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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-916

Laminated Woven Sacks from the People's Republic of China: Notice of Court Decision Not in Harmony with Final Determination Under Section 129 of the Uruguay Round Agreements Act

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

SUMMARY: On March 30, 2016, the United States Court of International Trade (CIT or Court) issued final judgment in *Laminated Woven Sacks Committee, Coating Excellence International, LLC, and Polytex Fibers Corporation v. United States*, Consol. Court No. 12-00301, affirming the Department of Commerce's (the Department) final results of redetermination pursuant to court remand. Consistent with the decision of the United States Court of Appeals for the Federal Circuit (CAFC) 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 implemented final determination in a proceeding conducted under section 129 of the Uruguay Round Agreements Act (Section 129) related to the Department's final affirmative determination in the antidumping duty (AD) investigation of laminated woven sacks (LWS) from the People's Republic of China (the PRC) for the period October 1, 2006, through March 31, 2007.¹ The Department is amending its

¹ See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Final Determination: Section 129 Proceeding Pursuant to the WTO Appellate Body's Findings in WTO DS379 Regarding the Antidumping and Countervailing Duty Investigations of Laminated Woven Sacks from the People's Republic of China," (July 31, 2012) (Final Section 129 Determination); see also *Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act: Certain New Pneumatic Off-the-Road Tires; Circular Welded Carbon Quality Steel Pipe; Laminated Woven Sacks; and Light-Walled Rectangular Pipe and Tube From the People's Republic of*

implemented Final Section 129 Determination with regard to granting adjustments to the AD cash deposit rates.

DATES: EFFECTIVE DATE: April 11, 2016²

FOR FURTHER INFORMATION CONTACT: Ryan Mullen, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-2560.

SUPPLEMENTARY INFORMATION:

Background

On August 7, 2008, the Department published AD and countervailing duty (CVD) orders on LWS imports from the PRC.³ The Government of the People's Republic of China challenged the LWS orders and three other sets of simultaneously imposed AD and CVD orders before the Dispute Settlement Body of the World Trade Organization (WTO). The WTO Appellate Body, in March 2011, found that the United States had acted inconsistently with its international obligations in several respects, including the potential imposition of overlapping remedies, or so-called "double remedies."⁴ The U.S. Trade Representative then announced the United States' intention to comply with the WTO's rulings and recommendations, and the Department initiated a Section 129 proceeding.⁵

On July 31, 2012, the Department issued its Final Section 129 Determination. In that determination, the Department found that an adjustment was warranted to the AD rates on LWS

China, 77 FR 52683 (August 30, 2012) (*Implementation Notice*).

² The effective date is ten days after the date of the court decision in accordance with Section 516A(e) of the Tariff Act of 1930.

³ See *Notice of Antidumping Duty Order: Laminated Woven Sacks from the People's Republic of China*, 73 FR 45941 (August 7, 2008); see also *Laminated Woven Sacks From the People's Republic of China: Countervailing Duty Order*, 73 FR 45955 (August 7, 2008) (collectively, LWS orders).

⁴ See *United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China*, 611, WT/DS379/AB/R (Mar. 11, 2011).

⁵ See *Implementation Notice*.

imports from the PRC to account for remedies that overlap those imposed by the CVD order.⁶ As a result, the Department reduced the applicable AD rate for separate rate companies from 64.28 percent to 20.19 percent and reduced the PRC-wide entity AD rate from 91.73 percent to 47.64 percent.⁷ The Department published a notice implementing the Final Section 129 Determination on August 30, 2012.⁸ Various parties challenged the Department's Final Section 129 Determination at the CIT.

Following the final disposition of litigation related to the Final Section 129 Determination regarding the AD and CVD investigations of circular welded pipe (CWP) from the PRC, in which the Department found no basis for making an adjustment to the AD rates under Section 777(A)(f) of the Tariff Act of 1930, as amended (the Act),⁹ the CIT granted the Department's request for a voluntary remand in the litigation challenging the Final Section 129 Determination regarding the AD investigation of LWS from the PRC.¹⁰ On March 23, 2016, the Department issued its Final Remand Redetermination regarding the AD investigation of LWS from the PRC, in which it amended its Final Section 129 Determination regarding the AD investigation and denied the adjustment to the AD cash deposit rates granted to respondents in the Final Section 129 Determination.¹¹ On March 30, 2016, the CIT sustained the Department's Final Remand Redetermination.¹²

⁶ See Final Section 129 Determination.

