

# Timothy Brightbill Comments on Federal Circuit Ruling on Trade Remedies

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Timothy C. Brightbill, a partner in Wiley Rein's International Trade Practice, was quoted in a *Law360* article on a recent U.S. Court of Appeals for the Federal Circuit precedential ruling on the U.S. Department of Commerce's authority when imposing countervailing and antidumping duties on imports from nonmarket economies.

According to the article, the Federal Circuit ruled that the method used by Commerce to calculate antidumping and countervailing duties is not a violation of the Constitution's *ex post facto* clause. "There aren't that many trade cases that raise constitutional issues," Mr. Brightbill said.

Plaintiff Guangdong Wireking Housewares & Hardware Co. Ltd. argued that a 2012 law allowing Commerce to impose countervailing duties on imports from nonmarket economies should require the agency to retroactively assess double counting issues dating to 2006. Not doing so, Wireking argued, violates the *ex post facto* clause because the law is retroactive to 2006, but only requires the agency to adjust double counting issues starting in March 2012.

Mr. Brightbill said that the Federal Circuit thoroughly examined the constitutional question presented by the case in addition to reaffirming the civil and remedial nature of U.S. import duties. "I think this was an expected result, but it still is very significant in terms of clarifying, and reiterating, that the trade remedy laws are remedial in nature, not punitive," he said. Mr. Brightbill added that the decision is "a very careful confirmation that this new law, like the trade laws in general, is remedial in nature, and therefore it's constitutional, and it's consistent with our broader international trade

## Related Professionals

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## Practice Areas

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