HUSCH BLACKWELL

Trade Law Update



HIGHLIGHTS FROM OCTOBER 2026

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Court of International Trade

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CIT Universal Injunction Power Challenged in IEEPA Refund Appeal

On October 5, 2026, a group of importers led by *V.O.S. Selections* filed a brief at the U.S. Court of Appeals for the Federal Circuit urging the Court to uphold the Court of International Trade's (CIT) universal injunction directing the U.S. Customs and Border Protection (CBP) to refund duties imposed under the International Emergency Economic Powers Act (IEEPA) to all affected importers. The government, appealing the CIT's nationwide order, has argued that the CIT is barred from issuing universal injunctions after the Supreme Court's *Trump v. CASA, Inc.*, 606 U.S. 831 (2025) decision and contended that the CBP cannot reliquidate finally liquidated entries to issue refunds without importer-specific court orders, relying in part on a narrower view of CBP's reliquidation authority under 19 U.S.C. § 1501.

IEEPA Refund Class Action Suit To Move Forward

On October 8, 2026, the U.S. Court of International Trade (CIT) granted Plaintiff Freestyle World, Inc.'s (Freestyle World) motion for class certification and appointment of class counsel. The relief sought by Freestyle World, on behalf of itself and the proposed class, is an injunction directing liquidation or reliquidation of entries without regard to unlawfully imposed International Emergency Economic Act (IEEPA) duties.

OFAC Issues General License No. 135 Temporarily Easing Sanctions on Russian Diesel

On October 9, 2026, the U.S. Department of Treasury's Office of Foreign Assets Control (OFAC) issued General License No. 135, "Authorizing Transactions Related to the Sale, Delivery, Offloading, and Importation of Diesel Fuel of Russian Federation Origin," temporarily easing sanctions on Russian diesel. The move followed discussions between President Trump and Russian President Vladimir Putin, during which Trump stated that Russia agreed to release hundreds of thousands of tons of diesel into U.S. and global markets. The measure aims to reduce record-high diesel prices amid the ongoing conflict with Iran and Ukrainian attacks on Russian refineries.

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Weekly Update: Week of October 12

On October 14, 2026, CBP announced that it was extending the compliance date for the new informal entry procedures for international mail from Oct. 22, 2026, to Jan. 20, 2027. CBP stated that the 90-day extension would provide importers, brokers, and logistics providers additional time to update their processes and avoid disruptions for U.S. bound international postal shipments.

DOJ Sharpens Trade Fraud Enforcement Priorities for Importers

The Department of Justice has sent another clear message that global trade fraud sits at the top of its enforcement agenda. Following the release of an August 2026 memo and rule that created the National Fraud Enforcement Division (NFED or Division) and described its priorities, Assistant Attorney General Colin M. McDonald issued a follow-on directive on October 1, 2026, that sharpens and formalizes how trade and customs fraud will be investigated and prosecuted going forward, particularly where corporations are involved. subject to 50% tariffs under Section 338 of the Tariff Act of 1930 (Section 338) including subjecting new products to the tariffs.

"US Content" of USMCA Qualifying Mobile Industrial Equipment and Machinery Defined

On October 14, 2026, the Bureau of Industry and Security (BIS) issued guidance regarding calculation of "U.S. content" for purposes of the application of Section 232 metal tariffs to mobile industrial equipment and machinery qualifying for preference under the US-Mexico-Canada Agreement (USMCA).

Petition Summary: Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from Georgia and India

On October 15, 2026, Tenaris USA, Vallourec Star LP, and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC (collectively Petitioners), filed petitions for the imposition of antidumping duties on seamless carbon and alloy steel standard, line, and pressure pipe (SSLPP) from Georgia and India and countervailing duties on imports from India.

Weekly Update: Week of October 19

On Friday, October 16, 2026, President Trump issued an Executive Order implementing the Graham Act, passed back in September 2026. The Order waived most of the sanctions, restrictions, and duties the statute would otherwise impose.



President Trump Issues Order Further Modifying Section 338 Duties on Goods From Canada

On Friday, October 23, President Trump issued a Proclamation (the Proclamation) modifying the scope of products from Canada subject to Section 338 tariffs. Please see our previous post on Section 338 tariffs here.

