



## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-912]

### **Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Notice of Third Amended Final Determination of the Results of 2012-2013 Antidumping Administrative Review Pursuant to Court Decision**

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

**SUMMARY:** On July 19, 2023, the U.S. Court of International Trade (CIT or Court) issued its final judgment in *China Manufacturers Alliance, LLC v. United States*, Consol. Court No. 15-00124, Slip Op. 23-105 (CIT 2023) (*China Mfr. Alliance VI*), sustaining the U.S. Department of Commerce's (Commerce) prior remand redeterminations pertaining to the administrative review of the antidumping duty order on certain new pneumatic off-the-road tires (OTR tires) from the People's Republic of China (China) covering the period September 1, 2012, through August 31, 2013, which: (1) effectuated the mandate of the U.S. Court of Appeals for the Federal Circuit's (Federal Circuit) ruling to assign mandatory respondent Double Coin Holdings Ltd. (Double Coin) the 105.31 percent China-wide rate initially assigned in the final results of this review (overturning the prior final results of redetermination pursuant to the CIT's directive to calculate a rate for Double Coin on the basis of its own information); and (2) sustained the prior final results of redetermination pursuant to remand with respect to mandatory respondent Guizhou Tyre Co., Ltd. and Guizhou Tyre Export and Import Co., Ltd. (collectively GTC). Commerce is notifying the public that it is amending the final results with respect to the dumping margin assigned to Double Coin.

**DATES:** Applicable July 29, 2023.

**FOR FURTHER INFORMATION CONTACT:** Brendan Quinn, Program Manager,  
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**SUPPLEMENTARY INFORMATION:**

Background

On April 15, 2015, Commerce issued its final results in the fifth administrative review of the antidumping duty order on OTR tires from China.<sup>1</sup> Mandatory respondent Double Coin and its affiliated U.S. importer, China Manufacturers Alliance, LLC, and mandatory respondent GTC timely filed complaints with the Court challenging certain aspects of Commerce's *Final Results*. Domestic interested parties Titan Tire Corporation and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO-CLC intervened as defendant-intervenors, but withdrew from these cases on September 29, 2017.

On February 6, 2017, the CIT remanded Commerce's *Final Results*, directing Commerce to: (1) further explain and reconsider the treatment of irrecoverable value-added tax (VAT) in the calculation of the margin for GTC; (2) further explain and reconsider whether certain movement expenses were double-counted in the margin calculation for GTC; (3) reconsider and recalculate warehousing cost surrogate values for GTC to properly adjust for inflation; and (4) assign Double Coin a margin based exclusively on Double Coin's own information, despite Double Coin being found to be part of the non-market economy (NME) entity and assigned the applicable 105.31 percent China-wide entity rate in the *Final Results*.<sup>2</sup> In its *First Remand*

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<sup>1</sup> See *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013*, 80 FR 20197 (April 15, 2015) (*Final Results*), and accompanying Issues and Decision Memorandum (IDM); see also *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Amended Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 26230 (May 7, 2015) (*Amended Final Results*) (for ease of reference, collectively referred to herein as *Final Results*).

<sup>2</sup> See *China Manufacturers Alliance, LLC et al. v. United States*, 205 F. Supp. 3d 1325 (CIT 2017) (*China Mfr. Alliance I*).

*Redetermination*, Commerce: (1) continued to reduce GTC's U.S. sales prices to account for irrecoverable VAT; (2) determined that certain, but not all, movement expenses identified by the Court for further consideration were double counted and removed the applicable charges from the international freight surrogate value calculation for GTC; (3) made an inflation adjustment to domestic warehousing costs to match the surrogate value to the period of review for GTC; and (4) assigned Double Coin a *de minimis* 0.14 percent margin instead of assigning it a 105.31 percent margin as part of the China-wide entity, under respectful protest.<sup>3</sup>

