



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; 2007-2008

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

SUMMARY: On April 7, 2016, the United States Court of International Trade (the CIT or the Court) issued final judgment in *Foshan Shunde Yongjian Housewares & Hardware Co., Ltd. and Polder Inc. v. United States*, Court No. 10-00059, 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, 2007, through July 31, 2008, and is amending the final

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, *Foshan Shunde Yongjian Housewares & Hardware Co., Ltd. and Polder Inc. v. United States*, Court No. 10-00059, Slip Op. 14-69 (CIT June 25, 2014), dated October 10, 2014 (Third Redetermination), available at <http://enforcement.trade.gov/remands/index.htm>.

results with respect to the weighted-average dumping margin assigned to Foshan Shunde Yongjian Housewares & Hardwares Co., Ltd. (Foshan Shunde).²

DATES: Effective April 18, 2016

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 January 20, 2010, the Department published its *Final Results*.³ On March 17, 2010, Foshan Shunde, an exporter of the subject merchandise, and Polder, Inc., an importer of the subject merchandise, timely filed a complaint with the CIT to challenge certain aspects of the *Final Results*. The litigation history of this procedure is outlined below.

On October 12, 2011, the Court remanded the matter.⁴ On June 12, 2012, the Department issued its First Redetermination, in which it determined that Foshan Shunde was: 1) entitled to a separate rate and 2) assigned an adverse facts available (AFA) rate of 157.68 percent to Foshan Shunde.⁵

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*, 75 FR 3201 (January 20, 2010), and accompanying Issues and Decision Memorandum (*Final Results*).

³ *Id.*

⁴ *Foshan Shunde Yongjian Housewares & Hardwares Co., Ltd., and Polder Inc. v. United States*, Court No. 10-00059, Slip. Op. 11-123 (October 12, 2011) (*Foshan Shunde I*).

⁵ 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 Foshan Shunde Yongjian Housewares & Hardwares Co., Ltd., and Polder Inc. v. United States*, dated June 12, 2012 (*First Redetermination*).

Upon consideration of the First Redetermination, on April 8, 2013, the Court affirmed our assignment of a separate rate to Foshan Shunde.⁶ The Court, however, remanded the case to the Department to reconsider its corroboration of the 157.68 percent rate assigned to Foshan Shunde. On July 8, 2013, the Department issued its Second Redetermination, in which it explained that available Customs data corroborated to the extent practicable the 157.68 percent rate assigned to Foshan Shunde.⁷

On June 20, 2014, the Court rejected the corroboration analysis conducted by the Department in its Second Redetermination. The Court remanded the Department's corroboration of Foshan Shunde's AFA rate for further consideration.⁸

On October 10, 2014, the Department filed its Third Redetermination, in which it, under protest, assigned a revised AFA rate of 72.29 percent to Foshan Shunde.⁹ This 72.29 percent rate was the rate assigned to Separate Rate companies in the less-than-fair value investigation.¹⁰ On April 7, 2016, the Court sustained the Department's *Third Redetermination*, and entered final judgment.¹¹

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

⁶ See *Foshan Shunde Yongjian Housewares & Hardwares Co., Ltd., and Polder Inc. v. United States*, Court No. 10-00059, Slip Op. 13-47 (April 8, 2013) (*Foshan Shunde II*).

⁷ 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 Foshan Shunde Yongjian Housewares & Hardwares Co., Ltd., and Polder Inc. v. United States, dated July 8, 2013 (Second Redetermination).

⁸ See *Foshan Shunde Yongjian Housewares & Hardwares Co., Ltd., and Polder Inc. v. United States*, Court No. 10-00059, Slip Op. 14-69 (June 20, 2014) (*Foshan Shunde III*).

⁹ 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 Foshan Shunde Yongjian Housewares & Hardwares Co., Ltd., and Polder Inc. v. United States, dated October 10, 2014 (Third Redetermination)

¹⁰ See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Floor Standing Metal-Top Ironing Tables and Certain Parts Thereof From the People's Republic of China* 69 FR 47868 (August 6, 2004).

¹¹ See *Foshan Shunde Yongjian Housewares & Hardwares Co., Ltd., and Polder Inc. v. United States*, Court No. 10-00059, Slip Op. 16-35 (April 7, 2016).

(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 April 7, 2016, judgment sustaining the Third Redetermination constitutes a final decision of the Court that is not in harmony with the Department’s *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 merchandise pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision.

Amended Final Results

Because there is now a final court decision, the Department amends the *Final Results* with respect to the dumping margin of Foshan Shunde. The revised weighted-average dumping margin for Foshan Shunde during the period August 1, 2007, through July 31, 2008, is as follows:

Exporter	Weighted Average Dumping Margin (Percent)
Foshan Shunde Yongjian Housewares & Hardwares Co., Ltd.	72.29 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.¹²

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*.

¹² 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* 77 FR 55806, (September 11, 2012) (*2010-2011 Final Results*).

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

May 13, 2016_
Date

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