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From HQ Ruling to the Courts: How CBP Rulings and Litigation Shape Trade Compliance

Advanced Topics in Customs Compliance Conference

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Feb. 5, 2026

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Agenda

Case studies:

- Tariff Classification
- Customs Valuation
- Country of Origin
- Customs Enforcement and Liability

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How Rulings and Caselaw Can Be Helpful!

CBP National Commodity Specialist Division (NCSD) Rulings (NY)

CBP Office of Regulations and Rulings (HQ)

U.S. Court of International Trade (CIT)

U.S. Court of Appeals for the Federal Circuit (CAFC)

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TARIFF CLASSIFICATION

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Nature's Touch Frozen Foods (West) Inc. v. United States
(CAFC Case No. 2023-2093, May 9, 2025)

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Nature's Touch: Background

- Commodity: Frozen fruit and vegetable mixtures from Canada
- Importer's Classification: 2106.90.98, HTSUS
  - Heading 2106: Food preparations not elsewhere specified or included
- Government's Classification: 0811.90.80, HTSUS
  - Heading 0811: Fruit and nuts, uncooked or cooked by steaming or boiling in water, frozen, whether or not containing added sugar or other sweetening matter
- Classification Issues:
  1. For frozen fruit mixtures, does the common and commercial meaning of the term "fruit" in heading 0811 include mixed fruits?

  2. For frozen fruit *and* veggie mixtures, are the mixtures considered as "food preparations" of heading 2106?

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Nature's Touch: CAFC's Ruling

- *For frozen fruit mixtures, does the common and commercial meaning of the term "fruit" in heading 0811 include mixed fruits?*
  - The CAFC agreed with the CIT's classification determination that the common and commercial meaning of "fruit" includes mixed fruit. CAFC agreed with consulting dictionary definitions of "fruit."
  - CAFC rejected importer's argument that nothing in the language of the heading 08011 mentions mixtures, and that the subheadings all describe individual fruits or groups of specific fruits—not mixtures.

- *For frozen fruit and veggie mixtures, are the mixtures considered as "food preparations" of heading 2106?*
  - The CAFC agreed with CIT's determination that while the fruit and vegetable mixtures are food, they are not "preparations" of heading 2016. A "food preparation" must undergo additional processing beyond what is already inherently encompassed within the term "food."
  - The CAFC rejected importer's arguments that cutting, sifting out inedible materials, cleaning, freezing, and mixing the fruits and vegetables are sufficient to render the fruit and vegetable mixtures a "preparation."

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Nature's Touch: Key Takeaways

- Scope of Heading Terms
  - Under GRI 1, classification should first be determined according to the terms of the headings and any associated section or chapter notes. The proper meaning of tariff provisions are questions of law.
  - CAFC agreed that the meaning of "fruits" in heading 0811 includes mixed fruits and there is not a limitation to individual types of fruit.
  - CAFC clarifies what are "preparations" of heading 2106. Cutting, mixing, and freezing are not sufficient to result in a "preparation."

- Dictionaries and Prior Caselaw to Understand Tariff Terms
  - The Courts consulted dictionaries to understand the common and commercial meaning of "fruit."
  - The CIT and CAFC found in prior caselaw that held freezing food alone is not sufficient to prepare it. The prior caselaw includes decisions from 1929 and 1947.

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Keystone Auto. Operations, Inc. v. United States
(CIT Slip. Op. 25-46, April 8, 2025)

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Keystone: Background

- Commodity: Various side bars, nerf bars, and bars attached to motor vehicles
- Importer's Argument: The subject merchandise met the description of "side protective attachments" in a Section 301-product exclusion.
  - "Tire carrier attachments, roof racks, fender liners, side protective attachments, the foregoing of steel (described in statistical reporting number 8708.29.5060)"
- Government's Argument: The exclusion applied only to subject merchandise with the principal use of providing protection.
- Classification Issues:
  - Do the traditional interpretative tools for HTSUS classification (i.e., GRI's and Additional Rules of Interpretation) apply to Section 301 exclusion provisions drafted by USTR?
  - How to interpret Section 301 product exclusion language?

