Slip Op. 26-108

UNITED STATES COURT OF INTERNATIONAL TRADE

JIANGSU NOVA INTELLIGENT LOGISTICS EQUIPMENT CO., LTD., ET AL., Plaintiffs, v. **UNITED STATES**, Defendant, and **COALITION FOR FAIR RACK IMPORTS**, Defendant-Intervenor.	**Before: Timothy C. Stanceu, Judge** **Court No. 25-00175**

OPINION AND ORDER

[Remanding for reconsideration a final agency determination concluding a review of an antidumping duty order]

Dated: September 4, 2026

David John Craven, Craven Trade Law LLC, of Chicago, Illinois, for plaintiffs.

Tate N. Walker, Trial Attorney, Commercial Litigation Branch, Civil Division, U.S. Department of Justice, of Washington, D.C., for defendant. Also on the motion were *Brett A. Shumate*, Assistant Attorney General, *Patricia M. McCarthy*, Director, and *Tara K. Hogan*, Assistant Director. Of counsel was *Charlie Chung*, Attorney, Office of the Chief Counsel for Trade Enforcement & Compliance, U.S. Department of Commerce.

Roger Brian Schagrin, Schagrin Associates, of Washington, D.C., for defendant-intervenor. With him on the motion were *Alessandra A. Palazzolo, Christopher Todd Cloutier, Elizabeth Jackson Drake, Jeffrey David Gerrish, Justin M. Neuman, Luke Anthony*

Meisner, Maliha Khan, Nicholas Joel Birch, Nicholas Phillips, Saad Younus Chalchal and *William A. Fennell*.

Stanceu, Judge: Plaintiffs, producers and exporters of certain steel racks from the People's Republic of China, brought this action to contest the final results of an administrative review of an antidumping duty order. Following plaintiffs' motion for judgment on the agency record, defendant United States moved for a "voluntary remand," which motion is now before the court. Def.'s Mot. for Voluntary Remand (June 29, 2026), ECF No. 39 ("Def.'s Mot."). The court orders a remand for review and reconsideration of the Final Results and provides a schedule for further proceedings.

I. BACKGROUND

The decision contested in this case (the "Final Results") is *Certain Steel Racks and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2022-2023*, 90 Fed. Reg. 30,629 (July 10, 2025) ("*Final Results*"), issued by the International Trade Administration, U.S. Department of Commerce ("Commerce" or the "Department"). The decision concluded the eighth review of an antidumping duty order issued in 2019. *Certain Steel Racks and Parts Thereof from the People's Republic of China: Amended Final Affirmative Antidumping Duty Determination and Antidumping Duty Order; and Countervailing Duty Order,* 84 Fed. Reg. 48,584 (Sept. 16, 2019). The review applied to entries occurring during the period of review ("POR") of September 1, 2022 through August 31, 2023. *Final Results*, 90 Fed. Reg. at 30,629.

Commerce selected Plaintiff Jiangsu Nova Intelligent Logistics Equipment Co., Ltd. ("Jiangsu Nova") as a "mandatory respondent" in the review, i.e., a respondent for which Commerce would determine an individual weighted-average dumping margin and assigned to it the margin of 11.18% *ad valorem*. *Id.* at 30,630. Based on the rate assigned to Jiangsu Nova, Commerce assigned margins of 11.18% to Nanjing Jinshidai Storage Equipment Co., Ltd. and Hebei Nova Intelligent Logistics Equipment Co., Ltd, *id.*, companies that also are plaintiffs in this litigation. The Coalition for Fair Rack Imports, the petitioner in the antidumping duty investigation, is a defendant-intervenor in this litigation.

Plaintiffs commenced this action in August 2025, Summons (Aug. 4, 2025), ECF No. 1; Compl. (Aug. 19, 2025), ECF No. 7, and moved for judgment on the agency record earlier this year. Rule 56.2 Mot. of Pls. for J. Upon the Agency R. (Feb. 12, 2026), ECF No. 32 ("Pls.' Mot."). In its motion, defendant informs the court that plaintiffs indicated their consent to the motion, Def.'s Mot. 2, and that defendant-intervenor took no position on the issue, *id.* at 3.

