

UNITED STATES COURT OF INTERNATIONAL TRADE

UNITED STATES

Plaintiff,

v.

KOEHLER OBERKIRCH GMBH, f/k/a
PAPIERFABRIK AUGUST KOEHLER
SE, f/k/a PAPIERFABRIK AUGUST
KOEHLER AG; and KOEHLER PAPER
SE,

Defendants.

Before: Gary S. Katzmann, Judge
Court No. 24-00014

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OPINION

[The court grants in part and denies in part the Government’s Motion for Default Judgment.]

Dated: September 18, 2026

Edward F. Kenny, Senior Trial Counsel, Commercial Litigation Branch, Civil Division, U.S. Department of Justice, of New York, N.Y., argued for Plaintiff the United States. Also on the briefs were Brett A. Shumate, Assistant Attorney General, Patricia McCarthy, Director, and Justin R. Miller, Attorney-In-Charge, International Trade Field Office. Of counsel on the briefs were Brandon T. Rogers, Lisa Ross, and Alexandra Khrebtukova, Senior Attorneys, Office of the Chief Counsel, United States Customs and Border Protection, of Indianapolis, IN, Washington, D.C., and New York, N.Y.

John F. Wood, Holland & Knight, LLP, of Washington, D.C., argued for Defendants Koehler Oberkirch GmbH and Koehler Paper SE. Also on the briefs were Andrew McAllister, Anna P. Hayes, and Stuart G. Nash.

Katzmann, Judge: Plaintiff the United States (“the Government”) seeks to recover over \$275 million in unpaid antidumping duties against Defendants Koehler Oberkirch GmbH (“Koehler Oberkirch”) and Koehler Paper SE (“Koehler Paper”) (collectively, “Koehler”), a pair

of affiliated German producers of thermal paper.¹ The Government now moves for default judgment against Koehler on the basis that Koehler failed to respond to discovery requests. See Pl.’s Mot. for Default J. at 1, Feb. 9, 2026, ECF No. 63 (“Gov’t Br.”).

In its motion for default judgment, the Government seeks a money judgment equal to Koehler’s unpaid antidumping duties. See id. at 11–12. Notably, the Government also seeks an injunction barring Koehler and affiliated parties from importing goods into the United States until the money judgment has been satisfied, see id. at 16; Pl.’s Resps. to the Ct.’s Qs for Oral Arg. at 7, July 17, 2026, ECF No. 79 (“Gov’t OAQ Resp.”) (modifying the requested injunction), a remedy the parties agree would be “novel,” see Gov’t OAQ Resp. at 7; Defs.’ Opp’n to Mot. for Default J. at 22, Apr. 15, 2026, ECF No. 73 (“Defs.’ Br.”). Koehler challenges only the requested injunction; Koehler does not contest that entry of default judgment is appropriate, nor does it raise any specific objections to the Government’s requested money judgment. See Defs.’ Resp. to Ct.’s July 6, 2026 Qs at 1, July 17, 2026, ECF No. 80 (“Defs.’ OAQ Resp.”); see generally Defs.’ Br.

The court orders that default judgment be entered against Koehler in the amount of Koehler’s unpaid antidumping duties because Koehler failed to respond to the Government’s interrogatories and refused to participate in discovery pursuant to the court’s scheduling order. See USCIT R. 37(d). The court declines to grant the requested injunctive relief because no such request for relief was included in the Government’s complaint, see Am. Compl. at 10, Oct. 22,

¹ Thermal paper is paper that “form[s] an image when heat is applied.” Antidumping Duty Orders: Lightweight Thermal Paper from Germany and the People’s Republic of China, 73 Fed. Reg. 70959, 70960 (Dep’t Com. Nov. 24, 2008) (“Antidumping Duty Order”). While the underlying concept of heat-activated writing dates to antiquity, see Nat’l Bureau of Standards, Circular C413, Inks at 36–37 (Dep’t Com. 1937) (referring to attestations by Pliny the Elder and Ovid), today thermal paper is “typically (but not exclusively) used in point-of-sale applications such as ATM receipts, credit card receipts, gas pump receipts, and retail store receipts.” Antidumping Duty Order, 73 Fed. Reg. at 70960.

2024, ECF No. 42, and the requested injunction would therefore violate the restrictions on default judgments under USCIT Rule 54(c), see USCIT R. 54(c).

BACKGROUND

I. Legal Background

USCIT Rule 37(d)(1)(A)(ii) allows the court to order sanctions if “a party, after being properly served with interrogatories . . . , fails to serve its answers, objections, or written response.” USCIT R. 37(d)(1)(A)(ii). These “[s]anctions may include any of the orders listed in Rule 37(b)(2)(A)(i)-(vi),” USCIT R. 37(d)(3), which include “rendering a default judgment against the disobedient party,” USCIT R. 37(b)(2)(A)(vi). Before moving for sanctions under Rule 37(d), a party must “ha[ve] in good faith conferred or attempted to confer with the party failing to act in an effort to obtain the answer or response without court action.” USCIT R. 37(d)(1)(B). An order to compel a response to interrogatories is not required prior to entry of default judgment “where a failure to answer interrogatories amounts to a total failure to respond.” Minnesota Min. & Mfg. Co. v. Eco Chem, Inc., 757 F.2d 1256, 1261 (Fed. Cir. 1985) (“3M”) (quoting Laclede Gas Co. v. G. W. Warnecke Corp., 604 F.2d 561, 565 (8th Cir. 1979)).

Courts evaluate the propriety of a default judgment sanction based on several factors, including the willfulness of the discovery violation. See, e.g., United Constr. Prods., Inc. v. Tile Tech, Inc., 843 F.3d 1363, 1368 (Fed. Cir. 2016) (“The sanction of default judgment is ‘appropriate only . . . where the violation is due to willfulness, bad faith, or fault of the party.’ ” (quoting Fair Hous. of Marin v. Combs, 28 F.3d 899, 905 (9th Cir. 2002))); Drone Techs., Inc. v. Parrot S.A., 838 F.3d 1283, 1301 (Fed. Cir. 2016) (citing Poulis v. State Farm Fire & Cas. Co., 747 F.2d 863, 868 (3d Cir. 1984)).² As a general principle, “defaults are not favored by law[,] and any doubts

² The U.S. Court of Appeals for the Federal Circuit (the “Federal Circuit”) is “guided by regional

usually will be resolved in favor of the defaulting party.” 10A Wright & Miller’s Federal Practice and Procedure § 2681 (4th ed. 2026) (“Wright & Miller”) (footnotes omitted); see also Info. Sys. & Networks Corp. v. United States, 994 F.2d 792, 795 (Fed. Cir. 1993) (reviewing a motion for relief from a default judgment under “the well-established principles that a trial on the merits is favored over default judgment and that close cases should be resolved in favor of the party seeking to set aside default judgment”).

