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DEPARTMENT OF COMMERCE

International Trade Administration

A-580-867

Large Power Transformers from the Republic of Korea: Notice of Court Decision Not in Harmony with Final Results, Notice of Amended Final Results

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

SUMMARY: On October 10, 2017, the Court of International Trade (CIT or Court) sustained the final remand results pertaining to the administrative review of the antidumping duty order on large power transformers (LPTs) from the Republic of Korea (Korea) covering the period February 16, 2012, through July 31, 2013. The Department of Commerce (the Department) is notifying the public that the final judgment in this case is not in harmony with the final results, notice of amended final results, and notice of second amended final results of the administrative review and that the Department is amending the second amended final results with respect to the dumping margins assigned to Hyosung Corporation (Hyosung), Hyundai Heavy Industries Co., Ltd. (Hyundai), and the companies not selected for individual examination (ILJIN, ILJIN Electric Co., Ltd., and LSIS Co., Ltd.).

DATES: Applicable October 20, 2017.

FOR FURTHER INFORMATION CONTACT: Moses Song, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5041.

SUPPLEMENTARY INFORMATION:

Background

On March 31, 2015, the Department issued the *Final Results*.¹ On May 6, 2015, in response to ministerial error allegations, the Department issued the *First Amended Final Results* and on June 22, 2015, the *Second Amended Final Results*.² Hyosung and Hyundai are Korean producers/exporters of LPTs and were mandatory respondents in the underlying administrative review. In the *Second Amended Final Results*, the Department assigned dumping margins of 8.23 percent and 12.36 percent to Hyosung and Hyundai, respectively.

On October 7, 2016, the CIT remanded various aspects of the *Second Final Results* to the Department.³ Specifically, the Court instructed the Department to further address a sequencing issue regarding certain of Hyundai's U.S. sales documents on the record. The Court also directed the Department to further explain: (1) its treatment of the U.S. commissions of Hyosung and Hyundai; (2) the record basis for such treatment; (3) whether such U.S. commissions resulted in the granting of commission offsets, and (4) the legal and factual basis for the granting or denial of the commission offsets.⁴

Pursuant to the *Remand Order*, the Department issued its Final Redetermination, which addressed the Court's holdings and revised the weighted-average dumping margins for Hyosung and Hyundai to 9.09 percent and 13.82 percent, respectively, and the rate assigned to the

¹ See *Large Power Transformers from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 17034 (March 31, 2015) (*Final Results*) and accompanying Issues and Decision Memorandum.

² See *Large Power Transformers from the Republic of Korea: Amended Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 26001 (May 6, 2015) (*First Amended Final Results*) and accompanying Decision Memorandum and *Large Power Transformers from the Republic of Korea: Second Amended Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 35628 (June 22, 2015) (*Second Amended Final Results*) and accompanying Decision Memorandum, respectively.

³ See *ABB INC. v. United States*, Slip Op. 16-95 (CIT, October 7, 2016) (*Remand Order*)

⁴ *Id.*

companies not selected for individual examination to 11.73 percent.⁵ On October 10, 2017, the CIT sustained in whole the Department's Final Redetermination.⁶

Timken Notice

In its decision in *Timken*,⁷ as clarified by *Diamond Sawblades*,⁸ the United States Court of Appeals for the Federal Circuit held that, pursuant to sections 516A(c) and (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 10, 2017, final judgment sustaining the Department's Final Redetermination constitutes a final decision of the Court that is not in harmony with the *Second Amended Final Results*. 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 at issue pending expiration of the period to appeal or, if appealed, pending a final and conclusive court decision.

Amended Final Results

Because there is now a final court decision, the Department is amending the *Second Amended Final Results* with respect to the dumping margins calculated for Hyosung, Hyundai, and the companies not selected for individual examination. Based on the Final Redetermination, as affirmed by the CIT, the revised dumping margins for Hyosung, Hyundai, and the companies not selected for individual examination from February 16, 2012, through July 31, 2013, are as follows:

⁵ See Department Memorandum, "Final Results of Redetermination Pursuant to Court Remand *ABB INC v. United States* Court No. 15-00108, Slip-Op. 16-95 (CIT October 7, 2016)," February 2, 2017 (Final Redetermination) (available at <http://enforcement.trade.gov/remands/16-95.pdf>)

⁶ See *ABB, INC. v. United States*, Court No. 15-00108, Slip Op. 17-137 (CIT 2017).

⁷ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), at 341.

⁸ See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 20 10) (*Diamond Sawblades*).

Producer/Exporter	Weighted-Average Margin (percent)
Hyosung Corporation	9.09
Hyundai Heavy Industries Co., Ltd.	13.82
ILJIN Electric Co., Ltd.	11.73
ILJIN	11.73
LSIS Co., Ltd.	11.73

In the event that the CIT's rulings are not appealed or, if appealed, are upheld by a final and conclusive court decision, the Department will instruct Customs and Border Protection (CBP) to assess antidumping duties on unliquidated entries of subject merchandise based on the revised dumping margins listed above.

Cash Deposit Requirements

Since the *Second Amended Final Results*, the Department has established new cash deposit rates for the companies listed above.⁹ Therefore, this Final Redetermination, and as affirmed by the Court, does not change the later-established cash deposit rates for the companies listed above.

⁹ See, e.g., *Large Power Transformers from the Republic of Korea: Amended Final Results of Antidumping Duty Administrative Duty Administrative Review; 2013-2014*, 81 FR 27088 (May 5, 2016).

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

Dated: October 31, 2017
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