



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-909]

Certain Steel Nails from the People's Republic of China: Notice of Court Decision Not in Harmony with Final Results of Administrative Review and Notice of Amended Final Results Pursuant to Court Decision

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

SUMMARY: On July 3, 2017, the Court of International Trade (CIT or Court) sustained the Department of Commerce's (the Department) final remand results pertaining to the sixth administrative review of the antidumping duty order on certain steel nails from the People's Republic of China (PRC) covering the period of August 1, 2013, through July 31, 2014. The Department is notifying the public that the final judgment in this case is not in harmony with the final results of the administrative review. Therefore, the Department is amending the final results with respect to the dumping margin assigned to SDC International Aust. PTY. Ltd. (SDC).

DATES: Applicable July 13, 2017.

FOR FURTHER INFORMATION CONTACT: Annathea Cook, AD/CVD Operations Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-0250.

SUPPLEMENTARY INFORMATION:

Background

As part of the sixth administrative review of certain steel nails from the PRC, on August 29, 2014, Mid-Continent Nail Corporation (Mid Continent), the petitioner, requested a review of “SDC INTERNATIONAL AUSTRALIA (PTY) LTD.”¹ On September 2, 2014, Progressive Steel and Wire (Progressive Wire), a domestic interested party, requested a review of “SDC International Aust. Pty., Ltd.” and “SDC International Australia Pty., Ltd.”² On September 30, 2014, the Department initiated a review of, among other companies: “SDC International Aust. Pty., Ltd.,” “SDC International Australia Pty., Ltd.,” and “SDC International Australia (Pty) Ltd.”

On March 8, 2016, the Department issued the *6th AR Final Results*,³ where the Department continued to grant a separate rate only to “SDC International Aust. PTY. LTD.” – the full business name requested by SDC in its separate rate certification and supported by the company’s business license.⁴ SDC challenged the *6th AR Final Results* before the CIT.⁵

The Department requested a voluntary remand to address whether the Department improperly included permutations of SDC’s company name as part of the PRC-wide entity, subjecting these name permutations to the PRC-wide entity rate. On January 20, 2017, the Court granted the Department’s request for a voluntary remand to reevaluate its determination regarding permutations of SDC’s name.

On July 3, 2017, the CIT sustained the Department’s final remand determination,

¹ See Mid Continent’s “Request for Sixth Administrative Review,” August 29, 2014, at Attachment 1.

² See Progressive Steel & Wire LLC’s “Request for Administrative Review,” September 2, 2014, at Attachment 1.

³ See *Certain Steel Nails from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 81 FR 14092 (March 16, 2016) (*6th AR Final Results*) and accompanying Issues and Decision Memorandum.

⁴ See *6th AR Final Results*.

⁵ CIT Court No. 16-00062.

affirming the Department’s determination to continue to grant a separate rate to the name SDC provided on its business license – “SDC International Aust. PTY. LTD.” – and no other names.⁶ The CIT further affirmed the Department’s determination to amend its 6th AR Final Results, issue accompanying liquidation instructions indicating that any entries under “SDC International Australia Pty., Ltd.” and “SDC International Australia (Pty) Ltd.” for this review period may be assessed at the separate rate for “SDC International Aust. PTY. LTD.,” and to no longer list these name permutations in the PRC-wide entity.

Timken Notice

In its decision in *Timken*,⁷ as clarified by *Diamond Sawblades*,⁸ the Court of Appeals for the Federal Circuit 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 Court’s July 3, 2017, judgment in *SDC International Aust. PTY. Ltd. v. United States* constitutes a final decision of the Court that is not in harmony with the Department’s AR6 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 at issue pending expiration of the period to appeal or, if appealed, a final and conclusive court decision.

Amended Final Results

Because there is now a final court decision, the Department hereby amends the AR6 Final Results with respect to the companies identified below. Based on the Remand Results, as affirmed by the Court in *SDC International Aust. PTY. Ltd. v. United States*, the revised

⁶ See *SDC International Aust. PTY. LTD. v. United States*, CIT Slip Op. 17-78, Ct. No. 16-00062 (July 3, 2017).

⁷ See *Timken Co. v. United States*, 893 F.2d 337, 341 (Fed. Cir. 1990) (*Timken*).

⁸ See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

combination-rate weighted average-dumping margin for the companies listed below during the period August 1, 2013, through July 31, 2014 is as follows:

Exporter	Weighted-Average Margin (percent)
SDC International Aust. PTY. Ltd. (SDC) ⁹	11.95

In the event that the CIT's ruling is not appealed or, if appealed, is upheld by a final and conclusive court decision, the Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on unliquidated entries of subject merchandise based on the revised dumping margin listed above.

Cash Deposit Requirements

Because there is now a final court decision, we are amending the *AR6 Final Results* and have revised the weighted-average dumping margin for the companies as shown above. As a result of the Final Remand Results, and as affirmed by the Court in *SDC International Aust. PTY. Ltd. v. United States*, the cash deposit rate for the companies listed above is 11.95%, effective July 13, 2017. The Department will instruct CBP accordingly.

Notification to Interested Parties

⁹ The Department determines that any entries under “SDC International Australia Pty., Ltd.” and “SDC International Australia (Pty) Ltd.” for this review period may be assessed at the separate rate for “SDC International Aust. PTY. LTD.” The Department will issue accompanying liquidation instructions indicating that these permutations are assessed at the separate rate, *i.e.* 11.95%, and will no longer identify these name permutations as part of the PRC-wide entity for this review period. These changes to the 6th AR Final Results are specific to, and a result of, the above-referenced remand redetermination.

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

Dated: August 3, 2017.

Carole Showers
Executive Director, Office of Policy,
performing the duties of
Deputy Assistant Secretary for Enforcement and Compliance

[FR Doc. 2017-16874 Filed: 8/9/2017 8:45 am; Publication Date: 8/10/2017]