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This Article outlines the most important developments in international trade law during 2016. It summarizes developments in international trade negotiations, World Trade Organization (“WTO”) dispute settlement activities, U.S. legislation, and U.S. trade remedies and enforcement cases at the Department of Commerce (“Commerce”), International Trade Commission (“ITC”), and Court of Appeals for the Federal Circuit (“CAFC”).

I. WTO Dispute Settlement Activity

In 2016, thirteen disputes were filed in the WTO Dispute Settlement Body.¹ Currently, nine disputes are in consultations. Panels have been composed in two disputes, while panels have been established, but not composed, in two other disputes.² Notable among the disputes are the following: a dispute filed by India against the U.S. for its measures concerning non-immigrant visas; a dispute filed by the U.S. against China for its domestic support programs for wheat, rice, and corn; disputes filed by the U.S. and EU against China’s duties on the export of raw materials; and several trade remedy-related disputes.³

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1. See *Chronological List of Disputes Cases*, WORLD TRADE ORGANIZATION (Nov. 29, 2016 8:59 PM), http://www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm [hereinafter *Chronological List*].

2. *Id.*

3. *Id.*

A. UNITED STATES-WASHING MACHINES

The Dispute Settlement Body issued both the Panel Report and the Appellate Body Report for this dispute in 2016.⁴ This was the latest in a long series of disputes challenging the United States Department of Commerce's "zeroing" practice. While the Appellate Body has found the use of zeroing in investigations and reviews to be impermissible under the Anti-Dumping Agreement, the *US-Washing Machines* dispute was the first to address whether zeroing can be applied in situations of alleged "targeted" dumping, which seeks to unmask "dumping that is targeted to certain purchasers . . . regions, or . . . certain time periods."⁵

Korea challenged Commerce's targeted dumping and differential pricing methodologies. The panel found that the targeted dumping methodology in the underlying *Washers from Korea* investigation was inconsistent with the second sentence of Article 2.4.2, because it applied the weighted average-to-transaction methodology comparison method to all transactions, including transactions other than those that constitute patterns of transactions that Commerce had determined to exist.⁶ Notably, the panel also ruled that Commerce's differential pricing methodology, which replaced the targeted dumping methodology in the administrative review of the order, was also inconsistent with Article 2.4.2 "as such" because this method did not "properly establish 'a pattern of export prices which differ significantly among different purchasers, regions or time periods'."⁷ The Appellate Body upheld the panel's ruling with respect to these findings.⁸

Also at issue in this dispute was Commerce's determination in the parallel countervailing duty ("CVD") investigation of *Washers from Korea*. The panel found, and the Appellate Body affirmed, that the subsidies conferred to respondent Samsung were "regionally specific" under Article 2.2 of the SCM Agreement because it excluded the Seoul metropolitan region.⁹ However, the Appellate Body overturned the panel's finding that the subsidies at issue were not tied to any particular product, faulting the panel's reliance on the intended use of the proceeds to reach its conclusion.¹⁰ Based on this, and other, reasoning, the Appellate Body concluded that Commerce acted inconsistently with Articles 19.4 of the SCM Agreement and Article

4. Panel Report, *United States – Anti-dumping and Countervailing Measures on Large Residential Washers from Korea*, WTO Doc. WT/DS464/R (Mar. 11, 2016); Appellate Body Report, *United States – Anti-dumping and Countervailing Measures on Large Residential Washers from Korea*, WTO Doc. WT/DS464/AB/R (Sept. 7, 2016).

5. Panel Report, *US–Washing Machines*, ¶ 7.141 (citing Appellate Body Report, *European Communities–Anti-Dumping Duties on Imports of Cotton-type Bed Linen from India*, ¶ 62).

6. *Id.* ¶ 8.1.

7. *Id.* ¶ 7.147.

8. Appellate Body Report, *US–Washing Machines*, ¶¶ 6.3–6.4.

9. See Panel Report, *US–Washing Machines*, ¶¶ 7.257, 7.289; Appellate Body Report, *US–Washing Machines*, ¶¶ 5.240–5.241.

10. Appellate Body Report, *US–Washing Machines*, ¶¶ 5.273–.274.

VI:3 of the GATT 1994 in its calculation of the subsidy rate applicable to Samsung.¹¹

B. EU-BIODIESEL

Both the Panel Report and the Appellate Body Report for the *EU-Biodiesel* dispute were issued in 2016.¹² In this case, Argentina challenged two EU measures: (1) a provision of the EU's Basic Regulation that allegedly instructed the authority to adjust or reject a producer's cost data if the cost reflected prices that are "abnormally or artificially low because the market is regulated or because of some alleged distortion,"¹³ and (2) the EU authorities' dumping determination on biodiesel from Argentina, in which the authorities calculated the cost of soybeans used in the production of biodiesel based on the average reference price of soybeans published by the Argentine Ministry of Agriculture for export to Argentina, rather than the producers' price records.¹⁴ Argentina argued that both measures violated Article 2.2.1.1 of the Anti-Dumping Agreement,¹⁵ which requires the authority to use the producer's cost records as long as these records are maintained under generally accepted accounting principles, and reasonably reflect the cost of producing the subject merchandise.¹⁶

With respect to the EU's Basic Regulation, the panel rejected Argentina's "as such" claim because the panel found that the Basic Regulation does not provide any criteria to determine whether costs are reasonably reflected in a producer's records, but only "lays down what the authorities can do . . . after they have made a determination . . . that the records do not reasonably reflect the costs."¹⁷

However, the panel agreed with Argentina that the EU authorities' dumping determination was inconsistent with Article 2.2.1.1 of the Anti-Dumping Agreement. The panel found that Article 2.2.1.1 requires a comparison between the costs reported in the producer/exporters' records, and the costs that the producer/exporter actually incurred.¹⁸ The panel found that the "artificially lower" price of the inputs purchased by producers did not provide sufficient basis for the authorities to reject the producers' actual cost records.¹⁹ The panel separately found that the EU's dumping

11. Appellate Body Report, *US-Washing Machines*, ¶¶ 5.284–286, 5.305–306.

12. Panel Report, *European Union-Anti-Dumping Measures on Biodiesel from Argentina*, WT/DS473/R (March 29, 2016); Appellate Body Report, *European Union-Anti-Dumping Measures on Biodiesel from Argentina*, WT/DS473/AB/R (October 6, 2016).