USCIT Rule 54(c) specifies that “[a] default judgment must not differ in kind from, or exceed in amount, what is demanded in the pleadings.” USCIT R. 54(c). The Rule 54(c) limitation on default judgments “anticipates that defendants will look to the demand clause to understand their exposure in the event of default.” Silge v. Merz, 510 F.3d 157, 160 (2d Cir. 2007). The rationale for this limitation is that

[i]t would be fundamentally unfair to have the complaint lead defendant to believe that only a certain type and dimension of relief was being sought and then, should defendant attempt to limit the scope and size of the potential judgment by not appearing or otherwise defaulting, allow the court to give a different type of relief or a larger damage award.

Wright & Miller § 2663 (2026); see also Silge, 510 F.3d at 159.

Pursuant to USCIT Rule 1, the procedural rules of the U.S. Court of International Trade “should be construed, administered, and employed . . . to secure the just, speedy, and inexpensive determination of every action and proceeding.” USCIT R. 1.

circuit law when reviewing discovery rulings,” including the application of the sanction of default judgment for failure to comply with discovery orders. Drone Techs., 838 F.3d at 1301 (applying Third Circuit law); see also United Constr. Prods., 843 F.3d at 1368 (applying Ninth Circuit law). Though the U.S. Court of International Trade has not articulated a specific test for evaluating the propriety of a sanction of default judgment, the court has previously considered the willfulness of the default, United States v. Neman Bros. & Assocs., 18 CIT 89, 92 (1994), and the existence of a “pattern of noncooperation and noncompliance with Rule 37(d),” Aegis Sec. Ins. Co. v. Fleming, 32 CIT 410, 418, 556 F. Supp. 2d 1359, 1366 (2008).

II. Factual Background

In 2008, the U.S. Department of Commerce (“Commerce”) issued an antidumping duty order on lightweight thermal paper from Germany. See Antidumping Duty Order, 73 Fed. Reg. at 70960. Papierfabrik August Koehler AG (“August Koehler”)—a predecessor entity to Koehler Oberkirch—and Koehler America, Inc. were subject to this order from its imposition in 2008 to its revocation in 2013. See id.; Lightweight Thermal Paper from the People’s Republic of China and Germany: Continuation of the Antidumping and Countervailing Duty Orders on the People’s Republic of China, Revocation of the Antidumping Duty Order on Germany, 80 Fed. Reg. 5083, 5084 (Dep’t Com. Jan. 30, 2015).

During Commerce’s third administrative review of the Antidumping Duty Order, Commerce determined that August Koehler had engaged in a “deliberate scheme to conceal home market sales and manipulate home market price data” Mem. from C. Marsh to P. Piquado, re: Issues and Decision Memorandum for the Final Results of the 2010–2011 Administrative Review on Lightweight Thermal Paper from Germany at 7, Case No. A-428-840, Bar Code: 3129805-02 (Dep’t Com. Apr. 11, 2013). After continued alleged misrepresentations from Koehler, Commerce imposed an antidumping duty rate of 75.36 percent on Koehler’s imports of subject merchandise from November 1, 2010 to October 31, 2011. See Lightweight Thermal Paper from Germany: Final Results of Antidumping Duty Administrative Review; 2010–2011, 78 Fed. Reg. 23220, 23221 (Dep’t Com. Apr. 18, 2013). Then, following the Government’s voluntary remand request in litigation pertaining to the second administrative review (covering the period between November 1, 2009, to October 31, 2010), Commerce applied the same 75.36 percent dumping margin to Koehler’s imports during that period as well. See Remand Redetermination Pursuant to Ct. Remand Order at 52–53, Papierfabrik August Koehler AG v. United States, No.

12-00091 (U.S. Ct. Int'l Trade filed Apr. 9, 2012), June 16, 2014, ECF No. 75.

Koehler unsuccessfully challenged the antidumping duties imposed by Commerce. See Papierfabrik August Koehler SE v. United States, 843 F.3d 1373, 1378 (Fed. Cir. 2016), cert. denied, 583 U.S. 1038 (2017) (“Papierfabrik I”) (upholding Koehler’s antidumping rate in the third administrative review); Papierfabrik August Koehler SE v. United States, 710 Fed. App’x 889, 890 (Fed. Cir. 2018), cert. denied, 586 U.S. 1207 (2019) (“Papierfabrik II”) (upholding Koehler’s antidumping rate in the second administrative review). The 75.36 percent antidumping duty rate now applies with finality for the period between November 2009 and October 2011. See 19 U.S.C. § 1514(a); Liquidation Instructions for Lightweight Thermal Paper from Germany Produced and Exported by Papierfabrik August Koehler, AG for the Period 11/01/2009 through 10/31/2010, Case No. A-428-840, Bar Code: 3806295-01 (Dep’t Com. Mar. 18, 2019). As a result, U.S. Customs and Border Protection (“Customs”) assessed \$193,631,642.08 in antidumping duties and pre-liquidation interest against Koehler. See Am. Compl. ¶ 28; id. at Ex. A.

PROCEDURAL HISTORY

I. Previous Orders in the Instant Case

On January 24, 2024, the Government filed a suit against Koehler, seeking to recover the \$193,631,642.08 in unpaid antidumping duties, plus additional pre- and post-judgment interest. See Summons, Jan. 24, 2024, ECF No. 1; Am. Compl. ¶ 1. The Government alleges that Koehler Oberkirch is liable for the antidumping duties and interest pursuant to 19 U.S.C. § 1677g. See Am. Compl. ¶¶ 43–47. Additionally, the Government alleges that the creation of Koehler Paper was “motivated by the intent to defraud Customs” and that Koehler Paper is liable to the same extent as Koehler Oberkirch. Id. ¶ 51; see also id. ¶¶ 48–53.

