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ALERT

Commerce Makes Groundbreaking Decision in Trade Case Against Korean OCTG Imports

April 12, 2017

In a groundbreaking decision issued Tuesday, April 11, 2017, the U.S. Department of Commerce (Commerce) applied its authority under the recently enacted Trade Preferences Extension Act of 2015 (TPEA) to increase the antidumping duties calculated on Korean imports of oil country tubular goods (OCTG). Commerce found that a "particular market situation" under the TPEA exists in Korea, such that the costs of Korean OCTG production are distorted and warrant an adjustment to the antidumping duties applied on these imports to the U.S.

Wiley Rein was instrumental in drafting the "particular market situation" provision into the TPEA, moving the legislation forward in Congress, and, more recently, in preparing the arguments for its use and urging Commerce to apply the provision in a trade case against dumped OCTG imports from Korea. As Commerce remarked in yesterday's decision, Wiley Rein client Maverick Tube Corporation's "allegations of particular market situations in the instant review are the first such allegations filed since the enactment of the TPEA."

Before the TPEA, U.S. trade law provided no means for the agency to account for inherent distortions affecting producers in a foreign country. This was a significant problem in numerous antidumping cases, and severely hindered the relief granted to U.S. businesses impacted by unfair competition. The new provision gave Commerce an important tool to modify dumping calculations and address these distortions. And yesterday's decision marked a significant step in the use of this new provision to vigorously enforce U.S. trade laws and provide much-needed trade relief to U.S. industries.

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Alan H. Price, chair of Wiley Rein's International Trade Practice, stated that "the use of the new particular market situation provision in the Korean OCTG case finally allows the Department to account for the distortions caused by persistent overcapacity problems in China and Korea. In this case alone, the application of the provision significantly increased the margin for one company."