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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-983

Drawn Stainless Steel Sinks From the People's Republic of China: Notice of Court Decision Not in Harmony with Amended Final Determination Pursuant to Court Decision

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

SUMMARY: On July 14, 2016, the United States Court of International Trade (“CIT”) sustained the redetermination made by the Department of Commerce (“Department”) pursuant to the CIT’s remand of the final determination in the antidumping duty (“AD”) investigation on drawn stainless steel sinks (“sinks”) from the People’s Republic of China (“PRC”). Specifically, the CIT affirmed the Department’s reliance on Thai data to value stainless steel inputs and revised calculation of selling, general, administrative (“SG&A”) expenses on redetermination. Accordingly, the Department is hereby notifying the public that the final judgment in this case is not in harmony with the final affirmative determination in the underlying AD investigation and, as there is a now a final and conclusive decision in this case, is amending the final determination with respect to the dumping margins determined for Guangdong Dongyuan Kitchenware Industrial Company, Ltd. (“Dongyuan”), Foshan Zhaoshun Trade Co., Ltd. and Zhongshan Superte Kitchenware Co., Ltd. (collectively, “Superte”), as well as all other companies that received a separate rate.

DATES: Effective July 24, 2016

FOR FURTHER INFORMATION CONTACT: Eve Wang, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-6231.

SUPPLEMENTARY INFORMATION:

Background

Subsequent to the publication of the *Final Determination*¹ in the underlying AD investigation of sinks from the PRC, Dongyuan (a respondent in the underlying investigation) and Elkay Manufacturing Company (the petitioner in the underlying investigation) filed complaints with the CIT challenging aspects of the methodology used to determine the dumping margins in the *Final Determination*.

On December 22, 2014, the CIT granted the Department's partial voluntary remand request to reconsider the use of Global Trade Atlas ("GTA") import data for Thailand to value cold-rolled stainless steel coil, and also directed the Department to reconsider its methodology of accounting for SG&A expenses in the normal value calculations.²

Pursuant to the CIT's instructions on remand, the Department further evaluated the information on the record regarding the valuation of cold-rolled stainless steel coil inputs and determined to continue to use the GTA import data for Thailand to value these inputs.³

Furthermore, in compliance with the remand directive, the Department classified SG&A labor items as SG&A expenses in each company's surrogate financial ratio calculation, resulting in a

¹ See *Drawn Stainless Steel Sinks From the People's Republic of China: Investigation, Final Determination*, 78 FR 13019 (February 26, 2013), as amended by *Drawn Stainless Steel Sinks from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 78 FR 21592 (April 11, 2013), (collectively, "*Final Determination*").

² See *Elkay Mfg. Co. v. United States*, Consol. Court No. 13-00176, Slip Op. 14-150 (CIT 2014) ("*Sinks Remand*"), at 3.

³ See Final Results of Redetermination Pursuant to Court Remand, dated April 22, 2015 ("*Final Redetermination*"), at 6 and 24.

change to the margins calculated for each respondent.⁴ On July 14, 2016, the CIT affirmed the remand redetermination.⁵

Timken Notice

In *Timken Co. v. United States*, 893 F.2d 337, 341 (Fed. Cir. 1990) (“*Timken*”), as clarified by *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (“*Diamond Sawblades*”), the United States Court of Appeals for the Federal Circuit (“CAFC”) 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 that is not “in harmony” with a Department determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT’s July 14, 2016, judgment in this case constitutes a final court decision that is not in harmony with the Department’s *Final Determination*. This notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Determination

As a result of the Court’s final decision with respect to this case, the Department is amending the *Final Determination* with respect to Dongyuan, Superte, and all other companies that received a separate rate in the *Final Determination*. The revised weighted-average dumping margins for the July 1, 2011, through December 31, 2011, period of investigation are as follows:

<u>Exporter</u>	<u>Producer</u>	<u>Weighted-Average Margin (Percent)</u>
Zhongshan Superte Kitchenware Co., Ltd. / Zhongshan Superte Kitchenware Co., Ltd. invoiced as Foshan Zhaoshun Trade Co., Ltd.	Zhongshan Superte Kitchenware Co., Ltd.	50.11
Guangdong Dongyuan Kitchenware Industrial Co., Ltd.	Guangdong Dongyuan Kitchenware Industrial Co., Ltd.	36.59

⁴ *Id.*

⁵ See *Elkay Mfg. Co. v. United States*, Consol. Court No. 13-00176, Slip Op. 16-69 (CIT 2016).