Since this case was filed, the court has resolved three preliminary questions. First, the

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court granted the Government’s motion for alternative service, holding that USCIT Rule 4(e)(3) permits service on Koehler through its U.S.-based counsel. See United States v. Koehler Oberkirch GmbH, 48 CIT __, __, 728 F. Supp. 3d 1322, 1337 (2024) (“Koehler I”). Second, the court denied Koehler’s motion to certify interlocutory appeal of the alternative service order. See United States v. Koehler Oberkirch GmbH, 48 CIT __, __, 731 F. Supp. 3d 1377, 1379 (2024) (“Koehler II”). Third, the court denied Koehler’s motion to dismiss, finding it has personal jurisdiction over both Koehler Oberkirch and Koehler Paper and Koehler was properly served. See United States v. Koehler Oberkirch GmbH, 49 CIT __, __, 776 F. Supp. 3d 1226, 1230 (2025) (“Koehler III”). Additionally, the Federal Circuit denied Koehler’s petition for a writ of mandamus to reverse the order permitting alternative service. See In re Koehler Oberkirch GmbH, 2025 WL 212067 at *2 (Fed. Cir. Jan. 16, 2025).

II. Discovery

After the court denied Koehler’s motion to dismiss, Koehler answered the Government’s complaint. See Answer to Am. Compl., Apr. 10, 2025, ECF No. 58. The court subsequently ordered discovery, see Scheduling Order, May 15, 2025, ECF No. 61, and the parties exchanged initial disclosures. See Gov’t Br. at Exs. 1, 2. The Government then sent interrogatories to Koehler. See id. at Ex. 5. Koehler stated that it would not respond to the discovery requests or participate in future discovery. See id. at Ex. 8 (“Defs.’ First Letter”). Koehler suggested the Government move for judgment on the pleadings “through default proceedings,” while also asserting that it could not pay the alleged amount owed. Id. After the Government sent a second set of interrogatories, see id. at Ex. 9, Koehler reaffirmed that it “will not participate in any discovery in this case.” Id. at Ex. 10 (“Defs.’ Second Letter”).

III. The Present Dispute

On February 9, 2026, the Government moved for default judgment as a sanction for failure to participate in discovery pursuant to USCIT Rule 37. See Gov’t Br. at 1. Domtar Corporation and Appvion, LLC, domestic thermal paper producers that participated in the underlying administrative reviews, moved for leave to participate as amici curiae and concurrently submitted a brief in support of the Government. See Mot. for Leave of Domtar Corp. and Appvion, LLC to File an Amici Curiae Br. at 2, Mar. 6, 2026, ECF No. 67; Br. of Amici Curiae at 2, Mar. 9, 2026, ECF No. 72. On April 15, 2026, Koehler submitted its response opposing the Government’s motion. See Defs.’ Br. at 1. On May 20, 2026, the Government filed its reply brief. See Gov’t Reply in Supp. of Mot. for Default J., May 20, 2026, ECF No. 76 (“Gov’t Reply”). On July 6, 2026, the court sent both parties questions in advance of oral argument, to which the parties timely responded. See Ct.’s Questions for Oral Arg. at 1, July 6, 2026, ECF No. 78; Gov’t OAQ Resp.; Defs.’ OAQ Resp. The court held oral argument on July 22, 2026. See Oral Arg. Tr., July 22, 2026, ECF No. 83 (“Tr.”). At the court’s direction, both parties filed post-argument submissions. See Defs.’ Post Arg. Submission, Aug. 13, 2026, ECF No. 84 (“Defs.’ Suppl. Br.”); Pl.’s Post-Hearing Submission, Aug. 13, 2026, ECF No. 85 (“Gov’t Suppl. Br.”).

JURISDICTION AND STANDARD OF REVIEW

The court has jurisdiction under 28 U.S.C. § 1582(3), which vests the U.S. Court of International Trade with exclusive jurisdiction over “any civil action which arises out of an import transaction and which is commenced by the United States . . . to recover customs duties.”

“When a defendant has been found to be in default, all well-pled facts in the complaint are taken as true for purposes of establishing the defendant's liability.” United States v. Puentes, 41 CIT, __, __, 219 F. Supp. 3d 1352, 1357 (2017). A default, however, does not admit legal claims,

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nor does it “concede the amount demanded.” Id. at 1358 (internal quotation marks and citation omitted); accord United States v. Freight Forwarder Int’l, Inc., 39 CIT 45, 48, 44 F. Supp. 3d 1359, 1362 (2015) (first citing Cement & Concrete Workers Dist. Council Welfare Fund v. Metro Found. Contractors Inc., 699 F.3d 230, 234 (2d Cir. 2012) and then citing Greyhound Exhibitgroup, Inc. v. E.L.U.L. Realty Corp., 973 F.2d 155, 158 (2d Cir. 1992)). Accordingly, “the court must determine whether the allegations in the complaint establish the defendant’s liability as a matter of law.” Freight Forwarder, 39 CIT at 48, 44 F. Supp. 3d at 1362 (citing City of New York v. Mickalis Pawn Shop, LLC, 645 F.3d 114, 137 (2d Cir. 2011)). In administering a default judgment, “[t]he court is obligated to ensure that there is an adequate evidentiary basis for any relief awarded.” Puentes, 219 F. Supp. 3d at 1358. In doing so, “the court may look beyond the complaint if necessary to ‘establish the truth of an allegation by evidence,’ to ‘determine the amount of damages or other relief,’ or to ‘investigate any other matter.’ ” Id. (quoting USCIT R. 55(b)(2)–(4)) (citing United States v. Santos, 36 CIT 1690, 1693, 883 F. Supp. 2d 1322, 1327 (2012)).

DISCUSSION

Resolution of the Government’s motion requires that the court address three issues: (1) whether the court should enter default judgment against Koehler; (2) whether the court should grant the Government’s requested money judgment; and (3) whether the court should impose the Government’s requested injunction. The court finds a sufficient basis for a money judgment and directs default judgment amounting to \$193,631,642.08 in unpaid antidumping duties, plus pre- and post-judgment interest, be entered against Koehler. At the same time, the court declines to grant the Government’s request for injunctive relief because the Government did not request such relief in its complaint and the relief is therefore barred by Rule 54(c).

