

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 56–2008]

Foreign-Trade Zone 20—Suffolk, VA Correction to Application for Subzone Status STIHL Incorporated (Outdoor Power Products Manufacturing and Distribution) Virginia Beach, VA

A technical correction has been submitted to the Foreign-Trade Zones Board (the Board) by STIHL Incorporated (STIHL) regarding the company's application requesting special-purpose subzone status for the company's outdoor power products manufacturing facilities located in Virginia Beach, Virginia (73 FR 60677–60678, 10/14/2008).

Several manufacturing inputs listed in the application for which the company is requesting manufacturing authority were incorrectly identified as being duty free. These inputs with the correct duty rates are as follows: Ethylene polymers (6.5 percent); articles of natural cork (14 percent); miscellaneous copper articles (3 percent); filtering or purifying machinery (2.5 percent); spray guns (2.9 percent); and, hand tools with self-contained electric motors (1.7 percent). Additionally, a duty-free input (vulcanized cellular rubber articles) was inadvertently omitted from the application. The application otherwise remains unchanged.

Dated: November 14, 2008.

Andrew McGilvray,

Executive Secretary.

[FR Doc. E8–27763 Filed 11–20–08; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–846]

Brake Rotors From the People's Republic of China: Notice of Court Decision Not In Harmony With Final Results of Administrative Review

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

SUMMARY: On November 5, 2008, the United States Court of International Trade (“CIT”) sustained the remand redetermination issued by the Department of Commerce (the “Department”) pursuant to the CIT’s remand order in the final results of the antidumping duty order on brake rotors from the People’s Republic of China

(“PRC”). See *Laizhou Auto Brake Equipment Co., et al. v. United States*, Court No. 06–00430, Slip Op. 08–120 (CIT November 5, 2008) (“*Laizhou II*”). This case arises out of the Department’s *Final Results* for the period of review (“POR”) April 1, 2005 through May 31, 2006. See *Brake Rotors from the People’s Republic of China: Final Results and Partial Rescission of the 2004/2005 Administrative Review and Notice of Rescission of 2004/2005 New Shipper Review*, 71 FR 66304 (November 14, 2006) (“*Final Results*”). Consistent with 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*”), the Department is notifying the public that *Laizhou II* is not in harmony with the Department’s *Final Results*.

DATES: *Effective Date:* November 21, 2008.

FOR FURTHER INFORMATION CONTACT: Paul Walker, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230; telephone: (202) 482–0413.

SUPPLEMENTARY INFORMATION: On June 26, 2008 the CIT directed the Department to: (1) Explain whether the rejected rotors, casting strands/handles, etc., reintroduced into the production process should be properly accounted for in the factor of production “STLSCRAP”; (2) address the issue of the composition of the predominant scrap used in the production process; (3) address respondents’ argument that the Department should be solely focusing on the type of scrap the respondents reported in the factor field “STLSCRAP”; and (4) explain whether the Department has in fact reassessed its position in subsequent reviews as to the proper HTS classification of the respondents’ scrap. See *Laizhou Auto Brake Equipment Company, et al. v. United States*, Court No. 06–00430, Slip Op. 08–71 (CIT June 26, 2008) (“*Laizhou I*”), at 17–18. Pursuant to the CIT’s remand instructions, we reexamined the record and determined that the best available information on the record with which to value steel scrap is HTS 7204.49.00 (other ferrous waste and scrap (“ferrous scrap”)), rather than HTS 7204.10.00 (waste and scrap of cast iron (“cast iron scrap”)) which was used in the *Final Results*.

The Department released the *Draft Results of Redetermination Pursuant to Court Remand* to interested parties. No party submitted comments. On September 24, 2008, the Department

filed its final results of redetermination pursuant to *Laizhou I* with the CIT. See *Final Results of Redetermination Pursuant to Court Remand*, Court No. 06–00430 (September 24, 2008) (“*Final Redetermination*”). In responding to the CIT’s questions and reassessing the record evidence, we have determined it appropriate to value steel scrap using HTS 7204.49.00 (ferrous scrap), instead of the previously selected value, HTS 7204.10.00 (cast iron scrap). We note that respondents reported purchasing steel scrap that is captured under HTS 7204.49.00, and there is no record evidence which contradicts this assertion. The Department valued HTS 7204.49.00 using publicly available Indian import statistics for the POR from the *World Trade Atlas* (“WTA”).¹ Thus, the Department revised, as appropriate, the remanded steel scrap surrogate value selection components of the margin calculations of Longkou Haimeng Machinery Co., Ltd. and Hongfa Machinery (Dalian) Co., Ltd. The Department also revised the “sample rate” applicable to the non-mandatory respondents separate from the PRC-wide entity who are parties to this litigation: Laizhou Auto Brake Equipment Co., Ltd.; Laizhou City Luqi Machinery Co., Ltd.; Laizhou Hongda Auto Replacement Parts Co., Ltd.; and Qingdao Gren (Group) Co. On November 5, 2008, the CIT sustained all aspects of the remand redetermination made by the Department pursuant to the CIT’s remand of the *Final Results*.

In *Timken*, 893 F.2d at 341, 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 decision in *Laizhou II* on November 5, 2008, constitutes a final decision of the court that is not in harmony with the Department’s *Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*. 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. In the event the CIT’s ruling is not appealed or, if appealed, upheld by the CAFC, the Department will instruct U.S. Customs

¹ WTA is published by Global Trade Information Services, Inc., which is a secondary electronic source based upon the publication, *Monthly Statistics of the Foreign Trade of India, Volume II: Imports*. See <http://www.gtis.com/wta.htm>.