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What was CIT's holding about interpreting Section 301 exclusions?

Traditional interpretative tools for HTSUS classification do NOT apply

Traditional interpretative tools for HTSUS classification DO apply

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Keystone: CIT Ruling

- How to interpret Section 301 product exclusion language?
  - *"The Court holds that there is no basis to depart from the standard rules of tariff interpretation for the Section 301 exclusion provisions."*
  - CIT rejected importer's argument that USTR's Exclusion Notice published in the Federal Register established a new description-based standard of review and supplanted longstanding judicial precedent on interpreting HTSUS provisions.
  - "*The HTSUS Chapter Notes and the Federal Register notice regarding the Section 301 exclusion provisions do not state that a principal use analysis is prohibited, nor do the provisions state that the GRIs and ARIs shall not be applied.*"
  - *Eo Nomine* and principal/actual use analytical tools should till be used to interpret Section 301 exclusion provisions.

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Keystone: Key Takeaways

- Future Product Exclusions and How to Interpret?
  - For current Section 301-China exclusions that have not expired, utilize the standard rules of tariff interpretation when analyzing exclusion language.
  - If the Administration enacts new product exclusions for Section 232, Section 301, or IEEPA, then consider proposing narrowly tailored exclusion language like actual/principal use when submitting an exclusion request. Also, when published, carefully review exclusion language and use traditional interpretative rules (e.g., dictionary definitions if term has not been defined, *eo* nomine analysis, etc.)
  - On January 27, 2026, in *Atlas Power LLC v. United States,* the CIT cited to *Keystone* and analyzed Section 301 exclusions with standard interpretative tools for tariff classification.

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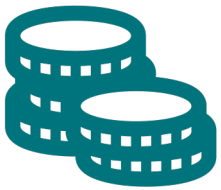
CUSTOMS VALUATION

Midwest-CBK, LLC v. United States
(CAFC Case No. 2024-112, Jan. 8, 2026)



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Midwest-CBK: Background

- Transaction Structure:
  - (1) the merchandise was imported from foreign countries to Canada; (2) the merchandise was based in Canada at the time of sale to U.S. customer; (3) the merchandise was packaged and sent from Canada to the U.S. after sales orders were received; (4) the subject merchandise was clearly destined for the U.S. at the time of sale; and (5) the subject merchandise was sold and exported from Canada to customers based in the U.S.

- Importer claimed deductive value during CBP audit but CBP found transaction value was appropriate and liquidated entries at plus 124% adjustment. See also HQ H275056 (July 1, 2016).

- Importer's Argument: No transaction value because the sales were domestic and not for exportation to the United States.

- Government's Argument: Transaction value applies because there were sales for exportation between importer and U.S. customers.

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What was CAFC's holding about transaction value?

No transaction value because no sale for export

Transaction value applies and domestic sales may qualify

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Midwest-CBK: CAFC Ruling

- Issue: What does "sold for exportation to the U.S." mean under transaction value and must a sale be international to apply transaction value?
- Holding:
  1. The text of 19 U.S.C. § 1401a(b)(1) does not expressly require that a sale be international or occur abroad for the use of transaction value to apply.
  2. Domestic sales, in certain circumstances, may qualify as the basis for using transaction value as an appraisement method.
     - Prior caselaw also suggests that that domestic sales may in fact serve as the basis of a transaction value appraisement.
     - *VWP of Am., Inc. v. United States; La Perla Fashions, Inc. v. United States.*

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Midwest-CBK: Key Takeaways

- Transaction Value
  - For merchandise to be appraised based on transaction value, the goods must be (1) sold (2) for exportation to the United States.
  - For import scenarios based on Canadian storage and sales to the U.S. based on purchase orders, carefully analyze the case and whether transaction value is being applied.
  - Domestic sales, in certain circumstances, may qualify as the basis for using transaction value as an appraisement method

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HQ H337458
Metal Commodity Formulas
(May 27, 2025)

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H337458: Background

- Aluminum products importer places order with unrelated foreign seller but the ultimate price is unknown. The seller ships the goods to the importer accompanied with a provisional invoice setting forth the preliminary pricing to be later finalized pursuant to the formula in effect prior to export to the United States.

