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**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**[C-570-944]**

**Oil Country Tubular Goods from the People's Republic of China: Notice of Court Decision Not in Harmony with the Amended Final Determination of the Countervailing Duty Investigation**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Commerce.

**SUMMARY:** On May 3, 2017, the United States Court of International Trade (CIT or the Court) entered final judgment sustaining the Department of Commerce's (Department) final remand redetermination concerning the countervailing duty (CVD) investigation of oil country tubular goods (OCTG) from the People's Republic of China (PRC). The Department is notifying the public of that the Court's final judgment in this case is not in harmony with the Department's amended final determination with respect to Jiangsu Changbao Steel Tube Co., Ltd. (Changbao), Tianjin Pipe (Group) Co. (TPCO), Wuxi Seamless Oil Pipe Co., Ltd. (Wuxi), and Zhejiang Jianli Enterprise Co., Ltd. (Jianli), and all other exporters and producers.

**DATES:** Effective May 13, 2017.

**FOR FURTHER INFORMATION CONTACT:** Aimee Phelan or Jennifer Shore, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC, 20230; telephone (202) 482-0697 or (202) 482-2778, respectively.

## SUPPLEMENTARY INFORMATION:

### Background

On December 7, 2009, the Department published its final determination in the CVD investigation of OCTG from the PRC.<sup>1</sup> On January 20, 2010, the Department published an amended final determination and the CVD order.<sup>2</sup>

The Court remanded aspects of the Department's findings for further consideration.<sup>3</sup> In particular, in the *Remand and Opinion Order*, the CIT ordered the Department to clarify or reconsider: (1) Its use of the date of the PRC accession to the World Trade Organization (WTO) as a uniform cut-off date for identifying and measuring subsidies in the PRC; (2) its attribution methodology for subsidies received by certain of Changbao's and TPCO's subsidiaries; (3) its decision to include Jianli's freight quote in the benchmark price for steel rounds and billets; and (4) its decision not to tie the benefit received by TPCO from the provision of steel rounds and billets at less-than-adequate remuneration to its sales of seamless steel pipe.<sup>4</sup> Finally, the Court granted the Department's request for a voluntary remand to recalculate the benchmark for steel rounds without Steel Business Briefing (SBB) East Asia pricing data.<sup>5</sup>

On December 20, 2016, the Department issued its *Remand Redetermination*.<sup>6</sup> In its *Remand Redetermination*, the Department: (1) Evaluated certain subsidies and determined a date prior to the WTO accession date on which subsidies provided to the respondents could be

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<sup>1</sup> See *Certain Oil Country Tubular Goods from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 74 FR 64045 (December 7, 2009) (*Final Determination*).

<sup>2</sup> See *Certain Oil Country Tubular Goods from the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 75 FR 3203 (January 20, 2010) (*Amended Final Determination and Order*).

<sup>3</sup> See *TMK IPSCO et al. v. United States*, Consol. Court No. 10-00055, Slip Op. 16-62 (CIT June 24, 2016) (*Remand Opinion and Order*).

<sup>4</sup> See *Remand Opinion and Order*, at 57.

<sup>5</sup> *Id.*, at 58.

<sup>6</sup> See *Final Results of Remand Redetermination*, Court No. 10-00055, dated December 20, 2016, available at: <http://ia.ita.doc.gov/remands/> (*Remand Redetermination*).

identified and measured for purposes of the remand; (2) changed the methodology for attributing to Changbao and TPCO subsidies provided to certain of their subsidiaries; (3) continued to find that the freight rates used by the Department in the investigation to adjust the benchmark for steel rounds are representative of what an importer paid or would pay if it imported the product; (4) clarified the finding that the provision of steel rounds was not tied to TPCO's seamless steel pipe production; and (5) removed SBB East Asia pricing data from the benchmark for steel rounds. The resulting calculations changed the CVD rates calculated for Changbao, Jianli, TPCO, and Wuxi, as well as their respective cross-owned companies, and the all-others rate.

