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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-910

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

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

SUMMARY: On October 22, 2015, the United States Court of International Trade (CIT or Court) issued final judgment in *Wheatland Tube Company v. United States*, Consol. Court No. 12-00296, affirming the Department of Commerce's (the Department) final results of redetermination pursuant to court remand. 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 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 determination in the antidumping duty (AD) investigation of circular welded carbon quality steel pipe (CWP) from the People's Republic of China (the PRC) for the period October 1, 2006, through March 31, 2007.¹ The

¹ See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Antidumping and Countervailing Duty Operations, "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) (Final Section 129 Determination); see also *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*).

Department is amending its implemented Final Section 129 Determination with regard to granting adjustments to the AD cash deposit rates.

DATES: Effective Date: November 2, 2015

FOR FURTHER INFORMATION CONTACT: Cara Lofaro, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-5720.

SUPPLEMENTARY INFORMATION:

Background

On July 22, 2008, the Department published AD and countervailing duty (CVD) orders on CWP imports from the PRC.² The Government of the People's Republic of China challenged the CWP orders and three other sets of simultaneously imposed AD and CVD orders before the Dispute Settlement Body of the World Trade Organization (WTO). 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."³ The U.S. Trade Representative then announced the United States' intention to comply with the WTO's rulings and recommendations, and the Department initiated a Section 129 proceeding.⁴

On July 31, 2012, the Department issued its Final Section 129 Determination. In that determination, the Department found that an adjustment was warranted to the AD rates on CWP

² 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); see also *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).

³ See *United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China*, 611, WT/DS379/AB/R (Mar. 11, 2011).

⁴ See *Implementation Notice*.

imports from the PRC to account for remedies that overlap those imposed by the CVD order.⁵ As a result, the Department reduced the applicable AD rate for separate rate companies from 69.2 percent to 45.35 percent and reduced the PRC-wide entity AD rate from 85.55 percent to 68.24 percent.⁶ The Department published a notice implementing the Final Section 129 Determination on August 30, 2012.⁷ Various parties challenged the Department's Final Section 129 Determination at the CIT.

Following the final disposition of litigation related to the Final Section 129 Determination regarding the CVD investigation of CWP from the PRC, in which the Department found no basis for making an adjustment to the companion AD rates under Section 777(A)(f) of the Tariff Act of 1930, as amended (the Act),⁸ the CIT granted the Department's request for a voluntary remand in the litigation challenging the Final Section 129 Determination regarding the AD investigation of CWP from the PRC.⁹ On October 8, 2015, the Department issued its Final Remand Redetermination regarding the AD investigation of CWP from the PRC, in which it amended its Final Section 129 Determination regarding the AD investigation and denied the adjustment to the AD cash deposit rates granted to respondents in the Final Section 129 Determination.¹⁰ On October 22, 2015, the CIT sustained the Department's Final Remand Redetermination.¹¹

⁵ See Final Section 129 Determination.

⁶ See *Implementation Notice*, 77 FR at 52687.

⁷ *Id.*

⁸ *Wheatland Tube Co. v. United States*, Consol. Court No. 12-00298, Slip Op. 15-44 (Ct. Int'l Trade May 7, 2015).

⁹ See *Wheatland Tube Co. v. United States*, Court No. 12-00296 (August 3, 2015).

¹⁰ See "Final Redetermination Pursuant to Court Remand, *Wheatland Tube Co. v. United States*, Consol. Court No. 12-00296," (October 8, 2015) (Final Remand Redetermination).

¹¹ See *Wheatland Tube Company v. United States*, Slip Op. 15-118, Consol. Court No. 12-00296 (CIT October 22, 2015).

Timken Notice

In its decision in *Timken*, 893 F.2d at 341, as clarified by *Diamond Sawblades*, the CAFC held that, pursuant to section 516A(e) of 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. The CIT’s October 22, 2015, judgment affirming the Final Remand Redetermination constitutes a final court decision that is not in harmony with the Department’s Final Section 129 Determination. This notice is published in fulfillment of publication requirements of *Timken*.

Amended Final Determination

Because there is now a final court decision with respect to the Department’s Final Section 129 Determination regarding the AD investigation of CWP from the PRC, the Department is amending the Final Section 129 Determination, as implemented, regarding an adjustment to the AD cash deposit rates. The revised AD cash deposit rates are as follows:

Exporter	Producer	Revised AD Cash Deposit Rate (percent)
BEIJING SAI LIN KE HARDWARE CO., LTD.	XUZHOU GUANG HUAN STEEL TUBE PRODUCTS CO., LTD.	69.2
WUXI FASTUBE INDUSTRY CO., LTD.	WUXI FASTUBE INDUSTRY CO., LTD.	69.2
JIANGSU GUOQIANG ZINC-PLATING INDUSTRIAL COMPANY, LTD.	JIANGSU GUOQIANG ZINC-PLATING INDUSTRIAL COMPANY, LTD.	69.2
WUXI ERIC STEEL PIPE CO., LTD.	WUXI ERIC STEEL PIPE CO., LTD.	69.2
QINGDAO XIANGXING STEEL PIPE CO., LTD.	QINGDAO XIANGXING STEEL PIPE CO., LTD.	69.2
WAH CIT ENTERPRISES	GUANGDONG WALSALL STEEL PIPE INDUSTRIAL CO. LTD.	69.2

