

**RESULTS OF REDETERMINATION PURSUANT TO REMAND**  
*Cooper Tire & Rubber Company, Cooper (Kunshan) Tire Co., Ltd., and Cooper Chengshan*  
*(Shandong) Tire Co., Ltd., v. United States*  
**Court No. 15-00251, Slip Op. 17-32 (CIT March 29, 2017)**

**I. SUMMARY**

These results of redetermination (Remand Results) were prepared by the Department of Commerce (the Department) pursuant to the decision and remand order issued by the U.S. Court of International Trade (the Court) on March 29, 2017.<sup>1</sup> The litigation involves challenges to the final and amended final determinations of the antidumping duty investigation of certain passenger vehicle and light truck tires (passenger tires) from the People's Republic of China (PRC).<sup>2</sup>

The Court's *Remand Order* directed the Department to issue a remand redetermination within 15 days of issuance.<sup>3</sup> Due to this time constraint, the Department is not issuing draft results of redetermination to interested parties for comment, as is its custom. As discussed below, to comply with the Court's remand order, the Department, under respectful protest,<sup>4</sup> has recalculated the antidumping cash deposit duty rate of Cooper Tire & Rubber Company, Cooper (Kunshan) Tire Co., Ltd., and Cooper Chengshan (Shandong) Tire Co., Ltd. (collectively, Cooper).

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<sup>1</sup> See *Cooper Tire & Rubber Company, et al., v. United States*, CIT Slip Op. 17-32, Court No. 15-00251 (March 29, 2017) (*Remand Order*).

<sup>2</sup> See *Antidumping Duty Investigation of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, In Part*, 80 Fed. Reg. 34,893 (June 18, 2015) (*LTFV Final Determination*), and accompanying Issues and Decision Memorandum (IDM), *as amended, Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Amended Final Affirmative Antidumping Duty Determination and Antidumping Duty Order; and Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 80 Fed. Reg. 47,902 (August 10, 2015) (*LTFV Amended Final Determination*).

<sup>3</sup> See *Remand Order* at 19.

<sup>4</sup> *Viraj Group, Ltd. v. United States*, 343 F. 3d 1371 (Fed. Cir.2003).

## II. BACKGROUND

Cooper was a respondent in parallel antidumping duty (AD) and countervailing duty (CVD) investigations of passenger tires from the PRC, which were initiated by the Department on July 21, 2014.<sup>5</sup> In the AD investigation, the Department did not select Cooper as a mandatory respondent. In the CVD investigation, Cooper was selected as a mandatory respondent.

In the *LTFV Amended Final Determination*, in accordance with 19 U.S.C. §§ 777A(f) and 772(c)(1)(C) of the Tariff Act of 1930, as amended (the Act), the Department determined that the cash deposit rate for merchandise produced or exported by Cooper would be calculated by making two downward adjustments to the 25.84 percent cash deposit rate assigned to separate rate respondents, including Cooper, to account for both domestic and export subsidies found in a parallel CVD investigation.

To effectuate the objective of section 772(c)(1)(C) of the Act,<sup>6</sup> the Department first reduced the weighted-average dumping margin by the amount of any export subsidy rate determined in the parallel CVD investigation.<sup>7</sup> The export subsidy adjustment applicable to the non-mandatory separate rate respondents was the weighted average of the export subsidies received by the mandatory respondents in the CVD investigation, *i.e.*, 13.53 percent. Cooper received an individual export subsidy adjustment of 11.13 percent, which the Department

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<sup>5</sup> See *Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Initiation of Antidumping Duty Investigation*, 79 Fed. Reg. 42,292 (Dep't of Commerce July 21, 2014); and *Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 79 Fed. Reg. 42,285 (Dep't of Commerce July 21, 2014).

<sup>6</sup> *Dupont Teijin Films USA, LP v. United States*, 273 F. Supp. 2d 1347, 1350 (Ct. Int'l Trade 2003) (“{L}ongstanding practice in an investigation is to offset the {antidumping} cash deposit rate by the export subsidy cash deposit rate’ rather than adjusting the dumping margin calculation.”).

<sup>7</sup> See *Passenger Tires from the PRC LTFV Final Determination* at 34897.

determined in the companion CVD investigation where Cooper was a mandatory respondent. Therefore, the Department adjusted Cooper's weighted-average dumping margin by the amount of the export subsidy calculated for the company in the CVD investigation (*i.e.* 11.13 percent).

### **III. THE COURT'S REMAND ORDER**

The Court held that it was "arbitrary and capricious for {the Department} to assign to Cooper's subject merchandise an adjusted cash deposit rate that differed from the cash deposit rate assigned to the subject merchandise of the other separate rate respondents."<sup>8</sup> The Court ordered the Department on remand to determine Cooper's AD cash deposit rate the same as all other separate rate respondents and to inform the Court of the date by which the redetermined cash deposit rate will be put into effect.<sup>9</sup>

### **IV. RESULTS OF REDETERMINATION**

Pursuant to the Court's *Remand Order*, under respectful protest, the Department has recalculated Cooper's AD cash deposit rate, by adjusting its weighted-average dumping margin downward using the export subsidy rate of 13.53 percent. This export subsidy rate reflects the weighted average of the export subsidies received by the mandatory respondents in the CVD investigation and made applicable to the remaining non-mandatory separate rate respondents in the AD investigation. Cooper's recalculated AD cash deposit rate is 8.72 percent.<sup>10</sup> The Department intends to place this redetermined cash deposit rate into effect by means of instructions issued to Customs and Border Protection, with an effective date as of the tenth day

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<sup>8</sup> *Remand Order* at 18.

<sup>9</sup> *Id.* at 18-19

<sup>10</sup> This includes a downward adjustment by 3.59 percent to account for domestic pass-through subsidies, which the Court did not address.

from the date on which the Court issues a final judgment sustaining the final results of redermination.<sup>11</sup>

4/13/2017

**X** *Ronald K. Lorentzen*

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Signed by: RONALD LORENTZEN

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Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance

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<sup>11</sup> See *Timken Co. v. United States*, 893 F.2d 337, 340 (Fed. Cir. 1990).