

DEPARTMENT OF COMMERCE

International Trade Administration

[[A-520-807]]

Circular Welded Carbon-Quality Steel Pipe From the United Arab Emirates: Notice of Court Decision Not in Harmony With the Results of Antidumping Duty Administrative Review; Notice of Amended Final Results

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

SUMMARY: On December 8, 2022, the U.S. Court of International Trade (CIT) issued its final judgment in *Universal Tube and Plastic Indus., Ltd. v. United States*, Court no. 20-03944, sustaining the Department of Commerce (Commerce)'s remand results pertaining to the administrative review of the antidumping duty (AD) order on circular welded carbon-quality steel pipe (CWP) from the United Arab Emirates (UAE) covering the period December 1, 2017, through November 30, 2018. Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final results of the administrative review, and that Commerce is amending the final results with respect to the dumping margin assigned to Universal Tube and Plastic Industries, Ltd. (UTP)/THL Tube and Pipe Industries LLC (THL)/KHK Scaffolding and Formwork LLC (KHK) (collectively, Universal).

DATES: Applicable December 18, 2022.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Luberda, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-2185.

SUPPLEMENTARY INFORMATION:**Background**

On December 1, 2020, Commerce published its *Final Results* in the 2017-2018 AD administrative review of CWP from the UAE, in which Commerce calculated a weighted-average dumping margin of 3.79 percent for Universal.¹

¹ See *Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 85 FR 77159, 77160 (December 1, 2020) (*Final Results*). In the less-than-fair-value investigation, Commerce found that UTP, Universal Tube and Pipe Industries, LLC, and KHK should be treated as a single entity. See *Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Final Determination of Sales at Less Than Fair Value*, 81 FR 75030 (October 28, 2016). Further, in the 2016-

After correcting ministerial errors contained in the *Final Results*, on January 5, 2021, Commerce published the *Amended Final Results* and revised the calculated weighted-average dumping margin for Universal to 3.63 percent.²

Universal appealed Commerce's *Final Results/Amended Final Results*. On July 15, 2022, the CIT remanded the *Final Results/Amended Final Results* to Commerce, holding that Commerce: (1) failed to demonstrate that its methodology to determine whether to grant a level of trade (LOT) adjustment and/or a constructed export price (CEP) offset achieved a "fair comparison" between CEP and normal value; and (2) failed to consider certain record evidence in its final finding that neither an LOT adjustment nor CEP offset was warranted for Universal.³

In its final remand redetermination, issued in October 2022, Commerce found that Universal made sales in the home market at two LOTs, and therefore an LOT adjustment was warranted for Universal when comparing its U.S. sales to home market sales made at a more advanced LOT.⁴ The CIT sustained Commerce's final redetermination.⁵

Timken Notice

In its decision in *Timken*,⁶ as clarified by *Diamond Sawblades*,⁷ the Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) and (e)

2017 administrative review of this order, we determined that THL is the successor-in-interest to Universal Tube and Pipe Industries, LLC. See *Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Final Results of Antidumping Duty Administrative Review; 2016-2017*, 84 FR 44845 (August 27, 2019). Absent information to the contrary, Commerce continued to treat Universal as a single entity for the purposes of the 2017-2018 administrative review of this order. See *Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Preliminary Results of Antidumping Duty Administrative Review; 2017-2018*, 85 FR 7279, 7279 (n. 3) (February 7, 2020), and accompanying Preliminary Decision Memorandum (PDM), unchanged in *Final Results and Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Amended Final Results of Antidumping Duty Administrative Review*, 86 FR 289 (January 5, 2021) (*Amended Final Results*).

² See *Amended Final Results*.

³ See *Universal Tube and Plastic Indus., Ltd. v. United States*, Court No. 20-03944, Slip Op. 22-83 (CIT July 15, 2022).

