



Trade Law Update

September 2024

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HIGHLIGHTS FROM SEPTEMBER

[Petition Summary: Certain Corrosion-Resistant Steel Products \(“CORE”\) imported from Australia, Brazil, Canada, Mexico, the Netherlands, South Africa, Taiwan, Turkey, the United Arab Emirates \(the “UAE”\), and the Socialist Republic of Vietnam \(“Vietnam”\)](#)

On September 5, 2024 Steel Dynamics, Inc., Nucor Corporation, United States Steel Corporation, Wheeling-Nippon Steel, Inc., and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC (collectively “Petitioners”), filed a petition for the imposition of antidumping and countervailing duties on U.S. imports of certain corrosion-resistant steel products (“CORE”) imported from Australia, Brazil, Canada, Mexico, the Netherlands, South Africa, Taiwan, Turkey, the United Arab Emirates (“UAE”), and the Socialist Republic of Vietnam (“Vietnam”).

[USTR Finalizes List of Section 301 Products Subject to Increased Duties and Exclusions, Following Four-Year Statutory Review](#)

On September 13, 2024, the U.S. Trade Representative (USTR) [announced](#) that it has finalized the modifications to the Section 301 trade actions following the completion of its four-year statutory review in May 2024. As described in a prior [post](#), on May 22, 2024 USTR released a draft list of imported goods for which it proposed to increase Section 301 duty rates. USTR’s proposal was intended to target “certain products from China in strategic sectors,” including lithium-ion batteries, electronic vehicles, solar power, steel, and aluminum, semiconductors, medical equipment and shipping. USTR also proposed limited exclusions to the Section 301 tariffs for imported equipment dedicated to U.S. manufacturing activity, as well as 19 exclusions for solar panel manufacturing equipment.

[ICYMI: Grant Leach Talks OFAC Compliance on The Justice Insiders Podcast](#)

Omaha-based partner Grant Leach appeared last week on an episode of [The Justice Insiders podcast](#) to discuss the ever-expanding set of requirements and restrictions placed on U.S. businesses in connection with trade law, including a key change in the statute of limitations—from five years to ten—in connection with the Office of Foreign Assets Control (OFAC) sanctions enforcement. Grant also discusses with host Gregg N. Sofer how the evolving trade law regime impacts smaller enterprises that might have difficulty scaling the compliance function to manage trade-based risk.

[OFAC Issues Guidance Extending Statute of Limitations to 10 Years](#)

On April 24, 2024, President Biden signed into law the 21st Century Peace through Strength Act, Pub. L. No. 118-50, div. D. Part of the Act included a provision extending the statute of limitations for civil and criminal violations of the International Emergency Economic Powers Act (IEEPA) and the Trading with the Enemy Act (TWEA) from five years to 10 years. The new statute of limitations took effect on the date of the President’s signature.

[Petition Summary: Hexamine \(Hexamethylenetetramine\) from the People’s Republic of China, the Federal Republic of Germany, the Republic of India, and the Kingdom of Saudi Arabia](#)

On September 30, 2024, Bakelite LLC (“Bakelite” or “Petitioner”), filed a petition for the imposition of antidumping on U.S. imports of hexamine (Hexamethylenetetramine) from the People’s Republic of China (“China”), the Federal Republic of Germany (“Germany”), the Republic of India, and the Kingdom of Saudi Arabia (“Saudi Arabia”) and countervailing duties on imports of hexamine from China and India.