I. Default Judgment is Warranted in Light of Koehler’s Refusal to Participate in Discovery

When a defendant “specifically state[s]” it will not respond to interrogatories, the court may order sanctions under Rule 37. 3M, 757 F.2d at 1260. Koehler did so here: in its communications with the Government, Koehler repeatedly stated that it will not answer the Government’s interrogatories or otherwise participate in discovery. See Defs.’ First Letter at 1 (responding to interrogatories by stating that Koehler “will not respond to these discovery requests and will not participate in any future discovery in this case”); Defs.’ Second Letter at 2 (reiterating that Koehler “will not participate in any discovery in this case”).³

The court finds entry of default judgment to be proper because Koehler’s statements “amount[] to a ‘total failure to respond’ ” to interrogatories. 3M, 757 F.2d at 1261 (quoting Laclede Gas Co., 604 F.2d at 565). Indeed, Koehler “do[es] not contest that [it has] not participated in discovery in this litigation to this date.” Defs.’ Br. at 1. Koehler’s statements refusing to participate in discovery were not “merely evasive and incomplete” responses; thus, no order to compel a response to the interrogatories is needed prior to entry of default judgment. 3M, 757 F.2d at 1259. Furthermore, as required by USCIT R. 37(d)(1)(B), the Government “ ‘has in good faith conferred’ with [Koehler] ‘in an effort to obtain’ responses to the Government’s discovery requests ‘without court action.’ ” Gov’t Br. at 4 (quoting USCIT R. 37(d)(1)(B)); see also Defs.’

³ In communication with the Government prior to the filing of the motion for default judgment, Koehler cited German and European Union law as the basis for not participating in discovery. See Defs.’ First Letter at 3. The Government argues that default judgment is appropriate because Koehler has “not raised any substantial objection under foreign law” to justify its refusal to participate in discovery. Gov’t Br. at 9. Koehler does not respond to this assertion, nor does it renew, before the court, its objections to discovery under foreign law. See generally Defs.’ Br.; Defs.’ OAQ Resp.; Defs.’ Suppl. Br. The court therefore considers any such argument waived and does not address the merits of potential objections to discovery under foreign law. See SmithKline Beecham Corp. v. Apotex Corp., 439 F.3d 1312, 1319 (Fed. Cir. 2006).

Second Letter at 2 (acknowledging that “[the Government] requested a meet and confer, which took place on August 11, 2025” at which the parties discussed the Government’s efforts to pursue discovery). Koehler itself suggested that “the Government could simply move for . . . default judgment, rather than force the parties and Court to devote unnecessary time and resources litigating a motion to compel.” Defs.’ Second Letter at 2.

Koehler does not contest that entry of default judgment is appropriate beyond renewing objections regarding personal jurisdiction and service of process — arguments the court previously rejected.⁴ See Defs.’ OAQ Resp. at 1. Koehler’s statements in response to the Government’s discovery requests constitute “full and wil[l]ful noncompliance” and a “complete refusal” to participate in discovery, such that entry of default judgment is appropriate under Rule 37(d). 3M, 757 F.2d at 1260–61; see also Neman Bros, 18 CIT at 92.

A. Rule 55 Does Not Preclude the Court from Entering Default Judgment

In granting the Government’s motion for default judgment under Rule 37, the court also considers whether entry of default judgment is proper under the court’s procedural rules, including whether entry of default is required prior to entry of default judgment. See USCIT R. 55(a)–(b). In general, the procedure for entry of default judgment is governed by USCIT Rule 55, which “provides a two-step process for obtaining judgment when a party fails to plead or otherwise

⁴ Koehler “maintain[s] and preserve[s] the arguments that there is no personal jurisdiction over [Koehler]” because (1) “service of process upon [Koehler’s] U.S. counsel . . . as an alternative means of service was improper and insufficient” and (2) “Koehler Paper . . . lacks minimum jurisdictional contacts with this forum, and there is no basis for imputing Koehler Oberkirch’s contacts to Koehler Paper” Defs.’ Br. at 2–3; see also Tr. at 27:24–28:5. The court previously held that service of process was sufficient and that the court has personal jurisdiction over both Koehler Oberkirch and Koehler Paper. See Koehler III, 776 F. Supp. 3d. at 1230; see also Koehler I, 728 F. Supp. 3d at 1337 (granting the Government’s motion for alternative service). Because Koehler advances no new arguments, see Defs.’ Br. at 2–3, the court declines to revisit its prior holdings.

defend—(1) entry of default followed by (2) entry of a default judgment.” United States v. Six Star Wholesale, Inc., 43 CIT ___, ___, 359 F. Supp. 3d 1314, 1318 (2019).

In response to the court’s questions regarding the applicability of Rule 55, Koehler argues that the Government’s motion for default judgment is procedurally improper because “[t]he Government bypassed the first step by filing its [m]otion before obtaining an entry of default.” Defs.’ Suppl. Br. at 1; see also Tr. at 29:8–10. Koehler argues that “[w]ithout the entry of default . . . the court cannot proceed to the second step, the determination of damages and the entry of judgment by default.” Defs.’ Suppl. Br. at 1 (quoting United States v. Horizon Prods. Int’l, Inc., 40 CIT 554, 554, 190 F. Supp. 3d 1155, 1156 (2016) (“Horizon Prods. I”) (alteration in original)). The Government counters that Rule 55’s two-step procedure does not apply because the instant motion for default judgment was filed pursuant to Rule 37, not Rule 55, and “Rule 37(b)(2)(A)(vi) makes no mention of an entry of default as a precondition to rendering default judgment as a sanction.” Gov’t Suppl. Br. at 2; see also Tr. at 7:23–25, 8:22–24. The Government also suggests that the court may proceed directly with the entry of default judgment to efficiently resolve the case in line with USCIT Rule 1. See Tr. at 8:10–15.

