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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-970

Multilayered Wood Flooring from the People's Republic of China: Amendment to Notice of Court Decision Not in Harmony with the Second Amended Final Determination and Amendment to Notice of Third Amended Final Determination of the Antidumping Duty Investigation

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

SUMMARY: On August 15, 2018, the United States Court of International Trade (CIT or Court) amended its July 3, 2018, final judgment in *Changzhou Haws Flooring Co., et al. v. United States*, which sustained, in part, the final results of remand redetermination pursuant to court order by the Department of Commerce (Commerce) pertaining to the less-than-fair-value (LTFV) investigation on multilayered wood flooring (MLWF) from the People's Republic of China (China). On July 25, 2018, Commerce notified the public that the CIT's July 3, 2018, final judgment in the case was not in harmony with Commerce's final determination in the LTFV investigation of MLWF from China, and, pursuant to the CIT's July 3, 2018, final judgment, Commerce issued an amended final determination excluding Dunhua City Jisen Wood Industry Co., Ltd. (Dunhua City Jisen), Fine Furniture (Shanghai) Limited (Fine Furniture), and Armstrong Wood Products (Kunshan) Co., Ltd. (Armstrong Wood) from the antidumping duty (AD) order. Pursuant to the CIT's August 15, 2018, amendment to its July 3, 2018, final judgment, we are excluding Double F Limited from the AD order.

DATES: Applicable July 13, 2018.

FOR FURTHER INFORMATION CONTACT: Aleksandras Nakutis, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-3147.

SUPPLEMENTARY INFORMATION:

Background

As explained in further detail in the *Notice of Court Decision and Notice of Third Amended Final Determination*,<sup>1</sup> on July 3, 2018, the CIT sustained, in part, Commerce's fifth remand redetermination.<sup>2</sup> In particular, the CIT sustained Commerce's determination not to terminate the AD order<sup>3</sup> because the order was imposed, in part, based on indirect evidence of dumping by the China-wide entity, a finding which was not challenged.<sup>4</sup> With respect to the separate rate plaintiffs, the CIT ordered exclusion from the order for three separate respondents that sought voluntary examination in the investigation, but were denied: Dunhua City Jisen, Fine Furniture, and Armstrong Wood. The CIT held that Commerce's application of the exclusion

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<sup>1</sup> See *Multilayered Wood Flooring from the People's Republic of China: Final Determination of Sales at Less Than Fair Value: Notice of Court Decision Not in Harmony with the Second Amended Final Determination and Notice of Third Amended Final Determination of the Antidumping Duty Investigation*, 83 FR 35217 (July 25, 2018) (*Notice of Court Decision and Notice of Third Amended Final Determination*). See also *Baroque Timber Indus. (Zhongshan) Co. v. United States*, 971 F. Supp. 2d 1333, 1336 (Ct. Int'l Trade 2014); *Final Results of Redetermination Pursuant to Court Order, Baroque Timber Industries (Zhongshan) Company, Limited, et al. v. United States*, dated November 14, 2013 (First Remand Redetermination); *Final Results of Redetermination Pursuant to Court Order, Baroque Timber Industries (Zhongshan) Company, Limited, et al. v. United States*, dated May 30, 2014 (Second Remand Redetermination); *Changzhou Hawd Flooring Co. v. United States*, 77 F. Supp. 3d 1351 (Ct. Int'l Trade 2015); *Changzhou Hawd Flooring Co. v. United States*, 848 F.3d 1006, 1008 (Fed. Cir. 2017); *Final Results of Redetermination Pursuant to Court Order, Changzhou Hawd Flooring Co., Ltd., et al. v. United States*, dated October 16, 2014 (Third Remand Redetermination); *Final Results of Redetermination Pursuant to Court Order, Changzhou Hawd Flooring Co., Ltd., et al. v. United States*, dated March 24, 2015 (Fourth Remand Redetermination); *Final Results of Redetermination Pursuant to Court Order, Court No. 12-00020*, dated February 25, 2017 (Fifth Remand Redetermination).

<sup>2</sup> See *Changzhou Hawd Flooring Co., et al. v. United States*, Ct. No. 12-20, Slip Op. 18-82 (Ct. Int'l Trade July 3, 2018).