U.S. DEPARTMENT OF COMMERCE DECISIONS

Investigations

- Certain Paper Plates From Thailand: On September 5, 2024, Commerce issued its Preliminary Affirmative [Determination](#) of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part, and Postponement of Final Determination and Extension of Provisional Measures.
- Certain Paper Plates From the People’s Republic of China: On September 5, 2024, 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 Paper Plates From the Socialist Republic of Vietnam: On September 5, 2024, 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.
- Ferrosilicon From Brazil: On September 10, 2024, Commerce issued its Preliminary Affirmative Countervailing Duty [Determination](#), Preliminary Affirmative Critical Circumstances Determination in Part, and Alignment of Final Determination With Final Antidumping Duty Determination.
- Ferrosilicon From Malaysia: On September 10, 2024, Commerce issued its Preliminary Affirmative Countervailing Duty [Determination](#), Preliminary Affirmative Critical Circumstances Determination, in Part, and Alignment of Final Determination With Final Antidumping Duty Determination.
- Ferrosilicon From the Republic of Kazakhstan: On September 10, 2024, Commerce issued its Preliminary Affirmative Countervailing Duty [Determination](#) and Alignment of Final Determination With Final Antidumping Duty Determination.
- 2,4-Dichlorophenoxyacetic Acid From India: On September 13, 2024, Commerce issued its Preliminary Affirmative Countervailing Duty [Determination](#) and Alignment of Final Determination With Final Antidumping Duty Determination.
- 2,4-Dichlorophenoxyacetic Acid From the People’s Republic of China: On September 13, 2024, Commerce issued its Preliminary Affirmative Countervailing Duty [Determination](#) and Alignment of Final Determination With Final Antidumping Duty Determination.
- Certain Epoxy Resins From India: On September 13, 2024, Commerce issued its Preliminary Affirmative Countervailing Duty [Determination](#) and Alignment of Final Determination With Final Antidumping Duty Determination.
- Certain Epoxy Resins From Taiwan: On September 13, 2024, Commerce issued its Preliminary Affirmative Countervailing Duty [Determination](#), and Alignment of Final Determination With Final Antidumping Duty Determination.
- Certain Epoxy Resins From the People’s Republic of China: On September 13, 2024, Commerce issued its Preliminary Affirmative Countervailing Duty [Determination](#), Preliminary Affirmative Determination of Critical Circumstances, and Alignment of Final Determination With Final Antidumping Duty Determination.
- Certain Epoxy Resins From the Republic of Korea: On September 13, 2024, Commerce issued its Preliminary Negative Countervailing Duty [Determination](#), Preliminary Negative Critical Circumstances Determination and Alignment of Final Determination With Final Antidumping Duty Determination.
- Ferrosilicon From the Russian Federation: On September 18, 2024, Commerce issued its Final Affirmative Countervailing Duty [Determination](#) and Final Affirmative Determination of Critical Circumstances.
- Ferrosilicon From the Russian Federation: On September 18, 2024, Commerce issued its Final Affirmative [Determination](#) of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances.

- Melamine From Germany: On September 24, 2024 Commerce issued its Preliminary Affirmative [Determination](#) of Sales at Less Than Fair Value.
- Melamine From India: On September 24, 2024, Commerce issued its Preliminary Affirmative [Determination](#) of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances, in Part.
- Melamine From Japan: On September 24, 2024, Commerce issued its Preliminary Affirmative [Determination](#) of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances, In Part.
- Melamine From Qatar: On September 24, 2024, Commerce issued its Preliminary Negative [Determination](#) of Sales at Less Than Fair Value.
- Melamine From the Netherlands: On September 24, 2024, Commerce issued its Preliminary Affirmative [Determination](#) of Sales at Less Than Fair Value.
- Melamine From Trinidad and Tobago: On September 24, 2024, Commerce issued its Preliminary Affirmative [Determination](#) of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances, In Part.
- Ceramic Tile From India: On September 27, 2024, Commerce issued its Preliminary Affirmative Countervailing Duty [Determination](#), Preliminary Affirmative Critical Circumstances Determination, in Part, and Alignment of Final Determination With the Final Antidumping Duty Determination.
- Aluminum Lithographic Printing Plates From Japan: On September 27, 2024, Commerce issued its Final Affirmative [Determination](#) of Sales at Less-Than- Fair-Value.
- Aluminum Lithographic Printing Plates From the People’s Republic of China: On September 27, 2024, Commerce issued its Final Affirmative [Determination](#) of Sales at Less-Than-Fair-Value and Final Affirmative Determination of Critical Circumstances.
- Aluminum Lithographic Printing Plates From the People’s Republic of China: On September 27, 2024, Commerce issued its Final Affirmative Countervailing Duty [Determination](#) and Final Affirmative Determination of Critical Circumstances.

