

steel pin outside the scope of the antidumping duty order on certain steel nails from the Socialist Republic of Vietnam.<sup>11</sup>

The CIT remanded the Final Scope Ruling to Commerce for further consideration consistent with the CIT's opinion.<sup>12</sup> The CIT also directed Commerce to issue appropriate instructions to CBP regarding the suspension of liquidation of Simpson's zinc and nylon anchors.<sup>13</sup>

Pursuant to the CIT's instructions, on remand, under respectful protest, Commerce found that Simpson's zinc and nylon anchors do not fall within the scope of the *Order*.<sup>14</sup> On July 25, 2019, the CIT sustained Commerce's Final Remand Results.<sup>15</sup>

### Timken Notice

In its decision in *Timken*,<sup>16</sup> as clarified by *Diamond Sawblades*,<sup>17</sup> the Court of Appeals for the Federal Circuit (CAFC) held that, pursuant to sections 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of a court decision that is not "in harmony" with a Commerce determination and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's July 25, 2019 judgment in this case constitutes a final decision of the court that is not in harmony with Commerce's Final Scope Ruling. This notice is published in fulfillment of the publication requirements of *Timken*. Accordingly, Commerce will continue the suspension of liquidation of components for nails pending expiration of the period of appeal or, if appealed, pending a final and conclusive court decision.

### Amended Final Scope Ruling

Because there is now a final court decision with respect to this case, Commerce is amending its final scope ruling and finds that the scope of the *Order* does not cover the zinc and nylon anchors specified in Simpson's Scope Request. Commerce will instruct CBP that the cash deposit rate will be zero

<sup>11</sup> *Id.* at 12–13 (citing *OMG, Inc. v. United States*, Court No. 17–00036, Slip Op. 18–63 (CIT 2018)).

<sup>12</sup> *Id.* at 15.

<sup>13</sup> *Id.*

<sup>14</sup> See Final Results of Redetermination Pursuant to Court Remand, *Simpson Strong-Tie Company, v. United States*, Court No. 17–00057, Slip Op. 18–123 (CIT September 21, 2018), dated December 20, 2018 (Final Remand Results).

<sup>15</sup> See *Simpson Strong-Tie Company, v. United States*, Court No. 17–00057, Slip Op. 19–93 (CIT 2019).

<sup>16</sup> See *Timken Co. v. United States*, 893 F. 2d 337, 341 (Fed. Cir. 1990) (*Timken*).

<sup>17</sup> See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F. 3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

percent for zinc and nylon articles subject to Simpson's Scope Request. In the event that the CIT's ruling is not appealed, or if appealed, upheld by the CAFC, Commerce will instruct CBP to liquidate entries of Simpson's zinc and nylon anchors without regard to antidumping duties, and to lift suspension of liquidation of such entries.

### Notification to Interested Parties

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

Dated: September 12, 2019.

**James Maeder,**

*Deputy Assistant Secretary, for Antidumping and Countervailing Duty Operations.*

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**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–570–964]

### Seamless Refined Copper Pipe and Tube From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Rescission of Review, in Part; 2017–2018

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

**SUMMARY:** The Department of Commerce (Commerce) preliminarily determines that producers and/or exporters subject to this administrative review made sales of subject merchandise at less than normal value during the period of review (POR), November 1, 2017 through October 31, 2018. Interested parties are invited to comment on these preliminary results of review.

**DATES:** Applicable September 18, 2019.

**FOR FURTHER INFORMATION CONTACT:** Maisha Cryor, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5831.

### SUPPLEMENTARY INFORMATION:

#### Background

On November 20, 2010, Commerce published in the **Federal Register** an antidumping (AD) order on seamless refined copper pipe and tube (copper pipe and tube) from the People's Republic of China (China).<sup>1</sup> On

<sup>1</sup> See *Seamless Refined Copper Pipe and Tube from Mexico and the People's Republic of China:*

November 1, 2018, Commerce published a notice of opportunity to request an administrative review of the *Order*.<sup>2</sup> On November 30, 2018, the Mueller Copper Tube Products, Inc. and Mueller Copper Tube Company, Inc., (collectively, the petitioners), timely requested that Commerce conduct an administrative review of this AD order with respect to 16 companies.<sup>3</sup> On February 6, 2019, in accordance with 19 CFR

351.221(c)(1)(i), Commerce published the notice of initiation of the administrative review of the AD *Order* on copper pipe and tube from China for the POR covering 16 companies.<sup>4</sup>

All requests for administrative review were timely withdrawn with regard to 12 companies (listed in Appendix II to this notice), leaving 4 companies subject to the administrative review.<sup>5</sup> On March 4, 2019, we selected the Golden Dragon Entity as the sole producer or exporter eligible for individual examination as a mandatory respondent in this administrative review.<sup>6</sup> For a complete description of the events that followed the initiation of this administrative review, see the Preliminary Decision Memorandum.<sup>7</sup>

The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's AD and Countervailing Duty Centralized Electronic Service System (ACCESS).

*Antidumping Duty Orders and Amended Final Determination of Sales at Less Than Fair Value from Mexico*, 75 FR 71070 (November 20, 2010) (*Order*).