Petition Summary: Certain Shopping Carts and Parts Thereof from The People's Republic of China

On October 28, 2026, Precision Wire Products, Inc. and Wanzl North America (Petitioners) filed petitions requesting the imposition of antidumping and countervailing duties on imports of certain shopping carts and parts thereof from the People's Republic of China.

What the FMC's Proposed Spain Trade Restrictions Could Mean for Shippers and Importers

The Federal Maritime Commission (FMC) has proposed new restrictions after Spain denied port access to certain U.S.-flagged vessels. The proposal would impose a $200,000 fee each time a Spanish-flagged vessel enters a U.S. port and restrict certain imports from Spain, including olive oil, sugar and confectionery, perfumery and cosmetics, articles of stone, and ceramics.

U.S. DEPARTMENT OF COMMERCE DECISIONS

Investigations

- Stationary and Portable Air Compressors From Malaysia: On October 1, 2026, Commerce issued its Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination.
- Stationary and Portable Air Compressors From the People's Republic of China: On October 1, 2026, Commerce issued its Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination
- Stationary and Portable Air Compressors From the Socialist Republic of Vietnam: On October 1, 2026, Commerce issued its Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination With Final Antidumping Duty Determination.
- Truck Bed Covers From the People's Republic of China: On October 1, 2026, Commerce issued its Preliminary Affirmative Determination of Sales at Less Than Fair Value.
- Chromium Trioxide From India: On October 8, 2026, Commerce issued its Final Affirmative Countervailing Duty Determination.
- N-Cyclohexylbenzothiazole-2-Sulfenamide From the People's Republic of China: On October 8, 2026, Commerce issued its Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Determination With Final Antidumping Duty Determination.
- Chromium Trioxide From India: On October 8, 2026, Commerce issued its Final Affirmative Determination of Sales at Less Than Fair Value.
- Chromium Trioxide From the Republic of Türkiye: On October 8, 2026, Commerce issued its Final Affirmative Determination of Sales at Less Than Fair Value.
- High Purity Dissolving Pulp From Brazil: On October 16, 2026, Commerce issued its Final Affirmative Countervailing Duty Determination.
- High Purity Dissolving Pulp From Brazil: On October 16, 2026, Commerce issued its Final Affirmative Determination of Sales at Less Than Fair Value.
- High Purity Dissolving Pulp From Norway: On October 16, 2026, Commerce issued its Final Affirmative Determination of Sales at Less Than Fair Value.
- Truck Bed Covers From the People's Republic of China: On October 19, 2026, Commerce issued its Final Affirmative Countervailing Duty Determination.
- Certain Amine Compounds From the People's Republic of China: On October 26, 2026, Commerce issued its Initiation of Countervailing Duty Investigation.
- Certain Corrugated Die-Cut Cardboard Boxes From the Republic of Türkiye: On October 26, 2026, Commerce issued its Initiation of Countervailing Duty Investigation.
- Certain Amine Compounds From the People's Republic of China: On October 26, 2026, Commerce issued its Initiation of Less-Than-Fair-Value Investigation.
- Certain Corrugated Die-Cut Cardboard Boxes From the People's Republic of China, Malaysia, and the Republic of Türkiye: On October 26, 2026, Commerce issued its Initiation of Less-Than-Fair-Value Investigations

