

finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which was produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Note that, for any party the Department was unable to locate in prior segments, the Department will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003), and *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011), the Department clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders.<sup>2</sup>

The Department no longer considers the non-market economy (NME) entity as an exporter conditionally subject to an antidumping duty administrative reviews.<sup>3</sup> Accordingly, the NME entity will not be under review unless the

Department specifically receives a request for, or self-initiates, a review of the NME entity.<sup>4</sup> In administrative reviews of antidumping duty orders on merchandise from NME countries where a review of the NME entity has not been initiated, but where an individual exporter for which a review was initiated does not qualify for a separate rate, the Department will issue a final decision indicating that the company in question is part of the NME entity. However, in that situation, because no review of the NME entity was conducted, the NME entity's entries were not subject to the review and the rate for the NME entity is not subject to change as a result of that review (although the rate for the individual exporter may change as a function of the finding that the exporter is part of the NME entity). Following initiation of an antidumping administrative review when there is no review requested of the NME entity, the Department will instruct CBP to liquidate entries for all exporters not named in the initiation notice, including those that were suspended at the NME entity rate.

All requests must be filed electronically in Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) on Enforcement and Compliance's ACCESS Web site at <http://access.trade.gov>.<sup>5</sup> Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy of each request must be served on the petitioner and each exporter or producer specified in the request.

The Department will publish in the **Federal Register** a notice of "Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation" for requests received by the last day of October 2017. If the Department does not receive, by the last day of October 2017, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or

withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures "gap" period of the order, if such a gap period is applicable to the period of review.

This notice is not required by statute but is published as a service to the international trading community.

Dated: September 28, 2017.

**James Maeder,**

*Senior Director performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-016]

#### **Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Notice of Court Decision Not in Harmony With the Amended Final Determination of the Antidumping Duty Investigation and Notice of Second Amended Final Determination**

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

**SUMMARY:** On September 25, 2017, the United States Court of International Trade (CIT or the Court) entered a final judgment sustaining the Department of Commerce's (Department) results of remand redetermination concerning the antidumping duty (AD) investigation of certain passenger vehicle and light truck tires (passenger tires) from the People's Republic of China (PRC). The Department is notifying the public that the Court's final judgment in this case is not in harmony with the Department's amended final determination, and is therefore amending that determination with respect to the cash deposit rate for Cooper Tire & Rubber Company, Cooper (Kunshan) Tire Co., Ltd., and Cooper Chengshan (Shandong) Tire Co., Ltd. (collectively, Cooper), exporters and producers of subject merchandise.

**DATES:** Applicable: October 5, 2017.

**FOR FURTHER INFORMATION CONTACT:** Toni Page, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401

<sup>2</sup> See also the Enforcement and Compliance Web site at <http://trade.gov/enforcement/>.

<sup>3</sup> See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013).

<sup>4</sup> In accordance with 19 CFR 351.213(b)(1), parties should specify that they are requesting a review of entries from exporters comprising the entity, and to the extent possible, include the names of such exporters in their request.

<sup>5</sup> See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011).

Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-1398.

**SUPPLEMENTARY INFORMATION:**

**Background**

On June 18, 2015, the Department published its final determination in the AD investigation of passenger tires from the PRC.<sup>1</sup> On August 10, 2015, the Department published an amended final determination and the AD order.<sup>2</sup> As part of the Department's amended final determination, the Department assigned a cash deposit rate of 11.12 percent to Cooper, which reflected an adjustment for export subsidies and estimated domestic subsidy pass-through from the companion countervailing duty (CVD) investigation of passenger tires from the PRC.<sup>3</sup>

On March 29, 2017, the Court remanded this case to the Department. Specifically, the Court directed the Department on remand to determine Cooper's AD cash deposit rate on the same basis as all other separate rate respondents and to inform the Court of the date by which the redetermined cash deposit rate would be put into effect.<sup>4</sup>

On April 13, 2017, the Department issued its *Results of Redetermination*,<sup>5</sup> recalculating Cooper's AD cash deposit rate by adjusting its weighted-average dumping margin downward using the export subsidy rate of 13.53 percent. This export subsidy rate reflects the weighted average of the export subsidies received by the mandatory respondents in the CVD investigation and made applicable to the remaining non-mandatory separate rate respondents in the AD investigation. As a result of this adjustment, Cooper's recalculated AD cash deposit rate is 8.72 percent. The Department informed the Court that it intended to place this redetermined cash deposit rate into effect by means of instructions issued to U.S. Customs and Border Protection (CBP), with an effective date as of the tenth day from the date on which the Court issues a final judgment sustaining the results of redetermination.