13. Panel Report, *EU-Biodiesel*, ¶ 7.74.

14. *Id.* ¶ 7.182.

15. *Id.* ¶ 3.1.

16. Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 art. 2.2.1.1, Apr. 15, 1994, https://www.wto.org/english/docs_e/legal_e/19-adp.pdf.

17. Panel Report, *EU-Biodiesel*, ¶¶ 7.133–134 (internal emphasis omitted).

18. Panel Report, *EU-Biodiesel*, ¶ 7.242.

19. Panel Report, *EU-Biodiesel*, ¶ 7.248.

determination was inconsistent with Article 2.2 of the Anti-Dumping Agreement because it used a cost that was not “in the country of origin.”²⁰

The Appellate Body upheld the panel’s determination that the EU authorities had not provided a sufficient reason to disregard the producers’ costs, and that the price that the authorities used to calculate cost of production was not a cost “in the country of origin.”²¹ In upholding the panel’s findings, however, the Appellate Body also confirmed that the “cost of production. . . in the country of origin” does not mean that the sources of information to establish the cost must originate from the country of origin, but that if out-of-country information be used, the authority may need to adapt that information to ensure that it is used to arrive at the “cost of production in the country of origin.”²²

C. UNITED STATES—ANTI-DUMPING METHODOLOGIES (CHINA)

The Panel Report for this dispute was circulated on October 19, 2016.²³ This case was largely considered a victory for China. China alleged violations with respect to three issues concerning certain anti-dumping measures imposed by Commerce, namely, (1) the Commerce’s use of the weighted average-to-transaction (WA-T) methodology, including its use of zeroing under this methodology; (2) Commerce’s treatment of multiple companies as a non-market economy-wide entity (NME-wide entity), pursuant to the Single Rate Presumption; and (3) Commerce’s use of facts available in determining anti-dumping duty rates for such entities, as well as the level of such duty rates.²⁴

With respect to the Single Rate Presumption, China argued that Commerce applied a presumption that all exporters from a NME country comprise a single entity under common government control and assigned a single dumping margin to that entity.²⁵ China asserted that as a norm of general and prospective application, the Single Rate Presumption was “as such” and “as applied” in 38 anti-dumping determinations, inconsistent with Articles 6.10, 9.2, and the second sentence of Article 9.4 of the Anti-Dumping Agreement.²⁶ The panel agreed that the Single Rate Presumption is a norm of general and prospective application that can be challenged as such.²⁷ The panel also agreed that the Single Rate Presumption violated, “as such and as applied,” Articles 6.10 and 9.2 by presuming governmental control for Chinese exporters and subjecting them to a single, country-wide dumping margin, unless they demonstrated an absence of *de jure* and *de facto*

20. Panel Report, *EU-Biodiesel*, ¶ 7.258.

21. Appellate Body Report, *EU-Biodiesel*, ¶¶ 6.56, 6.82.

22. Appellate Body Report, *EU-Biodiesel*, ¶ 6.82.

23. Panel Report, *United States—Certain Methodologies and Their Application to Anti-Dumping Proceedings Involving China*, WTO Doc. WT/DS471/R (October 19, 2016).

24. Panel Report, *US—Anti-Dumping Methodologies (China)*, ¶¶ 2.1-4.

25. *Id.* ¶ 7.275.

26. *Id.*

27. *Id.* ¶¶ 7.303-339.

governmental control over their export operations.²⁸ In doing so, the panel also found that this presumption was not justified by paragraph 15 of China's Accession Protocol.²⁹ The panel exercised judicial economy with respect to China's Article 9.4 claim.³⁰

II. U.S. Trade Remedies

A. SIGNIFICANT COMMERCE CASES

This year was another active year for AD/CVD litigation at the U.S. Department of Commerce. Commerce initiated over forty-three AD and CVD investigations, involving at least fifteen different countries and products ranging from steel products, to ammonium sulfate, to amorphous silica fabric.³¹

1. "Solar I" and "Solar II" Proceedings

The proceedings on Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from China ("Solar I") and Crystalline Silicon Photovoltaic Products from China and Taiwan ("Solar II") continued this year, with ongoing administrative reviews in each. The final results of Solar I's second AD/CVD administrative reviews were issued in June and July 2016, calculating combined duty margins ranging between 24–33%, with a 259.89% margin for the China-wide entity.³² Preliminary results are expected in the Solar I third administrative reviews in late December 2016 and in the Solar II first administrative reviews in early 2017.

Commerce also investigated several scope claims in 2016. Notably, in June and July 2016, Commerce found that two types of so-called "hybrid" solar cells, which contain both a crystalline silicon component and thin film component, fall within the scope of the Solar I orders and thus, are subject to duties.³³ These scope determinations are currently on appeal at the Court of International Trade.

28. *Id.* ¶¶ 7.303–339.

29. *Id.* 7.346–348.

30. *Id.* 7.383–388.

31. See *Antidumping and Countervailing Duty Investigations Initiated After January 01, 2000*, ENFORCEMENT AND COMPLIANCE (Nov. 30, 2016), <http://enforcement.trade.gov/stats/inv-initiations-2000-current.html>.

32. See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China*, 81 Fed. Reg. 39,905 (June 20, 2016); *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China*, 81 Fed. Reg. 46,904 (July 19, 2016).

33. See e.g., *Sunprime Inc. v. United States*, Court No. 16–00171, Slip Op. 16–93 at 18–22 (Ct. Int'l Trade 2016).

2. *Aluminum Extrusions from China*

In 2016, Commerce continued to wrestle with the “finished goods kit” definition following CIT decisions that questioned Commerce’s position that products containing solely aluminum extrusions and fasteners are not finished goods and therefore remain within the scope of the AD/CVD orders on aluminum extrusions from China.³⁴ On multiple occasions, Commerce found “under protest” that products consisting only of aluminum extrusions and fasteners are excluded.³⁵ However, Commerce has stuck to its position that finished products must contain aluminum extrusions as parts and an additional component.³⁶

Furthermore, pursuant to the 2015 anti-circumvention petition regarding certain “5xxx series” aluminum extruded products,³⁷ Commerce made an affirmative preliminary determination that extruded aluminum products from China meeting the chemical specification for 5050-grade aluminum alloy circumvent the Orders.³⁸

3. *Flat-Rolled Steel Investigations*

In 2016, Commerce made affirmative final determinations in the AD/CVD investigations of corrosion-resistant, cold-rolled, and hot-rolled steel from several countries. Notably, Commerce calculated a 58.68% subsidy margin for POSCO, a top Korean steel supplier, in the hot-rolled steel CVD investigation and a 3.89% for other Korean producers.³⁹ Commerce terminated its CVD investigation on hot-rolled steel from Turkey due to the ITC’s finding that subsidized Turkish imports were negligible.⁴⁰ Moreover, the agency did not issue orders on cold-rolled steel from Russia, despite its affirmative final AD/CVD determinations, because of the ITC’s negligibility

34. See, e.g., *Whirlpool v. United States*, Court No. 14-00199, Slip Op. 16-8 (Ct. Int’l Trade 2016).

35. See, e.g., Remand Results, *Whirlpool Corp. v. United States*, Court No. 14-000199, Slip Op. 16-08 (Ct. Int’l Trade 2016).