Administrative Reviews

- Certain Aluminum Foil From the Republic of Türkiye: On October 2, 2026, Commerce issued its Final Results of Countervailing Duty Administrative Review; 2023.
- Certain Corrosion Inhibitors From the People's Republic of China: On October 5, 2026, Commerce issued its Final Results of Countervailing Duty Administrative Review; 2024.
- Certain Frozen Warmwater Shrimp From Thailand: On October 6, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review.
- Certain Uncoated Paper From 2.70 Portugal: On October 6, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2024– 2025.
- Circular Welded Carbon-Quality Steel Pipe From the United Arab Emirates: On October 6, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2023–2024.
- Large Diameter Welded Pipe From the Republic of Türkiye: On October 6, 2026, Commerce issued its Final Results of Countervailing Duty Administrative Review; 2024
- Certain Hot-Rolled Steel Flat Products From the Republic of Korea: On October 9, 2026, Commerce issued its Final Results of Countervailing Duty Administrative Review; 2023
- Certain Hot-Rolled Steel Flat Products From Japan: On October 14, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2023–2024.
- Forged Steel Fluid End Blocks From Germany: On October 8, 2026, Commerce issued its Final Results of the Antidumping Duty Administrative Review; 2024.
- Certain Softwood Lumber Products From Canada: On October 19, 2026, Commerce issued its Final Results of Countervailing Duty Administrative Review; 2024.
- Certain Softwood Lumber Products From Canada: On October 19, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2024.
- Certain Steel Nails From Taiwan: On October 19, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2024–2025.
- Forged Steel Fluid End Blocks From Italy: On October 19, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2024.
- Welded Stainless Pressure Pipe From India: On October 22, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2023– 2024.
- Carbazole Violet Pigment-23 From India: On October 26, 2026, Commerce issued its Final Results of Countervailing Duty Administrative Review; 2023.
- Prestressed Concrete Steel Wire Strand From Spain: On October 26, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2024–2025.
- Certain Aluminum Foil From Brazil: On October 30, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2023–2024.
- Strontium Chromate From France: On October 30, 2026, Commerce issued its Final Results of Antidumping Duty Administrative Review; 2023–2024
- Commerce issued its Final Results of the Expedited Second Sunset Review of the Antidumping Duty Order.
- Methionine From France, Japan, and Spain: On October 5, 2026, Commerce issued its Final Results of the Expedited First Sunset Reviews of the Antidumping Duty Orders.
- Passenger Vehicle and Light Truck Tires From the Socialist Republic of Vietnam: On October 5, 2026, Commerce issued its Final Results of the Expedited First Sunset Review of the Countervailing Duty Order.
- Potassium Phosphate Salts From the People's Republic of China: On October 5, 2026, Commerce issued its Final Results of the Expedited Third Sunset Review of the Antidumping Duty Order.
- Seamless Refined Copper Pipe and Tube From the Socialist Republic of Vietnam: On October 28, 2026, Commerce issued its Final Results of the Expedited First Sunset Review of the Antidumping Duty Order.
- Utility Scale Wind Towers From Malaysia: On October 30, 2026, Commerce issued its Final Results of the Expedited First Sunset Review of the Countervailing Duty Order

Sunset Reviews

- Melamine From the People's Republic of China: On October 2, 2026, Commerce issued its Final Results of the Expedited Second Sunset Review of the Countervailing Duty Order.
- Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China and the Russian Federation: On October 5, 2026, Commerce issued its Final Results of the Expedited Fifth Sunset Reviews of the Antidumping Duty Orders.
- Certain Potassium Phosphate Salts From the People's Republic of China: On October 5, 2026, Commerce issued its Final Results of the Expedited Third Sunset Review of the Countervailing Duty Order.
- Melamine From the People's Republic of China: On October 5, 2026, Commerce issued its Final Results of the Expedited Second Sunset Review of the Antidumping Duty Order.
- Methionine From France, Japan, and Spain: On October 5, 2026, Commerce issued its Final Results of the Expedited First Sunset Reviews of the Antidumping Duty Orders.
- Potassium Phosphate Salts From the People's Republic of China: On October 5, 2026, Commerce issued its Final Results of the Expedited Third Sunset Review of the Antidumping Duty Order.
- Seamless Refined Copper Pipe and Tube From the Socialist Republic of Vietnam: On October 28, 2026, Commerce issued its Final Results of the Expedited First Sunset Review of the Antidumping Duty Order.

- Utility Scale Wind Towers From Malaysia: On October 30, 2026, Commerce issued its Final Results of the Expedited First Sunset Review of the Countervailing Duty Order

Scope Ruling

- None

Circumvention

- None

INTERNATIONAL TRADE COMMISSION

Investigations

- Linear Hydraulic Cylinders From Canada, China, India, Mexico, and South Korea (Preliminary); On October 14, 2026, the ITC issued its affirmative determination of less-than-fair-value investigations.
- Non-Refillable Steel Cylinders From China (Review); On October 14, 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.
- Oleoresin Paprika From India (Final); On October 8, 2026, the ITC issued its affirmative determination of less-than-fair-value investigations.
- Small Vertical Shaft Engines From China (Review); On October 20, 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.
- Van-Type Trailers and Subassemblies From China (Final); On October 20, 2026, the ITC issued its affirmative determination of less-than-fair-value investigations.
- Mattresses From Cambodia, China, Malaysia, Serbia, Thailand, Türkiye, and Vietnam (Review); On October 27, 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.
- Diamond Sawblades and Parts Thereof From China (Third Review); On October 30, 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.

