

and the origin of the imported cores and segments being joined into finished diamond sawblades. Failure to respond completely to the Department's requests for information may result in the application of partial or total facts available pursuant to section 776(a) of the Act, which may include adverse inferences pursuant to section 776(b) of the Act.

Based on these allegations, we are initiating an anti-circumvention inquiry concerning the antidumping duty order on diamond sawblades from the PRC, pursuant to section 781(b) of the Act and 19 CFR 351.225(h), with respect to such merchandise from Thailand as described above. Because we are initiating this anti-circumvention inquiry, we are not initiating a changed circumstances review.

While we believe sufficient factual information has been submitted by the petitioner to support the initiation of an anti-circumvention inquiry, we do not find that the record supports the simultaneous issuance of a preliminary ruling. An anti-circumvention inquiry is typically complicated by its nature and can require information regarding production in both the country subject to the order and the third country in which the production of finished merchandise is completed. As we explained above, the Department intends to request additional information regarding the statutory criteria to determine whether shipments of finished diamond sawblades from Thailand are circumventing the antidumping duty order on diamond sawblades from the PRC. Thus, with further development of the record required before a preliminary ruling can be issued, the Department does not find it appropriate to issue a preliminary ruling at this time.

#### Notification to Interested Parties

In accordance with 19 CFR 351.225(e), the Department finds that the issue of whether a product is included within the scope of an order cannot be determined based solely upon the application and the descriptions of the merchandise. Accordingly, the Department will notify by mail all parties on the Department's scope service list of the initiation of this anti-circumvention inquiry. In addition, in accordance with 19 CFR 351.225(f)(1)(i) and (ii), in this notice of initiation issued under 19 CFR 351.225(e), we have included a description of the product that is the subject of this anti-circumvention inquiry (*i.e.*, diamond sawblades finished in Thailand by the joining of cores and segments from the PRC) and an explanation of the reasons

for the Department's decision to initiate an anti-circumvention inquiry, as provided above. In accordance with 19 CFR 351.225(l)(2), if the Department issues a preliminary affirmative determination, we will then instruct CBP to suspend liquidation and require a cash deposit of estimated antidumping duties at the applicable rate for each unliquidated entry of the merchandise at issue, entered or withdrawn from warehouse for consumption on or after the date of initiation of the inquiry.

The Department will establish a schedule for questionnaires and comments on the issues. In accordance with section 781(f) of the Act and 19 CFR 351.225(f)(5), the Department intends to issue its final determination within 300 days of the date of publication of this initiation.

This notice is published in accordance with section 781(b) of the Act and 19 CFR 351.225(h).

Dated: December 1, 2017.

**Gary Taverman,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-831]

#### **Fresh Garlic From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Results of Administrative Review and Notice of Amended Final Results**

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

**SUMMARY:** On September 19, 2017, the United States Court of International Trade (the CIT) entered final judgment sustaining the Department of Commerce's (the Department) second remand results pertaining to 18th administrative review of the antidumping duty order on fresh garlic from the People's Republic of China (PRC) for Hebei Golden Trading Co., Ltd. (Golden Bird) and Shenzhen Xinboda Industrial Co., Ltd. (Xinboda). The Department is notifying the public that the final judgment in this case is not in harmony with the final results and partial rescission of the 18th antidumping duty administrative review and that the Department has amended the dumping margins found for Xinboda and Golden Bird.

**DATES:** Applicable September 29, 2017.

**FOR FURTHER INFORMATION CONTACT:** Chien-Min Yang, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-5484.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On June 30, 2014, the Department published the *Final Results* pertaining to mandatory respondents Golden Bird and Xinboda, along with other exporters.<sup>1</sup> In the *Final Results*, the Department selected the Philippines as the primary surrogate country and relied on total adverse facts available (AFA) with respect to Golden Bird and found that the company was part of the PRC-wide entity.<sup>2</sup> The Department calculated a rate of \$1.82 per kilogram for Xinboda.

On November 30, 2015, the CIT remanded for the Department to: (1) Consider evidence on the record concerning Golden Bird's independence from government control to determine whether the company is entitled to separate rate status based solely on that evidence, and if so, to determine an appropriate dumping margin specific to Golden Bird, taking into consideration the Department's sustained determination to select total AFA and applying the law extant at the time of the *Final Results*; (2) reconsider its surrogate country selection in the light of the Court's ruling concerning its interpretation of "significant producer."<sup>3</sup>

On February 29, 2016, the Department filed the *Final Remand Results*.<sup>4</sup> In accordance with the *Final Remand Results*, the Department found, under protest, that Golden Bird is not part of the PRC wide entity and assigned a new separate AFA rate of \$2.24 per kilogram, which represented Xinboda's highest transaction-specific margin from the instant administrative review.<sup>5</sup> The Department continued to find that the Philippines was a significant producer, taking into account the "comparative"

<sup>1</sup> See *Fresh Garlic from the People's Republic of China: Final Results and Partial Rescission of the 18th Antidumping Duty Administrative Review: 2011-2012*, 79 FR 36721 (June 30, 2014) (*Final Results*), and accompanying Issues and Decision Memorandum (IDM).

<sup>2</sup> See IDM.

<sup>3</sup> See *Fresh Garlic Producers Association v. United States*, 121 F. Supp. 3d 1313 (CIT 2015).

<sup>4</sup> See Memorandum to The File, "Final Results of Redetermination Pursuant to Remand: Fresh Garlic from the People's Republic of China," (February 29, 2016) (*Final Remand Results*).