36. See e.g., Memorandum to Christian Marsh, Deputy Assistant Sec’y for Antidumping and Countervailing Duty Operations, Final Scope Ruling on Agilent Technologies, Inc.’s Mass Filter Radiator (Aug. 10, 2016); Memorandum to Christian Marsh, Deputy Assistant Sec’y for Antidumping and Countervailing Duty Operations, Final Scope Ruling on Plexus Corporation’s Silver Spring Networks Enclosure Kit (Jan. 5, 2016).

37. See Letter from Wiley Rein LLP to Sec’y Commerce, re: *Aluminum Extrusions from the People’s Republic of China: Scope Clarification and Circumvention Inquiry Request* (Oct. 22, 2015).

38. Memorandum to Paul Picado, Assistant Sec’y for Enforcement and Compliance, Anti-Circumvention Inquiry Regarding the Antidumping Duty and Countervailing Duty Orders on Aluminum Extrusions from the People’s Republic of China (Nov. 3, 2016).

39. Certain Hot-Rolled Steel Flat Products from Brazil and the Republic of Korea Hot-Rolled Steel, 81 Fed. Reg. 67,960, 67,961 (Dept. Comm. Aug. 12, 2016).

40. See Certain Hot-Rolled Steel Flat Products From Brazil and the Republic of Korea, 81 Fed. Reg. 67,960 n.1 (Oct. 3, 2016).

decision concerning Russia.⁴¹ The ITC's decisions on subsidized hot-rolled steel from Turkey and cold-rolled steel from Russia are on appeal.

4. *Green Tubes from China*

In February 2014, Commerce had issued a scope ruling in *Certain Oil Country Tubular Goods from the People's Republic of China* finding that Chinese green tubes (unfinished OCTG) finished in a third country are within the scope of the orders on OCTG from China.⁴² On appeal, however, the CIT remanded this decision,⁴³ and Commerce thereafter found "under protest" that the scope was not limited to direct imports from China.⁴⁴

The court then ordered a second remand,⁴⁵ and in August 2016, Commerce concluded that the scope does not cover Chinese OCTG finished in third countries, and that imports of finished OCTG from Indonesia manufactured from Chinese green tubes do not circumvent the Orders.⁴⁶ The court subsequently sustained these results. Going forward, however, this case has significant implications for the domestic industry's definition of the scope in their petitions. Critically, the industry will now be compelled to draft language that explicitly includes third-country processing to ensure that such processing does not take subject merchandise outside the scope.

B. SIGNIFICANT INTERNATIONAL TRADE COMMISSION CASES

1. *Rebar from Japan, Taiwan, and Turkey*

In November 2016, the Commission issued an affirmative determination in the preliminary phase of the AD/CVD investigations regarding steel concrete reinforcing bar (rebar) from Japan, Taiwan, and Turkey.⁴⁷ Petitioner, the Rebar Trade Action Coalition (RTAC), filed its petition against a broad background of existing AD duties on rebar from other countries, some of which have been in place since 2001 and others since 2014.⁴⁸ As to RTAC's latest petition, the Commission voted unanimously to find that there is reasonable indication of injury to the domestic industry by

41. See *Certain Cold-Rolled Steel Flat Products from Brazil, India, the Republic of Korea, and the United Kingdom*, 81 Fed. Reg. 64,432, 64,433 (Sept. 20, 2016); *Certain Cold-Rolled Steel Flat Products from Brazil, India, and the Republic of Korea*, 81 Fed. Reg. 64,436, 64,437 n.5 (Sept. 20, 2016).

42. *Certain Oil Country Tubular Goods From the People's Republic of China*, 82 Fed. Reg. 6490, 6491 (Jan. 19, 2017).

43. *Bell Supply Co., LLC v. United States*, 83 F. Supp. 3d 1311 (Ct. Int'l Trade 2015).

44. See *Bell Supply Company, LLC v. United States*, Ct. No. 14-00066 (Ct. Int'l Trade 2015) (Final Results of Redetermination Pursuant to Remand).

45. *Bell Supply Company, LLC, v. United States*, 179 F. Supp. 3d 1082 (Ct. Int'l Trade 2016).

46. See *Bell Supply Company, LLC v. United States*, Slip Op. 16-41 (Ct. Int'l Trade 2016) (Second Remand Results).

47. *Steel Concrete Reinforcing Bar from Japan, Taiwan, and Turkey*, Inv. Nos. 701-TA-564 and 731-TA-1338-1340, USITC Pub. No. 4648 (Nov. 2016) (Prelim).

48. *Id.* at 4.

dumped imports from Japan, Taiwan, and Turkey and subsidized imports from Turkey.⁴⁹ Preliminary AD/CVD margins are expected by February 2017 and December 2016, respectively.⁵⁰

2. *Flat-Rolled Steel Investigations*

The Commission issued a series of historic affirmative determinations this year on flat-rolled steel from eleven countries, marking a crucial step towards addressing the steel trade crisis in the U.S. market. In June, the Commission made an affirmative final determination in *Certain Corrosion-Resistant Steel Products from China, India, Italy, Korea, and Taiwan*.⁵¹ All six Commissioners voted in the affirmative, finding injury to the domestic industry by unfairly traded imports from all subject countries.⁵² That same month, all six Commissioners again voted in the affirmative in *Cold-Rolled Steel Flat Products from China and Japan*, finding injury by imports from China and Japan.⁵³

In September, the Commission issued another affirmative final determination in *Cold-Rolled Steel Flat Products from Brazil, India, Korea, Russia, and the United Kingdom* regarding imports from all subject countries except for Russia, which were found to be negligible.⁵⁴ The Commission found injury by imports from Brazil, India, Korea, and the UK and threat of injury by reason of subsidized Indian imports.⁵⁵ As noted above, the ITC's finding with respect to Russia is currently on appeal. Also in September, the Commission issued an affirmative final determination in *Hot-Rolled Steel Flat Products from Australia, Brazil, Japan, Korea, the Netherlands, Turkey, and the United Kingdom*.⁵⁶ The Commission found injury by reason of imports from Australia, Brazil, Japan, Korea, the Netherlands, Turkey, and the UK.⁵⁷ The Commission also found that subsidized Turkish imports were negligible,⁵⁸ although this decision is on appeal.

