustained, and because the Commission adequately explained that an interim 2024 increase in subject import market share was attributable to importers front-loading shipments ahead of anticipated duties rather than to an imminent surge in subject imports. Accordingly, the Court sustained the Commission's determination in full.

[Slip Op. 26-102: Zoetis Servs LLC v. United States](#)

The Court granted the plaintiff's motion for summary judgment and denied the government's cross-motion, holding that imported feed-grade chlortetracycline concentrate is properly classified as an antibiotic under HTSUS subheading 2941.30.00 rather than as an animal feed preparation under heading 2309. The plaintiff, an importer of the concentrate, argued that the merchandise was an antibiotic because its only active ingredient was chlortetracycline and its remaining components were permissible manufacturing impurities, while the government argued the merchandise was a preparation for animal feed under heading 2309. The Court held that the merchandise could not be classified under heading 2309 because it did not contain a carrier at importation, its antibiotic concentration far exceeded the general range associated with animal feed premixes, and it qualified for the Explanatory Note's exclusion for preparations with veterinary uses. The Court further held that the non-antibiotic substances in the merchandise were permissible impurities under Chapter 29 because they resulted solely from the fermentation manufacturing process and were not deliberately added for a specific use. Accordingly, the Court held the merchandise properly classified under subheading 2941.30.00 as an antibiotic.

[Slip Op. 26-103: Catfish Farmers of Am. v. United States](#)

The Court sustained Commerce's remand redetermination, unopposed by any party, concerning entries covered by a prior settlement in the antidumping proceeding on frozen fish fillets from Vietnam. Because no party objected to the remand results, the Court ordered that the redetermination be sustained and that affected entries be liquidated in accordance with Commerce's remand redetermination.

[Slip Op. 26-104: Winder Tower Trade Coal. v. United States](#)

The Court sustained Commerce's remand results recalculating a Korean wind tower producer's dumping margin following reconsideration of indirect and direct conversion costs in the 2021-2022 administrative review of utility scale wind towers from Korea. On remand, Commerce found the respondent's reported indirect conversion costs were distortive because they varied without correlation to product complexity, and it therefore relied on period-of-review annual average costs instead, lowering the respondent's margin. Commerce declined to make a corresponding adjustment to the respondent's direct variable overhead costs because those costs were traceable to specific projects and reasonably reflected the physical characteristics of the merchandise, including differences attributable to steel plate usage. The Court rejected the domestic industry's challenge to the indirect cost adjustment and the petitioner-side challenge to the direct cost treatment, holding that Commerce adequately explained both determinations and that they were supported by substantial evidence. Accordingly, the Court sustained Commerce's remand results in full.

[Slip Op. 26-105: Industrial Pesquera Santa Priscila, S.A. v. United States](#)

The Court denied Ecuadorian shrimp exporters' motion for judgment on the agency record and sustained the Commission's affirmative material-injury determination regarding subsidized shrimp imports from Ecuador. The plaintiffs argued that the Commission abused its discretion by declining to request that domestic fishermen report the volume of diesel fuel purchased and that substantial evidence did not support finding material injury given rising fuel costs. The Court held the Commission reasonably declined to collect additional diesel-volume data because the agency had active discretion over its investigative methods, the plaintiffs had been able to present their fuel-cost argument on the existing record, and any additional data would have been cumulative. The Court further held substantial evidence supported the Commission's finding that import-driven price declines, not fuel costs, caused the industry's injury, noting that fishermen experienced an operating loss in 2023 despite falling fuel expenses that year. Accordingly, the Court sustained the Commission's determination.

[Slip Op. 26-106: Seafood Exps. Ass'n of India v. United States](#)

The Court denied an Indian seafood exporters association's motion for judgment on the agency record and sustained the Commission's affirmative material-injury determination regarding subsidized shrimp imports from India. The plaintiff argued the Commission erred in defining a single domestic like product that included both raw and cooked frozen shrimp rather than treating them separately, and that a biological limit on domestic wild shrimp supply severed any causal link between imports and industry injury. The Court held substantial evidence supported the Commission's six-factor like-product analysis, including its findings of overlapping physical characteristics, manufacturing processes, distribution channels, and marketing practices between cooked and raw shrimp, despite some purchaser testimony that the products were not interchangeable. The Court also held the Commission reasonably rejected the exporters' supply-constraint theory, finding the industry's reduced output stemmed from fishermen's response to import-driven price declines rather than any fixed biological limit, and that the Commission permissibly discounted the exporters' economic report for methodological flaws. Accordingly, the Court sustained the Commission's determination.

