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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-929]

Small Diameter Graphite Electrodes from the People's Republic of China: Amended Final Results of the First Administrative Review of the Antidumping Duty Order

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

EFFECTIVE DATE: (Insert date of publication in the *Federal Register*.)

SUMMARY: On September 13, 2011, the Department of Commerce ("Department") published the final results of the antidumping duty administrative review of small diameter graphite electrodes ("SDGE") from the People's Republic of China ("PRC"), covering the period August 21, 2008, through January 31, 2010.¹ We are amending our *Final Results* to correct certain ministerial errors made in the calculation of the antidumping duty margins for Fushun Jinly Petrochemical Carbon Co., Ltd. ("Fushun Jinly"); Beijing Fangda Carbon Tech Co., Ltd. ("Beijing Fangda"), Fangda Carbon New Material Co., Ltd. ("Fangda Carbon"), Fushun Carbon Co., Ltd. ("Fushun Carbon"), and Hefei Carbon Co., Ltd. ("Hefei"); and Xinghe County Muzi Co., Ltd. ("Muzi") pursuant to section 751(h) of the Tariff Act of 1930, as amended ("the Act"), and 19 CFR 351.224(e).

FOR FURTHER INFORMATION CONTACT: Lindsey Novom or Frances Veith, AD/CVD

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¹ See *Small Diameter Graphite Electrodes from the People's Republic of China: Final Results of the First Administrative Review of the Antidumping Duty Order and Final Rescission of the Administrative Review, in Part*, 76 FR 56397 (September 13, 2011) ("*Final Results*").

SUPPLEMENTARY INFORMATION:

Background

On September 13, 2011, the Department published its affirmative final results in this proceeding.² On September 19, 2011, Fushun Jinly and Beijing Fangda, Chengdu Rongguang Carbon Co., Ltd. (“Rongguang”), Fangda Carbon, Fushun Carbon, and Hefei (collectively “the Fangda Group”), mandatory respondents, submitted ministerial error allegations and requested, pursuant to 19 CFR 351.224(c), that the Department correct the alleged ministerial errors in the calculation of Fushun Jinly and the Fangda Group’s dumping margins. Muzi, a separate rate company, also submitted ministerial error allegations on September 19, 2011. SGL Carbon LLC and Superior Graphite Co. (“Petitioners”) submitted rebuttal comments on September 23, 2011. Before the Department could take action on the alleged ministerial errors, Petitioners filed a summons and complaint with the U.S. Court of International Trade (“CIT”) challenging the *Final Results*, which vested the CIT with jurisdiction over the administrative proceeding. On February 22, 2012, the CIT granted the Department leave to publish these amended final results to correct certain ministerial errors.³

Ministerial Errors

A ministerial error as defined in section 751(h) of the Act includes “errors in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial.”⁴

² See *Final Results*.

³ See *SGL Carbon LLC v. United States*, Consol. Court No. 11-00389 (Ct. Int’l Trade February 22, 2012) (order granting the Department leave to publish amended final results correcting ministerial errors no later than March 16, 2012).

⁴ See also 19 CFR 351.224(f).

After analyzing all interested party comments and rebuttals, we have determined, in accordance with section 751(h) of the Act and 19 CFR 351.224(e), that we made certain ministerial errors in our calculations for the *Final Results*. For a detailed discussion of these ministerial errors, as well as the Department’s analysis of the errors and allegations, *see* the Memorandum to the File, “First Administrative Review of the Antidumping Duty Order on Small Diameter Graphite Electrodes from the People’s Republic of China: Analysis of Ministerial Error Allegations,” dated concurrently with this notice (“Ministerial Error Memo”).

Additionally, in the *Final Results*, we determined that Muzi qualified for a separate rate.⁵ Because the cash deposit rate for Muzi was based on the calculated rate of the mandatory respondents, Fushun Jinly and the Fangda Group, and the margins for both companies have changed since the *Final Results*, the separate rate has changed as well.⁶ Finally, we have corrected a misspelling of Muzi’s full name. The amended weighted-average dumping margins are as follows:

SDGEs from the PRC	
Exporters	Percent Margin
Beijing Fangda Carbon Tech Co., Ltd., Fangda Carbon New Material Co., Ltd., Fushun Carbon Co., Ltd., Hefei Carbon Co., Ltd.	1.10
Fushun Jinly Petrochemical Carbon Co., Ltd.	39.83
Xinghe County Muzi Carbon Co., Ltd.	16.00

Notification of Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior

⁵ See *Final Results*.

⁶ See Ministerial Error Memo.

to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders ("APOs") 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 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 violation that is subject to sanction.

Disclosure

We will disclose the calculations performed for these amended final results within five days of the date of publication of this notice to interested parties in accordance with 19 CFR 351.224(b).

Assessment Rate

Pursuant to section 751(a)(2)(A) of the Act, and 19 CFR 351.212(b), the Department will determine, and U.S. Customs and Border Protection ("CBP") shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the amended final results of this review. For assessment purposes, we calculated importer (or customer)-specific assessment rates for merchandise subject to this review. Where appropriate, we calculated an *ad valorem* rate for each importer (or customer) by dividing the total dumping margins for reviewed sales to that party by the total entered values associated with those transactions. For duty-assessment rates calculated on this basis, we will direct CBP to assess the resulting *ad valorem* rate against

the entered customs values for the subject merchandise. Where appropriate, we calculated a per-unit rate for each importer (or customer) by dividing the total dumping margins for reviewed sales to that party by the total sales quantity associated with those transactions. For duty-assessment rates calculated on this basis, we will direct CBP to assess the resulting per-unit rate against the entered quantity of the subject merchandise. Where an importer (or customer)-specific assessment rate is *de minimis* (*i.e.*, less than 0.50 percent), the Department will instruct CBP to assess that importer (or customer's) entries of subject merchandise without regard to antidumping duties, in accordance with 19 CFR 351.106(c)(2). On September 28, 2011, the U.S. Court of International Trade issued a preliminary injunction enjoining liquidation of certain entries which are subject to the antidumping duty order on SDGEs from the PRC, for the POR.⁷ Accordingly, the Department will not issue assessment instructions for any entries subject to the above-mentioned injunction to CBP after publication of this notice.

Cash Deposit Requirements

The following cash deposit requirements will be effective retroactively on any entries made on or after September 13, 2011, the date of publication of the *Final Results*, for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) for Fushun Jinly, the Fangda Group, and Muzi, the cash deposit rate will be the amended final margin rate shown above in the "Ministerial Errors" section of this notice; (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be

⁷ See *SGL Carbon LLC and Superior Graphite Co. v. United States*, CIT Court No. 11-00389 dated September 28, 2011.

entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 159.64 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements shall remain in effect until further notice.

These amended final results are published in accordance with sections 751(a)(1), 751(h) and 777(i)(1) of the Act.

Paul Piquado
Assistant Secretary
for Import Administration

____ March 7, 2012 _____
Date

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