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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-888

Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China: Notice of Court Decision Not in Harmony With Final Results and Notice of Amended Final Results of the Antidumping Duty Administrative Review; 2008-2009

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

SUMMARY: On December 30, 2014, the United States Court of International Trade (the Court) issued final judgment in *Since Hardware (Guangzhou) Co., Ltd. v. United States*, Court No. 11-00106, sustaining the Department of Commerce's (the Department) final results of the third redetermination pursuant to remand.¹ Consistent with the decision of the United States Court of Appeals for the Federal Circuit (Federal Circuit) in *Timken Co., v United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), as clarified by *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*), the Department is notifying the public that the final judgment in this case is not in harmony with the Department's final results of the antidumping duty administrative review of floor-standing, metal top ironing tables and certain parts thereof from the People's Republic of China covering the period August 1, 2008, through

¹ See Final Results of Redetermination Pursuant to Court Remand, Floor Standing Metal Top Ironing Tables and Certain Parts Thereof from the People's Republic of China, *Since Hardware (Guangzhou) Co., Ltd. v. United States*, Court No. 11-00106, Slip Op. 14-44 (CIT April 15, 2014), dated July 8, 2014 (*Third Redetermination*), available at <http://enforcement.trade.gov/remands/index.htm>.

July 31, 2009, and is amending the final results with respect to the weighted-average dumping margin assigned to both Since Hardware (Guangzhou) Co., Ltd. (Since Hardware) and Foshan Shunde Yongjian Housewares & Hardwares Co., Ltd. (Foshan Shunde)²

EFFECTIVE DATE: January 9, 2015

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney or Robert James, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4475 or (202) 482-0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 27, 2011, the Department published its *Amended Final Results*.³ On April 28, 2011, Foshan Shunde and Since Hardware, exporters of the subject merchandise, timely filed complaints with the Court to challenge certain aspects of the *Amended Final Results*. The litigation history of this procedure is outlined below.

On August 14, 2012, the Court remanded the matter.⁴ On December 17, 2012, the Department issued its *First Redetermination*, in which it 1) reconsidered the public availability of the financial statements used in the *Final Results*, 2) explained why the Department selected the 2006-2007 financial statements of Infiniti Modules (Infiniti) and declined to use the 2008-2009 financial statements of either Omax Autos (Omax) or Maximaa Systems Limited (Maximaa), 3) defended the Department's brokerage and handling calculation and responded to

² See *Floor-Standing Metal-Top Ironing Tables and Certain Parts Thereof From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 76 FR 15297 (March 21, 2011), and accompanying Issues and Decision Memorandum, as amended by *Floor-Standing Metal-Top Ironing Tables and Certain Parts Thereof From the People's Republic of China: Notice of Amended Final Results of Antidumping Duty Administrative Review*, 76 FR 23543 (April 27, 2011) (collectively, *Amended Final Results*).

³ *Id.*

⁴ *Since Hardware (Guangzhou) Co., Ltd. v. United States*, Court No. 11-00106 (August 14, 2012) (*Since Hardware I*).

the objections raised to that calculation by Foshan Shunde, 4) recalculated labor wage rates to conform with the Court's decision in *Home Products International*,⁵ and 5) recalculated the cotton conversion factor used in the antidumping calculation for Since Hardware.⁶

Upon consideration of the *First Redetermination*, on May 30, 2013, the Court affirmed our 1) calculation of Since Hardware's cotton conversion factor, 2) recalculation of labor expense, 3) decision to reject the financial statements of Omax as a source of financial ratios, and 4) use of World Bank data to derive brokerage and handling expenses.⁷ The Court also remanded the case to the Department to reconsider: (1) using financial statements from Maximaa in light of the fact that Infiniti's statements are non-contemporaneous and present public availability concerns, (2) the respondent's claim that World Bank data unfairly represent brokerage and handling costs, (3) respondent's evidence related to port and terminal handling costs based on container size.⁸

On August 14, 2013, the Department issued its *Second Redetermination*, in which it further explained its basis for selecting the financial statements of Infiniti over those of Maximaa, 2) recalculated the portion of Foshan Shunde's brokerage and handling expense related to the container size adjustment, and 3) reconsidered Foshan Shunde's objections regarding the difference between inland and seaport cities and determined that no adjustment to that calculation is warranted.⁹

⁵ See *Home Products International Inc. v. United States*, Court No. 11-00104, Final Results of Redetermination (March 14, 2012) (*Home Products International*).

