

# TRENDS IN TRADE REMEDY ENFORCEMENT



**U.S. Widget**

versus

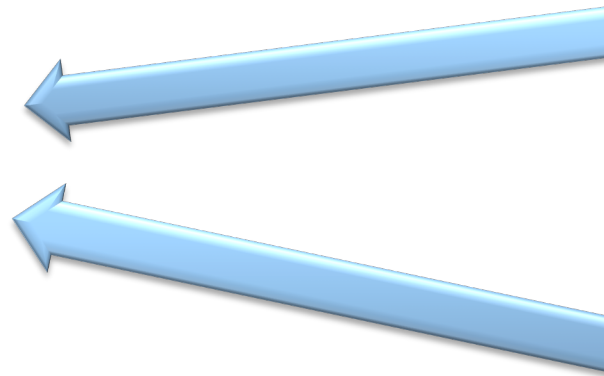


**Imported Widget**

Material Injury  
or Threat of  
Material Injury  
(ITC)

Dumped  
Imports  
(Commerce)

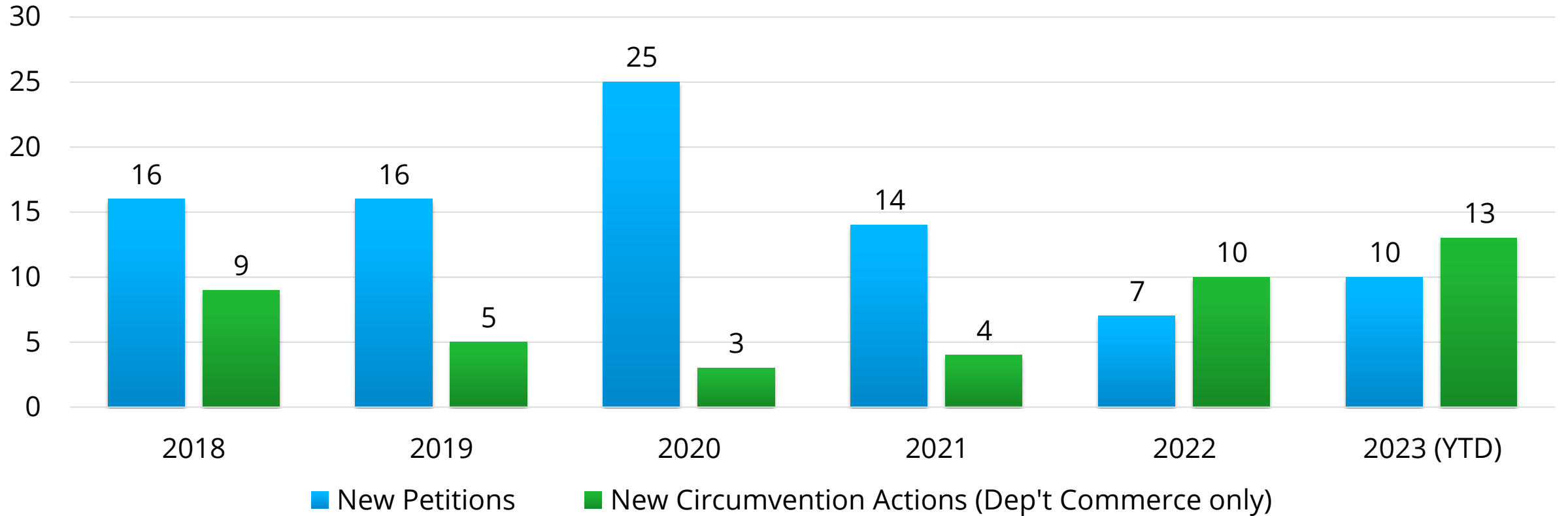
Subsidized  
Imports  
(Commerce)



# TRENDS IN TRADE REMEDIES

# Trade Enforcement in Recent Years

## New Petitions and Circumvention Proceedings



# COVID Effects on Trade Cases



# Current Trade Case Trends

- Current market conditions – demand, import supply, uncertainty
- Injury analysis – domestic industry supply (capacity, workforce challenges, pre-period injury, lead times/allocation), foreign affiliates/domestic industry imports
- Target countries and shift away from China

