

777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: October 12, 2011.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-900]

Diamond Sawblades and Parts Thereof From the People's Republic of China: Final Results and Termination, in Part, of the Antidumping Duty Changed Circumstances Review

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

SUMMARY: On June 30, 2011, the Department of Commerce ("Department") published the *Preliminary Results*¹ of a changed circumstances review ("CCR") of the antidumping duty order on diamond sawblades and parts thereof from the People's Republic of China ("PRC") pursuant to section 751(b) of the Tariff Act of 1930, as amended ("Act"), and 19 CFR 351.216(d). We gave interested parties an opportunity to comment on the *Preliminary Results* and, based upon our analysis of the comments and information received, we affirm our successor-in-interest finding from the *Preliminary Results*.

DATES: *Effective Date:* October 19, 2011.

FOR FURTHER INFORMATION CONTACT: Alan Ray, 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) 482-5403.

SUPPLEMENTARY INFORMATION:

Case History

On July 12 and 19, 2011, interested parties submitted case and rebuttal briefs, respectively. On July 20, 2011, Respondents' counsel submitted a

¹ See *Diamond Sawblades and Parts Thereof From the People's Republic of China: Preliminary Results and Preliminary Intent To Terminate, in Part, Antidumping Duty Changed Circumstances Review and Extension of Time Limit for Final Results*, 76 FR 38357 (June 30, 2011).

² Hebei Husqvarna-Jikai Diamond Tools Co., Ltd. ("Hebei Husqvarna JV"), Husqvarna Construction Products North America ("HCPNA"), and Husqvarna Holding AB (collectively "Respondents"), which also included, until July 20, 2011, Hebei Jikai Industrial Group Co., Ltd. ("Hebei Jikai"). On July 20, 2011, counsel for Respondents

letter in which they stated that they no longer represent Hebei Jikai Industrial Group Co., Ltd. ("Hebei Jikai") in this review. On July 25, 2011, the Department held a.

Scope of the Order

The products covered by the order are all finished circular sawblades, whether slotted or not, with a working part that is comprised of a diamond segment or segments, and parts thereof, regardless of specification or size, except as specifically excluded below. Within the scope of the order are semifinished diamond sawblades, including diamond sawblade cores and diamond sawblade segments. Diamond sawblade cores are circular steel plates, whether or not attached to non-steel plates, with slots. Diamond sawblade cores are manufactured principally, but not exclusively, from alloy steel. A diamond sawblade segment consists of a mixture of diamonds (whether natural or synthetic, and regardless of the quantity of diamonds) and metal powders (including, but not limited to, iron, cobalt, nickel, tungsten carbide) that are formed together into a solid shape (from generally, but not limited to, a heating and pressing process).

Sawblades with diamonds directly attached to the core with a resin or electroplated bond, which thereby do not contain a diamond segment, are not included within the scope of the order. Diamond sawblades and/or sawblade cores with a thickness of less than 0.025 inches, or with a thickness greater than 1.1 inches, are excluded from the scope of the order. Circular steel plates that have a cutting edge of non-diamond material, such as external teeth that protrude from the outer diameter of the plate, whether or not finished, are excluded from the scope of the order. Diamond sawblade cores with a Rockwell C hardness of less than 25 are excluded from the scope of the order. Diamond sawblades and/or diamond segment(s) with diamonds that predominantly have a mesh size number greater than 240 (such as 250 or 260) are excluded from the scope of the order. Merchandise subject to the order is typically imported under heading 8202.39.00.00 of the Harmonized Tariff Schedule of the United States ("HTSUS"). When packaged together as a set for retail sale with an item that is separately classified under headings 8202 to 8205 of the HTSUS, diamond sawblades or parts thereof may be imported under heading 8206.00.00.00 of the HTSUS. The tariff classification is

submitted a letter stating that they no longer were representing Hebei Jikai in this review.

provided for convenience and customs purposes; however, the written description of the scope of the order is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties are addressed in Memorandum to Ronald K. Lorentzen from Christian Marsh, Diamond Sawblades and Parts Thereof From the People's Republic of China: Issues and Decision Memorandum for the Final Results of the Changed Circumstances Review, dated October 4, 2011 ("I & D Memo"). A list of the issues which parties raised, and to which we responded 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 7046, 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.

Termination of CCR Based Upon Petitioner's Request

In its August 13, 2010, and August 20, 2010, submissions, Petitioner requested that the Department initiate a CCR and find that Hebei Husqvarna JV is a successor-in-interest to Electrolux Construction Products (Xiamen) Co. Ltd. ("Electrolux"), Husqvarna Holding AB, or is an altogether new entity. In the *Preliminary Results*, we stated our preliminary intent to terminate the review based on Petitioner's request because a finding that Hebei Husqvarna JV is the successor-in-interest to Electrolux, Husqvarna Holding AB, or an altogether new entity, would result in a continuation of the status quo in terms of cash deposit requirements. Furthermore, no company other than Hebei Jikai is entitled to use Hebei Jikai's rate unless the Department finds that entity to be Hebei Jikai's successor-in-interest. Therefore, the Department is terminating this review under the request submitted by Petitioner, as the completion of the review based upon its request would not result in any possible change with respect to Hebei Husqvarna JV's appropriate antidumping duty cash deposit rate.⁴

Successor-in-Interest Determination Based Upon Respondents' Request

In making a successor-in-interest determination, the Department typically examines several factors including, but

³ The Diamond Sawblade Manufacturers Coalition ("DSMC" or "Petitioner").