- After importation, when the final price is known pursuant to the formula based on the Official London Metal Exchange Aluminum “High Grade” Cash Settlement quotation in US dollars averaged over the quotational period plus the applicable premium, the seller issues the importer a final invoice for the imported merchandise.

- Importer claims that since the price is determined pursuant to an objective formula agreed upon prior to importation, post-importation price decreases are acceptable.
  - Importer provided payment records for payment against the provisional invoices and the credits in the accounting records for the difference between the provisional and the final invoices.

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H337458: CBP Determination

- Formulas Are Acceptable
  - Based on prior rulings, CBP affirmed that if the final sales price of imported merchandise is not ascertainable at the time of importation, the phrase "price in effect on the date of export" may be determined by application of a formula, provided that **the formula is fixed at the time of importation and depends on some future event or occurrence over which neither the seller nor the buyer have any control**.

- Metal Formulas
  - Pricing formulas based on the average market price of aluminum on the Official London Metal Exchange adjusted for a regional premium are objective standards over which neither the seller nor the buyer had any control.

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H337458: Takeaways

- Jan. 2026 Commercial Customs Operations Advisory Committee (COAC) Recommendation
  - COAC recommends that CBP recognize, and allow importers to utilize, **publicly available commodity pricing** as one of the means for determining and declaring the value of metal included in steel, aluminum and copper products that are subject to Section 232 tariffs on the value of the metal content
  - https://www.cbp.gov/sites/default/files/2026-01/coac_recommendations_-_jan_2026.pdf

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COUNTRY OF ORIGIN

HQ H344538
Transmission Fluid Pump
(Sept. 11, 2025)

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TFP: Background

- Importer (via internal advice request) seeking country of origin for Section 301 purposes, and USMCA eligibility for a transmission fluid pump assembly (part number 612818) manufactured in Mississauga, Ontario, Canada.

- Product Description: Transmission fluid pump assembly used in automotive transmissions to circulate fluid for lubrication and hydraulic control. Final assembly occurred in Canada.

- Bill of Materials Complexity: Over 100 manufacturing steps involving machining, milling, drilling, reaming, grinding, deburring, and assembly of 74+ components (castings, seals, bushings, springs, bolts).

- Input Origins: Significant use of originating materials (U.S. and Canada) mixed with some non-originating components (e.g., China).

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What was CBP's determination on the origin for Section 301 purposes?

Canada, due to insufficient originating content

Canada due to substantial transformation

China, due to the Chinese input for Section 301

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TFP: CBP Determination

- CBP held that a substantial transformation occurs in Canada, making the pump a product of Canada for Section 301 tariff purposes (not Chinese origin).

- Considered whether Canadian operations (machining castings and assembling numerous subassemblies into the finished pump) were complex and meaningful enough to confer new identity.

- The assembly operations required “precision in order to produce a sophisticated device”

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TFP: CBP Determination

- Imported castings and components were machined and combined with many parts such that the original parts lost separate identity within the new pump assembly.

- Took into account fact that a significant portion of the total value of materials used in the production is Canadian, but this was not the dispositive.

- USMCA eligibility was included in ruling, but did not influence the origin determination for Section 301

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HQ H325607
CrunchLabs Disc Launcher
(Oct. 3, 2025)

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Disc Launcher: Background

- The disc launcher is an unassembled kit for children ages 8-12 comprised of all necessary components to assemble the toy. All components are imported into the United States unassembled packaged together in a build box.