⁷ See *Implementation Notice*, 77 FR at 52687.

⁸ *Id.*

⁹ See *Wheatland Tube Co. v. United States*, Consol. Court No. 12-00298, Slip Op. 15-44 (Ct. Int'l Trade May 7, 2015); *Wheatland Tube Co. v. United States*, Consol. Court No. 12-00296, Slip Op. 15-118 (Ct. Int'l Trade October 22, 2015).

¹⁰ See *Laminated Woven Sacks Comm. v. United States*, Court No. 12-00301 (December 3, 2015).

¹¹ See "Final Redetermination Pursuant to Court Remand, *Laminated Woven Sacks Comm. v. United States*, Court No. 12-00301," (March 23, 2016) (Final Remand Redetermination).

¹² See *Laminated Woven Sacks Comm. v. United States*, Slip Op. 16-30, Consol. Court No. 12-00301 (CIT March 30, 2016).

Timken Notice

In its decision in *Timken*, 893 F.2d at 341, as clarified by *Diamond Sawblades*, the CAFC held that, pursuant to section 516A(e) of 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 March 30, 2016, judgment affirming the Final Remand Redetermination constitutes a final court decision that is not in harmony with the Department’s Final Section 129 Determination. This notice is published in fulfillment of publication requirements of *Timken*.

Amended Final Determination

Because there is now a final court decision with respect to the Department’s Final Section 129 Determination regarding the AD investigation of LWS from the PRC, the Department is amending the Final Section 129 Determination, as implemented, regarding an adjustment to the AD cash deposit rates. The revised AD cash deposit rates are as follows:

Exporter	Producer	Revised AD Cash Deposit Rate (%)
Zibo Aifudi Plastic Packaging Co., Ltd.	Zibo Aifudi Plastic Packaging Co., Ltd.	64.28%
Polywell Industrial Co., A.K.A. First Way (H.K.) Limited	Polywell Plastic Product Factory	64.28%
Zibo Linzi Worun Packing Product Co., Ltd.	Zibo Linzi Worun Packing Product Co., Ltd.	64.28%
Shandong Qikai Plastics Product Co., Ltd.	Shandong Qikai Plastics Product Co., Ltd.	64.28%
Changle Baodu Plastic Co. Ltd.	Changle Baodu Plastic Co. Ltd.	64.28%
Zibo Linzi Shuaiqiang Plastics Co. Ltd.	Zibo Linzi Shuaiqiang Plastics Co. Ltd.	64.28%
Zibo Linzi Qitianli Plastic Fabric Co. Ltd.	Zibo Linzi Qitianli Plastic Fabric Co. Ltd.	64.28%
Shandong Youlian Co. Ltd	Shandong Youlian Co. Ltd	64.28%
Zibo Linzi Luitong Plastic Fabric Co. Ltd.	Zibo Linzi Luitong Plastic Fabric Co. Ltd.	64.28%
Wenzhou Hotson Plastics Co. Ltd	Wenzhou Hotson Plastics Co. Ltd	64.28%

Jiangsu Hotson Plastics Co. Ltd.	Jiangsu Hotson Plastics Co. Ltd.	64.28%
Cangnan Color Make The Bag	Cangnan Color Make The Bag	64.28%
Zibo Qigao Plastic Cement Co. Ltd	Zibo Qigao Plastic Cement Co. Ltd	64.28%
Prc-Wide Rate		91.73%

Unless the applicable cash deposit rates have been superseded by cash deposit rates calculated in an intervening administrative review of the AD order on LWS from the PRC, the Department will instruct U. S. Customs and Border Protection to require a cash deposit for estimated AD duties at the rate noted above for each specified exporter and producer combination, for entries of subject merchandise, entered or withdrawn from warehouse, for consumption, on or after April 11, 2016.

This notice is issued and published in accordance with sections 516A(e) and 777(i)(1) of the Act and section 129(c)(2)(A) of the Uruguay Round Agreements Act .

Dated: April 14, 2016.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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