[Slip Op. 26-107: Shrimp Comm. Of the Vietnam Ass'n v. United States](#)

The Court denied a Vietnamese shrimp producers' association's motion for judgment on the agency record and sustained the Commission's affirmative material-injury determination regarding subsidized shrimp imports from Vietnam. The plaintiff challenged the Commission's underselling, lost market share, and causation findings, arguing the agency ignored interim 2024 data, impermissibly found a small market-share change to be statutorily significant, and relied on inconsistent evidence regarding the interchangeability of farm-raised and wild-caught shrimp. The Court held the Commission adequately addressed the interim data and reasonably explained why an 0.8 percentage point market-share loss was significant in context, and that assessing what is statutorily significant is a fact-bound determination within the agency's discretion. The Court further held substantial evidence supported the Commission's finding that farm-raised and wild-caught shrimp were sufficiently interchangeable to compete, noting that the agency reasonably weighed conflicting purchaser responses and marketing evidence, and rejected the plaintiff's argument that the Commission was required to collect additional questionnaire data. Accordingly, the Court sustained the Commission's determination.

[Slip Op. 26-108: Jiangsu Nova Intelligent Logistics Equip Co. v. United States](#)

The Court granted the government's motion for a voluntary remand of Commerce's final results in the 2022-2023 administrative review of certain steel racks from China, concluding that Commerce should be permitted to reconsider its new differential pricing methodology after interested parties have had an opportunity to comment on it. The plaintiffs, Chinese steel rack producers and exporters, challenged Commerce's shift away from the Cohen's d test to a new "price difference test" with revised numerical thresholds, arguing among other things that the differential pricing analysis is unavailable in administrative reviews and that Commerce failed to explain its new methodology or thresholds. The government explained that it adopted the new test shortly before the deadline for final results, following the Federal Circuit's decision in *Marmen* invalidating the Cohen's d test as applied to data lacking certain statistical characteristics, leaving no time to solicit comments on the replacement methodology. The Court agreed that a remand was warranted so Commerce could reconsider its approach with the benefit of party comments, ordered Commerce to submit a redetermination within 90 days, and allowed the parties 60 days to comment on the redetermination once issued.

[Slip Op. 26-109: TNC Kazchrome JSC v. United States](#)

The Court granted the motion for judgment on the agency record filed by plaintiff TNC Kazchrome JSC ("Kazchrome"), a Kazakhstani metal producer, and remanded Commerce's application of total adverse facts available in a countervailing duty proceeding involving subsidies to the producer's Luxembourg-based corporate parent. Kazchrome argued that Commerce breached its statutory duty under 19 U.S.C. § 1677m(d) to give notice and an opportunity to cure any deficiency before resorting to facts otherwise available, after Kazchrome expressly stated in its questionnaire response that it would not submit ownership information for its non-Kazakhstani parent companies. The Court agreed, holding that Kazchrome's express refusal to provide the requested information triggered Commerce's notice obligation, and that Commerce's subsequent supplemental questionnaire did not satisfy that obligation because it never identified any error or stated that the prior response was deficient. The Court also rejected the government's argument that Commerce was excused from giving notice because the information only came to light at verification, noting that the statutory entitlement to notice and an opportunity to cure is unqualified. Accordingly, the Court remanded for Commerce to provide proper notice and reconsider the applicability of a related subsidy exclusion and a tax-exemption adjustment to Kazchrome's subsidy-rate calculation.

