

other polymers, high styrene resin master batch, carbon black master batch (*i.e.*, IISRP 1600 series and 1800 series) and latex (an intermediate product).

The products subject to this investigation are currently classifiable under subheadings 4002.19.0015 and 4002.19.0019 of the Harmonized Tariff Schedule of the United States (HTSUS). ESB rubber is described by Chemical Abstract Services (CAS) Registry No. 9003-55-8. This CAS number also refers to other types of styrene butadiene rubber. Although the HTSUS subheadings and CAS registry number are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

## Appendix II

### List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope Comments
- IV. Scope of the Investigation
- V. Margin Calculations
- VI. Discussion of the Issues
  - Comment 1: CEP Offset
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  - Comment 3: Cost Adjustments Based on Verification Findings
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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 Rescission and Notice of Amended Final Results

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

**SUMMARY:** On May 26, 2017, the Court of International Trade (the CIT) sustained the Department of Commerce's (the Department) final remand results pertaining to the new shipper review of the antidumping duty order on fresh garlic from the People's Republic of China (PRC) for Shijiazhuang Goodman Trading Co., Ltd. (Goodman). The Department is notifying the public that the final judgment in this case is not in harmony with the final rescission of the new shipper review and that the Department has found Goodman eligible for a new shipper review resulting in an individually-determined dumping margin of \$0.08/kg.

**DATES:** Applicable June 5, 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

Goodman is a Chinese producer/exporter of fresh garlic and requested a new shipper review on November 27, 2012, and amended that request on December 6, 2012.<sup>1</sup> On January 2, 2013, the Department initiated the requested NSR covering the period November 1, 2011, through October 31, 2012.

On April 21, 2014, the Department issued the *Final Rescission*. In the *Final Rescission*, the Department determined that Goodman's sales were not *bona fide* and, accordingly, rescinded its new shipper review.<sup>2</sup> Goodman challenged the Department's findings in the *Final Rescission* at the CIT.

On March 22, 2016, the CIT remanded for the Department to reconsider its decision.<sup>3</sup>

Per the Court's instructions, the Department reconsidered its previous analysis and determined, under protest, Goodman's U.S. sales to be *bona fide*. The Department found Goodman to be eligible for a new shipper review and addressed comments raised in case briefs and rebuttal briefs during the new shipper review regarding the preliminarily-calculated rate. In the final remand results filed with the CIT on August 22, 2016 (Final Redetermination), the Department made changes to the surrogate values and re-calculated Goodman's individually-determined antidumping duty rate to be \$0.08 per kilogram.

On May 26, 2017, the CIT sustained the Department's Final Redetermination in full.<sup>4</sup> Thus, the CIT affirmed the \$0.08/kg dumping margin the

Department calculated for Goodman in the Final Redetermination.

#### Timken Notice

In its decision in *Timken*,<sup>5</sup> as clarified by *Diamond Sawblades*,<sup>6</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 May 26, 2017, final judgment sustaining the Final Redetermination constitutes a final decision of the Court that is not in harmony with the Department's *Final Rescission*. This notice is published in fulfillment of the *Timken* publication requirements. Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending a final and conclusive court decision.

#### Amended Final Results

Because there is now a final court decision, we are amending the *Final Rescission* with respect to the dumping margin calculated for Goodman. Based on the Final Redetermination, as affirmed by the CIT, the revised dumping margin for Goodman, from November 1, 2011, through October 31, 2012, is \$0.08/kg.

In the event that the CIT's ruling is not appealed or, if appealed, is upheld by a final and conclusive court decision, the Department will instruct Customs and Border Protection (CBP) to assess antidumping duties on unliquidated entries of subject merchandise based on the revised dumping margin listed above.

#### Cash Deposit Requirements

Since the *Final Rescission*, the Department has not established a cash deposit rate for Goodman.<sup>7</sup> Therefore, the Department will issue revised cash deposit instructions to CBP, adjusting the cash deposit rate for Goodman to \$0.08/kg, effective June 5, 2017.

#### Notification to Interested Parties

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

<sup>5</sup> See *Timken Co. v. United States*, 893 F.2d 337, 341 (Fed. Cir. 1990) (*Timken*).

<sup>6</sup> See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

<sup>7</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 36,721 (June 30, 2014) (*Final Results*).

<sup>1</sup> See Goodman's letter, "Fresh Garlic from the People's Republic of China—Re-filing Request for Antidumping New Shipper Review of Shijiazhuang Goodman Trading Co., Ltd.," (December 6, 2012).

<sup>2</sup> See *Fresh Garlic from the People's Republic of China: Final Rescission of Antidumping Duty New Shipper Review of Shijiazhuang Goodman Trading Co., Ltd.*, 79 FR 22,098 (April 21, 2014) (*Final Rescission*), and accompanying Issues and Decision Memorandum.

<sup>3</sup> See *Shijiazhuang Goodman Trading Co. v. United States*, 172 F. Supp. 3d 1363, 1368-82 (Ct. Int'l Trade 2016).