[Administrative Reviews](#)

- Common Alloy Aluminum Sheet From the People’s Republic of China: On September 4, 2024, Commerce issued its Final [Results](#) of Countervailing Duty Administrative Review; 2022.
- Granular Polytetrafluoroethylene Resin From India: On September 9, 2024, Commerce issued its Final [Results](#) of the Countervailing Duty Administrative Review; 2021–2022.
- Stainless Steel Bar From India: On September 10, 2024, Commerce issued its Final [Results](#) of Antidumping Duty Administrative Review; 2022–2023.
- Certain Cut-to-Length Carbon-Quality Steel Plate From the Republic of Korea: On September 11, 2024, Commerce issued its Final [Results](#) of Countervailing Duty Administrative Review; 2022.
- Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: On September 11, 2024, Commerce issued its Final [Results](#) of Antidumping Duty Administrative Review; 2022–2023.
- Wood Mouldings and Millwork Products From the People’s Republic of China: On September 18, 2024, Commerce issued its Final [Results](#) and Partial Rescission of Antidumping Duty Administrative Review; 2022–2023.
- Hydrofluorocarbon Blends From the People’s Republic of China: On September 20, 2024, Commerce issued its Final [Results](#) of Antidumping Duty Administrative Review; 2022–2023.
- Certain Softwood Lumber Products From Canada: On September 24, 2024, Commerce issued its Amended Final [Results](#) of Antidumping Duty Administrative Review in Part; 2022.
- Circular Welded Carbon-Quality Steel Pipe From the Sultanate of Oman: On September 24, 2024, Commerce issued its Final [Results](#) of the Administrative Review of the Antidumping Duty Order; 2021–2022.
- Common Alloy Aluminum Sheet From South Africa: On September 24, 2024, Commerce issued its Final [Results](#) of Antidumping Duty Administrative Review; 2022–2023.

Changed Circumstances Reviews

- Certain Pasta From Italy: On September 16, 2024, Commerce issued its Final [Results](#) of Antidumping Duty Changed Circumstances Review.
- Circular Welded Carbon-Quality Steel Pipe From the United Arab Emirates: On September 17, 2024, Commerce issued its Final [Results](#) of Antidumping Duty Changed Circumstances Review.
- Certain Softwood Lumber Products From Canada: On September 23, 2024, Commerce issued its Notice of Final [Results](#) of Antidumping Duty Changed Circumstances Review.

Sunset Reviews

- Circular Welded Carbon Quality Steel Pipe From the People’s Republic of China: On September 9, 2024, Commerce issued its [Final Results](#) of the Expedited Third Sunset Review of the Countervailing Duty Order.
- Circular Welded Carbon-Quality Steel Pipe From the People’s Republic of China: On September 11, 2024, Commerce issued its Final [Results](#) of the Expedited Third Sunset Review of the Antidumping Duty Order.
- Laminated Woven Sacks From the Socialist Republic of Vietnam: On September 11, 2024, Commerce issued its Final [Results](#) of the Expedited First Sunset Review of the Countervailing Duty Order.
- Laminated Woven Sacks From the Socialist Republic of Vietnam: On September 11, 2024, Commerce issued its Final [Results](#) of Expedited First Sunset Review of the Antidumping Duty Order.
- Glycine From India, Japan, and Thailand: On September 12, 2024, Commerce issued its Final [Results](#) of the Expedited First Sunset Reviews of the Antidumping Duty Orders.
- Glycine From India and the People’s Republic of China: On September 13, 2024, Commerce issued its Final [Results](#) of the Expedited First Sunset Reviews of the Countervailing Duty Orders.
- Raw Flexible Magnets From the People’s Republic of China and Taiwan: On September 27, 2024, Commerce issued its Final [Results](#) of the Expedited Third Sunset Reviews of the Antidumping Duty Orders.