49. *See id.* at 31-32.

50. *See* News Release, USITC, USITC Votes to Continue Investigations on Steel Concrete Reinforcing Bar from Japan, Taiwan, and Turkey (Nov. 3, 2016), https://www.usitc.gov/press_room/news_release/2016/er11031680.htm.

51. *Certain Corrosion-Resistant Steel Products from China, India, Italy, Korea, and Taiwan*, Inv. Nos. 701-TA-534-537 and 731-TA-1274-1278, USITC Pub. 4620 (July 2016) (Final) ("CORE Determination").

52. *Id.* at 1.

53. *Cold-Rolled Steel Flat Products from China and Japan*, Inv. Nos. 701-TA-541 and 731-TA-1284 and 1286, USITC Pub. 4619 (July 2016) (Final).

54. *Cold-Rolled Steel Flat Products from Brazil, India, Korea, Russia, and the United Kingdom*, Inv. Nos. 701-TA-540, 542-544 and 731-TA-1283, 1285, 1287, and 1289-1290, USITC Pub. 4637 (September 2016) (Final).

55. *Id.*

56. *Certain Hot-Rolled Steel Flat Products from Australia, Brazil, Japan, Korea, the Netherlands, Turkey, and the United Kingdom*, Inv. Nos. 701-TA-545-547 and 731-TA-1291-1297 USITC Pub. 4638 (September 2016) (Final).

57. *Id.*

58. *Id.*

3. *Uncoated Paper from Australia, Brazil, China, Indonesia, and Portugal*

In February 2016, the Commission issued an affirmative material injury determination regarding uncoated paper from Australia, Brazil, China, Indonesia, and Portugal.⁵⁹ In *Certain Uncoated Paper from Australia, Brazil, China, Indonesia, and Portugal*, the Commission determined that dumped imports from all five countries and subsidized imports from China and Indonesia materially injured the U.S. industry.⁶⁰ Ultimately, the Commission found that subject import volumes were significant and increased throughout the investigation period, at prices that undersold the U.S. product and had significant price effects.⁶¹

C. COURT APPEALS

The CAFC addressed several significant aspects of U.S. trade remedies law in 2016.

1. *Deacero S.A. de C.V. v. Untied States*

In *Deacero*, the CAFC held that, to effectively combat circumvention of AD/CVD orders in accordance with 19 U.S.C. § 1677j(c), Commerce may determine that certain types of articles are within the scope of an AD or CVD duty order, even when the articles do not fall in the literal scope of the order. The CAFC noted that the purpose of minor alteration anti-circumvention inquiries “is to determine whether articles not expressly within the literal scope of a duty order may nonetheless be found within its scope as a result of a minor alteration to the merchandise covered in the investigation.”⁶²

2. *JBLU v. United States*

In *JBLU Inc. v. United States*, the CAFC determined that the word “trademark” in 19 C.F.R. § 134.47 unambiguously includes both registered and nonregistered trademarks.⁶³ Therefore, goods with trademarked names that appear on imported articles which include words, letters, or names referring to geographical locations only have to comply with the lesser marking requirements of 19 C.F.R. § 134.47, even if the trademark is not registered and does not have an application pending.

59. See *Certain Uncoated Paper from Australia, Brazil, China, Indonesia, and Portugal*, Inv. Nos. 701-TA-528-529 and 731-TA-1264-1268, USITC Pub. 4592 (Feb. 2016) (Final) (“Paper ITC Determination”).

60. Paper ITC Determination at 1.

61. *Id.* at 29.

62. *Deacero S.A. de C.V. v. United States*, 817 F.3d 1332, 1338 (Fed. Cir. 2016).

63. *JBLU Inc. v. United States*, 813 F.3d 1377 (Fed. Cir. 2016).

3. *Nan Ya Plastics Corp. v. United States*

Nan Ya dealt with Commerce’s use of adverse facts available (AFA) for non-cooperative respondents in the context of AD/CVD proceedings. Under 19 U.S.C. § 1677e(b)(4), when respondents fail to act to “the best of their abilities,” Commerce may rely on “any other information placed on the record” to fill in gaps created by missing information, including making assumptions adverse to the non-cooperative respondent. But such adverse inferences must be corroborated with other information on the record in accordance with 19 U.S.C. § 1677e(c). The CAFC had previously held that the corroboration provision required assigned rates to reflect the “commercial reality” of the non-cooperative respondent and be an “accurate” reflection of the rates a respondent could have received. In *Nan Ya*, the CAFC clarified its use of these terms, noting that “a Commerce determination (1) is ‘accurate’ if it is correct as a mathematical and factual matter, thus supported by substantial evidence; and (2) reflects ‘commercial reality’ if it is consistent with the method provided in the statute, thus in accordance with law.”⁶⁴

4. *United States v. Nitek Elecs. Inc.*

In *Nitek*, the CAFC found that the Government of the United States was precluded from bringing a penalty claim against an importer for a lesser culpability level than what Customs asserted in its pre-penalty notice because, by not including the lesser culpability level in the pre-penalty notice, the Government failed to exhaust administrative remedies prior to seeking judicial enforcement of the administrative action. The CAFC held that, as the underlying administrative penalty under 19 U.S.C. § 1592(e) was based on gross negligence, the Government failed to state a claim when it brought a case alleging a violation based on negligence.⁶⁵

D. SECTION 337 DEVELOPMENTS

Several significant Section 337 developments in 2016 included: (1) key decisions by the CAFC; (2) a number of seminal determinations by the ITC

64. *Nan Ya Plastics Corp. v. United States*, 810 F.3d 1333 (Fed. Cir. 2016). Although not applicable to the litigation related to this case, the *American Trade Enforcement Effectiveness Act*, H.R.2523, 114th Cong. (2015.), broadened Commerce’s authority to apply AFA and removed the requirement that AFA rates reflect “commercial reality” or provide an “accurate” measure of a respondent’s actual rate, noting that Commerce “is not required to determine, or make any adjustments to, a countervailable subsidy rate or weighted average dumping margin based on any assumptions about information the interested party would have provided if the interested party had complied with the request for information.” 19 U.S.C. § 1677e(b)(1)(B) (2015). However, the corroboration provision of the statute was not altered by the new law. 19 U.S.C. § 1677e(c). Thus, it remains unclear how the courts will interpret the corroboration provision and its effect on Commerce’s AFA determinations in the future.

