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DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-863]

Certain Corrosion-Resistant Steel Products from India: Notice of Court Decision Not in Harmony with Amended Final Determination in Less Than Fair Value Investigation; Notice of Amended Final Determination Pursuant to Court Decision; and Notice of Revocation of Antidumping Duty Order, in Part

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

SUMMARY: On December 18, 2019, the United States Court of International Trade (CIT) sustained the Department of Commerce's (Commerce) remand redetermination pertaining to the less-than-fair-value (LTFV) investigation of certain corrosion-resistant steel products (corrosion-resistant steel) from India. Commerce is notifying the public that the final judgment in this case is not in harmony with Commerce's amended final determination in the LTFV investigation of corrosion-resistant steel from India. Pursuant to the CIT's final judgment, Uttam Galva Steels Ltd. (Uttam Galva) is being excluded from the order.

DATES: Applicable December 28, 2019.

FOR FURTHER INFORMATION CONTACT: Kabir Archuletta, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2593.

SUPPLEMENTARY INFORMATION:

Background

The litigation in *Uttam Galva Steels Limited v. United States* relates to Commerce’s final determination in the LTFV investigation covering corrosion-resistant steel from India.¹ In its *Amended Final Determination and Order*, Commerce reached affirmative determinations for mandatory respondents Uttam Galva,² as well as JSW Steel Ltd. and its wholly-owned affiliate JSW Steel Coated Products Limited (collectively, JSW).³ Uttam Galva appealed the *Amended Final Determination and Order* to the CIT, and on April 18, 2018, the CIT remanded Commerce’s *Amended Final Determination and Order*.⁴ In its opinion, the CIT found that Commerce’s duty drawback calculation was unreasonable and not in accordance with the law and instructed Commerce to recalculate Uttam Galva’s duty drawback adjustment.⁵

On August 16, 2018, Commerce filed Remand Results with the CIT, recalculating Uttam Galva’s duty drawback adjustment.⁶ On March 12, 2019, the CIT remanded the Remand Results to Commerce for a second redetermination.⁷ On May 29, 2019, Commerce filed its Second

¹ Court No. 16-00162, Slip Op. 2019-168 (CIT December 18, 2019); see *Certain Corrosion-Resistant Steel Products from India: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances*, 81 FR 35329 (June 2, 2016), and accompanying Issues and Decision Memorandum; *Certain Corrosion-Resistant Steel Products from India, Italy, the People’s Republic of China, the Republic of Korea and Taiwan: Amended Final Affirmative Antidumping Determination for India and Taiwan, and Antidumping Duty Orders*, 81 FR 48390 (July 25, 2016) (*Amended Final Determination and Order*); see also *Certain Corrosion-Resistant Steel Products from India, Italy, the People’s Republic of China, the Republic of Korea, and Taiwan: Notice of Correction to the Antidumping Duty Orders*, 81 FR 58475 (August 25, 2016).

² In the underlying investigation, we found Uttam Galva Steels Limited and its affiliated companies Uttam Value Steels Limited, Atlantis International Services Company Ltd., Uttam Galva Steels, Netherlands, B.V., and Uttam Galva Steels (BVI) Limited (collectively, Uttam Galva), to comprise a single entity. See *Final Determination*, 81 FR at 35330 n.13.

³ *Id.*

⁴ See *Uttam Galva Steels Ltd v. United States*, 311 F. Supp. 3d 1345 (CIT 2018).

⁵ *Id.*, 311 F. Supp. at 1357.

⁶ See “Final Results of Redetermination Pursuant to Court Remand, *Uttam Galva Steels Limited v. United States* Court No. 16-00162, Slip Op. 18-44 (CIT 2018),” dated August 16, 2018 (Remand Results).

⁷ See *Uttam Galva Steels Ltd. v. United States*, 374 F. Supp. 3d 1360 (CIT 2019).

Remand Results with the CIT, wherein it revised its duty drawback calculation for a second time.⁸ On December 18, 2019, the CIT sustained Commerce’s Second Remand Results.⁹

Timken Notice

In its decision in *Timken*,¹⁰ as clarified by *Diamond Sawblades*,¹¹ the United States Court of Appeals for the Federal Circuit held that, pursuant to section 516A(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 December 18, 2019 final judgment sustaining Commerce’s Second Remand Results constitutes a final decision of the Court that is not in harmony with Commerce’s *Amended Final Determination and Order*. This notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Determination

Because there is now a final court decision, Commerce is amending the *Final Determination* and *Amended Final Determination and Order* with respect to Uttam Galva and the all-others rate. The revised weighted-average dumping margins for Uttam Galva and all other exporters for the period April 1, 2014 through March 31, 2015, are as follows:

⁸ See “Final Results of Redetermination Pursuant to Court Remand, Uttam Galva Steels Limited v. United States, Court No. 16-00162, Slip Op. 19-34 (CIT 2019),” dated May 29, 2019 (Second Remand Results).

