

Public Call Information

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Dated: May 29, 2015.

David Mussatt,

Chief, Regional Programs Unit.

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DEPARTMENT OF COMMERCE**International Trade Administration**

[C-570-913]

Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Corrected Notice of Decision of the Court of International Trade Not in Harmony and Corrected Notice of Amended Final Determination

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

SUMMARY: On May 18, 2015, the United States Court of International Trade (CIT) granted plaintiff's motion for enforcement of judgment in *GPX International Tire Corp. v. United States*, Consol. Court No. 08-00285,¹ enforcing the Court's October 30, 2013, order that sustained a remand redetermination of the Department of Commerce (Department) relating to the countervailing duty (CVD) investigation on certain new pneumatic off-the-road tires (OTR Tires) from the People's Republic of China (PRC).² Consistent with the *GPX Enforcement Order* and 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 issuing this revised notice to the public that the final decision in this case is not in harmony with the Department's final affirmative determination in the CVD investigation of OTR Tires from the PRC and is correcting its earlier amended final determination with respect to the cash deposit rate for Tianjin United Tire

& Rubber International Co., Ltd. (TUTRIC).³

DATES: *Effective Date:* November 9, 2013.

FOR FURTHER INFORMATION CONTACT:

David Lindgren at (202) 482-3870; AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: In July 2008, the Department published a final determination in which it found that countervailable subsidies are being provided to producers/exporters of OTR tires from the PRC.⁴ As part of the *Final Determination*, the Department calculated a CVD rate for TUTRIC of 6.85 percent.⁵ A summary of that determination and resulting domestic litigation can be found in the *2010 Timken Notice*.⁶

In May 2012, the CAFC vacated and remanded the earlier final judgment of the CIT referenced in the *2010 Timken Notice*.⁷ The CIT subsequently ordered the Department to reconsider several methodological and calculation issues from the *Final Determination*.⁸ On remand, the Department recalculated the subsidy rate for TUTRIC's debt forgiveness as well as its total countervailable subsidy rate.⁹ The CIT sustained the Department's remand redetermination in *GPX VIII*. As a result, on November 27, 2013, the Department issued the *2013 Timken Notice and Amended Final Determination* with the revised countervailable subsidy rate for TUTRIC of 3.93 percent, but the Department noted that the amendment did not change TUTRIC's cash deposit rate because of intervening final determination implemented pursuant to

³ See *Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Notice of Decision of the Court of International Trade Not in Harmony and Notice of Amended Final Determination*, 78 FR 70917 (November 27, 2013) (*2013 Timken Notice and Amended Final Determination*).

⁴ See *Certain New Pneumatic Off-the-Road-Tires From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Negative Determination of Critical Circumstances*, 73 FR 40480 (July 15, 2008) (*Final Determination*).

⁵ *Id.*, 73 FR at 40483.

⁶ See *Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Notice of Decision of the Court of International Trade Not in Harmony*, 75 FR 62505 (October 12, 2010) (*2010 Timken Notice*).

⁷ See *GPX Int'l Tire Corp. v. United States*, 678 F.3d 1308 (Fed. Cir. 2012).

⁸ See *GPX Int'l Tire Corp. v. United States*, 893 F. Supp. 2d 1296 (CIT 2013).

⁹ See *GPX VIII*.

Section 129 of the Uruguay Round Agreements Act.¹⁰

TUTRIC then brought a motion for enforcement of the Court's October 30, 2013 judgment, and on May 18, 2015, the CIT ordered the Department to issue a revised Timken Notice, setting TUTRIC's cash deposit rate at 3.93 percent.¹¹

Corrected Timken Notice: In its decision in *Timken*, as clarified in *Diamond Sawblades*, the CAFC 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 October 30, 2013 judgment in *GPX VIII*, as enforced through the CIT's May 18, 2015 *GPX Enforcement Order*, constitutes a final decision of that court that is not in harmony with the Department's final determination. This notice is published in fulfillment of the publication requirements of *Timken* and of the Court's May 18, 2015 *GPX Enforcement Order*. Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision.

Corrected Amended Final Determination: Because there is now a final CIT decision with respect to this litigation, the Department will issue revised cash deposit instructions to U.S. Customs and Border Protection, adjusting TUTRIC's cash deposit rate to 3.93 percent, effective November 9, 2013, in accordance with the *2013 Timken Notice and Amended Final Determination* and the CIT's May 18, 2015 *GPX Enforcement Order*.

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

Dated: May 29, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

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¹ See *GPX Int'l Tire Corp. v. United States*, Consol. Ct. No. 08-00285, Slip Op. 15-46 (CIT May 18, 2015) (*GPX Enforcement Order*).

² See *GPX Int'l Tire Corp. v. United States*, Consol. Ct. No. 08-00285, Slip Op. 13-132 (CIT October 30, 2013) (*GPX VIII*).

¹⁰ See *2013 Timken Notice and Amended Final Determination*, 78 FR at 70918.

¹¹ See *GPX Enforcement Order*.