<sup>4</sup> See *Shijiazhuang Goodman Trading Co., Ltd. v. United States*, CIT Slip Op. 17-63, Consol. Ct. No. 14-00101 (May 26, 2017).

Dated: July 13, 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-351-849]

**Emulsion Styrene-Butadiene Rubber From Brazil: Final Affirmative Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances**

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

**SUMMARY:** The Department of Commerce (Department) determines that emulsion styrene-butadiene rubber (ESB rubber) from Brazil is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is July 1, 2015, through June 30, 2016.

**DATES:** July 19, 2017.

**FOR FURTHER INFORMATION CONTACT:** Drew Jackson, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-4406.

**SUPPLEMENTARY INFORMATION:**

**Background**

On February 24, 2017, the Department published the *Preliminary Determination* of this antidumping duty LTFV investigation, as provided by section 735 of the Tariff Act of 1930, as amended (Act), in which the Department found that ESB rubber from Brazil sold at LTFV.<sup>1</sup> A summary of the events that have occurred since the Department published the *Preliminary Determination*, as well as a full discussion of the issues raised by interested parties for this final determination, may be found in the

<sup>1</sup> See *Emulsion Styrene-Butadiene Rubber from Brazil: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Negative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures*, 82 FR 11538 (February 24, 2017), and accompanying Preliminary Decision Memorandum (collectively, *Preliminary Determination*).

Issues and Decision Memorandum.<sup>2</sup> The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>.

**Scope of the Investigation**

The product covered by this investigation is ESB rubber from Brazil. For a complete description of the scope of this investigation, see Appendix I.

**Scope Comments**

No interested party commented on the scope of the investigation as it appeared in the *Initiation Notice*.<sup>3</sup> Therefore, we did not modify the scope language of this investigation remains unchanged for this final determination.

**Verification**

As provided in section 782(i) of the Act, in February and March 2017, the Department conducted verification of the information reported by the mandatory respondent ARLANXEO Brasil S.A. (ARLANXEO Brasil) and its U.S. affiliate, ARLANXEO U.S.A. LLC, for use in the Department's final determination.<sup>4</sup> The Department used standard verification procedures, including an examination of relevant accounting and production records and original source documents provided by the respondent.

**Analysis of Comments Received**

All issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are

<sup>2</sup> See Memorandum, "Issues and Decision Memorandum for the Final Determination in the Less Than Fair Value Investigation of Emulsion Styrene-Butadiene Rubber From Brazil," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

<sup>3</sup> See *Emulsion Styrene-Butadiene Rubber from Brazil, the Republic of Korea, Mexico and Poland: Initiation of Less Than Fair Value Investigations*, 81 FR 55438 (August 19, 2016) (*Initiation Notice*).

<sup>4</sup> See Memorandum, "Verification of the Constructed Export Price Sales Questionnaire Responses of ARLANXEO U.S.A. LLC," dated April 13, 2017; Memorandum, "Verification of the Home Market and Constructed Export Price Sales Questionnaire Responses of ARLANXEO Brasil S.A.," dated April 21, 2017; and Memorandum, "Verification of the Cost Response of ARLANXEO Brasil S.A. in the Antidumping Duty Investigation of Certain Emulsion Styrene Butadiene Rubber from Brazil," dated May 15, 2017.

addressed in the Issues and Decision Memorandum. A list of these issues is attached to this notice as Appendix II. Based on our analysis of the comments received and our findings at verifications, we made certain changes to the margin calculation for ARLANXEO Brasil, and also the all-others rate.

**All-Others Rate**

Section 735(c)(5)(A) of the Act provides that in the final determination the Department shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act. For the final determination, the Department calculated an individual estimated weighted-average dumping margin for ARLANXEO Brasil, the only individually examined exporter/producer in this investigation. Because the only individually calculated dumping margin is not zero, *de minimis*, or based entirely on facts otherwise available, the estimated weighted-average dumping margin calculated for ARLANXEO Brasil is the margin assigned to all-other producers and exporters, pursuant to section 735(c)(5)(A) of the Act.

**Final Determination**

The Department determines that the following estimated weighted-average dumping margins exist:

Exporter/producer	Estimated weighted-average dumping margins (percent)
ARLANXEO Brasil S.A. ....	19.61
All-Others .....	19.61

**Final Negative Determination of Critical Circumstances**

On January 25, 2017, the petitioners<sup>5</sup> filed a timely critical circumstances allegation, pursuant to section 733(e)(1) of the Act and 19 CFR 351.206(c)(1), alleging that critical circumstances exist with respect to imports of ESB rubber from Brazil.<sup>6</sup> On February 24, 2017, the

<sup>5</sup> Lion Elastomers LLC and East West Copolymers (collectively, the petitioners).

<sup>6</sup> See Letter to the Honorable Penny Pritzker, Secretary of Commerce, from the Petitioners, concerning, "Emulsion Styrene-Butadiene Rubber