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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-601]

Tapered Roller Bearings from the People's Republic of China: Notice of Court Decision Not in Harmony with Final Results of Administrative Review and Notice of Amended Final Results of Administrative Review

AGENCY: International Trade Administration, Department of Commerce.

SUMMARY: On August 30, 2013, the United States Court of International Trade (“CIT” or “Court”) sustained the Department of Commerce’s (“Department”) final results of the second remand redetermination¹ relating to the twentieth administrative review of the antidumping duty order on tapered roller bearings from the People’s Republic of China (“PRC”), in *Peer Bearing Company – Changshan v. United States*, Court No. 09-00052, Slip. Op. 13-116 (CIT 2013) (“*CPZ III*”). Consistent with the decision of the United States Court of Appeals for the Federal Circuit (“CAFC”) in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (“*Timken*”), as clarified by *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (“*Diamond Sawblades*”), the Department is notifying the public that the final CIT judgment in this case is not in harmony with the Department’s final results and is amending its final results of the administrative review of the antidumping duty order on tapered roller bearings from the PRC covering the period of review (“POR”) of June 1, 2006, through May 31, 2007, with respect to the weighted-average dumping margin assigned to Peer Bearing Company – Changshan (“CPZ”).

¹ See *Final Results of Redetermination Pursuant to Court Remand*, Court No. 09-00052, Slip Op. 12-102, dated October 2, 2012 (“*CPZ II Remand Redetermination*”).

EFFECTIVE DATE: September 9, 2013.

FOR FURTHER INFORMATION CONTACT: Brendan Quinn, Office 8, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-5848.

SUPPLEMENTARY INFORMATION:

Background

Subsequent to the publication of the *Final Results*² on January 22, 2009, CPZ filed a complaint with the CIT to challenge various aspects of the *Final Results*.

On January 28, 2011, in *Peer Bearing Company – Changshan v. United States*, 752 F. Supp. 2d 1353 (CIT 2011) (“*CPZ I*”), the Court remanded the *Final Results* and ordered that the Department: a) re-determine CPZ’s margin using U.S. prices calculated in a manner that complies with the law, either by employing the constructed export price (“CEP”) methodology using price and transaction data available on the administrative record or re-opening the record to obtain export price (“EP”) information; and b) review, reconsider, and re-determine surrogate values (“SVs”) for alloy steel wire rod, alloy steel bar, and scrap from the production of cages, used to calculate CPZ’s factors of production.

In response to *CPZ I*, the Department issued the *Final Results of Redetermination Pursuant to Remand*, Court No. 09-00052, Slip Op. 11-11 (CIT 2011) on July 1, 2011 (“*CPZ I Remand Redetermination*”). In the *CPZ I Remand Redetermination*, the Department determined: 1) that CPZ’s dumping margin should be calculated on an EP basis; 2) that CPZ was unresponsive to the Department’s requests for EP information; and 3) to apply total adverse facts available (“AFA”)

² *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 3987 (January 22, 2009) (“*Final Results*”).

to CPZ. As a result of the determination to apply total AFA to CPZ, the Department did not reach any determination regarding SV issues remanded by the Court in *CPZ I*.

On August 2, 2012, in *Peer Bearing Company – Changshan v. United States*, Court No. 09-00052, Slip Op. 12-102 (CIT 2012) (“*CPZ II*”), the Court remanded the *CPZ I Remand Redetermination* to the Department. In *CPZ II*, the Court held that the Department acted unlawfully by using an adverse inference in re-determining CPZ’s dumping margin, and acted unlawfully by failing to recalculate the SVs. The Court ordered the Department to: 1) determine the U.S. price for CPZ’s sales of subject merchandise according to a lawful method; and 2) review, reconsider, and re-determine the SVs.

In response to *CPZ II*, the Department issued the *CPZ II Remand Redetermination* on October 2, 2012. In the *CPZ II Remand Redetermination*, the Department: 1) applied non-AFA by calculating CPZ’s margin utilizing the CEP U.S. price methodology based on sales information available on the record of the underlying review; and 2) re-determined the SVs based on alternative SV information on the record.

On August 31, 2013, the Court sustained the *CPZ II Remand Redetermination*, holding that: 1) there was no error in the Department’s decision to use the record CEP data instead of entered value data to determine the U.S. prices of CPZ’s subject merchandise, as had been argued during the remand proceeding; and 2) the re-determined SVs comply with the remand order issued in *CPZ I*.³

Timken Notice

In its decision in *Timken*, as clarified by *Diamond Sawblades*, the CAFC held that, pursuant to section 516A(c) 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

³ See *CPZ III*, Slip Op. 13-116 at 5-9.

determination and must suspend liquidation of entries pending a “conclusive” court decision.

The CIT’s August 30, 2013, judgment in this case constitutes a final decision of that court that is not in harmony with the Department’s final results of the administrative review. 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 expiration of the period of appeal or, if appealed, pending a final and conclusive court decision. The cash deposit rate will remain the company-specific rate established for the most recently completed segment of this proceeding in which the respondent was included.

Amended Final Results

Because there is now a final court decision with respect to this case, the Department is amending its *Final Results* with respect to CPZ’s weighted-average dumping margin for the period June 1, 2006 through May 31, 2007. The revised weighted-average dumping margin is as follows:

TRBs from the PRC	
Exporter	Weighted-Average Margin (Percent)
Peer Bearing Company—Changshan (CPZ)	6.25

In the event that the CIT’s ruling is not appealed, or if appealed, upheld by the CAFC, the Department will instruct Customs and Border Protection to assess antidumping duties on entries of the subject merchandise exported by CPZ during the POR.

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Paul Piquado
Assistant Secretary
for Import Administration

September 18, 2013_
(date)

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