The court holds that, in considering the instant motion for default judgment under Rule 37, entry of default is not prerequisite to entry of default judgment. This conclusion is consistent with the approach taken by the Federal Circuit and is supported by rulings from this court and other Circuit courts.⁵

Though the Federal Circuit has not directly addressed how Rule 37 and Rule 55 interact,

⁵ USCIT Rules 37 and 55 mirror the Federal Rules of Civil Procedure (“FRCP”). See Neman Bros., 18 CIT at 90 (Rule 37); Horizon Prods. I, 40 CIT at 554, 190 F. Supp. 3d at 1155 (Rule 55). Where, as here, the USCIT Rules are parallel to the FRCP, interpretation of the FRCP may guide interpretation of the USCIT Rules. See, e.g., Zenith Radio Corp. v. United States, 823 F.2d 518, 521 (Fed. Cir. 1987) (Rule 65(c)); Koehler I, 728 F. Supp. 3d at 1330 & n. 7 (Rule 4).

its analysis in other cases is consistent with the court's approach here. In 3M, the Federal Circuit affirmed entry of default judgment as a sanction under Rule 37 without discussing Rule 55 or whether default was entered prior to entry of default judgment. See 757 F.2d at 1261. Likewise in Drone Techs., the Federal Circuit, applying Third Circuit law, vacated entry of default judgment under Rule 37 as an abuse of discretion without discussing Rule 55 or entry of default. See 838 F.3d at 1302. That the Federal Circuit has not discussed Rule 55 in its review of default judgment as a Rule 37 sanction supports the conclusion that the two-step process set out in Rule 55 does not apply to default judgment entered in the context of a Rule 37 motion.

This court and others have held that entry of default judgment under Rule 37 does not require entry of default as a prerequisite. For example, in considering a motion for default judgment under Rule 37(b)(3), the U.S. Court of International Trade in United States v. Neman acknowledged that under Rule 55 "entry of default must precede a motion for default judgment," but the court reasoned that "Rule 37(b)(3) appears to grant the [c]ourt the discretion to issue default judgment directly upon failure of a party to comply with an order." 17 CIT 795, 796 (1993). Similarly, in Hornady v. Outokumpu Stainless USA, LLC, the Eleventh Circuit considered it proper for the district court to enter default judgment without first entering default because the district court relied on Rule 37, not Rule 55. See 118 F.4th 1367, 1382 (11th Cir. 2024); see also Baxter Constr. Co., LLC v. SF Constr., Inc., No. 22-CV-01117-NYW, 2023 WL 5822502, at *5 (D. Colo. Sept. 8, 2023) (declining magistrate judge's recommendation to enter a clerk's default because "Rule 37 contemplates the entry of default judgment against a disobedient party, not the entry of default").

Koehler cites Horizon Products I to argue that entry of default under Rule 55(a) is a procedural prerequisite to entry of default judgment. See Defs.' Suppl. Br. at 1. However, in that

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case the Government filed a motion for default judgment under Rule 55, not Rule 37. See Horizon Prods. I, 40 CIT at 554, 190 F. Supp. 3d. at 1155; United States v. Horizon Prods. Int'l, Inc., 41 CIT __, __, 229 F.Supp.3d 1370, 1381 (2017) (“Horizon Prods. II”) (noting that the Government did not seek a remedy under Rule 37); see also Gov’t Suppl. Br. at 3. Applying Rule 55, the court concluded that the absence of an entry of default prevented the court from entering default judgment. Horizon Prods. I, 40 CIT at 555, 190 F. Supp. 3d. at 1156. The Government seeks entry default judgment under Rule 37, not Rule 55; thus Koehler’s reliance on Horizon Products I fails to persuade that entry of default is similarly required here.

Finally, proceeding directly to entry of default judgment does not deprive Koehler of the opportunity to contest the default judgment and is consistent with USCIT Rule 1’s instruction that the court’s procedural rules “should be construed, administered, and employed by the court . . . to secure the just, speedy, and inexpensive determination of every action and proceeding.” USCIT R. 1. The two-step process set out in Rule 55 serves to protect the defaulting party because the standard for challenging entry of default is lower than the standard for challenging entry of default judgment. See Johnson v. Dayton Elect. Mfg. Co., 140 F.3d 781, 783–84 (8th Cir. 1998). The standard for setting aside an entry of default is “good cause,” USCIT R. 55(c), whereas, a default judgment may only be set aside pursuant to Rule 60(b), which requires “mistake, inadvertence, surprise, or excusable neglect.” USCIT R. 60(b)(1); see also USCIT R. 55(c) (“The court . . . may set aside a final default judgment under Rule 60(b).”). “The Rule 60(b) standard is ‘applied more stringently’ than the Rule 55(c) good cause standard.” Arwa Chiropractic, P.C. v. Med-Care Diabetic & Medical Supplies, Inc., 961 F.3d 942, 948 (7th Cir. 2020) (quoting Chrysler Credit Corp v. Macino, 710 F.2d 363, 368 (7th Cir. 1983)); accord Advanced Commc’n Design, Inc. v. Premier Retail Networks, Inc., 46 Fed. App’x 964, 969 (Fed. Cir. 2002) (quoting Johnson, 140

F.3d at 783–84).

Here, there is no reason to provide Koehler with opportunity to challenge entry of default under the lower good cause standard because Koehler had ample opportunity to object to the Government’s motion for default judgment.⁶ See generally Defs.’ Br.; Defs’ OAQ Resp.; Defs.’ Suppl. Br. Koehler “identif[ies] no particular harm” that would stem from proceeding directly to entry of default judgment. HiSteel Co., Ltd. v. United States, 47 CIT __, __, 653 F. Supp. 3d 1341, 1357 (2023); see also Defs.’ Suppl. Br. at 1. The court therefore holds that, “to secure the just, speedy, and inexpensive determination of [this] action,” default judgment may be entered against Koehler under Rule 37, even absent an entry of default. USCIT R. 1.

II. The Government is Entitled to its Requested Money Judgment as Part of the Default Judgment

The court proceeds to “determine whether the allegations in the complaint establish [Koehler’s] liability as a matter of law,” Freight Forwarder, 44 F. Supp. 3d at 1362, and “the extent of the relief to which [the Government] is entitled.” Puentes, 219 F. Supp. 3d. at 1358. For the reasons set forth below, the court concludes that the allegations in the complaint and supporting documentation submitted with the motion for default judgment establish the liability of both Koehler entities for the full amount sought by the Government.