⁴ See "*Universal Tube and Plastic Indus., Ltd. v. United States*, Court No. 20-03944, Slip Op. 22-83 (CIT July 15, 2022) *Final Results of Redetermination Pursuant to Court Remand*," issued on October 13, 2022.

⁵ See *Universal Tube and Plastic Indus., Ltd. v. United States*, Court No. 20-03944, Slip Op. 22-139 (CIT December 8, 2022).

⁶ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

⁷ See *Diamond Sawblades Mfrs. Coal. v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

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 CIT's December 8, 2022, judgment constitutes a final decision of the CIT that is not in harmony with Commerce's *Final Results*. Thus, 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 the calculated weighted-average dumping margin for Universal as follows:

Exporter/producer	Weighted-average dumping margin (percent)
Universal Tube and Plastic Industries, Ltd. (UTP)/THL Tube and Pipe Industries LLC (THL)/KHK Scaffolding and Formwork LLC	1.18

Cash Deposit Requirements

Because Universal 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 and exported by Universal, and were entered, or withdrawn from warehouse, for consumption during the period December 1, 2017, through November 30, 2018. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

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 and exported by Universal in accordance with 19 CFR 351.212(b). We will 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,⁸ we will 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: December 12, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–829]

Stainless Steel Wire Rod From the Republic of Korea: Preliminary Negative Determination of Circumvention of the Antidumping Order and Postponement of Final Determination

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that U.S. imports of stainless steel round wire (SSWire) from the Socialist Republic of Vietnam (Vietnam) are not circumventing the antidumping duty (AD) order on stainless steel wire rod (SSWR) from the Republic of Korea (Korea).

DATES: Applicable December 16, 2022.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla or Byeong-hun You, 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) 482–3477 or (202) 482–1018, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 15, 1998, Commerce published the order on imports of SSWR from Korea.¹ On May 18, 2021, North American Stainless (NAS) requested that Commerce initiate a circumvention inquiry, pursuant to section 781(c) of the Tariff Act of 1930, as amended (the Act), to determine whether SSWire from Vietnam involves a minor alteration to

subject merchandise, such that it should be subject to the *Order*.² On February 1, 2022, Commerce initiated a country-wide circumvention inquiry to determine whether U.S. imports of SSWire from Vietnam involves a minor alteration to subject merchandise, such that it should be subject to the order on SSWR from Korea.³

On March 25, 2022, Commerce selected KOS Vietnam Company Ltd., (KOS Vietnam), Kuang Tai Metal (Vietnam) Company, Ltd. (Kuang Tai Metal) and Tengyuan Wire (Vietnam) Company Limited (Tengyuan Wire), as the mandatory respondents in this circumvention inquiry.⁴ In March 2022, Commerce issued questionnaires to the three respondents.⁵ In May 2022, all three respondents submitted timely responses.⁶

Between June and August 2022, we issued multiple supplemental questionnaires to KOS Vietnam, Kuang Tai Metal, and Tengyuan Wire and received timely responses.⁷

On September 14, 2022, the domestic interested party, North American Stainless (NAS) filed pre-preliminary comments.⁸ On September 20, 2022, Tengyuan Wire submitted pre-preliminary rebuttal comments.⁹ On September 23, 2022, KOS Vietnam

² See NAS's Letter, "Request for Circumvention Ruling Pursuant to Section 781(c)," dated May 18, 2021 (Circumvention Allegation).

³ See *Stainless Steel Wire Rod from the Republic of Korea: Initiation of Circumvention Inquiry of Antidumping Duty Order*, 87 FR 5468 (February 1, 2022).

⁴ See Memorandum, "Respondent Selection," dated March 25, 2022.

⁵ See Commerce's Letters, "Circumvention Inquiry Initial Questionnaire," dated March 29, 2022.