U.S. CUSTOMS AND BORDER PROTECTION

Enforce and Protect Act

EAPA Case 8317: North America Wood Inc. (Notice of Initiation of Investigation and Interim Measures, October 21, 2026)

On October 21, 2026, U.S. Customs and Border Protection (CBP) issued its notification of initiation of investigation and interim measures as to evasion by North America Wood Inc. d/b/a North America Metals, Inc. / One Operations Inc. (collectively, "NAW Group") in Enforce and Protect Act (EAPA) investigation 8317, examining the evasion of antidumping (AD) and countervailing (CVD) duty orders A-570-849, A-570-047, and C-570-048 on certain carbon and alloy steel cut-to-length plate from China. CBP found there was a reasonable suspicion that NAW Group had been entering covered merchandise from China that was transshipped through Malaysia.

EAPA Cons. Case 8300: Various Importers (Notice of Initiation of Investigation and Interim Measures, October 27, 2026)

On October 27, 2026, U.S. Customs and Border Protection (CBP) issued its notification of initiation of investigation and interim measures of alleged evasion by Aceto U.S. LLC d/b/a Actylis, Avid Organics Pvt. Ltd., and Prinova Nutrition LLC (collectively, "the Importers") in Enforce and Protect Act (EAPA) consolidated investigation 8300. Specifically, CBP is investigating whether the Importers evaded AD order A-570-836 and CVD order C-570-081 on glycine from China with their entries of merchandise into the United States. CBP found there was a reasonable suspicion that the Importers entered merchandise into the United States from China that was transshipped through India.

EAPA Cons. Case 8222: Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe (Notice of Determination as to Evasion October 2, 2026)

On September 23, 2026, CBP issued the notice of determination as to evasion for EAPA consolidated case 8222 filed by Vallourec Star, L.P.; BENTELER Steel/Tube Manufacturing Corp.; and Tenaris Bay City, Inc., against U.S. importers Excellent Sharp Inc. ("Excellent Sharp"), VASS Pipe and Steel ("VASS"), Haylier International Limited ("Haylier"), Marmon/Keystone LLC ("Marmon/Keystone"), and Tejas Tubular Products, Inc. ("Tejas Tubular"), for evasion of AD order A-570-956 and CVD order C-570-957 on seamless carbon and alloy steel standard, line and pressure pipe ("SLP pipe") from the People's Republic of China ("China"). Specifically, substantial evidence indicates that Excellent Sharp, VASS, Haylier, and Marmon/Keystone had been

entering SLP pipe from China by transshipment through Thailand, and substantial evidence indicates that Tejas Tubular had been entering oil country tubular goods ("OCTG") covered by the AD order A-570-943 and CVD order (C-570-944) on OCTG from China by transshipment through Thailand. As such, CBP has issued a formal notice of determination as to evasion and has taken enforcement actions.

Customs Bulletin Weekly

On October 23, 2026, at 3 p.m. ET, CBP reported that 3,960 declarations had been accepted in the Phase 3 of the CAPE refund system, covering 15.8 million entries, according to a declaration filed on October 26 by Brandon Lord, CBP's executive director of trade programs. CAPE Phase 3, launched on October 6, 2026, is for finally liquidated entries from importers who filed lawsuits against IEEPA tariffs and received court-ordered reliquidation. Access to Phase 3 was expanded to importers who submitted importer of record numbers between July 31, 2026, and August 13, 2026, with additional access granted on a rolling basis. On the same day, CBP also reported that 315,069 CAPE declarations had been submitted overall, with 222,754 passing validation and covering 44 million entries. Approximately $137.9 billion in potential and certified refunds have been processed. CBP continues to notify plaintiffs' counsel as new access to Phase 3 becomes available.

On October 20, 2026, CBP expanded access to Phase 3 of the CAPE refund system to importers who filed lawsuits against IEEPA tariffs and submitted importer of record numbers between July 31, 2026 to August 13, 2026. CAPE Phase 3, launched on October 6, 2026, was previously limited to importers who submitted their details by July 30, 2026. CBP emphasized that Phase 3 is only available to importers who filed suit at the CIT and received a reliquidation order. It accepts entries beyond 80 days past liquidation and those with open or suspended protests. Importers who submitted details after August 13, 2026, will gain access in future waves.

