



DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-874]

Certain Hot-Rolled Steel Flat Products from Japan: Notice of Court Decision Not in Harmony with the Final Results of the Antidumping Duty Administrative Review; Notice of Amended Final Results

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

SUMMARY: On March 26, 2024, the U.S. Court of International Trade (CIT) issued its final judgment in *Optima Steel International, LLC v. United States*, Court No. 1:23-cv-00108 (CIT March 26, 2024), sustaining the U.S. Department of Commerce's (Commerce) final remand results pertaining to the antidumping duty administrative review on certain hot-rolled steel flat products from Japan, covering the period of review (POR) October 1, 2020, through September 30, 2021. Commerce is notifying the public that the CIT's final judgment is not in harmony with the final results of the administrative review, and that Commerce is amending its final results.

DATES: Applicable April 6, 2024.

FOR FURTHER INFORMATION CONTACT: Myrna Lobo, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-2371.

SUPPLEMENTARY INFORMATION:

Background

On November 29, 2021, Commerce initiated an administrative review with respect to two producers/exporters of subject merchandise, Nippon Steel Corporation/Nippon Steel Nisshin Co., Ltd./Nippon Steel Trading Corporation (collectively, NSC) and Tokyo Steel Manufacturing Co.,

Ltd. (Tokyo Steel).¹ On February 23, 2022, we selected NSC, the producer/exporter accounting for the largest volume of subject merchandise entered during the POR, as the mandatory respondent.² On March 4, 2022, Tokyo Steel requested that Commerce reconsider the respondent selection and treat Tokyo Steel as a voluntary respondent.³ Thereafter, we issued a memorandum in which we determined that Commerce is unable to individually examine Tokyo Steel as a voluntary respondent in this administrative review.⁴ On March 18, 2022, Tokyo Steel submitted its section A questionnaire response as a voluntary respondent.⁵ On April 15 and 18, 2022 Tokyo Steel submitted its sections B, C, and D questionnaire responses.⁶ On May 4, 2023, Commerce published its final results for the 2020-2021 review.⁷

On August 9, 2023, Optima Steel International LLC (Optima), an importer of Tokyo Steel, challenged Commerce's *Final Results* for Commerce's failure to treat Tokyo Steel as a second mandatory respondent. Commerce requested a remand to conduct a review of Tokyo Steel's entries for the 2020-2021 review period, which the CIT granted on August 11, 2023. On March 12, 2024, Commerce issued its final results of redetermination calculating an estimated weighted-average dumping margin of 5.20 percent for Tokyo Steel.⁸ On March 26, 2024, the CIT sustained Commerce's *Final Redetermination*.⁹

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 86 FR 67685 (November 29, 2021).

² See Memorandum "Respondent Selection for the 2020-2021 Antidumping Duty Administrative Review of Certain Hot-Rolled Steel Flat Products from Japan," dated February 23, 2022.

³ See Tokyo Steel's Letter, "Tokyo Steel's Request for Reconsideration of Respondent Selection and Request for Voluntary Respondent Treatment in the Alternative; Certain Hot-Rolled Steel Flat Products from Japan," dated March 4, 2022.

⁴ See Memorandum "Respondent Selection for the 2020-2021 Antidumping Duty Administrative Review of Certain Hot-Rolled Steel Flat Products from Japan," dated April 6, 2022.

⁵ See Tokyo Steel's Letter, "Tokyo Steel's Section A Questionnaire Response," dated March 18, 2022.

⁶ See Tokyo Steel's Letters, "Tokyo Steel's Section B Questionnaire Response," dated April 15, 2022; "Tokyo Steel's Section C Questionnaire Response," dated April 15, 2022; and "Tokyo Steel's Section D Questionnaire Response," dated April 18, 2022.

⁷ See *Certain Hot-Rolled Steel Flat Products from Japan: Final Results of Antidumping Duty Administrative Review; 2020-2021*, 88 FR 28500 (May 4, 2023) (*Final Results*), and accompanying Issues and Decision Memorandum.

⁸ See *Final Results of Redetermination Pursuant to Court Remand, Optima Steel International, LLC v. United States*, Court No. 1:23-cv-00108 (CIT August 11, 2023), dated March 12, 2024 (*Final Redetermination*).

⁹ See *Optima Steel International v. United States*, Court No. 1:23-cv-00108 (CIT March 26, 2024).

Timken Notice

In its decision in *Timken*,¹⁰ as clarified by *Diamond Sawblades*,¹¹ the U.S. Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) and (e) 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 March 26, 2024, judgment constitutes a final decision of the CIT that is not in harmony with Commerce’s *Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Results

Because there is now a final court judgment, Commerce is amending its *Final Results* with respect to Tokyo Steel’s weighted-average dumping margin as follows:

Producer/Exporter	Weighted Average Dumping Margin (percent)
Tokyo Steel Manufacturing Co., Ltd.	5.20

Cash Deposit Requirements

Because Tokyo Steel has a superseding cash deposit rate, *i.e.*, there have been final results published in a subsequent administrative review, we will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP). This notice will not affect the current cash deposit rate.

Liquidation of Suspended Entries

At this time, Commerce remains enjoined by CIT order from liquidating entries that were produced by Tokyo Steel and imported by Optima Steel International, LLC and were entered, or withdrawn from warehouse, for consumption during the period October 1, 2020, through September 30, 2021. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

¹⁰ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

¹¹ See *Diamond Sawblades Mfrs. Coal. v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

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 CBP to assess antidumping duties on unliquidated entries of subject merchandise produced by Tokyo Steel and imported by Optima Steel International, LLC in accordance with 19 CFR 351.212(b), where appropriate.

Commerce intends to instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific *ad valorem* assessment rate is not zero or *de minimis*. Where an importer-specific *ad valorem* assessment rate is zero or *de minimis*, Commerce intends to instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

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: April 2, 2024.

Ryan Majerus,

Deputy Assistant Secretary

for Policy and Negotiations,

performing the non-exclusive functions and duties

of the Assistant Secretary for Enforcement and Compliance.

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