

instruct CBP to liquidate such entries at the PRC-wide rate.

### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be equal to the weighted-average dumping margin established in the final results of this review (except, if the rate is *de minimis*, then a cash deposit rate of zero will be established for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that currently have separate a rate, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed segment of this proceeding where the exporter received that separate rate; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for the PRC-wide entity, 92.84 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own separate rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter.

These deposit requirements, when imposed, shall remain in effect until further notice.

### Notifications to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

### Notifications to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply

with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: January 10, 2017.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

### Appendix—List of Topics Discussed in the Issues and Decision Memorandum

1. Summary
2. Background
3. Scope of the Order
4. Discussion of the Issues
  - a. Surrogate Value for Truck Freight
  - b. The Department Should Grant Yantai CMC a Separate Rate
  - c. The Denial of Separate Rate Status for Yantai CMC Is Not Supported by Record Evidence
  - d. The Rate Assigned to Yantai CMC
  - e. The Department's Separate Rates Test and the Rate Assigned to Yantai CMC Are Inconsistent With the WTO Agreements
  - f. The Department Should Continue the NSR and Calculate a Margin for the Final
5. Conclusion

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-580-816]

### Certain Corrosion-Resistant Steel Flat Products From the Republic of Korea: Notice of Court Decision Not in Harmony With Final Results and Notice of Amended Final Results

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

**SUMMARY:** The Court of International Trade (CIT or Court) sustained in full the Department of Commerce's (the Department) second remand results pertaining to the fifteenth administrative review of the antidumping duty order on certain corrosion-resistant steel flat products from the Republic of Korea covering the period of August 1, 2007, through July 31, 2008. The Department is notifying the public that the final judgment in this case is not in harmony with the final results of the administrative review, and that the Department is amending the final results with respect to the weighted-average dumping margins assigned to Union Steel Manufacturing Co., Ltd. (Union), Hyundai HYSCO (HYSCO), and Dongbu Steel Co., Ltd. (Dongbu).

**DATES:** Effective December 27, 2016.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Moore, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-3692.

### SUPPLEMENTARY INFORMATION:

#### Background

On March 15, 2010, the Department of Commerce (the Department) issued the *Final Results*.<sup>1</sup> Four parties contested the Department's findings in the *Final Results*. Three of the four plaintiffs, Union, HYSCO, and Dongbu, are Korean producers/exporters of certain corrosion-resistant steel flat products (CORE). Union and HYSCO were mandatory respondents in the fifteenth administrative review; Dongbu was an unexamined respondent subject to the non-selected rate. The remaining plaintiff, United States Steel Corporation (U.S. Steel), was a petitioner in the fifteenth administrative review.

In the *Final Results*, the Department assigned weighted-average dumping margins of 14.01 percent to Union and 3.29 percent to HYSCO.<sup>2</sup> As an unexamined respondent, Dongbu received the margin of 8.65 percent that the Department assigned to all unexamined respondents, which the Department calculated as a simple average of the non-*de-minimis* margins of the examined respondents.<sup>3</sup>

On May 25, 2012, the CIT issued its opinion in *Union Steel I*, which remanded various aspects of the *Final Results* to the Department.<sup>4</sup> In particular, the Court made the following holdings:

(1) the Department's decision to use financial data pertaining only to the 2008 fiscal year of Union's parent company in determining Union's interest expense ratio cannot be upheld on judicial review; (2) in response to defendant's request for a voluntary remand, the court will order the Department to reconsider the "quarterly cost methodology to apply the "recovery-of-costs" test to home-market sales of Union and HYSCO and the "indexing" methodology wherever used in the *Final Results*; (3) on remand, the Department must reconsider the use in the *Final Results* of the quarterly-cost and

<sup>1</sup> See *Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Notice of Final Results of the Fifteenth Administrative Review*, 75 FR 13490 (March 22, 2010) (*Final Results*) and accompanying Decision Memorandum (Final Decision Memorandum).

<sup>2</sup> See *Final Results*, 75 FR at 13491.