On October 10, 2026, CBP announced a 90-day extension for the compliance date of its new informal entry procedures for international mail under Entry Type 13, moving the deadline from October 22, 2026, to January 20, 2027. The extension allows the trade community more time to update processes and avoid disruptions to international postal shipments destined for the U.S. Starting January 20, 2026 all international mail shipments subject to sections 201, 232, or 301 duties, or under partner government agency jurisdiction, must be filed electronically in ACE using Entry Type 13. CBP encourages filers to begin using the optional Entry Type 13 process during the transition period to ensure readiness. The changes aim to align mail entry procedures with other cargo modes and establish a global standard for customs controls.

On October 14, 2026, CBP announced that it will begin implementing a new methodology to calculate U.S. content for importers of USMCA-eligible mobile industrial equipment, such as forklifts, graders, cranes, backhoes, and bulldozers, to reduce Section 232 tariffs. If at least 40% of a machine's value consists of U.S. content, the tariff can be reduced from 25% to 15%, though it cannot fall below 15%, even if U.S. content exceeds 40%. CBP will evaluate U.S. content based on parts entirely produced or substantially transformed in the U.S., as well as steel, aluminum, and copper melted, smelted, or cast domestically. However, credits for U.S. parts and domestic metal content cannot be combined. Duty-free HTS subheading 9903.82.21 will apply to U.S. content up to 40% of the article's value, while HTS 9903.82.22 will apply the full 25% tariff to non-U.S. content or U.S. content exceeding 40%. Importers with questions are directed to contact CBP for clarification.

On October 7, 2026, CBP via Federal Register issued notice of a proposed a rule to modernize the framework for low-value imports after the end of de minimis, including updated informal entry requirements and the formal establishment of Entry Type 13 for mail shipments. The rule requires consignees who are not owners or purchasers to appoint a customs broker as the importer of record for entries valued at or under $2,500, excluding entries under $800 qualifying for 19 U.S.C. 1321. Electronic filing would be mandatory for Entry Types 11 and 13, with new data requirements, such as identifying the party causing the shipment and providing tracking numbers. CBP proposed removing the $250 cap on informal entries for Chapter 99 goods, allowing items subject to tariffs under sections 301, 122, or 338 to qualify for informal entry if valued under $2,500. Mail shipments without timely filed entries would be deemed abandoned after 15 days, subject to destruction or return. The rule also introduces bonding requirements, with liquidated damages for defaults ranging from $1,000 to three times the merchandise value for restricted or prohibited items. Any comments on the proposed rule are due by December 7, 2026.

COURT OF INTERNATIONAL TRADE

Summary of Decisions

Slip Op. 26-120: Linyi Chengen Imp. & Exp. Co. v. United States

The Court denied the government's motion for an extension of time to reopen the record and individually examine two voluntary respondents in the antidumping investigation on hardwood plywood from China, holding that their exclusion from the antidumping duty order was final. The government sought additional time for Commerce to calculate individually investigated rates for Xuzhou Jiangyang Wood Industries Co., Ltd. ("Jiangyang Wood") and Zhejiang Dehua TB Import & Export Co., Ltd. ("Dehua TB") following a Federal Circuit remand, while the companies argued that their exclusion had already been affirmed and could not be revisited. The Court held that Commerce had previously assigned both companies zero rates and determined to exclude them from the order based on their timely, extensive voluntary questionnaire submissions, notwithstanding Commerce's decision not to conduct voluntary examinations. The Court further held that res judicata applied because that determination had been sustained by the Court and affirmed by the Federal Circuit, and the exclusion issue had not been appealed. Accordingly, the Court denied the requested extension, directed Commerce to exclude Jiangyang Wood and Dehua TB from the order without imposing antidumping duty margins, and retained the existing remand schedule.