⁴ See I & D Memo at page 2.

not limited to: (1) Management, (2) production facilities, (3) supplier relationships, and (4) customer base.⁵ While no single factor or combination of these factors will necessarily be dispositive, the Department will generally consider the new company to be the successor to the previous company if its resulting operation is not materially dissimilar to that of its predecessor.⁶ Respondents responded to the Department's request for information with respect to management, production facilities, and Hebei Husqvarna JV's suppliers and customers. The Department requested information regarding Hebei Jikai's quantity and value of subject merchandise that it had sold to its largest customers, as well as the percentage of inputs accounted for by its largest suppliers. Respondents did not provide this information to the Department.⁷ The Department's analysis is summarized below; a complete discussion of the information received and the Department's analysis is included in the I & D Memo.

Final Results

On September 14, 2006, Husqvarna Holding AB and Hebei Jikai agreed to form a joint venture company, Hebei Husqvarna JV, in China to produce and sell diamond tools, including diamond sawblades.⁸ Based on the totality of the evidence on the record surrounding the formation of the joint venture and the subsequent restructuring described in the memorandum accompanying the *Preliminary Results*, and in accordance with 19 CFR 351.221(c)(3)(i), we continue to determine that Hebei Husqvarna JV is not the successor-in-interest to Hebei Jikai, but is instead a new entity.⁹

With respect to the factors that the Department typically examines, we find that the management and board of directors that had been in place at Hebei Jikai have significantly changed, though this change occurred about four years

after the formation of the joint venture.¹⁰ As for production facilities of Hebei Husqvarna JV, they are substantially the same as those of Hebei Jikai.¹¹ With respect to supplier relationships and customer base, because Respondent provided incomplete information regarding changes in customers and suppliers, we cannot conclude that for those two factors Hebei Husqvarna JV is materially the same as Hebei Jikai. We note that even with the limited information regarding Hebei Jikai's customers on the record, there appears to have been a significant change in the customer base.¹²

The Department disagrees with Petitioner's request to apply adverse facts available ("AFA"), given Respondents' inability to provide the Department with information regarding Hebei Jikai's customers and suppliers.¹³ Specifically, the Department finds that Respondents' omission does not provide a sufficient basis to apply AFA.¹⁴

We further determine that the Department was correct in the time period it examined when considering changes in management.¹⁵ Also, the Department agrees with Respondents that Hebei Husqvarna JV should not be assigned the PRC-wide rate of 164.09 percent solely under the assumption that the Department has policy concerns regarding large companies acquiring smaller companies for purposes of lowering a cash deposit rate. Petitioner has submitted no evidence to support its claim that Respondents created the JV so as to buy a lower cash deposit rate.¹⁶ Finally, we find that the Court's holding in *Marine Harvest*¹⁷ does not preclude the Department from finding that Hebei Husqvarna JV is not the successor-in-interest to Hebei Jikai. These issues are discussed in detail in the I & D Memo accompanying this notice.

Therefore, in considering the totality of the evidence on the record, the Department determines that Hebei Husqvarna JV is not the successor-in-interest to Hebei Jikai. Based on our determination, Hebei Husqvarna JV remains subject to the PRC-wide antidumping duty cash deposit rate of 164.09 percent with respect to the subject merchandise. Finally, we note that the 48.5 percent rate that Hebei Jikai received in the less-than-fair-value investigation continues to apply only to

subject merchandise that was both produced and exported by Hebei Jikai and would not be applicable to merchandise produced by Hebei Husqvarna JV and exported by Hebei Jikai.

Instruction to U.S. Customs and Border Protection

The Department will instruct U.S. Customs and Border Protection to collect cash deposits on entries of subject merchandise produced or exported by Hebei Husqvarna JV at the PRC-wide rate of 164.09 percent.

Notification

This notice also serves as a reminder to parties subject to administrative protective orders ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.306. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are issuing and publishing these final results and notice in accordance with sections 751(b)(1) and 777(i)(1) and (2) of the Act and 19 CFR 351.216 and 351.221(c)(3).

Dated: October 12, 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

Appendix I—Issues & Decision Memorandum

General Issues

COMMENT I: TERMINATION OF PETITIONER'S REVIEW REQUEST
COMMENT II: WHETHER TO AFFIRM THE PRELIMINARY RESULT

- A. Appropriate Time Period To Examine
- B. Policy Concerns Regarding Large Companies Acquiring Smaller Companies
- C. Analysis of the Four Factors
- D. Hebei Husqvarna JV Must Be the Successor-in-Interest to Hebei Jikai

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⁵ See *Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of the Antidumping Duty Administrative Review and New Shipper Reviews*, 75 FR 12726 (March 17, 2010) and accompanying Issues and Decision Memorandum at Comment 7.

⁶ See *Fresh and Chilled Atlantic Salmon From Norway: Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 64 FR 9979, 9980 (March 1, 1999).

⁷ See Respondent's April 4, 2011, submission.

⁸ See Respondent's September 13, 2010, submission at page 7.

⁹ See Memorandum to James C. Doyle, Office Director, through Matthew Renkey, Acting Program Manager, from Alan Ray, Case Analyst, "Diamond Sawblades and Parts Thereof From the People's Republic of China: Successor-in-Interest Analysis," dated June 24, 2011.

¹⁰ See *id.* at pages 3-4 and 6-7.

¹¹ See *id.* at page 6.

¹² See *id.* at pages 6-7.

¹³ See I & D Memo at pages 6 and 7.

¹⁴ See *id.* at pages 6-7.

¹⁵ See *id.* at pages 3 and 6-7.

¹⁶ See *id.* at pages 4-5.

¹⁷ See *Marine Harvest (Chile) S.A. v. United States*, 244 F.Supp.2d 1364, 1379 (CIT 2002).