On September 25, 2017, the Court sustained the Department's *Results of Redetermination* in full.<sup>6</sup>

*Timken Notice*

In its decision in *Timken*,<sup>7</sup> as clarified by *Diamond Sawblades*,<sup>8</sup> the United

States Court of Appeals for the Federal Circuit (CAFC) held that, pursuant to sections 516A(c) and (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 September 25, 2017, judgment sustaining the Department's decision in the Results of Redetermination to recalculate the cash deposit rate for Cooper from 11.12 percent to 8.72 percent, constitutes a final decision of the court that is not in harmony with the *Amended Final Determination*. This notice is published in fulfillment of the publication requirements of *Timken*.

*Second Amended Final Determination*

Because there is now a final court decision, the Department is amending the *Amended AD Final Determination* with respect to the cash deposit rate calculated for the Cooper entities. Based on the *Results of Redetermination*, as affirmed by the CIT in the *Cooper Remand*, the revised cash deposit rate for the Cooper companies are as follows:

Exporter/producer	Cash deposit rate (percent)
Cooper Tire & Rubber Company/Cooper Chengshan (Shandong) Tire Co., Ltd .....	8.72
Cooper Tire & Rubber Company/Cooper (Kunshan) Tire Co., Ltd .....	8.72
Cooper Chengshan (Shandong) Tire Co., Ltd./Cooper Chengshan (Shandong) Tire Co., Ltd .....	8.72
Cooper (Kunshan) Tire Co., Ltd./Cooper (Kunshan) Tire Co., Ltd .....	8.72

*Cash Deposit Requirements*

Since the *Amended AD Final Determination*, the Department has not established a new cash deposit rate for the above-listed companies. As a result, in accordance with section 735(c)(1)(B) of the Act, the Department will instruct CBP to collect a cash deposit of 8.72 percent for entries of subject merchandise exported and produced by the above listed companies, effective October 5, 2017. Pursuant to the Court's final judgment and order, the Department will instruct CBP to issue a refund of cash deposits in the amount of 2.4 percent on entries of certain passenger vehicle and light truck tires

from the People's Republic of China exported and produced by the above-listed companies entered on or after August 6, 2015 and through and including the date of publication in the **Federal Register** of this notice.

*Notification to Interested Parties*

This notice is issued and published in accordance with sections 516A(e)(1), 735(d), and 777(i)(1) of the Act.

Dated: September 28, 2017.

**Carole Showers,**

*Executive Director, Office of Policy performing the duties of the Deputy Assistant Secretary for Enforcement and Compliance.*

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<sup>1</sup> See *Antidumping Duty Investigation of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, In Part*, 80 FR 34893 (June 18, 2015), and accompanying Issues and Decision Memorandum (IDM) (*AD Final Determination*).

<sup>2</sup> See *Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Amended Final Affirmative Antidumping Duty Determination and Antidumping Duty Order; and*

*Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 80 FR 47902 (August 10, 2015) (*First Amended AD Final Determination*).

<sup>3</sup> See *Amended AD Final Determination*, 80 FR at 47904.

<sup>4</sup> See *Cooper Tire & Rubber Company, et al., v. United States*, Court No. 15-00251, Slip Op. 17-32 (March 29, 2017) (*Remand Order*).

<sup>5</sup> See *Results of Remand Redetermination Pursuant to Remand*, Court No. 15-00251, dated

April 13, 2017, available at: <http://ia.ita.doc.gov/remands/17-32.pdf> (*Results of Remand Redetermination*).

<sup>6</sup> See *Cooper Tire & Rubber Company, et al., v. United States*, Court No. 15-00251, Slip. Op. 17-130 (September 25, 2017).

<sup>7</sup> See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

<sup>8</sup> See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).