

# TRADE LAW UPDATE



November 2018

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## PRESIDENTIAL ACTIONS

### [President Trump Terminates Trade Preference Program Eligibility for Mauritania](#)

On November 2, 2018, President Trump announced his intent to terminate Mauritania's eligibility for trade preference benefits under the African Growth and Opportunity Act (AGOA), as of January 1, 2019 due to forced labor practices. During its annual AGOA eligibility review, President Trump determined that Mauritania was not making "sufficient progress toward establishing the protection of internationally recognized worker rights."

### [U.S. Reimposes Tough Sanctions on Iran; More Designations to Come](#)

On November 5, 2018, the United States fully reimposed sanctions against Iran as part of its decision to withdraw from the Iran nuclear deal, also known as the Joint Comprehensive Plan of Action ("JCPOA"). President Trump announced the decision to withdraw on May 8, 2018, thus beginning the "wind-down" period for businesses to withdraw from Iran.

### [United States Issues WTO Counter Notification against India's Market Price Support for Cotton](#)

U.S. Trade Representative Robert Lighthizer and Secretary of Agriculture Sonny Perdue announced on November 13, 2018 that the United States had submitted a counter notification to the World Trade Organization (WTO) Committee on Agriculture (COA) pertaining to India's market price support (MPS) for cotton. According to the U.S.'s calculations, it appeared that India had substantially underreported its market price support for cotton. India's market price support for cotton far exceeded its allowable levels of trade distorting domestic support. The next COA meeting was scheduled for November 26-27, 2018.

### [U.S., Mexico, and Canada Sign NAFTA Replacement](#)

On November 30, 2018 in Buenos Aires, President Trump, Canadian Prime Minister Trudeau, and Mexican President Nieto ceremonially signed the new United States-Mexico-Canada Agreement (USMCA). Although each leader signed the Agreement, this does not mean that it will go into effect, as the Agreement must now be approved by the legislature of each country. In regard to the U.S. legislative process, the next steps will be a 60 day period to submit a list of changes to U.S. law that are required for the Agreement to take effect. At the same time, the Agreement must also be reviewed by the U.S. International Trade Commission to assess the impact the agreement will have on GDP, exports and imports, employment, and U.S. consumer interests. The Commission has 105 days after the signing, or until March 15, 2019, to deliver its report to Congress.

## U.S. DEPARTMENT OF COMMERCE DECISIONS

### Investigations

- Certain Corrosion-Resistant Steel Products from India: On November 7, 2018, Commerce issued a [notice](#) of Court Decision Not in Harmony with the Affirmative Final Determination and Countervailing Duty Order.
- Large Diameter Welded Pipe from the [People's Republic of China](#) and [India](#): On November 14, 2018 the Countervailing Duty Investigation Final Affirmative Determinations were released.
- Large Diameter Welded Pipe from the [People's Republic of China](#) and [India](#): On November 14, 2018, the Final Determinations of Sales at Less than Fair Value were released.
- Common Alloy Aluminum Sheet from the People's Republic of China: On November 15, 2018, the Final Affirmative [determination](#) for the Countervailing Duty Investigation was released.
- Certain Steel Threaded Rod from the [People's Republic of China](#): On November 15, 2018, the Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments (2016-2017) were released.
- Rubber Bands from the People's Republic of China: On November 20, 2018, the Final Affirmative Countervailing Duty [determination](#) was released.
- Rubber Bands from the People's Republic of China: On November 20, 2018, the Final [determination](#) of Sales at Less Than Fair Value was released.
- Certain Oil Country Tubular Goods from India: On November 23, 2018 the [notice](#) of Correction to the Amended Final Determination and Amendment of the Antidumping Duty Order was issued.

### Administrative Reviews

- Diamond Sawblades and Parts Thereof from the People's Republic of China: On November 6, 2018, the [notice](#) of Court's Decision Not in Harmony with the Final Results of Review and Amended Final Results of the Antidumping Duty Administrative Review (2012-2013) was issued.
- Uranium from the Russian Federation: On November 14, 2018, the [agreement](#) Suspending the Antidumping Duty Investigation Preliminary Results of Administrative Review (2016-2017) and postponement of the Final Results was released.
- Certain Uncoated Paper from Indonesia: On November 14, 2018, the Amended Final [results](#) of the Countervailing Duty Administrative Review (2015-2016) were released.
- Certain Uncoated Paper from Indonesia: On November 14, 2018, the [rescission](#) of 2017 Countervailing Duty Administrative Review was released.
- Tapered Roller Bearings and Parts Thereof, Finished, and Unfinished, from the People's Republic of China: On November 19, 2018 the [rescission](#), in part, of Antidumping Duty Administrative Review (2017-2018) was released.
- Certain Activated Carbon from People's Republic of China: On November 19, 2018, the Amended Final [results](#) of Antidumping Duty Administrative Review (2016-2017) were released.
- Certain Steel Nails from the Sultanate of Oman: On November 19, 2018, the Final [results](#) of the Antidumping Duty Administrative Review (2016-2017) were released.
- Chlorinated Isocyanurates from the People's Republic of China: On November 20, 2018, the [notice](#) of the Court Decision Not in Harmony with Final Results of Antidumping Duty Administrative Review (2012-2013) and notice of Amended Final Results were released.
- Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey: On November 21, 2018, the Affirmative Final [results](#) of the Countervailing Duty Administrative Review were released.