<sup>3</sup> *Id.*

<sup>4</sup> See *Union Steel Mfg. Co. v. United States*, 837 F. Supp. 2d 1307 (Ct. Int'l Trade 2012) (*Union Steel I*).

indexing methodologies for various other purposes; (4) the Department must reconsider its decision to depart from its normal method for selecting comparison months of normal value sales; (5) in response to defendant's request for a voluntary remand, the court will order the Department to reconsider its decision to compare laminated CORE and non-laminated, painted CORE as "identical" merchandise; (6) in response to defendant's request for a voluntary remand, the court will order that Commerce reconsider the use of the zeroing methodology in the fifteenth review; (7) no relief is available on Dongbu's claim seeking an individually-determined dumping margin; and (8) in response to the defendant's request for a voluntary remand, remand is appropriate on U.S. Steel's challenge to the date of sale used for certain sales by HYSCO through a U.S. affiliate. The court determines, in addition, that any modifications to the weighted-average dumping margins of Union and HYSCO resulting from this remand shall be reflected in the rate applied to Dongbu.<sup>5</sup>

Pursuant to *Union Steel I*, the Department issued the First Remand Redetermination,<sup>6</sup> in which it addressed the Court's holdings and revised Union's margin from 14.01 percent to 9.85 percent and HYSCO's margin from 3.29 percent to 1.46 percent.<sup>7</sup> Again, based on a simple average of the margins calculated for Union and HYSCO, the Department changed Dongbu's margin from 8.65 percent to 5.56 percent.<sup>8</sup>

Following consideration of comments submitted to the CIT on the First Remand Redetermination and an oral argument, the Court issued its decision in *Union Steel II*, which affirmed in part, and remanded in part to the Department, various aspects of the First Remand Redetermination.<sup>9</sup> In particular, the Court remanded for the Department to address:

(1) the decision to make a major input adjustment when calculating Union's interest expense ratio; (2) the application of the modified "quarterly cost" methodology wherever used in the normal value calculations for Hyundai HYSCO . . . including the difference-in-merchandise ("DIFMER") adjustments and constructed value ("CV") determinations; (3) the application of the modified "quarterly cost" methodology for all aspects of the normal value calculations for Union except the revised sales-below-cost and recovery-of-costs tests; (4) the decision to depart from the normal method for selecting a comparison month when determining antidumping

margins for Union and HYSCO; and (5) the decision to depart from the normal method by selecting the date of shipment, rather than the date of invoice, as the date of sale for certain sales that HYSCO made through a U.S. affiliate, Hyundai HYSCO USA, Inc.<sup>10</sup>

The Court also instructed the Department to "recalculate the margin for Dongbu based on the redetermined margins for Union and HYSCO."<sup>11</sup>

In response to *Union Steel II*, the Department issued the Second Remand Redetermination in which it reconsidered the remanded issues and revised the 9.85 percent margin it previously determined for Union to 9.83 percent.<sup>12</sup> The Department revised HYSCO's margin from 1.46 percent to 5.56 percent.<sup>13</sup> Once again assigning Dongbu a margin based on a simple average of the Union and HYSCO margins, the Department changed Dongbu's margin from 5.56 percent to 7.70 percent.<sup>14</sup>

In *Union Steel III*, the CIT sustained in full the Department's Second Remand Redetermination.<sup>15</sup> In particular, the CIT sustained the Department's decision to depart from its 90/60-day window period regulation and to instead limit comparisons of individual U.S. sales to home market sales that occurred during the same quarter, based on the fact that the Department had relied on its quarterly cost methodology because there were significantly changing costs throughout the review period.<sup>16</sup> Furthermore, the Court sustained the Department's determination to rely on invoice date instead of shipment date for determining the date of sale for HYSCO's U.S. sales in the Second Remand Redetermination, because certain evidence in HYSCO's questionnaire responses indicated that price remained subject to change after shipment.<sup>17</sup> Finally, the Court sustained four other aspects of the Second Remand Redetermination, which were not challenged by any party: (1) The Department's calculation of Union Steel's interest expense ratio; (2) the Department's modification to its cost-recovery test as applied to HYSCO on remand, in which the Department discontinued relying on surrogate costs and relied instead on HYSCO's actual

costs from the quarters in which there was production during the period of review; (3) the Department's decision to use unindexed quarterly cost data to calculate CV and DIFMER adjustments; and (4) the Department's use of a surrogate-based method in calculating CV and DIFMER adjustments, which was different than the method used when applying its cost-recovery test to HYSCO in the Department's First Remand Redetermination, which the Court had found objectionable in *Union Steel II*.<sup>18</sup>