⁹ See *Uttam Galva Steels Ltd. v. United States*, Court No. 16-00162, Slip Op. 2019-168 (CIT December 18, 2019).

¹⁰ See *Timken Co. v. United States*, 893 F.2d 337, 341 (Fed. Cir. 1990) (*Timken*).

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

Exporter/Producer	Weighted-Average Dumping Margin (Percent)
Uttam Galva Steels Limited Uttam Value Steels Limited Atlantis International Services Company Ltd. Uttam Galva Steels, Netherlands, B.V. Uttam Galva Steels (BVI) Limited	0.00
All Others	4.43 ¹²

Partial Exclusion from Antidumping Duty Order

Pursuant to section 735(a)(4) of the Act, Commerce “shall disregard any weighted average dumping margin that is *de minimis* as defined in section 733(b)(3) of the Act.”¹³ Furthermore, section 735(c)(2) of the Act states that “the investigation shall be terminated upon publication of that negative determination” and Commerce shall “terminate the suspension of liquidation” and “release any bond or other security, and refund any cash deposit.”¹⁴ As a result of this amended final determination, in which Commerce has calculated an estimated weighted-average dumping margin of 0.00 percent for Uttam Galva, Commerce is hereby excluding merchandise produced and exported by Uttam Galva from the antidumping duty order.¹⁵ Accordingly, Commerce will direct U.S. Customs and Border Protection (CBP) to release any bonds or other security and refund cash deposits pertaining to any suspended entries from Uttam

¹² As explained in the Second Remand Results, because Uttam Galva’s antidumping duty margin is now 0.00 percent, its rate is no longer factored in the calculation of the all-others rate and the rate calculated for JSW is now the all-others rate. Further, although the dumping margin calculated for JSW and published in the *Amended Final Determination and Order* continues to be 4.43 percent, the adjustment for export subsidies results in a cash deposit rate of 0.47 percent. See Second Remand Results at 17.

¹³ Section 733(b)(3) of the Act defines *de minimis* dumping margin as “less than 2 percent ad valorem or the equivalent specific rate for the subject merchandise.”

¹⁴ See sections 735(c)(2)(A) and (B) of the Act.

¹⁵ See Second Remand Results at 22.

Galva. This exclusion does not apply to any other companies (except those that comprise a single entity with Uttam Galva, which are listed in the table above).¹⁶

However, pursuant to *Timken*, the suspension of liquidation must continue during the pendency of the appeals process. Thus, we will instruct CBP to suspend liquidation of all unliquidated entries from Uttam Galva at a cash deposit rate of 0.00 percent which are entered, or withdrawn from warehouse, for consumption after December 28, 2019, which is ten days after the CIT's final decision, in accordance with section 516A of the Act.¹⁷ If the CIT's ruling is not appealed, or if appealed and upheld, Commerce will instruct CBP to terminate the suspension of liquidation and to liquidate entries produced and exported by Uttam Galva without regard to antidumping duties. As a result of the exclusion, Commerce will not initiate any new administrative reviews of Uttam Galva's entries pursuant to the antidumping duty order.¹⁸

At this time, Commerce remains enjoined by CIT order from liquidating entries that: (1) were produced and exported by Uttam Galva Steels Limited, and were entered, or withdrawn from warehouse, for consumption on or after July 1, 2017, up to and including June 30, 2018; and (2) were produced and/or exported by Uttam Value Steels Limited, and were entered, or withdrawn from warehouse, for consumption on or after July 1, 2017, up to and including June 30, 2018. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

¹⁶ See *supra*, fn. 2.

¹⁷ See, e.g., *Drill Pipe from the People's Republic of China: Notice of Court Decision Not in Harmony with International Trade Commission's Injury Determination, Revocation of Antidumping and Countervailing Duty Orders Pursuant to Court Decision, and Discontinuation of Countervailing Duty Administrative Review*, 79 FR 78037, 78038 (December 29, 2014); *High Pressure Steel Cylinders From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Determination in Less Than Fair Value Investigation, Notice of Amended Final Determination Pursuant to Court Decision, Notice of Revocation of Antidumping Duty Order in Part, and Discontinuation of Fifth Antidumping Duty Administrative Review*, 82 FR 46758, 46760 (October 6, 2017).

¹⁸ See *Amended Final Determination and Order*. Currently there are no ongoing administrative reviews of this order.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c)(1) and (e) of the Act.

Dated: December 30, 2019.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.
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