Scope Ruling

- None.

Circumvention

- Prestressed Concrete Steel Wire Strand from Mexico: On September 27, 2024, Commerce issued its Final Affirmative [Determination](#) of Circumvention of the Antidumping Duty Order..

U.S. INTERNATIONAL TRADE COMMISSION

Section 701/731 Proceedings

Investigations

- Mattresses From India, Kosovo, Mexico, and Spain; the ITC issued its affirmative [determinations](#) of less-than-fair-value investigations.
- Certain Pasta from Italy and Turkey (Fifth Review); On September 19, 2024, the ITC issued its final affirmative [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.
- Brass Rod From Israel; On September 25, 2024, the ITC issued its final affirmative [determinations](#) of less-than-fair-value investigations.
- Crystalline Silicon Photovoltaic Cells and Modules From China (Second Review); On September 26, 2024, the ITC issued its final [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.

U.S. CUSTOMS & BORDER PROTECTION

[EAPA Case 7846: Shari Pharmachem USA.](#)

On September 11, 2024, CBP issued the notice of determination as to evasion for EAPA case 7846 against U.S. importer, Shari Pharmachem (USA) LLC (“Shari Pharmachem USA”) for evasion of the applicable AD/CVD orders A-570-836 and C-570-081 on glycine from China. Specifically, evidence on the record shows Shari Pharmachem USA imported Chinese-origin glycine that was transshipped through India but did not declare them as subject to the aforementioned AD/CVD orders. As

a result, the appropriate cash deposits were not applied to the merchandise at the time of entry. CBP has determined that there is substantial evidence of evasion of AD/CVD duties by Shari Pharmachem USA and, therefore, CBP issued a formal notice of determination as to evasion and has taken enforcement actions.

[EAPA Case 7856: Various Importers](#)

On September 19, 2024, CBP issued the notice of determination as to evasion for EAPA consolidated case 7856 filed by Zinus USA Inc., against U.S. importers Beanomy Inc., IYEE Nature Inc., Kelanch Inc., Wakodo Household Supply Inc., Xinshidian Trading Inc., Zevoky Inc., Kakaivy, Inc., Weekaly Inc., Heniddy Inc., Ryan James Engineering LLC, Sunwind Trading Inc., and Anlowo Inc. (collectively, the “Importers”), for evasion of AD/CVD orders A-570-092 and C-570-128 on mattresses from China. Specifically, evidence on the record indicates that the Importers transshipped Chinese-origin mattresses through South Korea. CBP has determined that there is substantial evidence of evasion of AD/CVD duties by the Importers and, therefore, CBP issued a formal notice of determination as to evasion and has taken enforcement actions.

COURT OF INTERNATIONAL TRADE

Summary of Decisions

[Slip Op. 24-99: Under the Weather, LLC v. United States](#)

The Court granted CBP’s partial motion to dismiss in a case challenging a CBP ruling that (1) determined the proper classification of imported pop-up tent “pods” and (2) found that a prior approval of a protest filed by the importer was not a “prior interpretive ruling or decision” pursuant 19 U.S.C. § 1625(c). Prior approval under this statute would have triggered the requirement for notice and comment procedures before revoking or modify the CBP determination in question, which here was the protest approval. The Court explained that only interpretive rulings, protest review decisions or their “functional equivalent[s]” are subject to the procedural requirements of § 1625(c)(1). The Court then analyzed whether the approved protest could be considered the “functional equivalent” of a decision under § 1625(c). It concluded that the protest did not meet this standard because: (1) it was not the outcome of thorough deliberation, as CBP’s Headquarters, meaning Regulations and Rulings, was not consulted; (2) it lacked prospective effect due to its absence of directive language, merely stating that it was “approved”; and (3) it was not interpretive in nature, as it simply noted “approval based on reviewed documents.”