Thus, in *Union Steel III*, the Court affirmed the following dumping margins as calculated by the Department in the Second Remand Redetermination: 9.83 percent for Union, 5.56 percent for HYSCO, and 7.70 percent for Dongbu.

#### Timken Notice

In its decision in *Timken*,<sup>19</sup> as clarified by *Diamond Sawblades*,<sup>20</sup> the Court of Appeals for the Federal Circuit held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), the Department must publish a notice of a court decision that is not "in harmony" with a Department determination and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's December 15, 2016, final judgement sustaining the Second Remand Redetermination constitutes a final decision of the Court that is not in harmony with the Department's *Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*. Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending a final and conclusive court decision.

#### Amended Final Results

Because there is now a final court decision, we are amending the *Final Results* with respect to the dumping margins calculated for Union, HYSCO, and Dongbu. Based on the Second Remand Redetermination, as affirmed by the CIT in *Union Steel III*, the revised dumping margins for Union, HYSCO, and Dongbu are 9.83 percent, 5.56 percent, and 7.70 percent, respectively.

In the event that the CIT's rulings are not appealed or, if appealed, is upheld by a final and conclusive court decision, the Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on

<sup>10</sup> *Id.*, at 1300, 1327–28.

<sup>11</sup> *Id.*

<sup>12</sup> See *Results of Redetermination Pursuant to Remand*, at 44 (Aug. 1, 2014) (Second Remand Redetermination).

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> See *Union Steel Mfg. Co. v. United States*, Ct. Int'l Trade Slip Op. 16–117 (Dec. 15, 2016) (*Union Steel III*), at 2, 26.

<sup>16</sup> *Id.*, at 16–20.

<sup>17</sup> *Id.*, at 11–13.

<sup>5</sup> *Id.*, at 1310, 1337–38.

<sup>6</sup> See *Results of Redetermination Pursuant to Remand* (Sept. 24, 2012) (First Remand Redetermination).

<sup>7</sup> See First Remand Redetermination at 67.

<sup>8</sup> *Id.*

<sup>9</sup> See *Union Steel Mfg. Co. v. United States*, 968 F. Supp. 2d 1297 (Ct. Int'l Trade 2014) (*Union Steel II*).

<sup>18</sup> *Id.*, at 5–11.

<sup>19</sup> See *Timken Co. v. United States*, 893 F.2d 337, 341 (Fed. Cir. 1990) (*Timken*).

<sup>20</sup> See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

unliquidated entries of subject merchandise based on the revised dumping margins listed above.

### Cash Deposit Requirements

The Department notified CBP to discontinue the collection of cash deposits on entries of the subject merchandise, entered or withdrawn from warehouse, on or after February 14, 2012, due to the revocation of the order.<sup>21</sup> Therefore, no cash deposit requirements will be imposed as a result of these amended final results.

### Notice 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: January 10, 2017.

#### Paul Piquado,

Assistant Secretary for Enforcement and Compliance,

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-533-869]

### Certain New Pneumatic Off-the-Road Tires From India: Final Negative Determination of Sales at Less Than Fair Value and Final Determination of Critical Circumstances

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

**SUMMARY:** The Department of Commerce (Department) determines that imports of certain new pneumatic off-the-road tires (OTR tires) from India are not being, or are not likely to be, sold in the United States at less than fair value (LTFV). The final estimated weighted-average dumping margins of sales at LTFV are listed below in the section entitled "Final Determination." The finding for whether critical circumstances exist for producers and exporters subject to the all-others rate is moot because the antidumping duty margins for Alliance Tires Private Limited (ATC) and Balkrishna Industries Limited (BKT) are zero. The period of investigation is January 1, 2015, through December 31, 2015.

