

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.*

[FR Doc. 2017-26384 Filed 12-6-17; 8:45 am]

**BILLING CODE 3510-DS-P**

## 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*.

7210.70.6090, 7212.40.1000, 7212.40.5000, 7219.90.0020, 7219.90.0025, 7219.90.0060, 7219.90.0080, 7220.90.0010, 7220.90.0015, 7225.99.0090, or 7226.99.0180. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

#### Final Determination of No Shipments

In the *Preliminary Results*, the Department determined that NSSMC had no shipments during the POR.<sup>3</sup> Following publication of the *Preliminary Results*, we received no comments from interested parties regarding this determination. As a result, and because the record contains no evidence to the contrary, we find that NSSMC made no shipments during the POR. Accordingly, consistent with the Department's practice, we intend to instruct U.S. Customs and Border Protection (CBP) to liquidate any existing entries of merchandise produced by NSSMC, but exported by other parties without their own rate, at the all-others rate.<sup>4</sup>

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the Issues and Decision Memorandum. A list of the issues raised by parties is attached to this notice as an Appendix. 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 it is available 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/index.html>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

#### Changes Since the Preliminary Results

Based on our review of the record and comments received from interested

<sup>3</sup> See *Preliminary Results*, 82 FR at 26047, and accompanying Preliminary Decision Memorandum, at 2–3.

<sup>4</sup> See, e.g., *Magnesium Metal from the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review*, 75 FR 26922, 26923 (May 13, 2010), unchanged in *Magnesium Metal from the Russian Federation: Final Results of Antidumping Duty Administrative Review*, 75 FR 56989, 56990 (September 17, 2010).

parties, we made certain changes to the margin calculations for Toyo Kohan. For a discussion of these changes, see Issues and Decision Memorandum.

#### Final Results of the Review

The final weighted-average dumping margins are as follows for the period May 1, 2015, through April 30, 2016:

Producer or exporter	Weighted-average dumping margin (percent)
Toyo Kohan Co., Ltd .....	1.59

#### Disclosure

We will disclose the calculations performed to parties in this proceeding within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b).

#### Duty Assessment

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review pursuant to section 751(a)(2)(C) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.212(b).

For Toyo Kohan, because its weighted-average dumping margin is not zero or *de minimis* (i.e., less than 0.5 percent), the Department has calculated importer-specific *ad valorem* duty assessment rates. We calculated importer-specific *ad valorem* antidumping duty rates by aggregating the total amount of dumping calculated for the importer's examined sales and dividing each of these amounts by the total entered value associated with those sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review where an importer-specific assessment is above *de minimis*. Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the importer-specific assessment rate is zero or *de minimis*.

As noted in the "Final Determination of No Shipments" section, above, the Department will instruct CBP to liquidate any existing entries of merchandise produced by NSSMC but exported by other parties, at the rate for the intermediate reseller, if available, or at the all-others rate.<sup>5</sup> We intend to issue assessment instructions directly to CBP

<sup>5</sup> For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003)

15 days after publication of the final results of this review.

#### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of this notice for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of these final results, as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for Toyo Kohan will be the rate established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this administrative review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the manufacturer of the subject merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 45.42 percent, the all-others rate established in the antidumping investigation.<sup>6</sup> These cash deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the period of review. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties did occur and the subsequent assessment of doubled antidumping duties.

#### Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written

<sup>6</sup> See *Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products from Japan: Antidumping Duty Order*, 79 FR 30816, 30817 (May 29, 2014) (Order).

notification of the return/destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(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.*

**Appendix I**

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

- I. Summary
- II. List of Issues
- III. Background
- IV. Scope of the Order
- V. Discussion of the Issues
  - Comment 1: Classification of EP Sales as CEP Sales
  - Comment 2: Using Lower of Cost Method or Market Rule for Overrun Production Costs
  - Comment 3: The Department Should Correct Certain Clerical Errors in its Preliminary Results
- VI. Recommendation

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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) remand results pertaining to 19th antidumping duty 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), and certain non-examined separate rate companies. 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 19th

antidumping duty administrative review, and that the Department has assigned Xinboda and other non-examined separate rate companies Jinxiang Richfar Fruits & Vegetables Co., Ltd. (Jinxiang Richfar); Qingdao Lianghe International Trade Co., Ltd. (Qingdao Lianghe); Shandong Chenhe International Trading Co., Ltd. (Shandong Chenhe); and Weifang Hongqiao International Logistics Co., Ltd. (Weifang Hongqiao) a dumping margin of \$2.19 per kilogram.