65. *United States v. Nitek Elecs. Inc.*, 806 F.3d 1376 (Fed. Cir. 2016).

(or “Commission”); and (3) a novel complaint filed by U.S. Steel Corporation.

With respect to CAFC decisions, the CAFC issued an order denying a petition filed by the respondent for rehearing *en banc* of the ruling in the *Delorme* case.⁶⁶ In the CAFC panel decision, the Court had held that a respondent who violated the terms of a Consent Order could have civil penalties imposed on it, even if the patent on which the Consent Order was based was subsequently deemed to be an invalid by a federal district court.⁶⁷ An *en banc* rehearing was requested. Following the CAFC’s denial of the request for the *en banc* rehearing, the respondent subsequently filed a petition for a writ of certiorari, but that petition was denied by the U.S. Supreme Court on November 28, 2016.⁶⁸

The CAFC also issued an order denying a petition filed by the respondent for rehearing *en banc* of the ruling in the *Sino Legend* case.⁶⁹ In the CAFC panel judgment, the Court, pursuant to CAFC Rule 36, had summarily affirmed the ITC’s decision in the *Rubber Resins* investigation in which the ITC concluded that it could impose a limited exclusion order for misappropriation of trade secrets (resulting in a violation of Section 337) even when the misappropriation occurred entirely outside of the U.S. The decision was made in accordance with the ruling in the *TianRui* case that the CAFC had issued in 2011.⁷⁰ Following the CAFC’s denial of the request for *en banc* rehearing, the respondent subsequently filed a petition for a writ of certiorari, which has not yet been ruled on by the U.S. Supreme Court.

The ITC also issued a number of seminal rulings in 2016. In accordance with the decision issued by the U.S. Supreme Court in the *Alice* case,⁷¹ the Commission issued several rulings in which it dismissed claims on the grounds of Section 101 patent ineligibility relating to the subject patents.⁷² In addition, the Commission issued several opinions in which it concluded that the 100-day procedure should not be used in certain circumstances.⁷³

Finally, an extremely novel Section 337 complaint was filed by U.S. Steel Corporation (U.S. Steel) on April 26, 2016, which was subsequently instituted by ITC on June 2, 2016.⁷⁴ In the complaint, U.S. Steel asserted that the importation into the United States of certain Chinese-origin carbon

66. *Delorme Publ’g Co. v. Int’l Trade Comm’n*, 805 F.3d 1328 (Fed. Cir. 2016).

67. *Id.*

68. *DBN Holding, Inc. v. Int’l Trade Com’n.*, 137 S. Ct. 538 (2016).

69. *See Sino Legend (Zhangjiagang) Chemical Co. v. Int’l Trade Comm’n*, 623 F. App’x 1016 (Fed. Cir. 2015).

70. *Id.*; *TianRui Group Co. Ltd. v. Int’l Trade Com’n*, 661 F.3d 1322 (Fed. Cir. 2011).

71. *Alice Corp. Pty. Ltd. v. CLS Bank Intern.*, 134 S. Ct. 2347 (2014).

72. *See, e.g.*, *Activity Tracking Devices*, Inv. No. 337-TA-963, (USITC Apr. 4, 2016); *Portable Electronic Devices and Components Thereof*, Inv. No. 337-TA-994, (USITC Sept. 21, 2016).

73. *See, e.g.*, *Quartz Slabs and Portions Thereof*, Inv. No. 337-TA-1017, (USITC Aug. 11, 2016); *Industrial Control System Software*, Inv. No. 337-TA-1020, (USITC Sept. 13, 2016), *Inv. No. 337-TA-1020*, (USITC Sept. 13, 2016).

74. *Certain Carbon and Alloy Steel Products; Institution of Investigation*, 81 Fed. Reg. 35,381 (Dep’t Commerce, June 2, 2016) (hereinafter the “Investigation Institution Notice”).

and alloy steel products violated Section 337, because they involved the following types of inappropriate actions: (1) a conspiracy to fix prices and control output and export volumes of the subject products (*i.e.*, antitrust violations); (2) misappropriation of trade secrets; and (3) false designation of origin or manufacturer(s) in an effort to avoid AD/CVD orders imposed on certain Chinese-origin carbon and alloy steel products imposed by the U.S. Government.⁷⁵ While the Administrative Law Judge dismissed the antitrust claims on the grounds that U.S. Steel lacked standing to make such claims, the remaining claims are still the subject of investigation as of this time, and if U.S. Steel prevails on the merits on these remaining claims, the ITC could issue relief to U.S. Steel that could effectively prohibit many kinds of Chinese-origin carbon and alloy steel products from being imported into or sold in the United States.

III. Negotiation Developments

A. WTO UPDATES

At the Tenth Ministerial Conference of the WTO, in Nairobi, Kenya held through the 15th-18th of December 2015, Ministers adopted the “Nairobi Package,”⁷⁶ At the same Conference, Members finally acknowledged that the long-running Doha Round of negotiations was dead.⁷⁷

The Nairobi Package decisions include

- Agriculture:⁷⁸
 - Special Safeguard Mechanism (SSM) for Developing Countries—allowing temporary increases in tariffs during import surges or market crashes. SSM is a long-running issue in market access negotiations and will continue to be debated in the Agriculture Committee in Special Session.⁷⁹
 - Decision on Public Stockholding for Food Security Purposes—Ministers committed to negotiating a permanent solution.⁸⁰ At issue is the public stockholding of food by some developing countries at fixed prices, which is subject to Aggregate Measure of Support limits.⁸¹

75. *Id.*

76. See World Trade Organization, Nairobi Ministerial Declaration, WT/MIN(15)/DEC, Part II, para 22 (adopted Dec. 19, 2015).

