

Yama Ribbons and Bows Co. v. United States,
Court No. 18-00054, Slip. Op. 19-173 (CIT December 30, 2019)

FINAL RESULTS OF REDETERMINATION PURSUANT TO COURT REMAND

Summary

The Department of Commerce (Commerce) prepared these final remand results pursuant to the remand order of the U.S. Court of International Trade (the Court) in *Yama Ribbons and Bows Co. v. United States*, Court No. 18-00054, Slip. Op. 19-173 (CIT December 30, 2019) (*Yama Ribbons*). This action arises out of the final results in *Narrow Woven Ribbons with Woven Selvedge from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2015*, 83 FR 11177 (March 14, 2018) (*Final Results*), and accompanying Issues and Decision Memorandum (IDM). The sole issue remanded by the Court is Commerce's finding that Yama Ribbons and Bows Co., Ltd. (Yama) used and benefitted from the Export Buyer's Credit program and therefore included the Export Buyer's Credit program in the overall subsidy rate determined for Yama. As discussed below, pursuant to *Yama Ribbons*, Commerce reconsidered its decision to apply adverse facts available (AFA) in evaluating Yama's use of the Export Buyer's Credit program and, under respectful protest, determines that the Export Buyer's Credit program was not used by Yama based on record statements by Yama and the Government of China (GOC) that none of Yama's customers used the program. Consequently, for the purposes of these final results of redetermination, Commerce revised Yama's overall subsidy rate to exclude the 10.54 percent AFA rate assigned to the Export Buyer's Credit program.

Background

On March 14, 2018, Commerce published its final results of the 2015 countervailing duty (CVD) review.¹ In the Final Results, we found that the use of AFA was warranted in determining the countervailability of the Export Buyer's Credit program because the GOC did not provide the requested information needed to allow Commerce to fully analyze this program and, thus, had not cooperated to the best of its ability in response to our information requests. We determined, as AFA, that this program met the financial contribution and specificity requirements of the Act.² We further determined that, because we lacked record information from Yama or the GOC to determine the benefit amount, and otherwise had no verifiable record evidence demonstrating non-use of the program, the information on the record was incomplete. Therefore, we determined as AFA that Yama used the Export Buyer's Credit program and, consistent with our CVD AFA hierarchy, we selected the highest calculated rate for a similar program as the AFA rate for this program (*i.e.*, 10.54 percent), in accordance with section 776(d) of the Act and our established practice.

Yama challenged Commerce's finding that it used and benefited from the Export Buyer's Credit program in the *Final Results*. On December 30, 2019, the Court remanded the *Final Results* to Commerce, finding that: (1) Commerce ignored considerable evidence on the record indicating that Yama had not benefited from the Export Buyer's Credit program; (2) Commerce erred in finding that, due to the failure of the GOC to respond to requests for three categories of information ((a) a response to the standard questions appendix; (b) the 2013 revisions to the

¹ See *Final Results*, 83 FR 11177.

² See *Final Results* IDM at Comment 2.

Export Buyer's Credit program; and (c) a list of third-party banks involved),³ the record did not allow Commerce to determine whether Yama benefited from the program; and (3) the record did not contain sufficient evidence to support Commerce's determination to impute a benefit to Yama for this program using the facts otherwise available or an adverse interference. Thus, the Court remanded to Commerce to reconsider its benefit determination for Yama for the Export Buyer's Credit program as required under the statute, without resorting to the facts otherwise available or an adverse inference, and to redetermine Yama's overall subsidy rate in accordance with that finding.⁴

Analysis

Consistent with *Yama Ribbons*, we reconsidered our determination, based on the application of AFA, that Yama used and benefited from the Export Buyer's Credit program during the period of review (POR). We also considered the record evidence which Yama and the GOC provided regarding Yama's and its customers' non-use of the Export Buyer's Credit program. Upon reexamination of the record evidence, we have complied with the Court's ruling and now find that Yama did not use this program during the POR, under respectful protest.⁵ Our findings with respect to the financial contribution and specificity determinations made in the *Final Results* remain unchanged.⁶

Specifically, in accordance with the Court's remand order, we are relying on Yama's and the GOC's statements on the record that none of Yama's customers used the Export Buyer's Credit program during the POR.⁷

³ See *Yama Ribbons* at 8 (citing *Narrow Woven Ribbons with Woven Selvedge from the People's Republic of China: Preliminary Results of Countervailing Duty Administrative; 2015*, 82 FR 42296 (September 7, 2017), and accompanying Preliminary Decision Memorandum).

⁴ *Id.* at 27.

⁵ See *Viraj Group, Ltd. v. United States*, 343 F.3d 1371 (Fed. Cir. 2003).

⁶ See *Final Results* IDM at Comment 2.

⁷ *Id.*

Interested Party Comments

On February 4, 2020, Commerce released the draft results of redetermination to all interested parties, and invited parties to comment. No interested party filed comments.

Final Results of Redetermination

For purposes of these final results of redetermination, we find that Yama did not use the Export Buyer's Credit program during the POR. Thus, Commerce is excluding the Export Buyer's Credit program from the subsidy programs included in Yama's overall subsidy rate for the POR. Accordingly, the resulting overall subsidy rate for Yama is 12.83 percent. Because Yama's recalculated overall subsidy rate is different from the overall subsidy rate in the *Final Results*, we intend to issue a *Timken* Notice with the amended final results, should the Court sustain these final results of redetermination.

Date: February 18, 2020

2/18/2020

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Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance