

The saga of Heartland vs. The United States Beet Sugar Association

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I first learned about tariff engineering in the case of *Heartland By-Products v. The United States*. Heartland avoided the 6% tariff on “refined sugar product with 6% or less additional content (not counting foreign substances)” by adding molasses to the sugar, thereby taking it above the 6% threshold, importing the mixture tariff-free, and then re-refining the product after importation to extract the molasses and produce refined sugar again. They would then ship the molasses back to Canada, where they would add the molasses to another batch of sugar, and the cycle would repeat.

The entire operation hinged on whether molasses is a “foreign substance”. If it is a foreign substance, then adding it to the sugar does not count toward the 6%, and the scheme falls apart. This case took a long time to resolve. I found a case in 1999 which joined the story already in progress, and it even explains some of the mechanics by which the molasses is refined out of the mixture. Here’s the timeline:

- In 1995, Heartland asked Customs, “Is molasses considered a foreign substance when added to refined sugar?” Customs responded, “No, it is not.”
- In 1997, Heartland began production.
- In 1998, the United States Beet Sugar Association requested that Customs reverse its initial decision.
- In 1999, Customs reversed its decision and declared that molasses is a foreign substance after all.
- Shortly thereafter, Heartland appealed to the Court of International Trade, which reversed the reversal and declared Heartland’s operation legal.
- In 2000, the Beet Sugar Association filed a Motion for Reconsideration, which was denied.
- In 2000, the Beet Sugar Association appealed again, and this time, the court ruled against Heartland.
- In 2002, the case was appealed to the Supreme Court, which denied the petition for a writ of certiorari. (I.e., they declined to review the case.)

- A bunch of other procedural wrangling occurred, arguing over jurisdiction and stuff like that. I found [this 2005 case](#) where Heartland won a (deep breath) reversal of an order of dismissal of a complaint that the court lacked jurisdiction.
- I don't even understand [this case](#), in which Heartland is granted summary judgment for um something.
- At some point, Heartland successfully appealed the decision to allow the tariff to be imposed retroactively.
- In 2009, the United States Court of Appeals ruled that their original intent was that the tariff applied retroactively. Heartland challenged the reversal, but since Customs chose not to impose the tariff retroactively after all, [the court rejected the issue as moot](#).

I think that's the end of the story, but who knows.

Bonus chatter: If you can't get enough of tariff engineering, [here's an entire presentation on the topic](#), with lots of examples.

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