<sup>5</sup> *Id.* at 6.

analysis required by the Court and the specific facts of this case.<sup>6</sup>

On July 7, 2016, the CIT again remanded the Department's selection of the Philippines as a surrogate country.<sup>7</sup> Per the Court's instructions, the Department reconsidered its surrogate country selection and, under protest, selected Ukraine as the primary surrogate country.<sup>8</sup> The calculations performed with the new surrogate values resulted in a weighted-average dumping margin of \$2.19 per kilogram for Xinboda. Since the Department recalculated a margin for Xinboda with a new surrogate country and new surrogate values, we updated Golden Bird's separate AFA rate to reflect Xinboda's highest-transaction specific margin using the new surrogate values. Accordingly, Golden Bird was assigned an updated AFA rate of \$2.76 per kilogram.

On September 19, 2017, the CIT sustained the Department's *Second Remand Results* with respect to the eighteenth administrative review of the AD order on fresh garlic from China.<sup>9</sup>

#### Timken Notice

In its decision in *Timken*,<sup>10</sup> as clarified by *Diamond Sawblades*,<sup>11</sup> the Court of Appeals for the Federal Circuit 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 September 19, 2017, final judgment sustaining the *Second Remand Results* constitutes a final decision of the Court that is not in harmony with the Department's *Final Results*.<sup>12</sup> This notice is published in fulfillment of the *Timken* publication requirements.

#### Amended Final Results

Because there is now a final court decision, we are amending the *Final*

*Results* with respect to the dumping margins calculated for Xinboda and Golden Bird. Based on the *Second Remand Results*, as affirmed by the CIT, the revised dumping margin for Xinboda, from November 1, 2011, through October 31, 2012, is \$2.19 per kilogram. The separate AFA rate for Golden Bird from November 1, 2011, through October 31, 2012, is \$2.76 per kilogram.

Because the CIT's ruling was not appealed, it represents a final and conclusive court decision, and accordingly the Department will instruct Customs and Border Protection (CBP) to assess antidumping duties on unliquidated entries of subject merchandise based on the revised dumping margins summarized above.

#### Cash Deposit Requirements

The Department will not update the cash deposit requirements for Golden Bird and Xinboda as they each have later-determined rates from subsequent administrative reviews.

#### Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: December 4, 2017.

**Gary Taverman,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-588-869]

#### Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products From Japan: Final Results of Antidumping Duty Administrative Review; 2015-2016

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

**SUMMARY:** On June 6, 2017, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of the administrative review of the antidumping duty order on diffusion-annealed, nickel-plated flat-rolled steel products (nickel-plated, flat-rolled steel) from Japan. The review covers two producers/exporters of the subject merchandise, Toyo Kohan Co., Ltd (Toyo Kohan) and Nippon Steel & Sumitomo Metals Corporation

(NSSMC). The period of review (POR) is May 1, 2015, through April 30, 2016. As a result of our analysis of the comments and information received, these final results differ from the preliminary results of review. For the final weighted-average dumping margin, see the "Final Results of Review" section, below.

Further, we continue to find that NSSMC had no reviewable shipments of subject merchandise during the POR.

**DATES:** Applicable December 7, 2017.

#### FOR FURTHER INFORMATION CONTACT:

Madeline Heeren, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-9179.

#### SUPPLEMENTARY INFORMATION:

#### Background

On June 6, 2017, the Department published the *Preliminary Results*.<sup>1</sup> A summary of the events that occurred since the Department published these results, as well as a full discussion of the issues raised by parties for these final results, may be found in the Issues and Decision Memorandum, which is hereby adopted by this notice.<sup>2</sup>

#### Scope of the Order

The diffusion-annealed, nickel-plated flat-rolled steel products included in this order are flat-rolled, cold-reduced steel products, regardless of chemistry; whether or not in coils; either plated or coated with nickel or nickel-based alloys and subsequently annealed (*i.e.*, "diffusion-annealed"); whether or not painted, varnished or coated with plastics or other metallic or nonmetallic substances; and less than or equal to 2.0 mm in nominal thickness. For purposes of this order, "nickel-based alloys" include all nickel alloys with other metals in which nickel accounts for at least 80 percent of the alloy by volume.

Imports of merchandise included in the scope of this order are classified primarily under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7212.50.0000 and 7210.90.6000, but may also be classified under HTSUS subheadings

<sup>1</sup> See *Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products from Japan: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Determination of No Shipments; 2015-2016*, 82 FR 26046 (June 6, 2017) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum.

<sup>2</sup> See Memorandum, "Issues and Decision Memorandum for the Final Results of the Administrative Review of the Antidumping Duty Order on Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products from Japan; 2015-2016," dated concurrently with and hereby adopted by this notice (Issues and Decision Memorandum).

<sup>6</sup> *Id.* at 6-11.

<sup>7</sup> See *Fresh Garlic Producers Association v. United States*, 180 F. Supp. 3d 1233 (CIT 2016).

<sup>8</sup> See Memorandum to The File, "Final Results of Redetermination Pursuant to Remand: Fresh Garlic from the People's Republic of China, Fresh Garlic Producers Association, et al., v. United States, U.S. Court of International Trade, Consol. Ct. No. 14-00180, Slip Op. 16-68," (January 10, 2017) (*Second Remand Results*).

<sup>9</sup> See *Fresh Garlic Producers Association v. United States*, CIT Slip Op. 17-127, Consol. Ct. No. 14-00180 (September 19, 2017) (Slip Op. 17-127).

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

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

<sup>12</sup> See *Final Results*.