<u>Exporter</u>	<u>Producer</u>	<u>Weighted-Average Margin (Percent)</u>
B&R Industries Limited	Xinhe Stainless Steel Products Co., Ltd. and Jiamen XHHL Stainless Steel Manufacturing Co., Ltd.	43.35
Elkay (China) Kitchen Solutions, Co., Ltd.	Elkay (China) Kitchen Solutions, Co., Ltd.	43.35
Feidong Import and Export Co., Ltd.	Jiangmen Liantai Kitchen Equipment Co.; Jiangmen Xinhe Stainless Steel Product Co., Ltd.	43.35
Foshan Shunde MingHao Kitchen Utensils Co., Ltd.	Foshan Shunde MingHao Kitchen Utensils Co., Ltd.	43.35
Franke Asia Sourcing Ltd.	Guangdong YingAo Kitchen Utensils Co., Ltd.; Franke (China) Kitchen System Co., Ltd.	43.35
Grand Hill Work Company	Zhongshan Xintian Hardware Co., Ltd.	43.35
Guangdong G-Top Import and Export Co., Ltd.	Jiangmen Jin Ke Ying Stainless Steel Wares Co., Ltd.	43.35
Guangdong Yingao Kitchen Utensils Co., Ltd.	Guangdong Yingao Kitchen Utensils Co., Ltd.	43.35
Hangzhou Heng's Industries Co., Ltd.	Hangzhou Heng's Industries Co., Ltd.	43.35
J&C Industries Enterprise Limited	Zhongshan Superte Kitchenware Co., Ltd.	43.35
Jiangmen Hongmao Trading Co., Ltd.	Xinhe Stainless Steel Products Co., Ltd.	43.35
Jiangmen New Star Hi-Tech Enterprise Ltd.	Jiangmen New Star Hi-Tech Enterprise Ltd.	43.35
Jiangmen Pioneer Import & Export Co., Ltd.	Jiangmen Ouert Kitchen Appliance Manufacturing Co., Ltd.; Jiangmen XHHL Stainless Steel Manufacturing Co., Ltd.	43.35
Jiangxi Zoje Kitchen & Bath Industry Co., Ltd.	Jiangxi Offidun Industry Co. Ltd.	43.35
Ningbo Oulin Kitchen Utensils Co., Ltd.	Ningbo Oulin Kitchen Utensils Co., Ltd.	43.35
Primy Cooperation Limited	Primy Cooperation Limited	43.35

<u>Exporter</u>	<u>Producer</u>	<u>Weighted-Average Margin (Percent)</u>
Shenzhen Kehuaxing Industrial Ltd. ⁶	Shenzhen Kehuaxing Industrial Ltd.	43.35
Shunde Foodstuffs Import & Export Company Limited of Guangdong	Bonke Kitchen & Sanitary Industrial Co., Ltd.	43.35
Zhongshan Newecan Enterprise Development Corporation	Zhongshan Xintian Hardware Co., Ltd.	43.35
Zhuhai Kohler Kitchen & Bathroom Products Co., Ltd.	Zhuhai Kohler Kitchen & Bathroom Products Co., Ltd.	43.35

Cash Deposit Requirements

Since the *Final Determination*, the Department has established a new cash deposit rate for Dongyuan, Superte, Guangdong Yingao Kitchen Utensils Co., Ltd., and Zhongshan Newecan Enterprise Development Corporation, and further determined that Feidong Import & Export Co., Ltd. is no longer eligible for a separate rate and is considered part of the PRC-wide entity.⁷ Therefore, this amended final determination does not change the later-established cash deposit rates for those exporters. All other companies identified in the table above do not have a superseding cash deposit rate and, therefore, the Department will issue revised cash deposit instructions to U.S. Customs and Border Protection, adjusting the cash deposit rate for these separate-rate companies to 43.35 percent, effective July 24, 2016.

⁶ Though Shenzhen Kehuaxing Industrial Ltd. was not granted a separate rate at the time of the *Final Determination*, it was later determined to be eligible for a separate in the underlying investigation in a prior amended final determination and *Timken* notice. See *Drawn Stainless Steel Sinks From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Determination of Antidumping Duty Investigation*, 79 FR 63079 (October 22, 2014).

⁷ See *Drawn Stainless Steel Sinks from the People's Republic of China: Final Results of the Antidumping Duty Administrative Review; 2012-2014*, 80 FR 69644 (November 10, 2015).

Notification to Interested Parties

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

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

August 5, 2016

Date

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