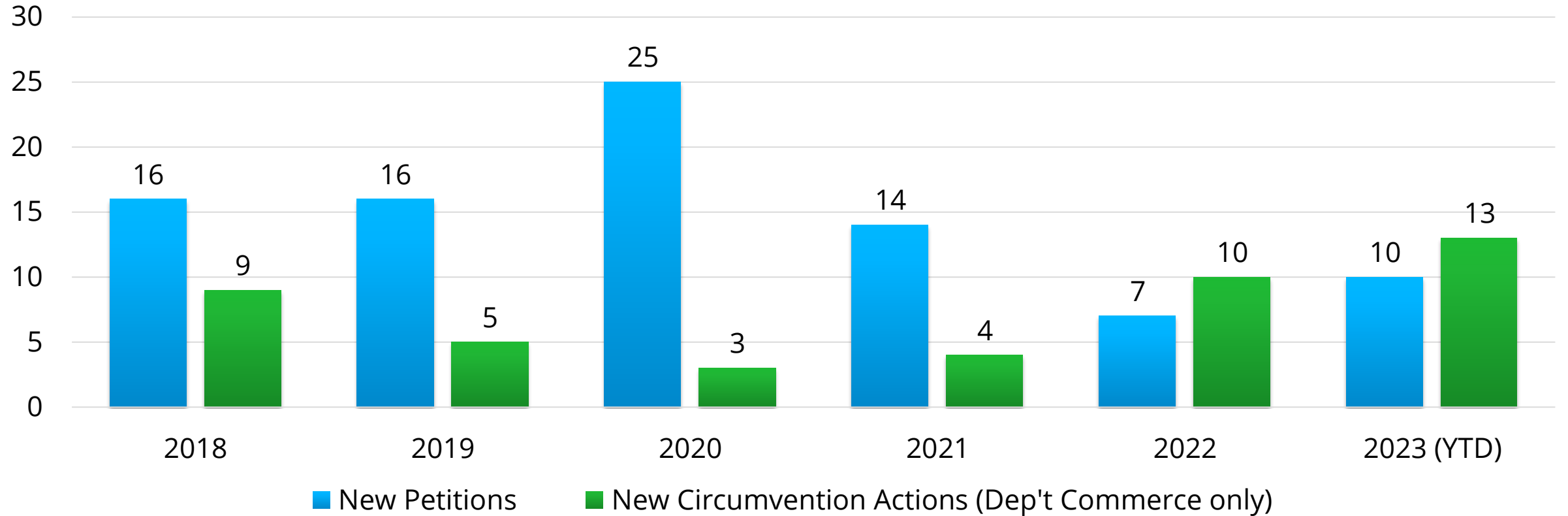
# What U.S. Manufacturers Can Do

- Import monitoring
- Injury surveys
- Tracking lost sales and revenue

# TRENDS IN CIRCUMVENTION AND EVASION

# Trade Enforcement in Recent Years

## New Petitions and Circumvention Proceedings



# Circumvention: Commerce Department

- Existing AD or CVD order
  - Merchandise completed or assembled in the United States or a third-country to become goods subject to the order
  - Merchandise that has been altered in minor respects (size, input type, additional processing) to fall just outside the scope of the order
  - Merchandise that has been developed after initiation of a trade investigation, but is substantively the same as the good subject to a trade order
- Most formal: transparency, confidentiality, and regulatory deadlines
- Commerce may self-initiate

# Evasion: Customs and Border Protection

- Existing AD or CVD order: Enforce and Protect Act (“EAPA”) investigation
  - Protection of revenue
  - Failure to declare imports as subject to AD/CVD duties, misclassification/misreporting, transshipment through third countries
  - Less formal: right to participate, different confidentiality rules, statutory deadlines
- All types of duty evasion or fraud: “E-allegation”
  - No AD/CVD order required
  - Least formal: no transparency (can be anonymous), no deadlines, no guarantee of confidentiality

# What U.S. Manufacturers Can Do

- Import monitoring
- Shipment analysis
- Market intelligence
- Advocacy
  - Fighting Trade Cheats Act
  - Leveling the Playing Field Act 2.0

# THANK YOU!



**Brooke Ringel**  
Partner, International Trade  
[bringel@kelleydrye.com](mailto:bringel@kelleydrye.com)