⁶ See Kuang Tai Metal's Questionnaire Response, "Response to questionnaire dated March 29, 2022," submitted on May 13, 2022 (Kuang Tai Metal's Qre Response); see also KOS Vietnam's Letter, "Initial Questionnaire Response," dated May 17, 2022 (KOS Vietnam's Qre Response); and Teng Yuan Wire's Questionnaire Response, "Response to questionnaire dated March 29, 2022," dated May 10, 2022 (Teng Yuan Wire's Qre Response).

⁷ See Kuang Tai's Letter, "Circumvention Supplemental Questionnaire," dated July 06, 2022 (Kuang Tai Metal SQR); see also KOS Vietnam's Letter, "Supplemental Questionnaire Response" dated July 13, 2022 (KOS Vietnam SQR); Tengyuan Wire's Letter, "Circumvention Inquiry Initial Questionnaire," dated July 20, 2022 (Tengyuan SQR); Kuang Tai Metal's Letter, "Circumvention Inquiry 2nd Supplemental Questionnaire," dated August 3, 2022 (Kuang Tai Metal 2nd SQR); KOS Vietnam's Letter, "Second Supplemental Questionnaire Response," dated August 23, 2022 (KOS Vietnam 2nd SQR); and, Tengyuan Wire's Letter, "Circumvention Inquiry Initial Questionnaire," dated August 23, 2022 (Tengyuan Wire 2nd SQR).

⁸ See NAS' Letter, "NAS's Pre-Preliminary Comments," dated September 15, 2022 (NAS Pre-Prelim Comments).

⁹ See Tengyuan Wire's Letter, "Pre-Preliminary Rebuttal Comments," dated September 20, 2022 (Tengyuan Wire's Rebuttal Comments).

submitted pre-preliminary rebuttal comments.¹⁰

Scope of the Order¹¹

For a full description of the scope of the *Order*, see the Preliminary Decision Memorandum.¹²

Merchandise Subject to the Circumvention Inquiry

This circumvention inquiry covers SSWire completed in Vietnam using Korea-origin SSWR and subsequently exported from Vietnam to the United States

Statutory and Regulatory Framework

Section 781(c) of the Act, provides that Commerce may find circumvention of an AD or CVD order when merchandise of the same class or kind as subject merchandise has been "altered in form or appearance in minor respects...whether or not included in the same tariff classification." Further, section 781(c)(2) of the Act provides an exception that "{p}aragraph 1 shall not apply with respect to altered merchandise if the administering authority determines that it would be unnecessary to consider the altered merchandise within the scope of the {order}."

While the Act is silent as to what factors to consider in determining whether alterations are properly considered "minor," the legislative history of this provision indicates that there are certain factors that should be considered before reaching a circumvention determination. In conducting a circumvention inquiry under section 781(c) of the Act, Commerce has generally relied upon "such criteria as the overall physical characteristics of the merchandise, the expectations of the ultimate users, the use of the merchandise, the channels of marketing and the cost of any modification relative to the total value of the imported products."¹³ Concerning the allegation of minor alteration under section 781(c) of the Act, Commerce examines such factors as: (1) overall physical characteristics;

¹⁰ See KOS Vietnam's Letter, "KOS Vietnam's Pre-Preliminary Rebuttal Comments," dated September 26, 2022 (KOS Vietnam's Rebuttal Comments).

¹¹ See *Order*.

¹² See Memorandum, "Stainless Steel Wire Rod from the Republic of Korea: Preliminary Decision Memorandum for the Circumvention Inquiry on the Antidumping Duty Order," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum) at 3–4.

¹³ See *Carbon and Certain Alloy Steel Wire Rod from Mexico: Initiation of Anti-Circumvention Inquiry of Antidumping Duty Order*, 83 FR 5405 (February 7, 2018) (citing S. rep. No 71, 100th Cong., 1st Sess. 100 (1987)).

⁸ See 19 CFR 351.106(c)(2).

¹ See *Notice of Amendment of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Stainless Steel Wire Rod from Korea*, 63 FR 49331 (September 15, 1998) (*Order*).