

DEPARTMENT OF COMMERCE

International Trade Administration

A-570-912

Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Notice of Amended Final Determination of Sales at Less Than Fair Value and Amended Antidumping Duty Order in Accordance With Final Court Decision

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: August 13, 2010.

SUMMARY: On May 14, 2010, the United States Court of International Trade ("CIT") sustained the final remand redetermination made by the Department of Commerce ("the Department") pursuant to the CIT's remand of the final determination in the antidumping investigation on certain new pneumatic off-the-road tires ("OTR tires") from the People's Republic of China ("PRC"). See *Bridgestone Americas Inc. v. United States*, Consol. Ct. No. 08-00256, Slip Op. 10-55 (Ct. Int'l Trade May 14, 2010) ("Bridgestone"). This case arose out of the Department's final determination in the antidumping duty investigation on OTR tires from the PRC. See *Certain New Pneumatic Off-The-Road-Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40485 (July 15, 2008) ("Final Determination"); *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Notice of Amended Final Affirmative Determination of Sales at Less than Fair Value and Antidumping Duty Order*, 73 FR 51624 (September 4, 2008) ("OTR Tires Order"). As there is now a final and conclusive court decision in this action, we are amending our final determination and our antidumping duty order.

FOR FURTHER INFORMATION CONTACT: Lilit Astvatsatryan or Charles Riggle, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230;

telephone (202) 482-6412 or (202) 482-0650, respectively.

SUPPLEMENTARY INFORMATION: In July 2008, the Department published in the **Federal Register** the *Final Determination* in the antidumping duty investigation on OTR tires from the PRC in which it calculated a zero dumping rate for respondent Xugong Tyres Co., Ltd. ("Xugong"). See *Final Determination*, 73 FR at 40489; *OTR Tires Order*, 73 FR at 51625-26.

In August 2008, Bridgestone Americas, Inc. and Bridgestone Americas Tire Operations, LLC (collectively, "Bridgestone") and Titan Tire Corporation ("Titan"), respectively, domestic producers of the like product, initiated actions at the CIT challenging the final determination with respect to Xugong's zero dumping margin. Among their claims, Bridgestone and Titan alleged that the Department erred in its final determination by treating as indirect materials certain inputs used by Xugong in the production of subject merchandise.

In April 2009, the Department requested a voluntary remand to further explain its determination regarding the classification of the fifteen raw materials reported by Xugong as indirect materials. On August 4, 2009, the CIT remanded this matter to the Department to reconsider whether each of the fifteen inputs was a direct or indirect material, to reopen the record as appropriate, and to recalculate the margin accordingly. See *Bridgestone Americas Inc. v. United States*, Consol. Ct. No. 08-00256, Slip Op. 09-79 (Ct. Int'l Trade Aug. 4, 2009).

After receiving comments on the draft remand results, the Department on January 7, 2010, issued its final remand redetermination in which it treated Xugong's fifteen raw material inputs as direct materials and, thus, recalculated Xugong's margin by adding Xugong's fifteen raw materials as direct material inputs in the calculation of the normal value. As a result of this recalculation, Xugong's dumping rate changed from 0.00 percent to 10.01 percent. See *Final Determination Pursuant to Court Remand, Bridgestone Americas Inc. v. United States*, Consol. Ct. No. 08-00256, dated January 8, 2010.

On May 14, 2010, the CIT sustained the final redetermination made by the Department pursuant to the CIT's

remand of the final determination in the antidumping investigation of the OTR tires from the PRC. See *Bridgestone*, Slip Op. 10-55 at 14. Consistent with the decision of U.S. Court of Appeals for the Federal Circuit in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990), the Department published in the **Federal Register** a notice of a court decision that is not "in harmony" with the Department's final determination. 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 31422 (June 3, 2010) ("Timken Notice"). Pursuant to section 516A(e) of the Tariff Act of 1930, as amended ("the Act"), and consistent with the *Timken Notice*, the Department instructed U.S. Customs and Border Protection ("CBP") to begin suspension of liquidation, effective May 24, 2010, with respect to subject merchandise produced and exported by Xugong, pending a final and conclusive court decision in this action. While merchandise produced and exported by Xugong was originally excluded from the antidumping order, the Department's remand determination found that merchandise exported and produced by Xugong was, in fact, sold at less than fair value. As the period to appeal the CIT decision in *Bridgestone* has expired, and a final and conclusive court decision with respect to this proceeding is in place, we are amending our amended final determination and antidumping duty order, accordingly.

Inclusion in the Application of the Antidumping Duty Order

As discussed above and pursuant to the affirmed remand determination, Xugong is no longer excluded from the antidumping duty order issued in this case. Therefore, as noted above, subject merchandise exported and produced by Xugong is subject to the antidumping duty order on OTR tires from the PRC.

Amendment to Final Determination and Antidumping Order

Because there is now a final and conclusive court decision with respect to this proceeding, the revised dumping margin in the amended final determination is as follows:

OTR TIRES FROM THE PRC

Exporter	Producer	Original Final Margin (Percent)	Amended Final Margin (Percent)
Xuzhou Xugong Tyres Co., Ltd.	Xuzhou Xugong Tyres Co., Ltd.	0.00	10.01

Also, as noted above, Xugong is no longer excluded from the antidumping duty order issued in this case. Therefore, the Department will instruct the CBP to collect a cash deposit of 10.01 percent for entries of subject merchandise produced and exported by Xugong, effective May 24, 2010, in accordance with the *Timken* Notice.

This notice is issued and published in accordance with sections 735(d), 736(a), and 777(i)(1) of the Act.