II. DISCUSSION

A. Jurisdiction

The Court has exclusive jurisdiction under 28 U.S.C. § 1581(c), pursuant to which the court reviews actions commenced under section 516A of the Tariff Act of 1930, *as*

amended 19 U.S.C. § 1516a, including an action contesting a final determination that Commerce issued to conclude an antidumping duty investigation.

B. Plaintiffs' Claim and the Grounds Offered in Support

In the review, Commerce conducted a "differential pricing analysis," as a consequence of which Commerce decided to depart from the normal "average to average" ("A-to-A") method it uses to compare U.S. prices of the subject merchandise to normal value in favor of an "average to transaction" ("A-to-T") method. Plaintiffs claim the decision to conduct a differential pricing analysis and to use the A-to-T method was unlawful for a number of reasons.

First, plaintiffs argue that Section 777A(d)(1)(B) of the Tariff Act of 1930, 19 U.S.C. § 1677f-1(d)(1)(B), allows the use of a differential pricing analysis only in antidumping duty investigations, not in reviews of antidumping duty orders. Pls.' Mot. 8-11. According to plaintiffs, the decision of the Court of Appeals for the Federal Circuit ("Court of Appeals") sustaining an interpretation under which a differential pricing analysis can be applied in reviews, *JBF RAK LLC v. United States*, 790 F.3d 1358 (Fed. Cir. 2015), was based on "gap filling" under the deference principle of *Chevron U.S.A. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837 (1984). Pls.' Mot. 10. Plaintiffs submit that the former precedent established by the Court of Appeals is no longer applicable in light of the Supreme Court's rejection of the principle of *Chevron* deference in *Loper*

Bright Enters. v. Raimondo, 603 U.S. 369 (2024), and that "this Court should consider anew the plain language of the statute." Pls.' Mot. 11.

Second, plaintiffs say that the Department's differential pricing analysis used a "flawed" and "arbitrary" methodology that Commerce has not shown to comport with the statutory requirement of being based on a recognizable "pattern of export prices (or constructed export prices) for comparable merchandise that differ significantly among purchasers, regions, or periods of time," *id.* at 13 (citing 19 U.S.C. § 1677f-1(d)(1)(B)), or that is "grounded in substantial evidence," Pls.' Mot. 15 (citing *Cresswell Trading Co., Inc. v. United States*, 15 F.3d 1054 (Fed. Cir. 1994)).

Third, plaintiffs maintain that Commerce, having not allowed parties the opportunity to comment on its new methodology during the review, "should have provided plaintiffs an opportunity to address this issue in the administrative process, and this matter should, at a minimum, be remanded to the Department to permit plaintiffs to comment on this new calculation methodology, permit the Department's position to be enumerated in response to such comments, and then, if necessary, to judicially review the determination." Pls.' Mot. 12.

Fourth, plaintiffs take issue with the Department's applying a "two percent" price test "to determine whether prices differ significantly," under which, "[f]or comparable merchandise, the new price difference test examines whether the weighted-average net price to a given purchaser, region, or time period is within **two** percent of

the weighted average net price to all other purchasers, regions, or time periods." *Id.* at 15. According to their argument, "Commerce has not explained why it chose a 'two percent' test or why a 'two percent' difference in weighted-average net prices constitutes a 'significant' difference within the meaning of the statute." *Id.* at 16.

Fifth, plaintiffs find fault with the Department's "ratio test," under which, they maintain, Commerce has reduced from 66% to 33% the "ratio of the total value of the sales that pass the price differential test (the 2% discussed above) to the total value of sales" at or below which it will not find "that there is a pattern of price[s] that differ significantly during the POR." *Id.* at 17. Further, they submit that in applying its 33% test, "Commerce calculates a single combined ratio in which the numerator consists of all sales that pass the two percent test for any of the three categories (purchasers, regions, and periods of time) and the denominator consists of all sales." *Id.* at 19. According to their argument, "[t]o be consistent with the statute, Commerce instead must find a pattern of significant price differences among 'purchasers, regions, or periods of time,' by calculating separate ratios for each of these groups." *Id.* They add that "[t]he practical impact of this error is that Commerce has lowered the threshold set forth in the statute for finding a 'pattern' and, thus, for applying the exceptional A-T price comparison method." *Id.*

Sixth, plaintiffs argue that "Commerce needs to provide explanations for these new tests and changes from extant tests rather than simply announcing the new and

changed tests" and "should explain how these tests are appropriate in [the] context of the particular review or investigation." *Id*. at 19-20.