On May 3, 2017, the CIT sustained the Department's *Remand Redetermination*.<sup>7</sup> In particular, the Court held that the *Remand Redetermination* "adequately address{ed} the concerns raised in the court's prior decision" and was "supported by substantial evidence."<sup>8</sup>

#### Timken Notice

In its decision in *Timken*<sup>9</sup>, as clarified by *Diamond Sawblades*,<sup>10</sup> the United States Court of Appeals for the Federal Circuit (CAFC) held that, pursuant to section 516A(e) 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. The CIT's May 3, 2017, final judgment affirming the *Remand Redetermination* constitutes a final decision of that court which is not in harmony with the *Amended Final Determination and Order*. This notice is published in fulfillment of the publication requirements of *Timken*.

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<sup>7</sup> See *TMK IPSCO v. United States*, Consol. Court No. 10-00055, Slip Op. 17-54 (CIT May 3, 2017).

<sup>8</sup> *Id.* at 3.

<sup>9</sup> See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

<sup>10</sup> See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

## Amended Final Determination

As there is now final court decision, the Department amends its *Amended Final Determination and Order*. The Department finds that the following revised net countervailable subsidy rates exist:

Producer/Exporter	Net Subsidy Rate (Percent)
Jiangsu Changbao Steel Tube Co. and Jiangsu Changbao Precision Steel Tube Co., Ltd.	28.70
Tianjin Pipe (Group) Co., Tianjin Pipe Iron Manufacturing Co., Ltd., Tianguan Yuantong Pipe Product Co., Ltd., Tianjin Pipe International Economic and Trading Co., Ltd., and TPCO Charging Development Co., Ltd.	21.48
Wuxi Seamless Pipe Co, Ltd., Jiangsu Fanli Steel Pipe Co, Ltd., Tuoketuo County Mengfeng Special Steel Co., Ltd.	29.48
Zhejiang Jianli Enterprise Co., Ltd., Zhejiang Jianli Steel Steel Tube Co., Ltd., Zhuji Jiansheng Machinery Co., Ltd., and Zhejiang Jianli Industry Group Co., Ltd.	30.56
All-Others	27.08

## Cash Deposit Requirements

Because there has been a subsequent administrative review for Wuxi, the cash deposit rate for Wuxi will remain the rate established in the final results of the 2012 administrative review, which is 59.29 percent.<sup>11</sup> Because there have been no subsequent administrative reviews for Changbao, TPCO, and Jianli, the Department will instruct U.S. Customs and Border Protection (CBP) to set the cash deposit rates for these companies to the rates listed above, again, pending a final and conclusive court decision.<sup>12</sup>

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<sup>11</sup> See *Certain Oil Country Tubular Goods from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 52301 (September 3, 2014).

<sup>12</sup> As explained in the *Remand Redetermination*, the Department established new cash deposit rates for TPCO and all-others in proceedings conducted under section 129 of the Uruguay Round Agreements Act. See *Implementation of Determinations Pursuant to Section 129 of the Uruguay Round Agreements Act*, 81 FR 37180, 37182 (June 9, 2016). The Department used these revised rates as the basis for calculating revised cash deposit rates in the *Remand Redetermination*. See *Remand Redetermination* at 56.

Pursuant to section 705(c)(5)(A) of the Act, companies not individually investigated are assigned an “all-others” countervailable duty rate. As a general rule, the all-others rate is equal to the weighted average countervailable subsidy rates established for individually investigated producers and producers, excluding any zero and *de minimis* countervailable subsidy rates.<sup>13</sup> The Department will instruct CBP that the “all-others” cash deposit rate is to be amended to reflect the weighted-average of the revised subsidy rates calculated for Changbao, TPCO, Wuxi, and Jianli, as listed above.

This notice is issued and published in accordance with sections 516A(e)(1), 705(c)(1)(B), and 777(i)(1) of the Act.

Dated: May 30, 2017.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary*

*for Enforcement and Compliance.*

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<sup>13</sup> See section 705(c)(5)(A)(i) of the Act.

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