Dated: August 6, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-893]

Administrative Review of Certain Frozen Warmwater Shrimp From the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On March 12, 2010, the Department of Commerce ("Department") published in the *Federal Register* the *Preliminary Results* of the fourth administrative review of the antidumping duty order on certain frozen warmwater shrimp from the People's Republic of China ("PRC").¹ We gave interested parties an opportunity to comment on the *Preliminary Results*. Based upon our analysis of the comments and information received, we made changes to the margin calculations for the final results. We find that certain exporters have not sold subject merchandise at less than normal value ("NV") during the period of review ("POR"), February 1, 2008, through January 31, 2009.

DATES: *Effective Date:* August 13, 2010.

FOR FURTHER INFORMATION CONTACT: Bob Palmer and Irene Gorelik, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution

Avenue, NW., Washington, DC 20230; telephone: (202) 482-9068 and (202) 482-6905, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 26, 2009, the Department initiated an administrative review of 477 producers/exporters of subject merchandise from the PRC.² In the *Preliminary Results*, the Department preliminarily rescinded the review with respect to several companies which submitted no shipment certifications and for which we have not found any information to contradict these claims. These companies are Yangjiang City Yelin Hoiat Quick Frozen Seafood Co., Ltd., Fuqing Yihua Aquatic Food Co., Ltd., Fuqing Minhua Trade Co., Ltd., the Allied Pacific Group (comprised of Allied Pacific Food (Dalian) Co., Ltd.; Allied Pacific Aquatic Products (Zhanjiang) Co., Ltd.; Zhanjiang Allied Pacific Aquaculture Co., Ltd.; Allied Pacific (H.K.) Co., Ltd.; and King Royal Investments Ltd.); Gallant Ocean (Lianjiang), Ltd.; Gallant Ocean (Nanhai), Ltd.; Shantou Yelin Frozen Seafood Co., Ltd. (doing business as Shantou Yelin Quick-Freeze Marine Products Co., Ltd.).

As noted above, on March 12, 2010, the Department published the *Preliminary Results* of this administrative review.³ On April 1, 2010, the Petitioner,⁴ Domestic Processors,⁵ Zhanjiang Regal Integrated Marine Resources Co., Ltd. ("Regal"), and Hilltop International ("Hilltop") submitted additional surrogate value information. On April 6, 2010, Petitioner, Domestic Processors, and Hilltop submitted rebuttal surrogate value information.

On March 30, 2010, we extended the deadline for parties to submit the case briefs and rebuttal briefs to April 12, 2010 and April 17, 2010, respectively.⁶ On April 12, 2010, the Petitioner, Domestic Processors, Hilltop, and Regal filed case briefs. On April 19, 2010, the Petitioner, Domestic Processors, and Hilltop filed rebuttal briefs. On May 20, 2010, the Department extended the

deadline for the completion of the final results of this review until August 9, 2010.⁷ On June 15, June 23, and July 14, 2010, the Department placed wage rate data on the record for comment following the recent decision in *Dorbest Limited et. al. v. United States*, 2009-1257, -1266, issued by the United States Court of Appeals for the Federal Circuit ("CAFC") on May 14, 2010, regarding the Department's wage rate methodology.⁸ Interested parties submitted comments regarding the new wage rate data on June 22, and July 21, 2010. See "Wage Rate Methodology" section below for a detailed explanation of the Department's revised wage rate for these final results.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this review are addressed in the "Fourth Administrative Review of Frozen Warmwater Shrimp from the People's Republic of China: Issues and Decision Memorandum for the Final Results," which is dated concurrently with this notice ("*I&D Memo*"). A list of the issues which parties raised and to which we respond in the *I&D Memo* is attached to this notice as an Appendix. The *I&D Memo* is a public document and is on file in the Central Records Unit ("CRU"), Main Commerce Building, Room 1117, and is accessible on the Department's Web site at <http://www.trade.gov/ia>. The paper copy and electronic version of the memorandum are identical in content.

Changes Since the Preliminary Results

Based on a review of the record as well as comments received from parties regarding our *Preliminary Results*, we have made revisions to Hilltop and Regal's margin calculations for the final results. First, we have revised classifications for certain expenses in the surrogate financial ratios used in the *Preliminary Results*. The Department's practice is to exclude certain expenses in the surrogate financial ratio calculations for constructed export price ("CEP") sales where those expenses have been accounted for elsewhere in the margin program.⁹ Hilltop reported only CEP sales, so the Department will

² See Notice of Initiation of Administrative Reviews and Requests for Revocation in Part of the Antidumping Duty Orders on Frozen Warmwater Shrimp from the Socialist Republic of Vietnam and the People's Republic of China, 74 FR 13178 (March 26, 2009) for a listing of these companies.

³ See *Preliminary Results*.

⁴ Petitioner is the Ad Hoc Shrimp Trade Action Committee (hereinafter referred to as "Petitioner").

⁵ These domestic parties are the American Shrimp Processors Association and Louisiana Shrimp Association (hereinafter referred to as "Domestic Processors").

⁶ See Letter from the Department to Interested Parties, dated March 30, 2010.

⁷ See *Certain Frozen Warmwater Shrimp from the People's Republic of China: Extension of Final Results of Antidumping Administrative Review*, 75 FR 28235 (May 20, 2010).

⁸ See Memoranda to the File re; Wage Rate Data, dated June 15, June 23, and July 14, 2010.

⁹ See *Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40485 (July 15, 2008) and accompanying Issues and Decision Memorandum at Comment 18C.

¹ See *Fourth Administrative Review of Certain Frozen Warmwater Shrimp from the People's Republic of China: Preliminary Results, Preliminary Partial Rescission of Antidumping Duty Administrative Review and Intent Not to Revoke, In Part*, 75 FR 11855 (March 12, 2010) ("*Preliminary Results*").