



DEPARTMENT OF COMMERCE

International Trade Administration

[A 533-810]

Stainless Steel Bar from India: Notice of Court Decision Not in Harmony with Final Results of Changed Circumstances Review of the Antidumping Duty Order and Notice of Amended Final Results of Review

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

SUMMARY: On January 28, 2021, the U.S. Court of International Trade (the Court) entered final judgment sustaining the final results of remand redetermination pursuant to court order by the U.S. Department of Commerce (Commerce) pertaining to the changed circumstances review of the antidumping duty (AD) order on stainless steel bar (SSB) from India. Commerce is notifying the public that the final judgment in this case is not in harmony with Commerce's final results in the changed circumstances review of SSB from India, and that Commerce is amending the final results.

DATES: Applicable February 7, 2021.

FOR FURTHER INFORMATION CONTACT: Thomas Schauer, 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) 482-0410.

SUPPLEMENTARY INFORMATION:

Background

On April 20, 2018, Commerce published its final results of the changed circumstances review of SSB from India.¹ In the *Final Results*, we determined that Venus Wire Industries Pvt.

¹ See *Stainless Steel Bar from India: Final Results of Changed Circumstances Review and Reinstatement of Certain Companies in the Antidumping Duty Order*, 83 FR 17529 (April 20, 2018) (*Final Results*), and accompanying Issues and Decision Memorandum (IDM).

Ltd. and its affiliates Precision Metals, Sieves Manufacturers (India) Pvt. Ltd., and Hindustan Inox Ltd. (collectively, Venus) is not the manufacturer of the stainless steel bar (SSB) that it purchased from unaffiliated suppliers and processed in India prior to exportation to the United States.² Because most of the unaffiliated suppliers did not provide their costs, we applied total adverse facts available (AFA) with respect to Venus.³

On December 20, 2019, the Court remanded aspects of the *Final Results* to Commerce for further consideration.⁴ The Court remanded Commerce's determination in order to explain or reconsider its use of the NWR Test over the substantial transformation test.⁵ In this decision, the Court deferred consideration of Venus' arguments regarding "Commerce's use of total AFA pending Commerce's redetermination on remand."⁶ In its First Remand Redetermination, issued in March 2020,⁷ Commerce provided the explanation sought by the Court.⁸

On August 14, 2020, the Court sustained Commerce's use of the NWR Test but the Court determined that Commerce's use of AFA with respect to Venus to be unsupported by substantial evidence and remanded the *Final Results* a second time.⁹ In its second remand redetermination, issued in November 2020, Commerce explained that, although it continues to believe that the use of AFA is appropriate for Venus, it was complying with the Court's opinion by calculating a margin for Venus without the use of AFA under respectful protest.¹⁰ The Court sustained the Second Remand Redetermination in full.¹¹

Timken Notice

² See *Final Results* IDM at Comment 1.

³ *Id.*

⁴ See *Venus Wire Industries Pvt. Ltd. v. United States*, Court No. 18-00113, Slip Op. 19-170 (December 20, 2019) (*Venus Wire I*).

⁵ *Id.*, at 15-21. The "NWR Test" refers to the analysis we used to determine whether a respondent was the producer of subject merchandise in *Notice of Final Determination of Sales at Less Than Fair Value: Narrow Woven Ribbons with Woven Selvedge from Taiwan*, 75 FR 41804 (July 19, 2010), and accompanying IDM at Comment 20.

⁶ See *Venus Wire I*, Slip Op. 19-170 at 22.

⁷ See *Venus Wire Industries Pvt. Ltd. v. United States*, Court No. 18-00113, Slip Op. 19-170, "Results of Redetermination Pursuant to Court Remand," dated March 31, 2020 (First Remand Redetermination).

⁸ *Id.* at 44.

⁹ See *Venus Wire Industries Pvt. Ltd. v. United States*, Court No. 18-00113, Slip Op. 20-118 (August 14, 2020).

¹⁰ See *Venus Wire Industries Pvt. Ltd. v. United States*, Court No. 18-00113, Slip Op. 20-118, "Results of Redetermination Pursuant to Court Remand," dated November 9, 2020 (Second Remand Redetermination).

¹¹ See *Venus Wire Industries Pvt. Ltd. v. United States*, Court No. 18-00113, Slip Op. 21-9 (January 28, 2021).

In its decision in *Timken*,¹² as clarified by *Diamond Sawblades*,¹³ the Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of court decision that is not “in harmony” with a Commerce determination and must suspend liquidation of entries pending a “conclusive” court decision. The Court’s January 28, 2021, judgment constitutes a final decision of that court that is not in harmony with Commerce’s *Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*. Accordingly, Commerce will continue suspension of liquidation of subject merchandise pending expiration of the period of 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 *Final Results* with respect to Venus. The revised antidumping duty margin for Venus for the period July 1, 2015 through June 30, 2016 is as follows:¹⁴

Exporter or Producer	Weighted-Average Dumping Margin (Percent)
Venus	0.64

Because the revised antidumping duty margin for Venus remains above *de minimis*, Venus will remain reinstated in the AD order on SSB from India.¹⁵

Amended Cash Deposit Rates

Because Venus has been subject to a subsequent administrative review which established a revised cash deposit rate for Venus,¹⁶ Commerce will not issue revised cash deposit instructions to U.S. Customs and Border Protection.

Notification to Interested Parties

¹² See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

¹³ See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

¹⁴ See Second Remand Redetermination at 10.

¹⁵ *Id.* at 15.

¹⁶ See, e.g., *Stainless Steel Bar from India: Final Results of Antidumping Duty Administrative Review; 2018-2019*, 85 FR 74985 (November 24, 2020).

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

Dated: February 3, 2021.

James Maeder,
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations.

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