[Slip Op. 26-110: Wabtec Corp. v. United States](#)

The Court sustained the Commission's remand results concerning the composition of the domestic industry and its affirmative material-injury determination in the antidumping and countervailing duty investigations of freight rail couplers from China. The plaintiffs, U.S. importers, argued that the departure of a Commissioner between the original determination and the remand altered the voting composition in a way that undermined the Commission's determination not to exclude a domestic producer-importer from the domestic industry, and that the material-injury determination was unsupported by substantial evidence. The Court held that because the remaining Commissioners adopted the original views with further explanation rather than taking new agency action, the change in composition did not affect the validity of the determination. The Court further held that the Commissioner's further explanation of each of the five related-parties factors, including treating two factors as threshold questions and focusing on harm to the domestic producer's production of the like product specifically, was supported by substantial evidence and consistent with the statute. The Court also held the Commission's affirmative material-injury determination was supported by substantial evidence, including its finding that market-share improvement from 2021 to 2022 was attributable to provisional duties rather than to the absence of injury.

Accordingly, the Court sustained both of the Commission's remand determinations.

[Slip Op. 26-111: Maquilacero S.A. de C.V. v. United States](#)

The Court sustained Commerce's second remand redetermination in the administrative review of the 2020-2021 antidumping duty order on light-walled rectangular pipe and tube from Mexico, which replaced the Cohen's d test with a new differential pricing methodology following the Federal Circuit's decision in *Marmen III*. The plaintiffs challenged Commerce's new three-step analysis, consisting of a price difference test, a ratio test, and a meaningful difference test, arguing that the two percent price-difference threshold did not measure statutorily significant price differences and that Commerce's abandonment of its prior mixed methodology exceeded the scope of the remand. The Court held that Commerce's selection of the two percent threshold was reasonable because it was consistent with thresholds Commerce uses in other contexts, including the arm's-length test and the statutory de minimis standard, and that the statute does not require Commerce to determine the reasons for significant price differences or employ a particular statistical test. The Court also held that Commerce permissibly discontinued the mixed methodology because the Federal Circuit's mandate authorized Commerce to re-perform its entire differential pricing analysis, and the statute does not reference a mixed method. Accordingly, the Court sustained Commerce's second remand redetermination.

[Slip Op. 26-112: Kumar Indus. v. United States](#)

The Court sustained in part and remanded in part Commerce's final results in the 2022-2023 antidumping duty administrative review of glycine from India, upholding Commerce's application of total adverse facts available against mandatory respondent Kumar Industries ("Kumar") but remanding Commerce's calculation of the all-others rate assigned to non-selected respondent Bajaj. The Court held that Commerce reasonably determined that necessary information regarding Kumar's affiliations with four related companies was missing from the record because Kumar's responses to three supplemental questionnaires were contradictory and frequently non-responsive, and that Commerce satisfied its statutory obligation under 19 U.S.C. § 1677m(d) to notify Kumar of the deficiencies and provide an opportunity to cure them before applying an adverse inference. As to Bajaj's all-others rate, the Court held that Commerce failed to adequately explain why it was reasonable to deviate from the statutorily expected method and instead use a simple average of Kumar's adverse-facts-available rate and the other mandatory respondent's zero percent rate, rather than demonstrating that the expected method was infeasible or unrepresentative of the non-selected respondents' potential dumping margins. Accordingly, the Court remanded for Commerce to further explain its deviation from the expected method in calculating the all-others rate.

[Slip Op. 26-113: Stupp Corp. v. United States](#)

The Court sustained Commerce's fourth remand redetermination in the long-running less-than-fair-value investigation of welded line pipe from Korea, in which Commerce replaced the Cohen's d test with a new two percent price difference test and discontinued its mixed methodology for applying the alternative average-to-transaction comparison. The respondent argued that the two percent threshold failed to measure statutorily significant price differences and did not satisfy the statute's case-by-case mandate, and that Commerce's elimination of the mixed methodology exceeded the scope of the Federal Circuit's remand. The Court held that the two percent threshold was reasonable because it measures relative, rather than absolute, price differences and is consistent with thresholds Commerce applies in other contexts, including the arm's-length test and the statutory de minimis standard. The Court also held that the Federal Circuit's instruction to re-perform the differential pricing analysis encompassed reconsideration of all components of that analysis, including the ratio test, and that Commerce reasonably discontinued the mixed methodology given the antidumping statute's remedial

purpose. Accordingly, the Court sustained Commerce's fourth remand redetermination.

