



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-913]

Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Notice of Decision of the Court of International Trade Not in Harmony and Notice of Amended Final Determination

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce

SUMMARY: On October 30, 2013, the United States Court of International Trade (CIT) entered final judgment sustaining a remand redetermination of the Department of Commerce (Department) relating to the countervailing duty (CVD) investigation on certain new pneumatic off-the-road tires (OTR tires) from the People's Republic of China.¹ Consistent with the decision of the United States Court of Appeals for the Federal Circuit (CAFC) in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), as clarified by *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*), the Department is notifying the public that the final CIT judgment in this case is not in harmony with the Department's final affirmative determination in the CVD investigation of OTR tires from the PRC and is amending its final determination with respect to the total net countervailable subsidy rate calculated for Tianjin United Tire & Rubber International Co., Ltd. (TUTRIC).

EFFECTIVE DATE: November 9, 2013.

FOR FURTHER INFORMATION CONTACT: Jun Jack Zhao, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of

¹ See *GPX Int'l Tire Corp. v. United States*, Consol. Ct. No. 08-00285, Slip Op. 13-132 (Ct. Int'l Trade Oct. 30, 2013) (*GPX VIII*).

Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone (202) 482-1396.

SUPPLEMENTARY INFORMATION: In July 2008, the Department published a final determination in which it found that countervailable subsidies are being provided to producers/exporters of OTR tires from the PRC.² As part of the *Final Determination*, the Department calculated a CVD rate for TUTRIC of 6.85 percent.³ A summary of that determination and resulting domestic litigation can be found in *Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Notice of Decision of the Court of International Trade Not in Harmony*, 75 FR 62505 (October 12, 2010) (2010 *Timken* Notice).

In May 2012, the CAFC vacated and remanded the earlier final judgment of the CIT referenced in the 2010 *Timken* Notice.⁴ The CIT subsequently ordered the Department to reconsider several methodological and calculation issues from the *Final Determination*.⁵ On remand, the Department recalculated the subsidy rate for TUTRIC's debt forgiveness as well as its total countervailable subsidy rate.⁶ The CIT sustained the Department's Remand Redetermination in *GPX VIII*.

Timken Notice

In its decision in *Timken*, as clarified by *Diamond Sawblades*, the CAFC held that, pursuant to section 516A(c) of the Tariff Act of 1930, as amended (the Act), the Department must publish a notice of a court decision that is not "in harmony" with a Department determination and must suspend liquidation of entries pending a "conclusive" court decision.

² See *Certain New Pneumatic Off-The-Road-Tires From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Negative Determination of Critical Circumstances*, 73 FR 40480 (July 15, 2008) (*Final Determination*).

³ *Id.*, 73 FR at 40483.

⁴ See *GPX Int'l Tire Corp. v. United States*, 678 F.3d 1308 (Fed. Cir. 2012).

⁵ See *GPX Int'l Tire Corp. v. United States*, 893 F. Supp. 2d 1296 (Ct. Int'l Trade 2013).

⁶ See Final Results of Redetermination Pursuant to Remand, CIT Consol. Court No. 08-00285 (April 16, 2013) (Remand Redetermination).

The CIT's October 30, 2013, judgment in *GPX VIII* constitutes a final decision of that court that is not in harmony with the Department's final determination. This notice is published in fulfillment of the publication requirements of *Timken*. Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending expiration of the period of appeal or, if appealed, pending a final and conclusive court decision. Since the *Final Determination*, the Department has established a new cash deposit rate for TUTRIC.⁷ Therefore, this amended final determination does not change TUTRIC's cash deposit rate.

Amended Final Determination

Because there is now a final CIT judgment with respect to the *Final Determination*, the revised total net countervailable subsidy rate for TUTRIC is 3.93 percent.⁸

This notice is issued and published in accordance with sections 516A(e)(1) and 777(i)(1) of the Act.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

Dated: November 20, 2013.

[FR Doc. 2013-28552 Filed 11/26/2013 at 8:45 am; Publication Date: 11/27/2013]

⁷ See *Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act: Certain New Pneumatic Off-the-Road Tires; Circular Welded Carbon Quality Steel Pipe; Laminated Woven Sacks; and Light-Walled Rectangular Pipe and Tube From the People's Republic of China*, 77 FR 52683 (August 30, 2012).

⁸ Total net countervailable subsidy rates for other respondents identified in the *Final Determination* remain unchanged. See *Final Determination*, 73 FR at 40483.