**DATES:** Effective January 17, 2017.

**FOR FURTHER INFORMATION CONTACT:** Lilit Astvatsatrian or Trisha Tran, AD/CVD Operations, Office IV, Enforcement and

<sup>21</sup> See *Corrosion-Resistant Carbon Steel Flat Products from Germany and the Republic of Korea: Revocation of Antidumping and Countervailing Duty Orders*, 78 FR 16832, 16833 (March 19, 2013).

Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-6412, or (202) 482-4852, respectively.

### SUPPLEMENTARY INFORMATION:

#### Background

On August 19, 2016, the Department published the *Preliminary Determination* in the **Federal Register**.<sup>1</sup> In the *Preliminary Determination*, we postponed the final determination until no later than 135 days after the date of publication of the *Preliminary Determination* in accordance with section 735(a)(2) of the Tariff Act of 1930, as amended (the Act).<sup>2</sup>

A summary of the events that occurred since the Department published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.<sup>3</sup> The Issues and Decision Memorandum is a public document, and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

#### Scope Comments

In accordance with the *Preliminary Determination*, the Department set aside a period of time for parties to address scope issues in case briefs or other written comments on scope issues.<sup>4</sup> In

<sup>1</sup> See *Certain New Pneumatic Off-the-Road Tires: Negative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 81 FR 55431 (August 19, 2016) ("*Preliminary Determination*") and accompanying Preliminary Decision Memorandum.

<sup>2</sup> See *Preliminary Determination*, 81 FR at 55432.

<sup>3</sup> See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance "Certain New Pneumatic Off-the-Road Tires from India: Issues and Decision Memorandum for the Final Determination of Sales at Less Than Fair Value," dated concurrently with this determination and hereby adopted by this notice ("Issues and Decision Memorandum").

<sup>4</sup> See *Preliminary Determination*, 81 FR at 55432, and accompanying Preliminary Decision Memorandum at "Scope Comments."

the *Preliminary Determination*, we did not modify the scope language as it appeared in the *Initiation Notice*.<sup>5</sup> No interested party submitted scope comments in case or rebuttal briefs. Therefore, the scope of this investigation remains unchanged for this final determination.<sup>6</sup>

### Scope of the Investigation

The products covered by this investigation are OTR tires from India. For a complete description of the scope of the investigation, see Appendix I of this notice.

### Analysis of Comments Received

All issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of these issues is attached to this notice at Appendix II.

### Verification

As provided in section 782(i) of the Act, in August and September 2016, we conducted sales and cost verifications of the questionnaire responses submitted by ATC and BKT. We used standard verification procedures, including an examination of relevant accounting and production records, as well as original source documents provided by both respondents.

### Changes to the Dumping Margin Calculations Since the Preliminary Determination

Based on our analysis of the comments received, pre-verification findings, and our findings at verification, we made certain changes to the dumping margin calculations for each respondent, ATC and BKT. For a discussion of these changes, see the Issues and Decision Memorandum.

### Use of Adverse Facts Available

The Department has relied on partial adverse facts available under sections 776(a) and (b) of the Act.<sup>7</sup> A full discussion of our decision to rely on adverse facts available is presented in the Issues and Decision Memorandum.

<sup>5</sup> *Id.*; see also *Certain New Pneumatic Off-the-Road Tires from India and the People's Republic of China: Initiation of Less-Than-Fair-Value Investigations*, 81 FR 7073 (February 10, 2016) ("*Initiation Notice*").

<sup>6</sup> The Department has added two additional subheadings from the Harmonized Tariff Schedule of the United States to the list included for convenience and customs purposes since the *Preliminary Determination*. No revisions were made to the written description of the subject merchandise.

<sup>7</sup> See Sections 776(a) and (b) of the Act.