<sup>2</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 83 FR 54912 (November 1, 2018).

<sup>3</sup> See Petitioners' Letter, "Seamless Refined Copper Pipe and Tube from China: Request for Antidumping Duty Administrative Review," dated November 30, 2018.

<sup>4</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 2159 (February 6, 2019) (*Initiation Notice*).

<sup>5</sup> See Petitioners' Letter, "Seamless Refined Copper Pipe and Tube from China: Partial Withdrawal of Request for Administrative Review of Antidumping Order," dated May 6, 2019 (Withdrawal Request). A request for an administrative review therefore remains in place for 4 companies not named in the Withdrawal Request.

<sup>6</sup> See Memorandum, "Issuance of Questionnaire," dated March 4, 2019 (Respondent Selection Memorandum). As explained in the Respondent Selection Memorandum, the Golden Dragon Entity is a collapsed entity that encompasses three of the companies initiated upon in the *Initiation Notice*, i.e., Golden Dragon Holding (Hong Kong) International Co., Ltd., Golden Dragon Precise Copper Tube Group, Inc., and Hong Kong GD Trading Co, Ltd.

<sup>7</sup> See Memorandum, "Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Seamless Refined Copper Pipe and Tube from the People's Republic of China: 2017–2018," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

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 Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content. A list of topics included in the Preliminary Decision Memorandum is included as Appendix I to this notice.

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018 through the resumption of operations on January 29, 2019.<sup>8</sup> The revised deadline for the preliminary results of this review is now September 11, 2019.

### Scope of the Order

The merchandise subject to the order is seamless refined copper pipe and tube. The product is currently classified under Harmonized Tariff Schedule of the United States (“HTSUS”) item numbers 7411.10.1030 and 7411.10.1090. Products subject to this order may also enter under HTSUS item numbers 7407.10.1500, 7419.99.5050, 8415.90.8065, and 8415.90.8085. Although the HTSUS numbers are provided for convenience and customs purposes, the written description of the scope of this order remains dispositive.<sup>9</sup>

### Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act). For a full description of the methodology underlying our preliminary results of review, see the Preliminary Decision Memorandum.

### Rescission of Administrative Review, in Part

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party or parties that requested a review withdraws the request within 90 days of the publication date of the notice of initiation of the requested review. As

<sup>8</sup> See Memorandum to the Record from 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, “Deadlines Affected by the Partial Shutdown of the Federal Government,” dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

<sup>9</sup> See Preliminary Decision Memorandum for a complete description of the scope of the order.

noted above, all requests for administrative review were timely withdrawn for certain companies. Therefore, in accordance with 19 CFR 351.213(d)(1), we are rescinding this administrative review with respect to 12 of the 16 companies named in the *Initiation Notice*.<sup>10</sup> See Appendix II for a list of these companies.

### Separate Rates

In the *Initiation Notice*, we informed parties of the opportunity to request a separate rate.<sup>11</sup> In proceedings involving non-market economy (NME) countries, Commerce begins with a rebuttable presumption that all companies within the NME country are subject to government control and, thus, should be assigned a single weighted-average dumping margin. It is Commerce’s policy to assign all exporters of merchandise subject to an administrative review involving an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. Companies that wanted to qualify for separate rate status in this administrative review were required to timely file, as appropriate, a separate rate application (SRA) or a separate rate certification (SRC) to demonstrate their eligibility for a separate rate. SRAs and SRCs were due to Commerce within 30 calendar days of the publication of the *Initiation Notice*.<sup>12</sup>

On April 18, 2019, the Golden Dragon Entity notified Commerce that it would not participate further in this administrative review.<sup>13</sup> Furthermore, the Golden Dragon Entity failed to respond to sections C and D of Commerce’s antidumping questionnaire; consequently, given that we are unable to verify its separate rate status, we preliminarily find that the Golden Dragon Entity is ineligible for separate rate status.<sup>14</sup> Sinochem Ningbo Import & Export Co., Ltd. did not file either a SRA or a SRC within 30 calendar days of the publication of the *Initiation Notice*. Therefore, we preliminarily find that

<sup>10</sup> See *Initiation Notice*, 84 FR at 2160.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> See Golden Dragon Entity’s Letter, “Seamless Refined Copper Pipe and Tube from China: Notice of Non-Participation,” dated April 18, 2019.

<sup>14</sup> See *Initiation Notice*, 84 FR at 2160. (“For exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.”).

Sinochem Ningbo Import & Export Co., Ltd. is ineligible for separate rate status.

### China-Wide Entity

We preliminarily find that the Golden Dragon Entity is part of the China-wide entity in this administrative review, because it failed to respond to Commerce’s antidumping questionnaire after being selected as a mandatory respondent and because we are unable to verify its separate rate status. We also preliminarily find that Sinochem Ningbo Import & Export Co., Ltd. is a part of the China-wide entity in this administrative review because it failed to submit either an SRA or an SRC.