Slip Op. 26-121: Pitts Enterprises, Inc. v. United States

The Court remanded Commerce's remand redetermination that Chinese-origin landing gear and running gear incorporated into chassis manufactured in Vietnam were within the scope of the antidumping and countervailing duty orders on certain chassis and subassemblies from China. The plaintiff argued that Commerce unlawfully expanded the orders by treating individual Chinese components as "unfinished subassemblies" and by construing the orders' third-country processing provision to encompass welding and fabrication performed in Vietnam. The Court held that the plain language of the orders did not cover "unfinished subassemblies," explaining that the term "unfinished" modified chassis, while the orders separately covered assembled and unassembled subassemblies. The Court further held that, even if unfinished subassemblies were covered, welding and fabrication in Vietnam went beyond the non-transformative processing operations contemplated by the orders. The Court explained that the petition and other interpretive sources distinguished relatively minor assembly

operations from the transformative manufacture of subassemblies through welding and fabrication, and therefore did not support Commerce's interpretation of "any other processing." Accordingly, the Court remanded for further explanation or reconsideration consistent with its opinion and directed Commerce to submit a redetermination within 90 days.

Slip Op. 26-122: Wabtec Corp. v. United States

The Court remanded Commerce's antidumping and countervailing duty remand redeterminations concerning freight rail couplers from China, holding that Commerce again failed to adequately explain its inclusion of couplers attached to railcars in the scope of the investigations. The plaintiffs argued that Chinese couplers incorporated into railcars in Mexico could not cause injury "by reason of import" because any harm to the domestic industry arose from lost export sales to Mexican railcar producers rather than the later importation of completed railcars. The Court held that Commerce's assertion that domestic injury occurred when the attached couplers entered the United States was conclusory and did not address that distinction. The Court further held that Commerce's reliance on the Commission's overall affirmative injury determination was circular, that an ongoing customs evasion allegation did not establish cognizable injury, and that prior scope determinations did not resolve an injury argument that had not been raised in those proceedings. The Court also held that Commerce failed to address the risk that injury from unattached couplers could mask the absence of cognizable injury from attached couplers. Accordingly, the Court remanded for Commerce to reconsider or further explain whether attached couplers should be excluded and ordered a second redetermination within 90 days.

Slip Op. 26-123: Freestyle World, Inc. v. United States

The Court granted plaintiff's motion for class certification and appointment of class counsel in an action seeking liquidation or reliquidation of entries without regard to unlawfully imposed International Emergency Economic Powers Act ("IEEPA") duties. The certified class consists of importers of record who paid duties under the challenged tariff orders between February 1, 2025, and February 19, 2026, excluding entities that separately filed actions seeking recovery of IEEPA duty payments. The Court rejected the timeliness and one-way intervention arguments presented by the government because no merits determination had been entered in this action and membership in a Rule 23(b)(2) class did not permit opting in or out. The Court held that the requirements of Rule 23(a) were satisfied and that a single injunction directing liquidation or reliquidation would provide common, final relief notwithstanding differences in individual refund amounts. The Court further held that refunds would be incidental to the injunction because CBP could calculate them mechanically through its automated systems without individualized judicial determinations. Accordingly, the Court certified the class under Rule 23(b)(2), appointed plaintiff as class representative and its proposed firms as class counsel, and directed the parties to submit a proposed scheduling order.

Slip Op. 26-124: Baroque Timber Indus. (Zhongshan) Co. v. United States

The Court sustained in part and remanded in part Commerce's remand redetermination in the 2019 countervailing duty administrative review of multilayered wood flooring from China, upholding the plywood benchmark but remanding the veneer benchmarks and Commerce's use of adverse facts available to treat certain input suppliers as government authorities. The plaintiffs challenged Commerce's inclusion of broader pricing data in its benchmarks and its rejection of supplier information offered to address the Chinese government's failure to provide requested documentation. The Court held that Commerce still had not explained why undifferentiated UN Comtrade and ITTO Peru veneer data were sufficiently comparable despite Commerce's finding that face and backboard veneer required separate benchmarks. The Court directed Commerce to explain its approach or use only the differentiated ITTO Ghana data. As to plywood, the Court sustained Commerce's averaging of UN Comtrade and ITTO data because Commerce reasonably considered species, grade, and price, and the record did not establish the alleged grade-based distortion. The Court further held that Commerce reasonably found the Chinese government had withheld requested information and failed to cooperate to the best of its ability, but had not adequately explained why supplier certifications, biographies, and identification documents could not fill the resulting information gap. Accordingly, the Court remanded the veneer benchmarks and supplier-authority determination for further explanation or reconsideration.

