



BILLING CODE: 3510-DS-P

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: The Court of International Trade (CIT) granted a request from Hyosung Corporation and HICO America Sales and Technology (HICO America) (collectively, Hyosung) for partial final judgment regarding issues pertaining solely to Hyosung concerning the administrative review of the antidumping duty order on large power transformers (LPTs) from the Republic of Korea (Korea) covering the period August 1, 2013 through July 31, 2014 (Court Order, *ABB Inc. v. United States*, Ct. No. 16-54 (CIT August 29, 2019)). The Department of Commerce (Commerce) is notifying the public that the partial final judgment in this case is not in harmony with the final results and notice of amended final results of the administrative review and that Commerce is amending the amended final results with respect to the dumping margins assigned to Hyosung.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: John K. Drury, 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) 482-0195.

SUPPLEMENTARY INFORMATION:

Background

On March 16, 2016, Commerce issued the *Final Results*.¹ In the *Final Results*, Commerce assigned dumping margins of 9.40 percent and 4.07 percent to Hyosung and Hyundai Heavy Industries Co., Ltd. (HHI) and Hyundai Corporation, USA (Hyundai USA) (collectively, Hyundai), respectively. Upon consideration of various ministerial error allegations, Commerce issued the *Amended Final Results* on May 5, 2016, and calculated a weighted-average margin of 7.89 percent for Hyosung.² Hyosung and Hyundai are Korean producers/exporters of LPTs and were mandatory respondents in the underlying administrative review.³

On October 10, 2017, the CIT remanded certain aspects of the *Final Results* and *Amended Final Results* to Commerce.⁴ Specifically, the CIT instructed Commerce to clarify the treatment of the respondents' U.S. commissions based on record evidence, as well as to re-examine whether to cap Hyundai's service-related revenues based on associated expenses.

Pursuant to the *Remand Order*, Commerce issued its Final Redetermination, which addressed the Court's holdings and revised the weighted-average dumping margins for Hyosung and Hyundai to 8.74 percent and 25.51 percent, respectively.⁵

On November 13, 2018, the CIT sustained Commerce's Final Redetermination with respect to commissions, but remanded the issue of service-related revenues to Commerce a

¹ See *Large Power Transformers from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 81 FR 14087 (March 16, 2016) (*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; 2013-2014*, 81 FR 27088 (May 5, 2016) (*Amended Final Results*)

³ Commerce also assessed margins of 6.74 percent for ILJIN Electric Co., Ltd. (ILJIN Electric), ILJIN, and LSIS Co., Ltd., based on the margins calculated for Hyosung and Hyundai. See *Final Results*.

⁴ See *ABB INC. v. United States*, Slip Op. 17-138 (CIT, October 10, 2017) (*Remand Order*)

⁵ See Memorandum, "Final Results of Redetermination Pursuant to Court Remand *ABB INC v. United States* Court No. 16-00054, Slip-Op. 17-138 (CIT October 10, 2017)," dated February 7, 2018 (Final Redetermination) (*available at <http://enforcement.trade.gov/remands/17-138.pdf>*).

second time.⁶ Hyosung moved for partial final judgment on issues affecting its entries. On August 29, 2019, the CIT issued the partial final judgment with regard to issues which affected Hyosung (Court Order, ABB Inc. v. United States, Ct. No. 16-54 (CIT August 29, 2019)).

Timken Notice

In its decision in *Timken*,⁷ as clarified by *Diamond Sawblades*,⁸ the United States Court of Appeals for the Federal Circuit (CAFC) held that, pursuant to sections 516A(c) and (e) of the Act, Commerce must publish a notice of a court decision that is not “in harmony” with a Commerce determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT’s August 29, 2019 Order and judgment sustaining Commerce’s Final Redetermination with respect to commissions, and Hyosung’s motion for partial final judgment, constitute a final decision of the CIT that is not in harmony with the *Amended Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*. Accordingly, Commerce 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, Commerce is amending the *Amended Final Results* with respect to the dumping margins calculated for Hyosung. Based on the Final Redetermination, as affirmed by the CIT, the revised dumping margin for Hyosung from August 1, 2013 through July 31, 2014, is as follows:

⁶ See *ABB, INC. v. United States*, Court No. 16-00054, Slip Op. 18-156 (CIT 2018).

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

8.74

In the event that the CIT's rulings are not appealed or, if appealed, are upheld by a final and conclusive court decision, Commerce 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 *Amended Final Results*, Commerce has established a new cash deposit rate for Hyosung.⁹ Therefore, this Final Redetermination, and as affirmed by the Court, does not change the later-established cash deposit rates for Hyosung.

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.

Dated: October 4, 2019.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

⁹ See, e.g., *Large Power Transformers from the Republic of Korea: Amended Final Results of Antidumping Duty Administrative Duty Administrative Review; 2016-2017*, 84 FR 16461 (April 19, 2019).

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