⁶ See *Final Results of Redetermination Pursuant to Court Remand Floor Standing Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China*, dated December 17, 2012 (First Redetermination).

⁷ See *Since Hardware (Guangzhou) Co., Ltd. v. United States*, Court No. 11-00106, Slip Op. 13-69 (May 30, 2013) (*Since Hardware II*).

⁸ *Id.*

⁹ See *Final Results of Redetermination Pursuant to Court Remand Floor Standing Metal Ironing Tables and Certain Parts Thereof from the People's Republic of China, Since Hardware (Guangzhou) Co., Ltd. v. United States*, Court No. 11-00106, dated August 14, 2013 (*Second Redetermination*).

On April 15, 2014, the Court affirmed the Department's financial statement selection.¹⁰ However, the Court remanded for further consideration aspects of the Department's brokerage and handling calculation, and asked for the Department to address zeroing in a nonmarket economy context.¹¹

On July 8, 2014, the Department filed its *Third Redetermination*, in which it recalculated the conversion factor for Foshan Shunde, and the labor expense rate for both Since Hardware and Foshan Shunde consistent with the instructions of the Court.¹² Also, in the *Third Redetermination*, under protest, the Department recalculated the brokerage and handling expense for Foshan Shunde based upon the instructions set forth by the Court.¹³ On December 30, 2014, the Court sustained the Department's *Third Redetermination*, and entered final judgment.¹⁴

Timken Notice

In its decision in *Timken*, 893 F.2d at 341, as clarified by *Diamond Sawblades*, the Federal Circuit has 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 not "in harmony" with a Department determination, and must suspend liquidation of entries pending a "conclusive" court decision. The Court's December 30, 2014, judgment sustaining the *Third Redetermination* constitutes a final decision of the Court that is not in harmony with the Department's *Amended Final Results*. This notice is published in fulfillment of the publication requirement of *Timken*. Accordingly, the Department will continue the suspension of liquidation of the subject

¹⁰ See *Since Hardware (Guangzhou) Co., Ltd. v. United States*, Court No. 11-00106, Slip Op. 14-44 (April 15, 2014) (*Since Hardware III*).

¹¹ *Id.*

¹² See generally *Third Redetermination*.

¹³ *Id.*

¹⁴ See *Since Hardware (Guangzhou) Co., Ltd. v. United States*, Court No. 11-00106, Slip Op. 14-159 (December 30, 2014).

merchandise pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision.

Second Amended Final Results

Because there is now a final court decision, the Department amends the *Amended Final Results* with respect to the dumping margin of Since Hardware and Foshan Shunde. The revised weighted-average dumping margin for Since Hardware and Foshan Shunde during the period August 1, 2008, through July 31, 2009, is as follows:

Exporter	Weighted Average Dumping Margin (Percent)
Since Hardware (Guangzhou) Co., Ltd.	83.83 percent
Foshan Shunde Yongjian Housewares & Hardwares Co., Ltd.	18.88 percent

Because there have been no subsequent review for Since Hardware, the revised cash deposit rate for Since Hardware is now 83.33 percent. For Foshan Shunde, the cash deposit rate will remain the rate established in the *2010-2011 Final Results*, a subsequent review, which is 157.68 percent.¹⁵

In the event the Court's ruling is not appealed, or if appealed and upheld by the Federal Circuit, the Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on entries of the subject merchandise exported by Since Hardware and Foshan Shunde using the revised assessment rate calculated by the Department in the *Third Redetermination*.

¹⁵ See Floor Standing Metal-Top Ironing Tables and Certain Parts Thereof From the People's Republic of China: Final Results of Antidumping Duty Administrative Review (*2010-2011 Final Results*).

Cash Deposit Requirements

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct CBP to collect a cash deposit of 83.33 percent for entries of subject merchandise exported by Since Hardware, effective January 9, 2015, in accordance with the *Timken Notice*.

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

Paul Piquado
Assistant Secretary
for Enforcement & Compliance

June 18, 2015.
Date

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