77. *Id.* at Part III, para 30.

78. World Trade Organization, Tenth WTO Ministerial Conference, (Nairobi 2015), Briefing Note: Agriculture issues, https://www.wto.org/english/thewto_e/minist_e/mc10_e/briefing_notes_e/brief_agriculture_e.htm.

79. World Trade Organization, Ministerial Decision of 19 December 2015, WT/MIN(15)/43 (2015).

80. World Trade Organization, Ministerial Decision of 19 December 2015, WT/MIN(15)/44 (2015).

81. Briefing Note: Agriculture issues, *supra* note 78.

- Export Competition—developed countries committed to immediately removing export subsidies for agricultural products and developing countries committed to doing so by 2018.⁸² This achievement concluded a long-standing and contentious issue. So as not to undermine this decision, Ministers also agreed to new rules for: maximum repayment terms for export financing when there is government support, agricultural exports from state trading enterprises, and food aid.⁸³
- Cotton—Ministers also agreed to eliminate cotton export subsidies immediately for developed countries and by 2017 for developing countries and that cotton from least developed countries will be given quota- and duty-free access to developed and developing (if possible) countries beginning in 2016.⁸⁴
- Least Developed Countries (“LDCs”): Ministers adopted a decision on preferential rules of origin that assists products from LDCs to qualify for the benefits of a free trade agreement (including a stipulation that Members consider allowing the use of up to 75 percent of non-originating materials when conferring origin); and a provision that Members consider simplifying documentary requirements for products from LDCs (for example, self-certification).⁸⁵ Members also extended the “LDC Services Waiver,” first agreed to in 2011, which granted preferential access for LDC services for 15 years; the Waiver was extended to the end of 2030.⁸⁶

B. CHINA’S MARKET ECONOMY STATUS

China’s non-market economy (“NME”) status expired on December 11, 2016, fifteen years after its WTO accession. When China acceded to the WTO on December 11, 2001,⁸⁷ all parties agreed that Chinese prices and costs did not necessarily provide a suitable basis for calculating anti-dumping duty (AD) margins. Therefore, WTO members whose national laws contained market economy (ME) criteria were allowed to utilize alternative NME methodologies for measuring AD margins of Chinese companies.⁸⁸

82. World Trade Organization, Ministerial Decision of 19 December 2015, WT/MIN(15)/45, para. 7 (2015).

83. *Id.*

84. World Trade Organization, Ministerial Decision of 19 December 2015, WT/MIN(15)/46, para. 9 (2015).

85. World Trade Organization, Ministerial Decision of 19 December 2015, WT/MIN(15)/47 (2015).

86. World Trade Organization, Ministerial Decision of 19 December 2015, WT/MIN(15)/48 (2015).

87. World Trade Organization, *China and the WTO*, MEMBER INFORMATION (Nov. 29, 2016 9:45 AM), https://www.wto.org/english/thewto_e/countries_e/china_e.htm.

88. See World Trade Organization, *Report of the Working Party on the Accession of China*, WT/ACC/CHN/49, 35, 86 (Oct. 1, 2001).

Sub-paragraph 15(a)(i) of China's Protocol of Accession to the WTO provides that, if Chinese producers can show that ME conditions prevail in a given industry, the importing WTO member must base its dumping calculations on Chinese prices and costs.⁸⁹ Sub-paragraph 15 (a)(ii) establishes the converse.⁹⁰

Sub-paragraph 15(d) contains rules on the termination of sub-paragraph 15(a).⁹¹ Should China establish the prevalence of NME conditions either country-wide or within a specific industry, the provisions of sub-paragraph 15(a) either shall be terminated or shall no longer be applicable to that industrial sector.⁹²

At this moment, the question remained, whether, beginning on December 11, 2016, which provision would be the correct legal interpretation of the residual portions. Chinese exporters assert that the expiration of sub-paragraph 15(a)(ii) unambiguously *requires* an automatic extension of ME methodology to all Chinese anti-dumping cases.⁹³ Conversely, US policy seems to argue that the remainder of paragraph 15(a) requires that Chinese exporters affirmatively establish the prevalence of ME conditions under the domestic laws of importing countries in order to be eligible for a dumping methodology based on Chinese prices and costs.⁹⁴

USTR annual reports to Congress on China's WTO compliance have regularly maintained that the NME methodology in Chinese AD cases was available for fifteen years only.⁹⁵ The WTO recognized the need for a new interpretation of sub-paragraph 15(a). Indeed, in *European Communities*, the WTO Appellate Body endorsed the conclusion that WTO members treat China as a ME country starting on December 11, 2016.⁹⁶ It is unclear

89. World Trade Organization, *Accession of the People's Republic of China*, WT/L/432, Part I, para. 15 (Nov. 23, 2001) [hereinafter Accession Protocol].

90. *Id.*

91. *Id.*

92. *Id.*

93. Gary Clyde Hufbauer & Cathleen Cimino-Isaacs, *Looming US-China Trade Battles?: Market Economy Status (Part II)*, PETERSON INST. INT'L ECON. (Nov. 29, 2016, 10:13 AM), <https://piie.com/blogs/trade-investment-policy-watch/looming-us-china-trade-battles-market-economy-status-part-ii>.

94. K. William Watson, *Eleven Months Left to Revoke China's Nonmarket Economy Status*, CATO INSTITUTE (Nov. 29, 2016, 10:09 AM), <https://www.cato.org/blog/eleven-months-left-revoke-chinas-nonmarket-economy-status>.

95. See UNITED STATES TRADE REPRESENTATIVE, *2012 Report to Congress on China's WTO Compliance*, (Dec. 2012), at 20, <https://ustr.gov/sites/default/files/uploads/2012%20Report%20to%20Congress%20-%20Dec%202012%20Final.pdf> ("this China-specific authority expires after 15 years, running from the date of China's WTO accession"). *But see*, UNITED STATES TRADE REPRESENTATIVE, *2013 Report to Congress on China's WTO Compliance*, (Dec. 2013), <https://ustr.gov/sites/default/files/2013-Report-to-Congress-China-WTO-Compliance.pdf> (including no mention of the 15 year term).