[Slip Op. 24-100: United States v. Katana Racing, Inc.](#)

The Court denied Defendant, Katana Racing, Inc.’s (“Katana”), motion to dismiss and, alternatively, for partial summary judgment, as well as CBP’s motion for summary judgment in a 19 U.S.C. § 1592(d) case involving alleged false statements on entry forms resulting in unpaid duties. Katana sought dismissal on several grounds, arguing that CBP had not adequately identified the liable party, failed to specify the level of culpability attributed to that party, and did not exhaust available administrative remedies. The Court disagreed, finding that CBP had sufficiently alleged the culpability level for negligence and had correctly identified Katana as the responsible party. Additionally, the Court pointed out that CBP was not legally required to exhaust administrative remedies, nor did Katana provide evidence that any such remedies remained unexhausted. Regarding Katana’s argument that the claim was barred by laches, the Court declined to overturn established Supreme Court precedent allowing the claim to proceed. Finally, in response to both motions for summary judgment, the Court determined that significant issues of material fact existed, including allegations of government misconduct and hearsay, which precluded summary judgment.

[Slip Op. 24-101: Sea Shepherd New Zealand v. United States](#)

The Court dismissed a case in which plaintiffs, Sea Shepherd New Zealand and Sea Shepherd Conservation Society, sought a ban on the importation of certain fish and fish products from New Zealand due to concerns over the incidental capture of Maui dolphins, pursuant to the Marine Mammal Protection Act. After a lengthy court battle and the lifting of an injunction, the Court approved the parties’ stipulation and proposed order for voluntary dismissal with prejudice, which also included an order for the United States to pay the plaintiffs \$375,000 in attorneys’ fees and costs under the Equal Access to Justice Act.

[Slip Op. 24-102: Officine Tecnosider Srl v. United States](#)

The Court ordered a remand in a case challenging Commerce’s 2020-2021 administrative review of the antidumping order for steel plates from Italy. At issue was whether in determining a dumping margin, Commerce should use its normal annual weighted-average cost methodology or an alternative methodology. While Commerce normally calculates an annual weighted-average cost, it may apply an alternative quarterly cost methodology if it finds (1) significant changes in

the cost of manufacturing during the period of review and (2) evidence of linkage between changes in the cost of manufacturing and sales prices. Plaintiff Officine Tecnosider Srl, advocated for the quarterly cost method because it examines costs over shorter periods, minimizing potential outliers, whereas Nucor Corporation, defendant-intervenor, urged Commerce to use its normal methodology. The Court determined that Commerce’s decision to use the quarterly cost method was not supported by substantial evidence, noting that Commerce failed to explain: (1) why focusing solely on Italian sales is a reliable indicator of linkage for U.S. sales, (2) why it chose not to follow its precedent in *Ferrovandium from Korea* and focus its analysis on products jointly sold in both the Italian and U.S. markets, and (3) how it analyzed the data it did examine to determine there was proper linkage between the cost of manufacturing and the sales price. As a result, the Court remanded for further explanation consistent with its opinion.

[Slip Op. 24-103: Fusong Jinong Wooden Grp., Co. v. United States](#)

The Court sustained Commerce’s remand results in a case brought by Chinese exporters to challenge the AD order on multilayered wood flooring from China. The Court previously held that Commerce’s chosen method for calculating separate rate companies, by which it took a simple average of two individually examined mandatory respondents’ dumping rates, was unsupported by substantial evidence and otherwise not in accordance with law. On remand, Commerce revised its calculation and used a weighted average of the two companies’ rates. No party objected, and the Court sustained the remand results.

COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Summary of Decisions

None.