Slip Op. 26-125: GameChange Solar Corp. v. United States

The Court denied plaintiff's motion for judgment on the agency record and sustained Commerce's scope ruling that its off-grid solar charging module was covered by the antidumping and countervailing duty orders on crystalline silicon photovoltaic cells from China. The plaintiff argued that Commerce failed to identify affirmative scope language covering the module and incorrectly rejected the consumer good and off-grid panel exclusions. The Court held that the general scope language plainly covered the module because it contained crystalline silicon photovoltaic cells and expressly included modules assembled into other products, making further analysis under the regulatory interpretive factors unnecessary. The Court further held that the consumer good exclusion did not apply because the imported module's sole function was power generation; the relevant article was the module itself, not the solar-tracking system into which it would be incorporated. As to the off-grid panel exclusion, the Court held that all six specified criteria had to be satisfied and that the module failed both the connector and individual retail packaging requirements. The Court rejected the argument that a minor connector difference could be excused and found that bulk packaging with cardboard separators did not constitute individual retail packaging. Accordingly, the Court denied the plaintiff's motion and directed entry of judgment for the government.

Slip Op. 26-126: CS Wind Malaysia Sdn. Bhd. v. United States

The Court sustained Commerce's remand redetermination in the 2021 countervailing duty administrative review of utility-scale wind towers from Malaysia, upholding both its land rental benchmark and its denial of an entered-value adjustment requested by CS Wind Malaysia Sdn. Bhd. and its South Korean parent. The plaintiffs argued that Commerce unreasonably averaged land pricing data from different Malaysian states and improperly rejected an adjustment intended to account for the parent company's marked-up U.S. sales prices. The Court held that Commerce adequately explained its decision to use U.S. sales and entered-value data to assess potential overcollection of duties, and reasonably denied the adjustment because customs documentation was missing for two sampled transactions and invoice values did not match reported entered values for the other two. The Court rejected the argument that the discrepancies were too small to matter and held that any obligation to provide an opportunity to cure did not require a futile request for documentation the company admitted it did not maintain. As to land, the Court held that Commerce reasonably explained why price differences did not disqualify either dataset and why averaging the two imperfect sources was appropriate, considering private-party transactions, location, and potential subsidization. Accordingly, the Court sustained Commerce's redetermination in full.

Slip Op. 26-127: Voith US Inc. v. United States

The Court granted in part and denied in part the government's motion for partial dismissal in plaintiff's tariff classification action concerning QualiFlex press sleeves from Germany, limiting the case to six denied protests and their underlying entries. The plaintiff argued that 30 additional protests were properly before the Court because they had been expressly identified in its summons and involved the same classification dispute, notwithstanding their pending status when the action commenced. The Court held that denial of each protest was a

jurisdictional prerequisite under 28 U.S.C. § 1581(a), and that subsequent protest denials could not cure the absence of jurisdiction at the time the summons was filed. The Court rejected arguments based on CBP's later handling of the protests, the expiration of the period for separate actions, and the need to preserve effective relief, and denied jurisdictional discovery because the relevant facts were undisputed. The Court also dismissed claims involving two protests included in the complaint but omitted from the summons. However, the Court declined to compel an amended complaint because seeking leave to amend was the plaintiff's choice. Accordingly, the Court severed and dismissed the excluded protests and entries.

Slip Op. 26-128: Galvasid S.A. de C.V. v. United States

The Court sustained Commerce's unopposed remand results reconsidering plaintiff's dumping margin without applying facts otherwise available or an adverse inference based on the company's purported failure to separately report freight or insurance revenue in the U.S. market. On remand, Commerce determined that neither facts otherwise available nor an adverse inference was warranted, consistent with the Court's remand opinion. Because no party submitted comments on the redetermination, the Court sustained Commerce's remand results and entered judgment accordingly.

Slip Op. 26:129: Baroque Timber Indus. (Zhongshan) Co. v. United States

The Court sustained in part and remanded in part Commerce's remand redetermination in the 2020 countervailing duty administrative review of multilayered wood flooring from China, upholding the plywood benchmark but remanding the use of adverse facts available to treat certain input suppliers as government authorities. The plaintiffs challenged Commerce's averaging of UN Comtrade and ITTO pricing data and its rejection of alternative supplier information. The Court sustained the benchmark because Commerce reasonably considered species, grade, and price, the record did not establish the alleged grade-based distortion, and the UN Comtrade data better matched the purchased species in certain respects. The Court further held that Commerce reasonably found the Chinese government had withheld requested documentation and failed to cooperate to the best of its ability, but had not adequately explained why supplier certifications, biographies, and identification documents could not fill the information gap. Accordingly, the Court remanded for Commerce to explain why only government documentation would suffice or reconsider its supplier-authority determination.