96. World Trade Organization, Appellate Body Report, *European Communities – Definitive Anti-Dumping Measures on Certain Iron or Steel Fasteners from China*, ¶ 289, WT/DS397/AB/R (July 15, 2011).

whether WTO Members will continue to apply NME methodology in Chinese AD cases after the anniversary date.

C. REGIONAL NEGOTIATIONS

1. *Trans-Pacific Partnership*

The finalized proposal for the Trans Pacific Partnership (TPP) was signed by the twelve participating countries.⁹⁷ The TPP still remains subject to the ratification of at least six of the participating countries.⁹⁸ It appears unlikely that the TPP will be approved or ratified by the United States.⁹⁹ On November 11, 2016, the Obama Administration stated it would no longer pursue the passage of the TPP.¹⁰⁰ As a result, Vietnam has indicated it does not intend to ratify the TPP.¹⁰¹

The unlikely ratification by the United States and Vietnam has led many to speculate that the TPP will not be implemented and that the Regional Comprehensive Economic Partnership (which already includes seven TPP-participating countries, but excludes the United States) will instead gain momentum.¹⁰² But despite these issues with ratification, no participating country has officially abandoned the TPP, although President-elect Trump has pledged to do so.¹⁰³

2. *Transatlantic Trade and Investment Partnership*

Similar to the TPP, the future of the T-TIP remains uncertain, especially in light of the United Kingdom's approval of a referendum to exit the European Union¹⁰⁴ and the election of Donald Trump.¹⁰⁵ On November 11,

97. Rebecca Howard, *Trans-Pacific Partnership Trade Deal Signed, but Years of Negotiations Still to Come*, REUTERS (Feb. 4, 2016), <http://www.reuters.com/article/us-trade-tpp-idUSKCN0VD08S>.

98. *Id.*

99. Vicki Needham, *White House Gives Up on Passing the TPP*, THE HILL (Nov. 11, 2016), <http://thehill.com/policy/finance/305668-white-house-gives-up-on-passing-the-tpp>.

100. Jackie Northam, *Obama Isn't Expected To Push Congress On Trans-Pacific Partnership Trade Deal*, NATIONAL PUBLIC RADIO (Nov. 11, 2016), <http://www.npr.org/sections/thetwo-way/2016/11/11/501778485/obama-not-expected-to-push-congress-on-trans-pacific-partnership-trade-deal> (referencing comments from a former White House economic advisor).

101. Xiang Wang, *Good News for China? No TPP for the U.S., and Now Vietnam*, FORBES (Nov. 17, 2016), <http://www.forbes.com/sites/xiangwang/2016/11/17/good-news-for-china-no-tpp-for-the-u-s-and-now-vietnam/#412a16f03dc8>.

102. *Id.*; Michael Martina, *With Trump Win, China Looks to Seize Asia Free Trade Leadership*, REUTERS (Nov. 18, 2016), <http://www.reuters.com/article/us-usa-trump-china-apecidUSKBN13D0BI>.

103. Charlie Campbell, *Donald Trump's Pledge to Withdraw U.S. From TPP Opens the Door for China*, TIME (Nov. 21, 2016), <http://time.com/4579580/china-donald-trump-tpp-obama-asia-rcp-business-trade; see also Martina, supra note 102>.

104. Marianne Schneider-Petsinger, *Brexit Clouds TTIP Negotiations but may not Scupper Deal*, CHATHAM HOUSE – THE ROYAL INSTITUTE OF INTERNATIONAL AFFAIRS (July 11, 2016), <https://www.chathamhouse.org/expert/comment/brexit-clouds-ttip-negotiations-may-not-scupper-deal>.

2016, EU Trade Commissioner Malmström indicated that, as a result, she believed the T-TIP negotiations would be stalled for “quite a long time.”¹⁰⁶ German Chancellor Angela Merkel also indicated that, despite the progress of negotiations, the T-TIP would “not be concluded now” and she was “quite certain” the negotiations would be revisited in the future.¹⁰⁷ Despite four successful rounds of negotiations in 2016,¹⁰⁸ it is unclear when or if the negotiations will resume.

D. U.S. INVESTMENT TREATY NEGOTIATIONS

In 2016, developments in United States investment treaty practice centered on the TPP and negotiations toward a bilateral investment treaty (BIT) with the People’s Republic of China (PRC).¹⁰⁹ United States BIT negotiations with India, Pakistan, and Mauritius appear to be ongoing as well.

Chapter 9 of the TPP, “Investment,” closely resembles a BIT. Substantively, the provisions of the TPP investment chapter have “an exceedingly close resemblance to the 2004 U.S. Model BIT.”¹¹⁰ In February 2016, the United States was among twelve governments to sign the TPP;¹¹¹ however, the TPP has been criticized and disavowed by President-elect Trump.¹¹²

Progress toward a U.S.–PRC BIT was modest in 2016. The scope of the PRC negative list (of sectors to be excluded from the BIT) reportedly was a

105. Simon Marks and Hans Von Der Burchard, *Europe to Trump: Don’t Give Up on Free Trade*, POLITICO (Nov. 14, 2016), <http://www.politico.eu/article/europe-to-donald-trump-dont-give-up-on-free-trade-ttip-ceta-us-eu/>.

106. Viktoria Dendrinou, *Trump Election Likely to Put U.S.-EU Trade Talks on Ice*, WALL STREET JOURNAL (Nov. 11, 2016), <http://www.wsj.com/articles/trump-election-likely-to-put-u-s-eu-trade-talks-on-ice-1478880276>.

107. James Carstensen, *With TTIP All but Abandoned, Obama and Merkel Argue ‘Cooperation is Now More Urgent than Ever’*, CNSNEWS (Nov. 17, 2016), <https://www.cnsnews.com/news/article/james-carstensen/ttip-all-abandoned-obama-and-merkel-argue-cooperation-now-more-urgent>.

108. European Commission, IN FOCUS: TRANSATLANTIC TRADE AND INVESTMENT PARTNERSHIP (TTIP), *Documents and events: Negotiation Rounds – Press Material*, (Nov. 22, 2016, 9:33:00 PM), http://ec.europa.eu/trade/policy/in-focus/ttip/documents-and-events/index_en.htm#negotiation-rounds.

109. European Commission, *Trade for All - New EU Trade and Investment Strategy*, (Apr. 4, 2016), <http://ec.europa.eu/trade/policy/in-focus/new-trade-strategy>.