After issuing its *First Remand Redetermination*, Commerce requested a partial voluntary remand on the issue of Double Coin's margin in light of the Federal Circuit's decision in *Diamond Sawblades*.<sup>4</sup> On January 16, 2019, the Court sustained, in part, and remanded, in part, Commerce's *First Remand Redetermination* and denied Commerce's motion for partial voluntary remand.<sup>5</sup> Specifically, the Court sustained Commerce's determinations regarding the inflation adjustment to domestic warehousing costs and double-counting of certain movement expenses for GTC but further remanded the following issues for further reconsideration and recalculation: (1) in denying Commerce's motion for voluntary remand, the CIT found that the only rate supported by the record evidence that Commerce could apply to Double Coin was the 0.14 percent margin applied in the *First Remand Redetermination*; (2) Commerce's finding that certain brokerage and handling and ocean freight charges, other than those corrected in the *First Remand Redetermination*, were not double counted for GTC was unsupported and must be reconsidered; and (3) Commerce's continued reduction of GTC's U.S. sales prices to account for irrecoverable VAT was impermissible, and Commerce must recalculate GTC's margin without making such deductions.<sup>6</sup> In its *Second Remand Redetermination*, Commerce recalculated

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<sup>3</sup> See *Final Results of Redetermination Pursuant to Court Remand, China Manufacturing Alliance, LLC, et al. v. United States*, Court No. 15-00124, Slip Op. 17-12 (CIT 2017), dated June 21, 2017 (*First Remand Redetermination*), available at <https://access.trade.gov/resources/remands/17-12.pdf>.

<sup>4</sup> See *Diamond Sawblades Mfrs. Coal. v. United States*, 866 F.3d 1304 (Fed. Cir. 2017) (*Diamond Sawblades*).

<sup>5</sup> See *China Manufacturers Alliance, LLC et al. v. United States*, 357 F. Supp. 3d 1364 (CIT 2019) (*China Mfr. Alliance II*).

<sup>6</sup> *Id.*

GTC's U.S. sale prices without making deductions for irrecoverable VAT, under respectful protest, and adjusted GTC's brokerage and handling and ocean freight costs for certain double-counted expenses.<sup>7</sup> The CIT sustained the results of the *Second Remand Redetermination in China Mfr. Alliance III*.<sup>8</sup> In light of these determinations, Commerce issued an amended final determination and notice of court decision not in harmony with the final results of administrative review which, after accounting for all such changes and issues addressed in the remand redeterminations, resulted in a weighted-average dumping margin for GTC of 4.59 percent and assigned Double Coin a *de minimis* margin of 0.14 percent.<sup>9</sup>

Upon appeal, on June 10, 2021, the Federal Circuit issued a decision in *China Manufacturers Alliance, LLC et al. v. United States*, 1 F.4<sup>th</sup> 1028 (Fed. Cir. 2021) (*China Mfr. Alliance IV*), which reversed and remanded the CIT's prior decision in: (1) *China Mfr. Alliance I*, in which the CIT found that Commerce had to assign mandatory respondent Double Coin a margin based exclusively on Double Coin's own information, despite Double Coin being found to be part of the NME entity and assigned the applicable 105.31 percent China-wide entity rate in the *Final Results* and *Amended Final Results*, as well as; (2) the CIT's decision in *China Mfr. Alliance II* to deny Commerce's request for a motion for a partial remand to revisit the issue of the margin calculated for Double Coin in light of the Federal Circuit's decision regarding the China-wide entity in *Diamond Sawblades*, which specifically identified the *China Mfr. Alliance I* decision as incompatible with the practice of applying the NME presumption to companies which fail to rebut the presumption of government control.<sup>10</sup> As a result, on May 16, 2023, the

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<sup>7</sup> See *Final Results of Redetermination Pursuant to Court Remand, China Manufacturing Alliance, LLC, et al. v. United States*, Court No. 15-00124, Slip Op. 19-7 (CIT 2019), dated April 16, 2019 (*Second Remand Redetermination*), available at <https://access.trade.gov/resources/remands/19-7.pdf>; see also *China Mfr. Alliance III*; and *Notice of Court Decision Not in Harmony With Final Results of Administrative Review and Notice of Amended Final Results of Antidumping Duty Administrative Review*, 84 FR 55553 (October 17, 2019) (*Second Amended Final and Timken Notice*).