Finally, as a remedy, plaintiffs posit that "[t]his Court should remand this matter and direct that Commerce modify its approach and use 25 percent instead of two percent in the 'price difference test' to determine whether prices differ significantly" and "should also revert to the established 66% ratio test." *Id.* at 23.

C. Defendant's Motion for Remand of the Final Results

Defendant states in its motion that "[w]e respectfully request a voluntary remand for Commerce to provide all parties with an opportunity to comment on Commerce's new differential pricing methodology." Def.'s Mot. 6.

Defendant explains that on June 13, 2025, a short time before the July 3, 2025 deadline for publication of the Final Results, the Court of Appeals issued its mandate in *Marmen Inc. v. United States*, 134 F.4th 1334 (Fed. Cir. 2025) ("*Marmen*"). Defendant states that in *Marmen*, the Court of Appeals "held that [] Commerce may no longer use the Cohen's *d* test as part of its differential pricing analysis when that test is applied to data that do not satisfy the statistical criteria of normal distribution, equal variability, and equally and sufficiently numerous observation." Def.'s Mot. 4 (citing *Marmen*, 134 F.4th at 1345-46). Defendant explains, further, that "[b]ecause Commerce relied on the Cohen's *d* test methodology to reach its preliminary results, which the Federal Circuit subsequently invalidated in *Marmen*, Commerce abandoned the Cohen's *d* test and

replaced it with the 'price difference test' in the final results." Def.'s Mot. 4. Defendant adds that "[w]ith only twenty days left between the issuance of the mandate in *Marmen* and the nearly fully extended statutory deadline for the final results, Commerce did not have sufficient time to issue a post-preliminary determination, permit interested parties time to submit comments on the use of the price difference test, and address their comments on the new differential pricing analysis in the final results." *Id.* at 4-5.

D. The Court Remands the Final Results for Reconsideration

Defendant's motion invokes the established principle that "Commerce may, without confessing error, ask the Court to remand a matter so that Commerce may reconsider its prior position." *Id.* at 5 (citation omitted). In this case, Commerce desires to have the benefit of the comments of plaintiffs and defendant-intervenor on its new methodology, under which it determines whether or not to invoke the procedure set forth in 19 U.S.C. § 1677f-1(d)(1)(B). Upon the court's ordering a remand, Commerce necessarily would review and reconsider the methodology which Commerce decided to invoke and implement in the Final Results.

The motion requests that the court allow Commerce 90 days for submission of a redetermination upon remand ("Remand Redetermination"). Def.'s Mot. 8. The court agrees with that request.

Defendant's motion requests, further, that the Court allow comments on Remand Redetermination "in accordance with Rule 56.2(h) of the Rules of the Court." *Id.* Under

Rule 56.2(h), plaintiff and defendant-intervenor would have 30 days to submit comments to the court in opposition, or partial opposition, to the Remand Redetermination, unless the court orders otherwise. USCIT R. 56.2(h). In light of the complexity of the issues raised by plaintiffs' claim and supporting arguments, the court considers it appropriate to allow 60 days for the submission of such comments in opposition, or partial opposition, by plaintiffs and defendant-intervenor. All other procedures of Rule 56.2(h) will apply.

III. CONCLUSION AND ORDER

Upon consideration of defendant's motion and all papers and proceedings had herein, and upon due deliberation, it is hereby

ORDERED that the International Trade Administration, U.S. Department of Commerce, shall review and reconsider the Final Results in accordance with this Opinion and Order; it is further

ORDERED that Commerce shall submit a redetermination in response to this Opinion and Order ("Remand Redetermination") within 90 days of the date of this Opinion and Order; it is further

ORDERED that following submission to the court of the Remand Redetermination, notwithstanding USCIT Rule 56.2(h)(3), plaintiffs and defendant-intervenor shall have 60 days to file and serve comments in opposition, or partial opposition, to the Remand Redetermination; and it is further

ORDERED that all other procedures required by USCIT Rule 56.2(h) shall apply.

/s/ Timothy C. Stanceu
Timothy C. Stanceu
Judge

Dated: September 4, 2026
New York, New York