

MVP: Mayer Brown's Sydney Mintzer

By Sarah Martinson

Law360 (September 29, 2021, 3:34 PM EDT) -- Sydney Mintzer of Mayer Brown LLP helped win permission from U.S. Customs and Border Protection to allow a tobacco company to continue importing from Malawi and secured low tariff rates for Turkey's largest aluminum sheet producer, making him one of Law360's 2021 International Trade MVPs.

HIS BIGGEST ACCOMPLISHMENT THIS YEAR:

Mintzer helped his client Premium Tobacco Group win permission from U.S. Customs and Border Protection to import tobacco from Malawi after the agency issued a 2019 withhold release order, or WRO, prohibiting the activity based on the suspicion that tobacco in Malawi was being harvested using forced labor.

Mintzer said getting a WRO modification from CBP to allow Premium Tobacco to continue importing tobacco from Malawi was challenging because federal law and regulations don't outline what information companies need to provide for the request.

"Customs had limited experience enforcing the law, and there was little precedent for us to rely on as guidance," he said.

Premium Tobacco had policies in place at the time to identify Malawi farmers that didn't use forced labor, so Mintzer and his team had to trace Premium Tobacco's imports all the way back to the farmers to show CBP that the company wasn't importing tobacco that used forced labor, according to Mintzer.

Mintzer said he and his team submitted a 50-page narrative with hundreds of exhibits in October 2020, showing the path of Premium Tobacco's imports from the Malawi farmers, and answered three rounds of follow-up questions from the agency.

In May, CBP granted Premium Tobacco's order modification request to allow the company to resume importing tobacco from Malawi, making it one of the first companies to win such an order modification, according to Mayer Brown.



"The tenor in the marketplace, or in the trading community, is once a WRO hits, it's virtually impossible to get out from under. So being able to dispel that notion was certainly a proud moment," Mintzer said.

OTHER NOTABLE WORK:

Mintzer guided Turkish aluminum producer Assan Aluminyum Sanayi ve Ticaret AS through federal government trade investigations into nearly \$2 billion worth of foreign aluminum and won low tariff rates for the company.

The U.S. Department of Commerce was investigating American aluminum producers' allegations that foreign aluminum sheet imports from 18 countries including Turkey were being subsidized by foreign governments and sold in the U.S. at unfairly low prices.

The U.S. International Trade Commission was conducting a separate parallel investigation to determine whether U.S. aluminum sheet producers were being hurt by these imports.

Commerce said the probe was "the broadest U.S. trade enforcement action in two decades" and hit foreign aluminum imports with duties ranging from 242.80% for Germany to 0% for certain Greek, Italian and South Korean producers.

Mintzer's client Assan Aluminyum received a countervailing duty rate of 2.56% and an anti-dumping duty rate of 2.02%, according to an ITC report.

During Commerce's investigation, U.S. producers alleged that Assan Aluminyum wasn't cooperating with the probe, and Mintzer successfully rebutted those accusations, according to Mayer Brown.

In a different set of trade investigations, Mintzer helped global chemical producer Arkema Inc. win anti-dumping duties ranging from 161% to 211% on Chinese refrigerant chemical imports.

Arkema petitioned the ITC and Commerce to investigate Chinese refrigerant difluoromethane, or R-32, imports, alleging they were being sold at unfairly low prices and hurting the U.S. R-32 market.

The commission reached a final determination early this year, concluding that Chinese R-32 imports were hurting the U.S. market, and Commerce set its final anti-dumping rates in March.

The duties were a substantial victory for Arkema because it is the only U.S. producer of R-32, a low global warming chemical that is needed by American companies to comply with 2020 federal requirements to reduce hydrofluorocarbon emissions, according to Mayer Brown.

WHY HE BECAME AN ATTORNEY:

One thing that Mintzer really enjoys is a puzzle, and international trade law has lots of puzzles, he said.

For example, after former President Donald Trump hit billions of dollars of Chinese imports with tariffs in retaliation for China's trade practices and intellectual property transfer rules in 2018, Mintzer advised a global consumer electronics manufacturer based in the U.S. on how to reorganize its supply chain so that its products wouldn't be considered as having a China-based origin and be subjected to increased tariffs.

At the time, Mintzer's client had all of its manufacturing operations based in China. The company

wanted to move some of the operations outside of China, so that its products wouldn't be labeled as made in China.

CBP has a test for determining a finished product's country of origin, but federal trade law is still vague about what parts of the manufacturing process need to occur outside of China for a finished product not to have a China origin, according to Mayer Brown.

"That was enormously satisfying because we had to take this very complex supply chain and figure out how to parse it so that the finished good wasn't Chinese origin anymore," Mintzer said.

HIS ADVICE FOR JUNIOR ATTORNEYS:

Don't specialize in one area of trade law too soon, Mintzer urged. International trade attorneys can better serve their clients by having general knowledge of all aspects of trade law before they specialize in one area, he said.

Mintzer added that by having a broad understanding of international trade, he has been able to spot problems for clients in areas of trade outside his expertise.

"I might see an issue around export controls or sanctions that if you weren't ever initiated into that area of trade practice, you wouldn't necessarily think about it, and so being able to even fact-find issues, you're doing the client a service," Mintzer said. "I think that's a critical element of what we do as outside counsel."

— *As told to Sarah Martinson. Editing by Daniel King.*

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