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DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-911]

Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Notice of Court Decision Not in Harmony with the Implemented Final Determination Under Section 129 of the Uruguay Round Agreements Act

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

SUMMARY: On May 7, 2015, the United States Court of International Trade (CIT or Court) issued final judgment in *Wheatland Tube Company v. United States*, Consol. Court No. 12-00298, affirming the Department of Commerce's (the Department) redetermination pursuant to court remand. Consistent with section 516A of the Tariff Act of 1930, as amended (the Act), the Department is notifying the public that the final judgment in this case is not in harmony with the Department's implemented final determination in a proceeding conducted under section 129 of the Uruguay Round Agreements Act (section 129) related to the Department's final affirmative countervailing duty determination on circular welded carbon quality steel pipe (CWP) from the People's Republic of China (China).

DATES: Effective Date: May 18, 2015

FOR FURTHER INFORMATION CONTACT: Shane Subler, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-0189.

SUPPLEMENTARY INFORMATION:

Background

On July 22, 2008, the Department published antidumping duty (AD) and countervailing duty (CVD) orders on CWP imports from China.[1] The Government of China (GOC) challenged the CWP orders and three other sets of simultaneously imposed AD and CVD orders before the WTO's Dispute Settlement Body. The WTO Appellate Body in March 2011 found that the United States had acted inconsistently with its international obligations in several respects, including the potential imposition of overlapping remedies, or so-called "double remedies."[2] The U.S. Trade Representative announced the United States' intention to comply with the WTO's rulings and recommendations, and the Department initiated a section 129 proceeding.[3]

On July 31, 2012, the Department issued its final determination memorandum in the section 129 CVD proceeding on, *inter alia*, the double remedies issue.[4] Based on its analysis of broad manufacturing-level information, the Department found that an adjustment was warranted to the antidumping duty on U.S. CWP imports from China to account for remedies that overlap those imposed by the CVD order.[5] On August 30, 2012, acting at the direction of the U.S. Trade Representative pursuant to section 129, the Department published a notice implementing that

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[1] *See Notice of Antidumping Duty Order: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China*, 73 FR 42547 (July 22, 2008); *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances*, 73 FR 31966 (June 5, 2008); *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Notice of Amended Final Affirmative Countervailing Duty Determination and Notice of Countervailing Duty Order*, 73 FR 42545 (July 22, 2008) (collectively, CWP orders).

[2] *See United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China*, 611, WT/DS379/AB/R (Mar. 11, 2011).

[3] *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) (*Implementation Notice*).

[4] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, "Final Determination: Section 129 Proceeding Pursuant to the WTO Appellate Body's Findings in WTO DS379 Regarding the Antidumping and Countervailing Duty Investigations of Circular Welded Carbon Quality Steel Pipe from the People's Republic of China," (July 31, 2012) (Section 129 Final Determination).

[5] *See* Section 129 Preliminary Analysis Memorandum at 10; *see also* Memorandum from Christopher Mutz, Office of Policy, Import Administration, and Daniel Calhoun, Office of the Chief Counsel for Import Administration, to Paul Piquado, Assistant Secretary for Import Administration, "Section 129 Determination of the Countervailing Duty Investigation of Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: 'Double Remedies' Analysis Pursuant to the WTO Appellate Body's Findings in WTO DS379," (May 31, 2012), at 34-35.

final determination.[6]

Plaintiff Wheatland Tube Company, Consolidated Plaintiff-Intervenor United States Steel Corporation, and Consolidated Plaintiff-Intervenors Allied Tube and Conduit and TMK IPSCO (collectively, the Domestic Interested Parties), challenged the Department's determination at the CIT.

On November 26, 2014, the Court remanded the section 129 Final Determination to the Department for further consideration of the finding that certain countervailable subsidies reduced the average price of U.S. CWP imports, such that the reduction warranted an adjustment to the companion AD rates under section 777A(f) of the Act.[7]

Following the CIT's issuance of the Remand Order, the Department released a questionnaire to the original respondents in the CWP CVD investigation to obtain information necessary for its analysis under the Remand Order.[8] The Department also issued copies of the questionnaire to the GOC and its counsel in the section 129 proceeding.[9] Neither mandatory respondent nor the GOC, however, filed a response to this questionnaire or comments.

Pursuant to the Remand Order, the Department reconsidered its finding regarding the respondents' eligibility for an adjustment, and found no basis for making such an adjustment to

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[6] *See Implementation Notice*.

[7] *See Wheatland Tube Company v. United States*, Slip Op. 14-137, Consol. Court No. 12-00298 (CIT November 26, 2014) (Remand Order). The manner in which the Department applied that adjustment in the companion AD proceeding is the subject of *Wheatland Tube Company v. United States*, Consol. Court No. 12-00296, which has been stayed pending resolution of the litigation that is the subject of this notice.

[8] *See* Letter to Weifang East Steel Pipe Co., Ltd. (East Pipe) dated January 28, 2015, "Section 129 Remand Redetermination of Circular Welded Carbon Quality Steel Pipe from the People's Republic of China – Domestic Subsidies Questionnaire;" *see also* Letter to Zhejiang Kingland Pipeline and Technologies Co., Ltd.; Kingland Group Co., Ltd.; Beijing Kingland Century Technologies Co.; Zhejiang Kingland Pipeline Industry Co., Ltd.; and Shanxi Kingland Pipeline Co., Ltd. (collectively, Kingland), dated January 28, 2015, "Section 129 Remand Redetermination of Circular Welded Carbon Quality Steel Pipe from the People's Republic of China – Domestic Subsidies Questionnaire."

[9] *See* Memorandum to the File from Shane Subler, International Trade Compliance Analyst, dated March 27, 2015, "Documentation for Release of Questionnaire for Section 129 Remand Redetermination."

the companion AD rates under section 777(A)(f)(1)(b) of the Act.[10]

On May 7, 2015, the CIT sustained the Department's Remand Redetermination.[11]

Statutory Notice

The CIT's May 7, 2015, judgment affirming the Remand Redetermination constitutes a final court decision that is not in harmony with the section 129 Final Determination. This notice is published in fulfillment of the statutory publication requirements.

Notification to Interested Parties

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

Dated: May 20, 2015.

Ronald K. Lorentzen,
Acting Assistant Secretary for Enforcement and Compliance.

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[10] *See* "Redetermination Pursuant to Court Remand, *Wheatland Tube Company v. United States*, Consol. Court No. 12-00298, Slip Op. 14-137," (April 27, 2015) (Remand Redetermination).
[11] *See Wheatland Tube Company v. United States*, Slip Op. 15-44, Consol. Court No. 12-00298 (CIT May 7, 2015).