- Components: a generic 3VDC motor, a flywheel, a wood board including a plywood trigger and a guide rail (collectively "wood boards"), a battery pack and batteries, plastic discs, EVA foam-double stickers, paper tubes, plastic tab, bolts, nuts, O-rings, and rubber bands. The motor will originate from Japan, Korea, Taiwan, or Vietnam. The remaining components originate from China

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What was CBP's determination on the country of origin of the disc launcher?

Origin of the motor

Origin of remaining components (China)

Both

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Disc Launcher: CBP Determination

- Importer asserted that the country of origin of the unassembled disc launcher is the country of origin of the motor.
- Instead, CBP held that the countries of origin of the disc launcher will be Japan, Korea, Taiwan, or Vietnam (the country of origin of the motor) and China (the country of origin of the remaining components) for purposes of additional trade remedy measures.

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Disc Launcher: Key Legal Reasoning

- CBP stated that packaging the build box components will not transform the motor and the remaining components into articles with a new name, character or use. Stated that the motor is "generic" and "general-purpose" and does not define the disc launcher's character or use as a toy.

- Cited *Cyber Power Systems* CIT opinion (2023) reiterating "its prior rejection of two potential alternatives to the substantial transformation test: (i) "essence" based approach and whether essential component had been transformed, and (ii) substantial transformation on a component-by-component basis"

- Distinguished from other rulings where CBP ruled that the origin of certain unassembled kits is imparted by one essential component, e.g.:
  - Unassembled bike bears origin is imparted by origin of frame ("one of the bicycle's most significant components")
  - Unassembled wall mounted wine rack origin imparted by aluminum pegs (predominate by value and function)

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CUSTOMS ENFORCEMENT & LIABILITY

United States v. Rago Tires, LLC
(CIT Slip Op. 25-143, Nov. 12, 2025)

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Rago: Background

- Antidumping/CVD Orders: Commerce issued AD/CVD orders on truck & bus tires from China (effective Feb. 15, 2019).
- Entry at Issue: Shortly after effective date of AD/CVD orders, Rago imported subject merchandise and misclassified one entry as Type 01 (non-AD/CVD), rather than Type 03 (subject to AD/CVD).
- Duty Impact: Importer did not pay required $14,108.87 AD/CVD cash deposits at entry, but importer did later amend the entry to Type 03 and paid the cash deposit.
- Penalty Process: Three years later, CBP issued pre-penalty and penalty notices alleging gross negligence and negligence in the alternative; Rago did not respond to notices or pay the penalties.

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Rago: Overview of CIT

- Government brought a civil penalty action under 19 U.S.C. § 1592 for entry violations (customs penalties)

- Relief Sought: Up to $56,435.48 penalty (gross negligence) or $28,217.74 (negligence).

- Procedure: Defendant Rago Tires, LLC failed to respond to the complaint; default entered under USCIT Rule 55(a)

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Rago: Burden of Proof Under 1592

- Negligence: the Government need only prove that a material false statement or omission took place – after which, the burden shifts to the importer to show that it exercised reasonable care. If the importer fails to respond, the Government automatically proves negligence as long as it can point to a material, false statement or omission, even without providing further evidence of fault or culpability.

- Gross Negligence: the Government has the burden of proof to establish all elements of the alleged violation, i.e., importer engaged "willfully, wantonly, or with reckless disregard in its failure to ascertain both the relevant facts and the statutory obligation, or acted with an utter lack of care."

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Rago: Court's Decision

- Default Judgment Granted: Court grants motion for default judgment; defaulting party's facts taken as true.

- Violation & Culpability: Rago supplied materially false entry information and failed to exercise reasonable care, establishing negligence under § 1592(a).

- Gross Negligence Rejected: Facts did not show willful, wanton, or reckless misconduct—only a negligent misstatement.

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Rago: Penalty & Remedy

- Civil Penalty Imposed: Court imposed $14,108.87 penalty—equal to unpaid AD/CVD deposits (within statutory range for negligence, but not the maximum).