A successor entity is liable for the debts of its predecessor “only if (1) there is an express

⁶ “In a typical default judgment situation . . . [the] defendant has not answered the complaint or otherwise appeared to defend” Horizon Prods. II, 229 F. Supp. 3d at 1378; see, e.g. United States v. Mariola Int’l Co., 42 CIT __, __, 321 F. Supp. 3d 1354, 1356 (2018) (granting Rule 55(b) motion for default judgment where the defendant “failed to answer the complaint, respond to [the p]laintiff’s motion for default judgment, or otherwise appear in this action”). In contrast, here the court enters default judgment after holding oral argument, at which Koehler was represented by counsel. See 3M, 757 F.2d at 1258 & n.1 (affirming entry of default judgment as a Rule 37 sanction where the defendant was represented by counsel at a hearing and had an opportunity to object to entry of default judgment and did not do so).

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or implied agreement to assume past debts, (2) the change in corporate form constitutes a de facto merger, (3) the successor is a mere continuation of its predecessor, or (4) the change in corporate form was motivated by the intent to defraud creditors.” United States v. Ataka Am., Inc., 17 CIT 598, 600, 826 F. Supp. 495, 498 (1993) (citing Bud Antle, Inc. v. Eastern Foods, Inc., 758 F.2d 1451, 1456 (11th Cir. 1985) (collecting cases)); see also United States v. Sterling Footwear, Inc., 41 CIT __, __, 279 F. Supp. 3d 1113, 1140 (2017). “Successor liability is usually contingent upon the transfer of assets from the predecessor to the successor entity.” Sterling Footwear, 279 F. Supp. 3d at 1141 (citing Bud Antle, 758 F.2d at 1457).

The Government, in the operative Amended Complaint, alleges that Koehler Oberkirch is “the mere continuation of” August Koehler. Am. Comp. ¶ 45. The Government also alleges that Koehler Paper is a successor entity to Koehler Oberkirch whose creation “was motivated by the intent to defraud Customs” and that “over three-quarters” of Koehler Oberkirch’s assets were transferred to Koehler Paper. Id. ¶ 50; see also id. ¶¶ 29–39 (describing “spin-off” and transfer of assets based on Koehler’s annual financial statements). When, as here, “a defendant has been found to be in default, all well-pled facts in the complaint are taken as true for purposes of establishing the defendant's liability,” and the court’s role is to determine whether those facts “constitute a legitimate cause of action.” Puentes, 219 F. Supp. 3d at 1357–58 (internal quotation marks and citation omitted). The Amended Complaint details factual allegations, not “mere conclusory statements,” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009), that support the legal conclusion that Koehler Oberkirch and Koehler Paper are successor entities liable for August Koehler’s unpaid antidumping duties under the framework described in Ataka and Sterling Footwear. See Ataka, 17 CIT at 600, 826 F. Supp. at 498; Sterling Footwear, 279 F. Supp. 3d at 1140–41. The court deems the alleged facts to be sufficiently well-pled to hold Koehler Oberkirch

and Koehler Paper jointly and severally liable for August Koehler's unpaid antidumping duties.

Moreover, Koehler does not dispute that Koehler Oberkirch is a successor entity to August Koehler. See generally Defs.' Br. Koehler only contests the issue of successor liability to the extent that it renews its argument that "there is no basis for imputing Koehler Oberkirch's contacts to Koehler Paper" for purposes of establishing personal jurisdiction. Id. at 3; see also Defs' Mot. to Dismiss at 4–5, Oct. 24, 2024, ECF No. 43. In denying Koehler's previous motion to dismiss, this court held that Koehler is judicially estopped from denying that Koehler Paper is a successor entity to Koehler Oberkirch. See Koehler III, 776 F. Supp. 3d at 1238–39. That is because Koehler in other litigation succeeded in maintaining that "Koehler Paper . . . is the successor-in-interest to Koehler Oberkirch . . . (formerly known as [August Koehler])." Id. at 1233 (citing Summons at 1, Koehler Paper SE v. United States, No. 21-00633 (U.S. Ct. Int'l Trade filed Dec. 22, 2021), Dec. 22, 2021, ECF No. 1). To hold that Koehler Paper is not a successor-in-interest to Koehler Oberkirch, and by extension August Koehler, would allow Koehler to "derive an unfair advantage or impose an unfair detriment on the opposing party if not estopped." Id. at 1239 (quoting New Hampshire v. Maine, 532 U.S. 742, 751 (2001)). The court therefore holds that both Koehler Oberkirch and Koehler Paper are successor entities liable for the unpaid antidumping duties.

Turning to the issue of damages, Koehler does not contest the amount of duties it owes. See Tr. at 24:19–22 (Koehler is "not asking [the court] here to reduce the amount of duties, because . . . that was the subject of earlier litigation."); see generally Defs.' Br.⁷ Nonetheless, "[t]he court is obligated to ensure that there is an adequate evidentiary basis for any relief awarded." Puentes,

⁷ Koehler contends that it lacks the ability to pay the full amount of the judgment. See Defs.' OAQ Resp. at 1. Koehler also acknowledges that "there are procedures available to enforce and collect judgments when defendants initially refuse to pay," id. at 10, including collection procedures involving assets held by affiliated Koehler entities within the United States, see Tr. at 32:23–33:5.

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219 F. Supp. 3d. at 1358 (citing Transatlantic Marine Claims Agency, Inc. v. Ace Shipping Corp., 109 F.3d 105, 111 (2d Cir. 1997)). The declaration of Bruce Ingalls, Director of the Revenue Division, Office of Finance, U.S. Customs and Border Protection, included as an exhibit to the Government’s motion for default judgment, supports the requested money judgment. See Gov’t Br. at Ex. 3 (“Ingalls Decl.”).

The Ingalls Declaration establishes that August Koehler imported [[]] worth of thermal paper into the United States between November 1, 2009 and October 31, 2011, and paid a cash deposit of either 3.77 or 6.50 percent on its entries, totaling [[]]. See id. ¶ 15, id. at Attach. A. After the Federal Circuit sustained the 75.36 percent antidumping duty rate in Papierfabrik I and Papierfabrik II and Customs liquidated or reliquidated Koehler’s entries at the 75.36 percent rate, Koehler’s unpaid antidumping duty liability amounted to \$145,288,597.04. See Am. Compl. ¶¶ 17–18, 24; Ingalls Decl. at Attach. B. Koehler protested Commerce’s calculation, and Customs granted in part and denied in part Koehler’s protests and corrected miscalculation of interest on certain entries. See Am. Compl. ¶¶ 19–21. Koehler did not timely contest Customs’ denials in part of its protests. See id. ¶ 27. Accounting for pre-liquidation interest, and payments from surety companies that reduced Koehler’s liability by [[]], Koehler’s adjusted liability was \$193,631,642.08 at the time this case was initiated. See Am. Compl. ¶ 28; Ingalls Decl. ¶¶ 21, 29–32. With post-liquidation interest, as of June 12, 2025, Koehler’s liability was over \$275 million, see Gov’t Br. at 15; Ingalls Decl. ¶ 34, and the total amount has continued to grow since then. See 19 U.S.C. § 1505(d).