<sup>8</sup> See *China Manufacturers Alliance, LLC et al. v. United States*, Consol. Court No. 15-00124; Slip Op. 19-115 (CIT 2019) (*China Mfr. Alliance III*).

<sup>9</sup> See *Second Amended Final and Timken Notice*.

<sup>10</sup> See *China Mfr. Alliance IV*.

CIT issued a remand order directing Commerce to reach a new determination effectuating the mandate of the Federal Circuit’s *China Mfr. Alliance IV* ruling by assigning Double Coin the 105.31 percent China-wide rate.<sup>11</sup> In compliance with the Federal Circuit’s determination in *China Mfr. Alliance IV* and the CIT’s directive to effectuate that determination in *China Mfr. Alliance V*, on June 12, 2023, Commerce issued its *Third Remand Redetermination* assigning the China-wide rate of 105.31 percent as the final dumping margin applicable to Double Coin.<sup>12</sup> On July 19, 2023, the CIT entered final judgement in the litigation of the proceeding, sustaining the results of the *Third Remand Redetermination*.<sup>13</sup>

### Amended Final Results

Because there is now a final court judgment, Commerce is amending its *Final Results* with respect to mandatory respondent Double Coin as follows:

Exporter	Weighted-Average Dumping Margin (percent)
Double Coin Holdings Ltd.	105.31

### Cash Deposit Requirements

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<sup>11</sup> See *China Manufacturers Alliance, LLC et al. v. United States*, Consol. Court No. 15-00124, Slip Op 23-75 (CIT 2023) (*China Mfr. Alliance V*).

<sup>12</sup> See *Final Results of Redetermination Pursuant to Court Remand, China Manufacturing Alliance, LLC, et al. v. United States*, Court No. 15-00124, Slip Op. 23-75 (CIT 2023), dated June 12, 2023 (*Third Remand Redetermination*), available at <https://access.trade.gov/resources/remands/23-75.pdf>.

<sup>13</sup> See *China Mfr. Alliance VI*. All issues otherwise raised in litigation and applicable to GTC were resolved in prior remand segments. Specifically, in *China Mfr. Alliance III*, the CIT sustained: (1) Commerce’s determination in the *First Remand Redetermination*, to recalculate warehousing expenses for GTC, to account for an inflation adjustment, and to exclude certain charges from the calculation of the ocean freight surrogate value, on the basis that both recalculations were consistent with the *China Mfr. Alliance I* and were unchallenged in subsequent litigation; and (2) Commerce’s determination in the *Second Remand Redetermination* to recalculate export price and constructed export price for GTC without making deductions for irrecoverable value added taxes and adjustment to GTC’s brokerage and handling and ocean freight costs for certain double-counted expenses. Thus, the Federal Circuit’s decision in *China Mfr. Alliance IV* (and subsequent *China Mfr. Alliance V*, *Third Remand Redetermination*, and *China Mfr. Alliance VI*) reverse the CIT’s prior determination only with respect to the appropriate rate applied to Double Coin, but does not reverse the CIT’s final judgment in *China Mfr. Alliance III* sustaining the changes to GTC’s margin calculation reflected in the *First Remand Redetermination* and *Second Remand Redeterminations*. Thus, GTC’s final margin calculation of 4.59 percent, as reflected in the prior *Second Amended Final and Timken Notice*, remains unchanged.

Because the antidumping duty order on OTR Tires from China was revoked,<sup>14</sup> Commerce will not issue cash deposit instructions as a result of this Court decision.

Liquidation of Suspended Entries

In the event the CIT's ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct U.S. Customs and Border Protection to assess antidumping duties on unliquidated entries of subject merchandise exported by Double Coin in accordance with 19 CFR 351.212(b) at the rate listed above.

Notification to Interested Parties

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

**Dated:** August 9, 2023.

**Lisa W. Wang,**  
*Assistant Secretary for Enforcement and Compliance.*

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<sup>14</sup> See *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Results of Sunset Reviews and Revocation of Antidumping Duty and Countervailing Duty Orders*, 84 FR 20616 (May 10, 2019).