**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 15, 2015, the Department published the *Final Results* pertaining to mandatory respondents Golden Bird and Jinxiang Hejia Co., Ltd. (Hejia), along with other exporters, including non-examined separate rate companies Xinboda, Jinxiang Richfar, Qingdao Lianghe, Shandong Chenhe, and Weifang Hongqiao.<sup>1</sup> The period of review (POR) is November 1, 2012, through October 31, 2013. In the *Final Results*, the Department relied on total adverse facts available (AFA) with respect to Golden Bird and Hejia, and found Golden Bird and Hejia to be part of the PRC-wide entity.<sup>2</sup> The Department assigned a rate of \$1.82 per kilogram for Xinboda and the other non-examined separate rate companies.<sup>3</sup>

On July 27, 2016, the CIT remanded for the Department to consider evidence on the record concerning Golden Bird's independence from government control to determine whether the company is entitled to separate rate status.<sup>4</sup> The Court ordered the Department to select a separate rate for the non-examined companies "by either employing a different reasonable method to calculate the separate rate, such as reopening the record to examine new mandatory respondents, reopening the record to

<sup>1</sup> See *Fresh Garlic from the People's Republic of China: Final Results and Partial Rescission of the 19th Antidumping Duty Administrative Review; 2012-2013*, 80 FR 34141 (June 15, 2015) (*Final Results*), and accompanying Issues and Decision Memorandum (IDM).

<sup>2</sup> See IDM.

<sup>3</sup> *Id.*

<sup>4</sup> See *Shenzhen Xinboda Industrial Co., Ltd., et al. v. United States*, CIT Slip Op. 16-74, Consol. Ct. No. 15-00179 (July 27, 2016) (*Garlic 19 Remand*) at 30.

collect information from which to calculate a reliable separate rate, or if it results in a non-punitive rate for separate respondents, adjusting the separate rate assigned based on the results of remand pursuant to *{Fresh Garlic Producers Association v. United States}*, 180 F. Supp. 3d 1233 (CIT 2016), arising out of the eighteenth administrative review of the AD order on fresh garlic from the PRC (*FGPA II*})."<sup>5</sup>

On April 28, 2017, the Department filed the *Final Remand Results*, continuing to find Golden Bird ineligible for a separate rate.<sup>6</sup> For non-examined separate companies, the Department determined that it would establish their rate by applying the updated separate rate determined in the remand of the 18th administrative review, pursuant to *FGPA II*.<sup>7</sup>

On July 17, 2017, the CIT sustained the Department's *Final Remand Results* as to Golden Bird.<sup>8</sup> On September 19, 2017, the CIT sustained the Department's *Final Remand Results* as to the separate rate applied to non-examined companies.<sup>9</sup> Thus, the calculations performed with the new surrogate values resulted in a weighted-average dumping margin of \$2.19 per kilogram and was assigned to Xinboda, Jinxiang Richfar, Qingdao Lianghe, Shandong Chenhe, and Weifang Hongqiao.

**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 *Final Remand Results*

<sup>5</sup> *Id.* at 30-31.

<sup>6</sup> See Memorandum to The File, "Final Results of Redetermination Pursuant to Remand: Fresh Garlic from the People's Republic of China, Shenzhen Xinboda Industrial Co., Ltd., et al. v. United States, U.S. Court of International Trade, Consol. Ct. No. 15-00179, Slip Op. 16-74" (April 28, 2016).

<sup>7</sup> *Id.*

<sup>8</sup> See *Hebei Golden Bird Trading Co., Ltd., et al., v. United States*, CIT Slip Op. 17-86, Ct. No. 15-00182 (July 17, 2017).

<sup>9</sup> See *Fresh Garlic Producers Association, et al., 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*).