## Changed Circumstances Reviews

- Carbon and Alloy Steel Wire Rod from the Republic of Korea and the United Kingdom: On November 7, 2018, the Initiation and Expedited Preliminary [results](#) of the Antidumping Duty Changed Circumstances Review were released.
- Biodiesel from Argentina: On November 13, 2018, the Department of Commerce [initiated](#) its Changed Circumstances Reviews of the Antidumping and Countervailing Duty Orders

## Sunset Reviews

There were no final Sunset Review notifications or scheduling's for the month of November.

## U.S. INTERNATIONAL TRADE COMMISSION

### Section 701/731 Proceedings

#### Investigations

- Polyethylene Terephthalate Resin from Brazil, Indonesia, Korea, Pakistan, and Taiwan: On November 13, 2018 the ITC released its final [determinations](#).
- Steel Wheels from China: On November 30, 2018, the ITC released the [scheduling](#) of the Final Phase of Countervailing and Antidumping Duty Investigations.



#### Sunset Review Decisions

- Circular Welded Carbon-Quality Steel Pipe from China: On November 1, 2018, the ITC began its [institution](#) of Five-Year Reviews.
- Low Enriched Uranium from France: On November 1, 2018, the ITC began its [institution](#) of a Five-Year Review.

#### Section 337 Proceedings

- Certain Digital Cameras, Software, and Components thereof: On November 20, 2018, the Commission issued its [determination](#) to Review-In-Part a Final Initial Determination finding a violation of Section 337 and Request for written submission as well as an extension of Target Date for Completion of the Investigation.
- Certain Two-Way Radio Equipment and Systems, Related Software and Components Thereof: On November 23, 2018, the Commission released its [decision](#) to Affirm-in-Part, Modify-in-Part, Reverse-in-Part, and Strike Certain Portions of a Final Initial Determination finding a Violation of Section 337, released an Issuance of Limited Exclusion Order and Cease and Desist Orders, and issued a Termination of the Investigation.

## COURT OF INTERNATIONAL TRADE

### Summary of Decisions

### [18-151](#)

On November 1, 2018, the Court remanded the U.S. International Trade Commission's final negative material injury determination in the antidumping and countervailing duty investigation of truck and bus tires from the People's Republic of China.

### [18-152](#)

On November 5, 2018, the Court remanded Commerce's use of a country-wide non market economy (NME) antidumping duty rate and its application of the NME rate on the Plaintiff, Thuan An Production Trading and Service Co., LTD. The Court also sustained Commerce's requirement of CONNUM-specific FOP reporting.

### [18-153](#)

On November 5, 2018, the Court remanded the ITC's 1<sup>st</sup> Remand Results in the antidumping duty investigation covering hydrofluorocarbon ("HFC") blends and components from the People's Republic of China. On remand, the ITC concluded that there were "significant" differences in value supporting separate like product treatment for HFC components and HFC blends, and HFC components were not dedicated for use as HFC blends which the Court instructed the ITC to clarify and explain its decision to treat HFC components as a separate like product.

### [18-154](#)

On November 8, 2018, the Court granted the Defendant's (United States Department of Homeland Security) motion to dismiss and denied the Plaintiff's (U.S. Auto Parts Network, Inc.) motion for default judgment pertaining to imported vehicle repair parts.

### [18-155](#)

On November 8, 2018, the Court made the decision to sustain and remand the U.S. Department of Commerce's final determination in the administrative review of carbon and certain alloy steel wire rods from Mexico.

### [18-156](#)

On November 13, 2018, the Court sustained and remanded the U.S. Department of Commerce's Remand Redetermination in the second administrative review of the antidumping duty order for large power transformers from the Republic of Korea.

### [18-158](#)

On November 13, 2018, the Court remanded the U.S. Department of Commerce's final results following an administrative review of the antidumping duty order on certain crystalline silicon photovoltaic products from Taiwan.

### [18-159](#)

On November 13, 2018, Columbia Forest Prods vs. United States, the Court denied the motion to stay proceedings. The Court concluded that the plaintiff had failed to meet the standard for a stay because they merely attempted to show that no harm would result from the stay, rather than presenting a clear showing of hardship or inequity in being required to move forward.

### [18-162](#)

On November 26, 2018, the Court sustained the U.S. Department of Commerce's final results and partial rescission of the 21<sup>st</sup> administrative review of the antidumping duty order on fresh garlic from the People's Republic of China.

### [18-163](#)

On November 26, 2018, the plaintiff, Fine Furniture (Shanghai) Limited, ET AL., contended that Commerce's Final Results from the 3<sup>rd</sup> Administrative Review of the antidumping duty order on multilayered wood flooring were unsupported by substantial evidence on record. The Court ruled that Commerce was correct in their use of Romania as a surrogate country despite the plaintiffs request that Thailand would be a more suitable surrogate country.

### [18-164](#)

On November 29, 2018, the Court sustained the negative determinations by the U.S. International Trade Commission in the antidumping duty investigation of imports of certain iron mechanical transfer drive components from Canada and the People's Republic of China and a countervailing duty investigation of imports of certain iron mechanical transfer drive components from the People's Republic of China.

## 18-167

On November 30, 2018, the Court remanded Commerce's Final Results in the 1<sup>st</sup> Administrative Review of Commerce's Countervailing Duty Order for Crystalline Silicon Photovoltaic Products from the People's Republic of China for reconsideration consistent with this opinion. The Court remanded to Commerce for its reconsideration of the appropriate rate based on China's Export Buyer's Credit Program.

## **COURT OF APPEALS FOR THE FEDERAL CIRCUIT**

## 2017-2128

On November 27, 2018, the CAFC decided to reverse the Commission's res judicata determination and remanded the matter to the Commission to consider whether to rescind or modify the civil penalty in light of the final judgment of invalidity of the relevant claims of the '380 patent. The CAFC found that the Commission's application of res judicata was error.