Koehler is statutorily liable for any pre-judgment interest accruing after liquidation, as well as interest accruing after the present default judgment. See 19 U.S.C. § 1505(d) (post-liquidation

interest); 28 U.S.C. § 1961(a)⁸ (post-judgment interest). Accordingly, the court holds that Koehler is liable to the United States in the amount of \$193,631,642.08, plus pre- and post-judgment interest.

III. Rule 54(c) Precludes the Government's Requested Injunction in the Default Judgment

Though the Government has proven that it is entitled to its requested money judgment, its request for injunctive relief is inconsistent with Rule 54(c), which requires that “[a] default judgment must not differ in kind from, or exceed in amount, what is demanded in the pleadings.” USCIT R. 54(c). The Government did not include a request for injunctive relief in the operative complaint. See generally Am. Compl. The injunction requested in the Government’s motion for default judgment would therefore impermissibly “differ in kind from . . . what is demanded in the pleadings.” USCIT R. 54(c). As Koehler argues, “the Government is precluded from now seeking an injunction through default judgment” because “ ‘Rule 54(c) establishes a ceiling’ on the relief that may be awarded in a default judgment.” Defs.’ Br. at 4 (quoting United States v. Country Flavor Corp., 36 CIT 378, 393 n.11, 825 F. Supp. 2d 1296, 1309 n.11 (2012)).⁹

The Government makes several arguments that Rule 54(c) does not pose a barrier to

⁸ 28 U.S.C. § 1961(a) states that “[i]nterest shall be allowed on any money judgment in a civil case recovered in a district court.” The statute applies to judgments of the U.S. Court of International Trade consistent with 28 U.S.C. § 1585. See United States v. Great American Ins. Co. of N.Y., 738 F.3d 1320, 1325–26 (collecting cases); 28 U.S.C. § 1585 (“The Court of International Trade shall possess all the powers in law and equity of . . . a district court of the United States”).

⁹ Koehler raises additional challenges to the requested injunction, including that the court lacks authority to enter the requested injunction, see Defs.’ Br. at 6–14, that the scope of the injunction is impermissibly broad, see id. at 19, and that the circumstances of this case do not support entry of the injunction. See id. at 14–19. Because the court finds that Rule 54(c) bars granting injunctive relief as part of the default judgment, the court does not address the merits of these additional arguments.

granting injunctive relief, none of which are persuasive.

First, the Government argues that the requested injunction does not differ in kind or amount from the relief requested in the pleadings. The Government characterizes the relief as “enjoin[ing] [Koehler] to pay, which is exactly the kind of relief sought in [the Government’s] pleadings, and in an amount that is specifically identified in [the] pleadings.” Gov’t OAQ Resp. at 1. The Government asserts that the “proposed injunctive relief only adds a consequence” for nonpayment of the amount sought in the pleadings. *Id.* at 1–2. This argument fails to persuade because an injunction barring future entry of Koehler’s merchandise is categorically different from the relief sought in the pleadings: a money judgment for unpaid antidumping duties on past entries. *Compare* Defs.’ Br. at 26 (asking the court to “enjoin the [Koehler] from directly or indirectly through third parties importing, or causing to be imported, merchandise into the United States, until they pay what they owe”), *with* Am. Compl. at 10 (requesting money judgment).

While the Government may intend the injunction “only to incentivize [Koehler] to pay the sum stated in the Amended Complaint,” Gov’t OAQ Resp. at 3, conflating a monetary judgment with the requested inducement to pay the judgment ignores the historic difference between relief at law and equity. An injunction is a form of relief traditionally available in suits in equity — the type of suit brought in the English High Court of Chancery at the time of the founding of the United States. *See Trump v. CASA, Inc.*, 606 U.S. 831, 842 (2025). Monetary damages is a remedy traditionally available at law. *See eBay Inc. v. MercExchange, L.L.C.*, 547 U.S. 388, 391 (2006). While modern federal courts have authority to grant both forms of relief, the distinction is not meaningless. *See Stainback v. Mo Hock Ke Lok Po*, 336 U.S. 368, 382 n.26 (1949) (“Notwithstanding the fusion of law and equity by the Rules of Civil Procedure, the substantive principles of Courts of Chancery remain unaffected.”); *see also Ross v. Bernhard*, 396 U.S. 531,

540 (1970) (recognizing that “law and equity are procedurally combined”). A prerequisite for granting injunctive relief is a finding that no adequate remedy exists at law. See Watson v. Sutherland, 72 U.S. 74, 78 (1866) (“If the remedy at law is sufficient, equity cannot give relief . . .”). As the Government itself acknowledged, a plaintiff seeking an injunction must demonstrate, among other factors, “that remedies available at law, such as monetary damages, are inadequate to compensate for that injury . . .” eBay Inc., 547 U.S. at 391; see also Gov’t Br. at 22 (arguing that injunctive relief is warranted because “a monetary judgment . . . is ultimately inadequate because [Koehler] ‘will simply refuse to pay any judgment[.]’ ” (alteration in original) (quoting NML Capital, Ltd. v. Republic of Argentina, 699 F.3d 246, 262 (2d Cir. 2012))). In sum, an injunction to incentivize payment of a money judgment is “different in kind” from the monetary judgment itself. USCIT R. 54(c).