[Slip Op. 26-114: Ditar, S.A. v. United States](#)

The Court sustained Commerce's remand results denying a Colombian paper bag producer's request for a level-of-trade adjustment in an antidumping duty investigation. The plaintiff argued that Commerce failed to adequately explain why its reported warehousing and repacking expenses did not establish that its home-market sales to end users and distributors occurred at different levels of trade, and that Commerce improperly declined to address whether the price differential between those two customer types was significant. The Court held that Commerce reasonably found the record evidence insufficient to substantiate the plaintiff's claim that it performed additional selling functions exclusively for end-user customers, because the plaintiff's indirect selling expenses were, by their nature, allocated across all sales channels and could not corroborate a channel-specific claim. The Court further held that, having reasonably found the plaintiff failed to establish a difference in levels of trade, Commerce was not required to separately address whether the price differential was significant, since both elements must be satisfied under the statute. Accordingly, the Court sustained Commerce's redetermination.

[Slip Op. 26-115: Forrest Xu v. United States](#)

The Court denied a licensed customs broker's motion for a preliminary injunction seeking to enjoin CBP from deactivating his entry filer code following a compliance review that found deficiencies in his importer verification practices. The plaintiff argued that CBP acted arbitrarily and capriciously by deactivating his entry filer code without disclosing specific reasons or providing an opportunity to respond, and that he faced irreparable harm because the suspension threatened the viability of his brokerage business. The Court held the plaintiff was unlikely to succeed on the merits because the record showed CBP had provided repeated written notices over roughly a year regarding misuse of the entry filer code, followed by a detailed compliance-review letter identifying the specific importer of record numbers at issue and the information needed to resolve the agency's concerns, to which the plaintiff provided an incomplete response. The Court further held the plaintiff failed to establish irreparable harm because his claims of financial distress and client loss rested on unsupported self-attestations, and that the balance of hardships and public interest favored the government given its interest in accurate importer verification and protection of customs revenue. Accordingly, the Court denied the motion for a preliminary injunction.

[Slip Op. 26-116: United States v. Koehler Oberkirch GmbH](#)

The Court granted the government's motion for default judgment against Koehler Oberkirch GmbH ("Koehler") and its successor Koehler Paper SE as a discovery sanction under USCIT Rule 37, after the defendants repeatedly and expressly refused to participate in any discovery in the government's action to collect over \$275 million in unpaid antidumping duties on thermal paper. The Court held that entry of default under USCIT Rule 55 was not a procedural prerequisite to entry of default judgment under Rule 37, and that the defendants' complete refusal to respond to interrogatories justified default judgment without a prior motion to compel. The Court further held that the well-pled allegations in the amended complaint established both defendants' joint and several liability as successor entities to the original importer, and that the government's supporting declaration adequately established Koehler's liability in the amount of \$193,631,642.08, plus post-liquidation and post-judgment interest. However, the Court denied the government's request to enjoin future imports by Koehler as part of the default judgment, holding that such injunctive relief would impermissibly differ in kind from the money judgment demanded in the pleadings under USCIT Rule 54(c).

[Slip Op. 26-117: IPG Photonics Corp. v. United States](#)

The Court denied plaintiff's motion for judgment on the agency record and sustained Commerce's final scope ruling that plaintiff's heat sinks are within the scope of the antidumping and countervailing duty orders on aluminum extrusions from China. Plaintiff argued that Commerce misinterpreted the orders' exclusion for finished heat sinks and improperly discounted evidence relating to predecessor and prototype heat sinks and post-production testing of its lasers. The Court held that Commerce reasonably interpreted the finished heat sink exclusion to require both pre-established specified thermal performance requirements and post-production testing demonstrating compliance with those requirements, consistent with the plain language of the orders and the underlying Commission report. The Court further held that Commerce reasonably found plaintiff's evidence insufficient because much of it described heat sinks with different dimensions or composition than the models at issue, and because plaintiff failed to show that specified thermal performance requirements existed before or during the design and production of the products actually at issue. Accordingly, the Court sustained Commerce's determination that plaintiff's heat sinks do not qualify for the finished heat sink exclusion.