Commerce’s policy regarding conditional review of the China-wide entity applies to this administrative review.<sup>15</sup> Under this policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the China-wide entity in the instant review, the entity is not under review, and the entity’s current rate, *i.e.*, 60.85 percent,<sup>16</sup> is not subject to change.

### Disclosure and Public Comment

Normally, Commerce discloses to interested parties the calculations performed in connection with the preliminary results within five days of the public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). However, because Commerce did not calculate weighted-average dumping margins for any companies in this review, nor for the China-wide entity, there is nothing further to disclose.

Interested parties may submit case briefs no later than 30 days after the date of publication of this notice.<sup>17</sup> Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the case briefs are filed.<sup>18</sup> Parties who submit case or rebuttal briefs in this review are requested to submit with each argument: (a) A statement of the issue; (b) a brief summary of the argument; and (c) a table of authorities.<sup>19</sup>

<sup>15</sup> See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963, 65970 (November 4, 2013).

<sup>16</sup> See *Seamless Refined Copper Pipe and Tube from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2014–2015*, 82 FR 27688, 27689 (June 16, 2017).

<sup>17</sup> See 19 CFR 351.309(c)(1)(ii).

<sup>18</sup> See 19 CFR 351.309(d).

<sup>19</sup> See 19 CFR 351.309(c)(2) and (d)(2).

Any interested party may request a hearing within 30 days of publication of this notice.<sup>20</sup> Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the case and rebuttal briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.<sup>21</sup>

All submissions, with limited exceptions, must be filed electronically using ACCESS.<sup>22</sup> An electronically filed document must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5 p.m. Eastern Time (ET) on the due date. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with the APO/Dockets Unit in Room 18022 and stamped with the date and time of receipt by 5 p.m. ET on the due date.<sup>23</sup>

Unless otherwise extended, Commerce intends to issue the final results of this administrative review, which will include the results of our analysis of all issues raised in any briefs received, within 120 days of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act.

#### Assessment Rates

Upon issuance of the final results of this review, Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, AD duties on all appropriate entries covered by this review.<sup>24</sup> Commerce intends to issue assessment instructions to CBP 15 days after publication of the final results of this review.

We intend to instruct CBP to liquidate entries containing subject merchandise exported by the China-wide entity at the China-wide rate. Additionally, if Commerce determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number will be liquidated at the China-wide rate.<sup>25</sup>

For the companies for which this review is rescinded, AD duties shall be assessed at rates equal to the cash deposit of estimated AD duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue assessment instructions to CBP for those companies 15 days after publication of this notice.

#### Cash Deposit Requirements

The following cash deposit requirements for estimated AD duties, when imposed, will apply to all shipments of subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) If the companies preliminarily determined to be eligible for a separate rate receive a separate rate in the final results of this administrative review, their cash deposit rate will be equal to the weighted-average dumping margin established in the final results of this review, as adjusted for domestic and export subsidies (except, if that rate is *de minimis*, then the cash deposit rate will be zero); (2) for any previously investigated or reviewed Chinese and non-Chinese exporters that are not under review in this segment of the proceeding but that received a separate rate in the most recently completed segment of this proceeding, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed segment of this proceeding; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the China-wide entity; (4) for the China-wide entity, the cash deposit rate will be 60.85 percent; and (5) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter.

These cash deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of AD duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's

presumption that reimbursement of AD duties occurred and the subsequent assessment of double AD duties.

#### Notification to Interested Parties

We are issuing and publishing notice of these preliminary results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: September 11, 2019.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

#### Appendix I

##### List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Respondent Selection
- V. Rescission of Administrative Review, in Part
- VI. Non-Market Economy Country
- VII. Separate Rates
- VIII. The China-Wide Entity
- IX. Recommendation

#### Appendix II

##### Companies for Which This Administrative Review Is Being Rescinded

1. Zhejiang Hailiang Co., Ltd.
2. Shanghai Hailiang Copper Co., Ltd.
3. Zhejiang Jiahe Pipes Inc
4. Sinochem Ningbo Ltd.
5. Ningbo Jintian Copper Tube Co., Ltd.
6. Zhejiang Naile Copper Co., Ltd.
7. Guilin Lijia Metals Co., Ltd.
8. Foshan Hua Hong Copper Tube Co., Ltd.
9. Taicang City Jinxin Copper Tube Co., Ltd.
10. Hong Kong Hailiang Metal.
11. China Hailiang Metal Trading.
12. Shanghai Hailiang Metal Trading Limited.

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#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

**RIN 0648-PR-A004**

##### Marine Mammals; File No. 23092

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; receipt of application.

**SUMMARY:** Notice is hereby given that C. Scott Baker, Ph.D., Oregon State University, Marine Mammal Institute, Hatfield Marine Science Center, 2030 SE Marine Science Drive, Newport, OR 97365, has applied in due form for a permit to receive, import, and export

<sup>20</sup> See 19 CFR 351.310(c).

<sup>21</sup> See 19 CFR 351.310(d).

<sup>22</sup> See generally 19 CFR 351.303.

<sup>23</sup> See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011).

<sup>24</sup> See 19 CFR 351.212(b)(1).

<sup>25</sup> See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).