



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-873]

Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Notice of Court Decision Not in Harmony With Final Determination of Sales at Less Than Fair Value; Notice of Amended Final Determination Pursuant to Court Decision; and Notice of Revocation of Antidumping Duty Order, in Part

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

SUMMARY: On April 30, 2020, the United States Court of International Trade (the CIT) sustained the final results of redetermination pertaining to the less-than-fair-value (LTFV) investigation of certain cold-drawn mechanical tubing of carbon and alloy steel (cold-drawn mechanical tubing) from India. The Department of Commerce (Commerce) is notifying the public that the final judgment in this case is not in harmony with the final determination in the LTFV investigation, and that Commerce is amending the final determination and resulting antidumping duty (AD) order with respect to the dumping margin assigned to Goodluck India Limited (Goodluck). We are also revoking the AD order, in part, with respect to Goodluck.

DATES: Applicable May 10, 2020.

FOR FURTHER INFORMATION CONTACT: Jerry Huang, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4047.

## SUPPLEMENTARY INFORMATION:

### Background

On April 16, 2018, Commerce published its *Final Determination* in the LTFV investigation of cold-drawn mechanical tubing from India.<sup>1</sup> In the *Final Determination*, Commerce applied a rate based on adverse facts available to Goodluck after finding that the company failed to accurately report product “control numbers” in its home market sales and cost of production databases.<sup>2</sup> Although Goodluck attempted to submit new databases at the start of verification of Goodluck’s questionnaire responses, Commerce declined to accept the revised information, determining that such a revision did not constitute a “minor correction.”<sup>3</sup> On June 11, 2018, Commerce published its AD order on cold-drawn mechanical tubing from India.<sup>4</sup>

On August 13, 2019, the CIT remanded the *Final Determination* to Commerce and instructed Commerce to consider the revised databases provided by Goodluck.<sup>5</sup> On remand, and under respectful protest, Commerce issued its final results of redetermination in accordance with the Court’s order.<sup>6</sup> In calculating an AD margin for Goodluck, Commerce relied on the corrections provided by Goodluck. On April 30, 2020, the CIT sustained Commerce’s Final Remand Redetermination.<sup>7</sup>

### Timken Notice

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<sup>1</sup> See *Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Final Affirmative Determination of Sales at Less than Fair Value*, 83 FR 16296 (April 16, 2018) (*Final Determination*) and accompanying Issues and Decision Memorandum (IDM).

<sup>2</sup> See IDM at Comments 1 and 2.

<sup>3</sup> *Id.* at Comment 1.

<sup>4</sup> See *Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel From the People's Republic of China, the Federal Republic of Germany, India, Italy, the Republic of Korea, and Switzerland: Antidumping Duty Orders; and Amended Final Determinations of Sales at Less Than Fair Value for the People's Republic of China and Switzerland*, 83 FR 26962 (June 11, 2018) (*AD Order*).

<sup>5</sup> See *Goodluck India Limited v. United States*, Court No. 18-00162, Slip Op. 19-110 (CIT August 13, 2019) (*Remand Order*).

<sup>6</sup> See *Final Results of Redetermination Pursuant to Court Remand, Goodluck India Limited v. United States*, Court No. 18-00162, Slip Op. 19-110 (CIT August 13, 2019), dated December 23, 2019 (Final Remand Redetermination).

<sup>7</sup> See *Goodluck India Limited v. United States*, Court No. 18-00162, Slip Op. 20-57 (CIT April 30, 2020).

In its decision in *Timken*,<sup>8</sup> as clarified by *Diamond Sawblades*,<sup>9</sup> the Court of Appeals for the Federal Circuit (CAFC) held that, pursuant to section 516A of the Tariff Act of 1930, as amended (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 April 30, 2020 judgment sustaining the Final Remand Redetermination constitutes a final decision of the CIT that is not in harmony with Commerce’s *Final Determination*. This notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Determination

Because there is now a final court decision, Commerce is amending its *Final Determination* with respect to Goodluck.<sup>10</sup> Goodluck’s revised dumping margin is as follows:

Producer and Exporter	Weighted-Average Dumping Margin
Goodluck India Limited	0.00

<sup>8</sup> See *Timken Co. v United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

<sup>9</sup> See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

<sup>10</sup> For purposes of this notice, the all-others rate for the *AD Order* will not be amended. Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely under section 776 of the Act. As discussed above, Goodluck’s margin has been changed from a rate determined entirely under section 776 of the Act to zero. Therefore, Tube Products of India, Ltd. a unit of Tube Investments of India Limited (collectively, TPI) remains the only respondent in the underlying investigation for which Commerce calculated a company-specific rate which is not zero, *de minimis* or based entirely on facts available. As a result, pursuant to section 735(c)(5)(A) of the Act, the weighted-average dumping margin calculated for TPI continues to be the estimated weighted-average dumping margin assigned to all other producers and exporters of the merchandise under consideration. See *Final Determination*, 83 FR at 16296-97; *AD Order*, 83 FR at 26964.

## Partial Exclusion from Antidumping Duty Order

Pursuant to section 735(a)(4) of the Act, Commerce “shall disregard any weighted average dumping margin that is *de minimis* as defined in section 733(b)(3) of the Act.”<sup>11</sup> Furthermore, section 735(c)(2) of the Act states that “the investigation shall be terminated upon publication of that negative determination” and Commerce shall “terminate the suspension of liquidation” and “release any bond or other security, and refund any cash deposit.”<sup>12</sup> As a result of this amended final determination, in which Commerce has calculated an estimated weighted-average dumping margin of 0.00 percent for Goodluck, Commerce is hereby excluding merchandise produced and exported by Goodluck from the *AD Order*. Accordingly, Commerce will direct U.S. Customs and Border Protection (CBP) to release any bonds or other security and refund cash deposits pertaining to any suspended entries from Goodluck. Pursuant to *Timken*, the suspension of liquidation must continue during the pendency of the appeals process. Additionally, we will instruct CBP to suspend liquidation of all unliquidated entries from Goodluck at a cash deposit rate of 0.00 percent which are entered, or withdrawn from warehouse, for consumption on or after May 10, 2020, which is ten days after the CIT’s final decision, in accordance with section 516A of the Act.<sup>13</sup> In the event the CIT’s ruling is not appealed, or if appealed and upheld by the CAFC, Commerce will instruct CBP to terminate the suspension of

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<sup>11</sup> Section 733(b)(3) of the Act defines *de minimis* dumping margin as “less than 2 percent ad valorem or the equivalent specific rate for the subject merchandise.”

<sup>12</sup> See sections 735(c)(2)(A) and (B) of the Act.

<sup>13</sup> See, e.g., *Drill Pipe from the People’s Republic of China: Notice of Court Decision Not in Harmony with International Trade Commission’s Injury Determination, Revocation of Antidumping and Countervailing Duty Orders Pursuant to Court Decision, and Discontinuation of Countervailing Duty Administrative Review*, 79 FR 78037, 78038 (December 29, 2014); *High Pressure Steel Cylinders From the People’s Republic of China: Notice of Court Decision Not in Harmony With Final Determination in Less Than Fair Value Investigation, Notice of Amended Final Determination Pursuant to Court Decision, Notice of Revocation of Antidumping Duty Order in Part, and Discontinuation of Fifth Antidumping Duty Administrative Review*, 82 FR 46758, 46760 (October 6, 2017).

liquidation and to liquidate entries produced and exported by Goodluck without regard to antidumping duties.

Notification to Interested Parties

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

Dated: May 19, 2020.

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

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