<sup>3</sup> See *Multilayered Wood Flooring from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 76 FR 76690 (December 8, 2011) (*First Amended Final Determination and Order*).

<sup>4</sup> See Slip Op. 18-82 at 11-12.

regulation, 19 CFR 351.204(e)(1), was arbitrary with respect to these respondents.<sup>5</sup> The CIT sustained Commerce's determination not to exclude the remaining separate rate plaintiffs that did not seek voluntary examination in the investigation.<sup>6</sup>

Pursuant to the CIT's July 3, 2018, final judgment, on July 25, 2018, Commerce issued the *Notice of Court Decision and Notice of Third Amended Final Determination*, which explained that the CIT's July 3, 2018, final judgment was a final decision of that court that is not in harmony with the *Second Amended Final Determination*, and excluded Dunhua City Jisen, Fine Furniture, and Armstrong Wood from the AD order.<sup>7</sup>

On August 15, 2018, in response to an unopposed motion filed by Fine Furniture, the CIT amended its July 3, 2018, final judgment, and ordered the exclusion of Fine Furniture's affiliate, Double F Limited, a party previously collapsed with Fine Furniture into a single entity,<sup>8</sup> from the AD order.<sup>9</sup> This notice is published in accordance with the CIT's August 15, 2018, order, and amends Commerce's July 25, 2018, *Notice of Court Decision and Notice of Third Amended Final Determination* to exclude Double F Limited, along with Fine Furniture, Donghua City Jisen, and Armstrong Wood.

#### Amendment to Timken Notice

In its decision in *Timken*,<sup>10</sup> as clarified by *Diamond Sawblades*,<sup>11</sup> the United States Court for the Federal Circuit (CAFC) held that, pursuant to section 516A(e) of the Tariff Act of 1930,

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<sup>5</sup> *Id.* at 16.

<sup>6</sup> *Id.* at 15-16.

<sup>7</sup> See *Notice of Court Decision and Notice of Third Amended Final Determination*, 83 FR at 35219.

<sup>8</sup> See *Multilayered Wood Flooring from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 26712 (May 9, 2014); unchanged in *Multilayered Wood Flooring from the People's Republic of China: Amended Final Results of Antidumping Duty Review; 2011-2012*, 79 FR 35314 (June 20, 2014).

<sup>9</sup> See *Changzhou Hawd Flooring Co., et al. v. United States*, Ct. No. 12-20, Dkt. No. 199 (Ct. Int'l Trade Aug. 15 2018).

<sup>10</sup> See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

<sup>11</sup> See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010).

as amended (the Act), Commerce must publish a notice of a court decision that is not “in harmony” with Commerce’s determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT’s August 15, 2018, amendment to its July 3, 2018, final judgment ordering the exclusion of Double F Limited constitutes a final decision of that court that is not in harmony with the *Second Amended Final Determination*. This notice is published in fulfillment of the publication requirements of *Timken*.

Amendment to Third Amended Final Determination

Pursuant to the CIT’s August 15, 2018, order, we are amending the *Notice of Court Decision and Notice of Third Amended Final Determination* to exclude Double F Limited from the AD order. Section 735(c)(2)(A)-(B) of the Act instructs Commerce to terminate suspension of liquidation and to release any bond or other security, and refund any cash deposit, in the event of a negative determination. Here, suspension of liquidation must continue during the pendency of the appeals process (in accordance with *Timken* and as discussed above), and, therefore, we will continue to instruct U.S. Customs and Border Protection (CBP) at this time to (A) continue suspension at a cash deposit rate of zero percent until instructed otherwise; and (B) release any bond or other security, and refund any cash deposit made pursuant to the order by Double F Limited. In the event that the CIT’s ruling is not appealed, or appealed and upheld by the CAFC, Commerce will instruct CBP to terminate the suspension of liquidation and to liquidate those unliquidated entries of subject merchandise without regard to antidumping duties.

This notice is issued and published in accordance with sections 516A(e)(1), 735, and 777(i)(1) of the Act.

Dated: August 24, 2018

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