Slip Op. 26-130 KG Dongbu Steel Co. v. United States

The Court implemented the Federal Circuit's mandate in the challenge brought by KG Dongbu Steel Co., Ltd. and related companies to the 2019 countervailing duty administrative review of corrosion-resistant steel products from Korea. In conformity with the appellate decision, the Court held that Commerce's reconsideration of the first three equity infusions, its determination that they conferred a countervailable benefit, and its determination that the benefit passed through upon acquisition by KG Consortium were supported by substantial evidence and were not contrary to law. Accordingly, the Court reversed its contrary conclusions in its three prior opinions and directed entry of judgment consistent with the Federal Circuit's mandate.

Slip Op. 26-131: POSCO v. United States

The Court sustained Commerce's second remand redetermination in the 2021 countervailing duty administrative review of certain carbon and alloy steel cut-to-length plate from Korea, upholding its determination that the allocation of additional emissions permits under the Korea Emissions Trading System was de facto specific. POSCO and the Korean government argued that Commerce improperly compared the 494 recipients of additional Korea Allowance Units with all 906,325 companies operating in Korea, rather than only companies subject to the emissions trading program and eligible to receive allowances. The Court held that neither the statute nor the implementing regulation required a particular denominator and that Commerce reasonably used an economy-wide comparator to determine whether recipients were limited in number. The Court further held that limiting the comparison to program participants would improperly allow the inherent characteristics of the benefit to make a narrowly focused subsidy appear non-specific, contrary to the purpose of the specificity test. The Court found Commerce's approach consistent with Federal Circuit precedent and a prior decision concerning an earlier phase of the same program. Accordingly, the Court sustained the second remand results, which assigned a 0.61 percent subsidy rate for the additional allowances and a revised total subsidy rate of 0.80 percent for POSCO.

Slip Op. 26-132: In re Raj K. Patel

The Court dismissed a pro se complaint brought by plaintiff for lack of subject matter jurisdiction and denied as moot his motion to compel the Clerk to accept and docket the complaint. The plaintiff alleged that the United States violated various international trade agreements and due-process protections by preventing access to medical technologies, and sought declaratory and equitable relief and $380 million in damages. He argued that the Court could exercise residual jurisdiction under 28 U.S.C. § 1581(i) and permit him to cure any jurisdictional deficiencies. The Court held that, even liberally construed, the complaint sought relief relating to trade agreements that were not laws falling within its residual jurisdiction, and that no other jurisdictional provision applied to the claims. The Court also explained that 28 U.S.C. § 1585 concerns the Court's powers after jurisdiction is established and does not independently create jurisdiction. Accordingly, the Court dismissed the complaint and denied the motion as moot.

Slip Op. 26-133: Jinko Solar Imp. & Exp. Co. v. United States

The Court sustained Commerce's third remand redetermination in the 2019-2020 antidumping duty administrative review of crystalline silicon photovoltaic cells from China, upholding its revised solar glass valuation and the separate rates assigned to JA Solar and BYD. On remand, Commerce reopened the record and obtained product-control-number-specific glass conversion factors from mandatory respondents Jinko and Risen, allowing it to convert glass consumption reported in kilograms into square meters while accounting for differences in glass thickness among products. Commerce then valued the glass using Malaysian import data under HS code 7007.19.90 rather than the previously disputed Romanian data, recalculated Jinko's dumping margin at 4.76 percent and Risen's margin at a de minimis level, and assigned separate rates to JA Solar and BYD based on the recalculated mandatory-respondent margins. Jinko supported the redetermination, while the domestic industry, although maintaining that Commerce's original interpretation of the Romanian tariff category was reasonable, acknowledged that the revised results complied with the remand order. The Court held that the third remand results were supported by substantial evidence and complied with its prior instructions. Accordingly, the Court sustained both the revised glass valuation and the separate-rate determinations and directed entry of judgment.

COURT OF APPEALS FOR THE FEDERAL COURT

Summary of Decisions

None