[Slip Op. 26-118: China Cornici Co. v. United States](#)

The Court sustained Commerce's final results of redetermination on remand in the 2020-2021 administrative reviews of countervailing and antidumping duty orders on wood mouldings and millwork products from China, resolving claims brought by plaintiffs China Cornici Co. ("Cornici") and RaoPing HongRong Handicrafts Co. ("RaoPing"). The Court held that Commerce reasonably determined not to rescind its reviews of Cornici and RaoPing because record evidence showed both companies had subject entries during the period of review, but that Commerce correctly determined it lacked authority to order reliquidation of entries that had already been liquidated, because none of the limited statutory exceptions permitting reliquidation applied and 19 U.S.C. § 1592(d) does not authorize reliquidation absent a showing that the government was deprived of lawful revenue. The Court also held that Commerce reasonably denied Cornici a separate antidumping rate because its evidence of independent price negotiation consisted only of a contextless price list and an email chain addressing an invoicing error, and that Commerce reasonably required that an importer identify RaoPing as the exporter on entry documentation before applying RaoPing's separate rate to reseller Chen Chiu's entries. Accordingly, the Court sustained Commerce's remand results in full.

[Slip Op. 26-119: Coalition of Am. Mfrs. Of Mobile Access Equip v. United States; Zhejiang Dingli Mach Co. v. United States](#)

The Court sustained Commerce's final determination in the 2022-2023 administrative review of the antidumping duty order on mobile access equipment from China, resolving consolidated challenges brought by Chinese producer Zhejiang Dingli Machinery Co. ("Dingli") and the Coalition of American Manufacturers of Mobile Access Equipment ("Coalition"). The Court held that Commerce's selection of Turkey as the primary surrogate country, notwithstanding Dingli's hyperinflation concerns, was supported by substantial evidence because the Turkish data included necessary inflators and detailed, audited financial statements, whereas the comparable Bulgarian data and financial statements were incomplete or unusable. The Court also held that any error in Commerce's use of the Cohen's d test to assess the average-to-transaction comparison method was harmless because Commerce did not depart from the default average-to-average method, and that Commerce correctly deducted Section 301 duties from Dingli's U.S. sales price under the Federal Circuit's precedent decision in *Borusan Mannesmann Boru Sanayi ve Ticaret A.S. v. United States*. Finally, the Court held that Commerce's reliance on Bulgarian tariff schedule codes to value certain inputs in the Coalition's case was reasonable because the Coalition had not shown that its proposed

Turkish codes represented the only possible classifications. Accordingly, the Court sustained Commerce's determination in both consolidated actions.

COURT OF APPEALS FOR THE FEDERAL COURT

Summary of Decisions

[Appeal No. 25-1382 Tenaris Bay City, Inc. v. U.S.](#)

The Court denied plaintiffs' motion for judgment on the agency record and sustained in full the International Trade Commission's final negative determination in the antidumping and countervailing duty investigations of aluminum extrusions from fourteen countries. The plaintiffs, a domestic producer coalition and a labor union, argued that the Commission's price effects, adverse impact, and threat of material injury analyses were unsupported by substantial evidence, principally because the Commission relied on quarterly pricing product data showing predominant overselling by subject imports rather than on other record evidence the plaintiffs argued showed pervasive underselling. The Court held that the Commission reasonably considered and addressed each of the eleven underselling factors the plaintiffs identified, reasonably found the quarterly pricing data more probative than purchaser perceptions, average unit value data, lost sales allegations, and dumping margins, and did not disregard any detracting evidence in violation of the Commission's obligation to consider the record as a whole. The Court also held that the Commission's finding that the domestic industry's declining performance resulted from its own supply constraints in 2021 and 2022, rather than from subject imports, was supported by substantial evidence, including data showing that the largest domestic producers faced supply shortages and extended lead times during that period. Finally, the Court held that the Commission's threat determination was reasonable because it was based on the same supply constraints and underselling findings already sustained, and because the Commission adequately explained that an interim 2024 increase in subject import market share was attributable to importers front-loading shipments ahead of anticipated duties rather than to an imminent surge in subject imports. Accordingly, the Court sustained the Commission's determination in full.