110. Charles H. Brower II, *Trans-Pacific Partnership: Continuity and Breakthroughs in U.S. Investment Treaty Practice*, 27 AM. REV. INT’L ARB. 145, 180 (2016).

111. Office of the U.S. Trade Representative, *Trans-Pacific Partnership Ministers’ Statement*, (Feb. 4, 2016) <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2016/February/TPP-Ministers-Statement>.

112. Eric Beech, *Trump Says Will Quit Pacific Trade Deal on Day One of Presidency*, REUTERS (Nov. 21, 2016), <http://www.reuters.com/article/us-usa-trump-video-idUSKBN13G2K8>.

point of contention in 2016,¹¹³ as well as U.S.–proposed provisions not typically found in prior U.S. BITs, including provisions governing data flows, state-owned enterprises, discriminatory law enforcement, and forced technology transfer.¹¹⁴ In April 2016, Senator Bob Corker, advisor to President-elect Trump at that time, invoked “strategic challenges” with the PRC and a “trade dispute over solar panels” as potential obstacles to a PRC–U.S. BIT.¹¹⁵

U.S. BIT negotiations with India, Pakistan, and Mauritius appear to be ongoing. India published a new model BIT and sought to terminate or modify its existing BITs in 2016,¹¹⁶ drawing skepticism about the potential success of India–U.S. BIT negotiations.¹¹⁷ Meanwhile, BIT negotiations are “currently in progress” between Mauritius and the United States,¹¹⁸ while the U.S. and Pakistan, which commenced BIT negotiations in 2004,¹¹⁹ “have a five-year action plan” regarding trade and investment.¹²⁰

IV. Legislative Developments

President Obama signed the Trade Facilitation and Trade Enforcement Act of 2015 into law in February 2016. One of the provisions of the TFTEA eliminated this consumptive demand exception to the prohibition on importation of such goods made with convict labor, forced labor, or

113. Adam Behsudi, *Latest China BIT offer enough to keep talks going*, POLITICO (July 6, 2016), <http://www.politico.com/tipsheets/morning-trade/2016/07/latest-china-bit-offer-enough-to-keep-talks-going-215180>.

114. Jack Caporal, *U.S.–China BIT Negotiations Intensify as Administration Aims To Cement Deal*, INSIDE U.S. TRADE (Nov. 10, 2016), <https://insidetradetrade.com/inside-us-trade/us-china-bit-negotiations-intensify-administration-aims-cement-deal>.

115. U.S. Senate Comm. on Foreign Relations, *Corker: China’s Provocative Territorial Claims Threaten U.S. Strategic Interests in Asia-Pacific*, (Apr. 27, 2016), <http://www.foreign.senate.gov/press/chair/release/corker-chinas-provocative-territorial-claims-threaten-us-strategic-interests-in-asia-pacific>.

116. Int’l Inst. for Sustainable Development, *India takes steps to reform its investment policy framework after approving new model BIT*, INVESTMENT TREATY NEWS (Aug. 10, 2016), <https://www.iisd.org/itm/2016/08/10/india-takes-steps-to-reform-its-investment-policy-framework-after-approving-new-model-bit/>.

117. See Bryan Mercurio, *Negotiations on the United States–India Bilateral Investment Treaty: An Exercise in Futility*, TRADE PACTS (Sept. 7, 2016), <http://tradepacts.com/index.php/2016/09/07/negotiations-united-states-india-bilateral-investment-treaty-exercise-futility/>.

118. See Office of the United States Trade Representative, *Fiscal Year 2017 Budget*, (Feb. 2016), at 9, <https://ustr.gov/sites/default/files/notices/FY2017%20USTR%20Congressional%20Budget%20Submission.pdf>.

119. U.S. Dep’t of State, *United States, Pakistan Begin Bilateral Investment Treaty Negotiations*, (Sept. 28, 2004), <https://2001-2009.state.gov/e/eeb/rls/prsr/2004/36573.htm>.

120. U.S. Embassy & Consulates in Pakistan, *Senior U.S. Official Reaffirms Commitment to Trade with Pakistan*, (Aug. 30, 2016), <https://pk.usembassy.gov/senior-u-s-official-reaffirms-commitment-trade-pakistan/>.

indentured labor, making Section 307's import prohibition an absolute bar.¹²¹

Section 307 of the Tariff Act of 1930 (Section 307) prohibits the importation of “[a]ll goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor.”¹²² Prior to the enactment of TFTEA, U.S. Customs and Border Protection (CBP) was exempted from prohibiting the importation of merchandise made with forced labor if the good produced domestically was not available in sufficient quantities to meet United States demand.

The elimination of the consumptive demand loophole appears to have raised the profile of Section 307. Since February this year, there has been a significant increase in instances of enforcement of this provision, “with the detention of imports from the specialty chemicals industry and the food and beverage industry.”¹²³ Prior to February, the last detention order or withhold release order was issued in 2000.¹²⁴ CBP also has established a taskforce charged with identifying potential violations of Section 307.¹²⁵ CBP public affairs officer, Rick Pauza, stated that the Taskforce “will augment forced labor efforts and work proactively to research and bring forced labor cases that will generate additional withhold-release orders.”¹²⁶

121. TRADE FACILITATION AND TRADE ENFORCEMENT ACT OF 2015, PL 114-125, 130 Stat 122 (2016), § 910.

122. 19 U.S.C. § 1307.

123. *Recent Initiatives by the U.S. Government to Combat Forced Labor Practices*, AMERICAN BAR ASSOCIATION (Nov. 3, 2016), <https://shop.americanbar.org/ebus/ABAEventsCalendar/EventDetails.aspx?productId=258015921>.

124. U.S. Customs and Border Protection, *Forced Labor*, <https://www.cbp.gov/trade/trade-community/programs-outreach/convict-importations>.

125. U.S. Customs and Border Protection, *CBP Creates Trade Enforcement Task Force*, (May 2, 2016), <https://www.cbp.gov/newsroom/national-media-release/cbp-creates-trade-enforcement-task-force>.

126. *CBP, Backed By New Law, To Step Up Fight Against Forced Labor Goods*, INSIDE U.S. TRADE (May 11, 2016), <https://insidetrade.com/daily-news/cbp-commissioner-says-he-plans-block-all-forced-labor-imports-use-self-initiation>.