



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-970]

Multilayered Wood Flooring 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 of Administrative Review Pursuant to Court Decision

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

SUMMARY: On August 25, 2017, the United States Court of International Trade (CIT) issued its final judgment sustaining the Department of Commerce's (the Department) final results of remand redetermination pursuant to court order. The Department is notifying the public that the final judgment in this case is not in harmony with the Department's final results in the second administrative review of the antidumping duty order on multilayered wood flooring from the People's Republic of China (PRC), and that the Department is amending its determination with respect to Linyi Bonn Flooring Manufacturing Co., Ltd. (Linyi Bonn).

DATES: Applicable September 4, 2017.

FOR FURTHER INFORMATION CONTACT: Aleksandras Nakutis, AD/CVD Operations, Office IV, Enforcement and Compliance – International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone (202) 482-3147.

SUPPLEMENTARY INFORMATION:

Background

Linyi Bonn was reviewed in a new shipper review (NSR) of the antidumping duty order

on multilayered wood flooring from the PRC, covering the period of review from December 1, 2012 through May 31, 2013.¹ In the *Final Results of NSR*, the Department calculated a weighted-average dumping margin for Linyi Bonn of zero percent, also finding that Linyi Bonn had demonstrated its entitlement to a separate rate.²

Linyi Bonn was also subsequently a respondent in an administrative review that partially overlapped the period of review for the NSR, in that it covered the period of review December 1, 2012 through November 30, 2013. On July 15, 2016, the Department published the *Final Results* in the administrative review, in which it found that Linyi Bonn was part of the PRC-wide entity, because Linyi Bonn failed to submit either a timely certification of no sales, a separate rate certification, or a separate rate application.³

On April 21, 2017, the CIT remanded the *Final Results*, finding the Department's determination to assign Linyi Bonn the PRC-wide rate of 58.84 percent was contrary to law. The CIT held that the Department's *Initiation Notice*⁴ failed to provide notice to Linyi Bonn of the need to file a "partial" no shipments certification for only a portion of the review. The CIT remanded for the Department to "correct the problem created by its failure to provide notice."⁵ In particular, the CIT ordered the Department to afford Linyi Bonn "the opportunity it would

¹ See *Multilayered Wood Flooring From the People's Republic of China: Final Results of Antidumping Duty New Shipper Reviews 2012-2013*, 79 FR 66355 (November 7, 2014) (*Final Results of NSR*).

² *Id.* at 66356.

³ See *Multilayered Wood Flooring from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Results of New Shipper Review; 2012-2013*, 80 FR 41476 (July 15, 2015), as corrected by *Multilayered Wood Flooring from the People's Republic of China*, 80 Fed. Reg. 49,986 (Dep't of Commerce Aug. 18, 2015) (correction to final admin. review), and *Multilayered Wood Flooring from the People's Republic of China*, 80 Fed. Reg. 52,447 (Dep't of Commerce Aug. 31, 2015) (correction to final admin. review) (collectively, *Final Results*).

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 79 FR 6147 (February 3, 2014) (*Initiation Notice*).

⁵ See *Linyi Bonn Flooring Manufacturing Co., Ltd. v. United States*, Court No. 15-00227, Slip Op. 17-46, at 28.

have had if the Department's failure to provide notice had not occurred.”⁶

On June 19, 2017, the Department issued its *Remand Results*, in which the Department determined that Linyi Bonn did not have shipments during the period of review other than those already reviewed in the *Final Results of NSR*.⁷

On August 25, 2017, the CIT issued its decision sustaining the Department's *Remand Results*.⁸

Timken Notice

In its decision in *Timken*,⁹ as clarified by *Diamond Sawblades*,¹⁰ 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 CIT's August 25, 2017, judgment constitutes a final decision of that court that is not in harmony with the Department's *Final Results*. This notice is published in fulfillment of the publication requirements 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 with respect to this case, the Department is amending its *Final Results* with respect Linyi Bonn. Based on the *Remand Results*, we no longer

⁶ *Id.*

⁷ See Final Results of Redetermination Pursuant to Court Order (June 19, 2017) (*Remand Results*).

⁸ See *Linyi Bonn Flooring Manufacturing Co., Ltd. v. United States*, Court No. 15-00227, Slip Op. 17-113.

⁹ See *Timken Co. v. United States*, 893 F.2d. 337 (Fed. Cir. 1990) (*Timken*).

¹⁰ See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d. 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

find that Linyi Bonn is part of the PRC-wide entity. Instead, we have found that Linyi Bonn had no reviewable shipments during the period of review that were not otherwise covered in the overlapping period of review for the partially concurrent NSR.

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 issue appropriate instructions to U.S. Customs and Border Protection to give effect to the finding of no shipments during the period June 1, 2013, through November 30, 2013, and to ensure that any entries of subject merchandise that were produced and exported by Linyi Bonn during the period December 1, 2012, through May 31, 2013, are liquidated in accordance with the *Final Results of NSR*.

Cash Deposit Requirements

Because there has been a subsequent administrative review for Linyi Bonn, the cash deposit rate for Linyi Bonn will remain the rate established in the most recently-completed administrative review, which is zero percent.¹¹

¹¹ See *Multilayered Wood Flooring From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Final Partial Rescission of Antidumping Duty Administrative Review; 2014-2015*, 82 FR 25766 (June 5, 2017).

Notification to Interested Parties

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

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties for the
Assistant Secretary for Enforcement and Compliance

Dated: September 11, 2017.

[FR Doc. 2017-19771 Filed: 9/15/2017 8:45 am; Publication Date: 9/18/2017]