Second, the Government argues that it “had no way of knowing . . . that [Koehler] would willfully default.” Gov’t Reply at 6; see also Gov’t OAQ Resp. at 3. However, the Government has not provided support for its assertion that foreseeability of the default should affect the court’s interpretation of Rule 54(c). See generally Gov’t Reply; Gov’t OAQ Resp.; Gov’t Suppl. Br. In fact, the Government acknowledges that a lack of foreseeability “do[es] not preclude the application of USCIT Rule 54(c).” Gov’t OAQ Resp. at 3. The Government’s statements also do not address Koehler’s argument that very few plaintiffs anticipate a defendant’s default at the time of filing a complaint, so restricting Rule 54(c) to those few instances would be unreasonable. See Tr. at 20:21–21:3. Rule 54(c) is concerned with the foreseeability of liability for the defendant, not, as the Government suggests, foreseeability of the default. See Silge, 510 F.3d at 159–60; Wright & Miller § 2663 (“The theory of [Rule 54(c)] is that the defending party should be able to decide on the basis of the relief requested in the original pleading whether to expend the time,

effort, and money necessary to defend the action.”); see also Tr. at 21:3–6. Absent a more robust explanation by the Government, the court is unpersuaded by the Government’s arguments about the role of foresight in the application of Rule 54(c).

Third, to the extent the Government argues that Koehler should have been able to anticipate that it would seek an injunction, no such demand was included in the pleadings, see generally Am. Compl., and the court declines to read the Amended Complaint to include an implied request for injunctive relief. The Government’s position that a request for injunctive relief “can be read into [the Amended Complaint] based on the “totality of the circumstances and . . . the nature of this case,” Tr. at 15:23–24, is contrary to the weight of persuasive authority that instructs courts to narrowly construe demands for relief when entering default judgment, see Silge, 510 F.3d at 160. The Amended Complaint asked the court to “grant . . . such other and further relief as may be just and appropriate,” Am. Compl. at 10, a phrase that “is mere boilerplate, meant to cover all bases as to the claims asserted in the complaint.” Silge, 510 F.3d at 160 (quoting Nagrampa v. MailCoups, Inc., 469 F.3d 1257, 1277 n. 6 (9th Cir. 2006)). “[T]his formulaic language cannot substitute for the meaningful notice called for by Rule 54(c), which anticipates that defendants will look to the demand clause to understand their exposure in the event of default.” Id.; see also Frost v. Islamic Republic of Iran, 419 F. Supp. 3d 112, 116 (D.D.C. 2020) (“[G]eneral language seeking ‘other’ relief does not suffice to permit the award of types of damages not otherwise requested in the complaint in the context of a default judgment”).

In support of its position, the Government cites Boland v. Yocable Const. Co., Inc. 293 F.R.D. 13, 20–21 (D.D.C. 2013), a case in which the district court entered a default judgment containing injunctive relief not explicitly requested in the plaintiff’s complaint. See Gov’t OAQ Resp. at 2. The Boland court concluded that a request for injunctive relief could reasonably be

inferred from the plaintiff's "request that the defendant be directed to comply with its obligations" under a collective bargaining agreement. 293 F.R.D. at 20 (internal quotation marks and citation omitted). The claim in Boland was filed under the Employee Retirement Income Security Act of 1974, which "provides that courts may award plaintiffs equitable relief as appropriate." Id. (citing 29 U.S.C. § 1132(g)(2)(E)). Boland is distinguishable because the Government's Amended Complaint was not based on a similar statute specifically providing for equitable relief, nor does the Amended Complaint contain language that would support a "reasonable inference" that the Government planned to seek an injunction. See id.; see generally Am. Compl. The court thus declines to read the pleadings to include an implied request for injunctive relief.

The Government also argues that the court may issue the requested injunctive relief because the court has the power to enforce its judgments and that "[n]o other remedy would effectively enforce this [c]ourt's judgments, protect the rule of law, and ensure the fairness of our markets." Gov't Br. at 2. In support, the Government cites cases that affirm the inherent authority of the U.S. Court of International Trade to enforce its own judgments. See Gov't Reply at 6 (first citing B.F. Goodrich Co. v. United States, 18 CIT 35, 36, 843 F. Supp. 713, 714 (1994) and then citing Transpacific Steel LLC v. United States, 44 CIT __, __, 481 F. Supp. 3d 1326, 1329 (2020)). The relief sought by the Government here is not analogous to the remedies sought in those cases because, unlike in B.F. Goodrich and Transpacific, no judgment has been entered in this case that can be enforced. Cf. B.F. Goodrich, 18 CIT at 38, 843 F. Supp. at 716 (ordering Customs to file "a report outlining the measures it has taken to comply" with a prior judgment in that case); Transpacific, 481 F. Supp. 3d at 1328 (denying without prejudice a motion to enforce a prior judgment in that case pending appeal). The Government acknowledges that it seeks to enforce "judgments in prior cases involving the same parties and entries," not a judgment in the instant

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case. Gov't OAQ Resp. at 5. The judgments the Government references "confirm[ed] the applicable antidumping duty rates," *id.*, but they did not contain any money judgment to enforce. See *Papierfabrik I*, 843 F.3d at 1376; *Papierfabrik II*, 710 Fed. Appx. at 890. Until such a money judgment is entered, there is no judgment to enforce through the requested injunction.

The Government finally references 28 U.S.C. § 2643(c)(1), Gov't OAQ Resp. at 3, which authorizes the U.S. Court of International Trade to "order any other form of relief that is appropriate in a civil action" 28 U.S.C. § 2643(c)(1) (emphasis added). Here, the court holds that, considering the clear restrictions on default judgments under Rule 54(c), granting injunctive relief not requested in the Government's pleadings is not an appropriate form of relief and 28 U.S.C. § 2643(c)(1) does not justify entry of an injunction against Koehler.

CONCLUSION

The court orders that default judgment be entered against Koehler as a sanction for Koehler's refusal to respond to interrogatories or otherwise participate in discovery. See USCIT R. 37(d)(1)(A)(ii). The court concludes that the Government's requested monetary relief is adequately supported and holds Koehler Oberkirch and Koehler Paper jointly and severally liable for unpaid antidumping duties in the amount of \$193,631,642.08, plus post-liquidation interest under 19 U.S.C. § 1505(d), plus post-judgment interest under 28 U.S.C. § 1961. The court denies the Government's request to enjoin importation of Koehler's merchandise as part of the default judgment because the requested injunction "differs in kind" from the relief demanded in the pleadings. USCIT R. 54(c).

SO ORDERED.

/s/ Gary S. Katzmann
Gary S. Katzmann, Judge

Dated: September 18, 2026
New York, New York