- Reasoning on Penalty: Court did not adopt the higher amounts sought by Government due to limited scope of violation and corrective actions in amending the entry type and ultimately paying cash deposits.

- Additional Relief: Awarded post-judgment interest under 28 U.S.C. § 1961 and costs per USCIT rules.

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Rago: Factors in determining penalty

- CIT cited factors in *Complex Machine* case:
  - Importer's character and circumstances of violation: CIT only found "negligence born of inattention" and gave Rago credit for post-entry correction
  - Public interest and future deterrence: CIT found modest revenue impact and that Rago's violation was less severe than other cases involving multiple violations or deliberate misstatements
  - Ability to pay and practical effect of penalty: CIT found no indication Rago continued to import under improper classification
  - Other matters that justice requires: CIT found Rago is a small importer with no prior penalty history.

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Rago: Key Takeaways

- Enforcement of small penalties: $56,435.48 penalty (gross negligence) or $28,217.74 (negligence) is not a large amount relatively speaking. The importer had already amended its entry and paid the cash deposit. Yet, CBP pursued collection of additional penalties at the CIT.

- Passage of time between violation and penalty: CBP waited more than 3 years before issuing penalty notice. This remains within the 5-year statute of limitation period.

- Default = liability: Failure to respond to CBP penalty notices or CIT complaints can lead to default judgment. However, even in default judgment, the CIT noted "an entry of default alone is not sufficient for judgment; the court must still determine whether the unchallenged facts establish a violation of section 1592 and whether the Government's requested remedy falls within statutory bounds."

- Penalty discretion: CIT independently assesses penalties de novo and may reduce amounts sought by the Government based on culpability and scope of conduct. In this case, CIT rejected government's gross negligence claims.

- Reduced penalty: CIT rejected government's gross negligence claims. No evidence of concealment, and considered the post-entry corrective action as mitigating factor. Was importer's decision not to fight the penalty action a good strategic decision in hindsight (no expenditure of legal fees)?

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United States v. Koehler Oberkirch GmbH
(CIT Slip Op. 25-31, Mar. 27, 2025)

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Koehler: Background

- Import History: Defendants imported lightweight thermal paper from Germany subject to antidumping orders; Commerce assigned ~75% duty.

- Subject: Government seeks recovery of unpaid antidumping duties and statutory interest owed by German producers of thermal paper. Over $267 million in unpaid duties plus interest. Entries occurred during the period between 2009 and 2011.

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Koehler: Background

- Corporate Changes: In 2012, original German producer Papierfabrik August Koehler AG ("Papierfabrik") underwent corporate restructuring. In 2021, formation of new entity, Koehler Paper SE. And then "spin-off" that consisted of transferring certain assets and liabilities of Paperfabrik to Koehler Paper, including control over profitable manufacturing subsidiary, leaving Paperfabrik with less than a quarter of its assets.

- Government's View: The restructuring and spin-off was intended to hinder recovery of antidumping duties owed, as Papierfabrik now lacks assets sufficient to pay its debts to Customs.

- Defendants' Procedural Arguments: Argued dismissal for insufficient service of process and lack of personal jurisdiction

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Koehler: Court's Ruling

- Court holds jurisdiction is proper because:
  - Koehler imported goods into the U.S. and incurred duties, satisfying due process contacts.
  - Koehler Paper SE is treated as successor in interest to predecessor's duties (fraud-based successor liability), thus inheriting jurisdictional contacts.

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Koehler: Key Legal Reasoning and Takeaways

- Due Process & Contacts: Importation into the U.S. and liability for duties create sufficient "minimum contacts" for jurisdiction under *Int'l Shoe* and *Synthes* factors.
- Successor Jurisdiction: Successor liability (including fraud-motivated asset transfers) justifies imputing jurisdictional contacts from predecessor to successor entity.
- Judicial Estoppel: Defendants are estopped from denying successor status because they previously asserted it in related litigation.

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Thank you!

Any Questions?

Please send any follow-up questions to:

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