GUANGDONG WALSALL STEEL PIPE INDUSTRIAL CO. LTD.	GUANGDONG WALSALL STEEL PIPE INDUSTRIAL CO. LTD.	69.2
HENGSHUI JINGHUA STEEL PIPE CO., LTD.	HENGSHUI JINGHUA STEEL PIPE CO., LTD.	69.2
ZHANGJIAGANG ZHONGYUAN PIPE-MAKING CO., LTD.	ZHANGJIAGANG ZHONGYUAN PIPE-MAKING CO., LTD.	69.2
WEIFANG EAST STEEL PIPE CO., LTD.	WEIFANG EAST STEEL PIPE CO., LTD.	69.2
SHIJIAZHUANG ZHONGQING IMP & EXP CO., LTD.	BAZHOU ZHUOFA STEEL PIPE CO. LTD.	69.2
TIANJIN BAOLAI INT'L TRADE CO., LTD.	TIANJIN JINGHAI COUNTY BAOLAI BUSINESS AND INDUSTRY CO. LTD.	69.2
WAI MING (TIANJIN) INT'L TRADING CO., LTD.	BAZHOU DONG SHENG HOT-DIPPED GALVANIZED STEEL PIPE CO., LTD.	69.2
KUNSHAN LETS WIN STEEL MACHINERY CO., LTD.	KUNSHAN LETS WIN STEEL MACHINERY CO., LTD.	69.2
SHENYANG BOYU M/E CO., LTD.	BAZHOU DONG SHENG HOT-DIPPED GALVANIZED STEEL PIPE CO., LTD.	69.2
DALIAN BROLLO STEEL TUBES LTD.	DALIAN BROLLO STEEL TUBES LTD.	69.2
BENXI NORTHERN PIPES CO., LTD.	BENXI NORTHERN PIPES CO., LTD.	69.2
SHANGHAI METALS & MINERALS IMPORT & EXPORT CORP.	BENXI NORTHERN PIPES CO., LTD.	69.2
HULUDAO STEEL PIPE INDUSTRIAL CO., LTD.	HULUDAO STEEL PIPE INDUSTRIAL CO., LTD.	69.2
TIANJIN XINGYUDA IMPORT AND EXPORT CO., LTD.	TIANJIN LIFENGYUANDA STEEL GROUP CO. LTD.	69.2
TIANJIN XINGYUDA IMPORT AND EXPORT CO., LTD.	TIANJIN XINGYUNDA STEEL PIPE CO., LTD.	69.2
TIANJIN XINGYUDA IMPORT AND EXPORT CO., LTD.	TIANJIN LITUO STEEL PRODUCTS CO., LTD.	69.2

TIANJIN XINGYUDA IMPORT AND EXPORT CO., LTD.	TANGSHAN FENGNAN DISTRICT XINLIDA STEEL PIPE CO., LTD.	69.2
JIANGYIN JIANYE METAL PRODUCTS CO., LTD.	JIANGYIN JIANYE METAL PRODUCTS CO., LTD.	69.2
RIZHAO XINGYE IMPORT & EXPORT CO., LTD.	SHANDONG XINYUAN GROUP CO., LTD.	69.2
TIANJIN NO. 1 STEEL ROLLED CO., LTD.	TIANJIN HEXING STEEL CO., LTD.	69.2
TIANJIN NO. 1 STEEL ROLLED CO., LTD.	TIANJIN RUITONG STEEL CO., LTD.	69.2
TIANJIN NO. 1 STEEL ROLLED CO., LTD.	TIANJIN YAYI INDUSTRIAL CO.	69.2
KUNSHAN HONGYUAN MACHINERY MANUFACTURE CO., LTD.	KUNSHAN HONGYUAN MACHINERY MANUFACTURE CO., LTD.	69.2
QINGDAO YONGJIE IMPORT & EXPORT CO., LTD.	SHANDONG XINYUANGROUP CO., LTD.	69.2
PRC-WIDE ENTITY		85.55

Unless the applicable cash deposit rates have been superseded by cash deposit rates calculated in an intervening administrative review of the AD order on CWP from the PRC, the Department will instruct U. S. Customs and Border Protection to require a cash deposit for estimated AD duties at the rate noted above for each specified exporter and producer combination, for entries of subject merchandise, entered or withdrawn from warehouse, for consumption, on or after November 2, 2015.

This notice is issued and published in accordance with sections 516A(e) and 777(i)(1) of the Act and section 129(c)(2)(A) of the Uruguay Round Agreements Act .

Dated: November 5, 2015

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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