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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-836]

Glycine from the People's Republic of China: Notice of Court Decision Not in Harmony with Final Results of the Antidumping Duty Administrative Review and Notice of Amended Final Results; 2015-2016

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

SUMMARY: On September 7, 2018, the Court of International Trade (CIT or Court) sustained the final results of remand redetermination pertaining to the administrative review of the antidumping duty order on glycine from the People's Republic of China (China), covering the period of March 1, 2015, through February 29, 2016. The Department of Commerce (Commerce) is notifying the public that the final judgment in this case is not in harmony with Commerce's final results of the administrative review and that Commerce is amending the final results with respect to the dumping margin assigned to the China-wide entity.

DATES: Applicable. [September 17, 2018].

FOR FURTHER INFORMATION CONTACT: Edythe Artman or Brian Davis, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3931 or (202) 482-7924, respectively.

## SUPPLEMENTARY INFORMATION:

### Background

In the underlying 2015/2016 administrative review, Commerce selected Jizhou City Huayang Chemical Co., Ltd. (Huayang Chemical) as a mandatory respondent and issued an antidumping duty questionnaire to the company. Huayang Chemical did not respond to the questionnaire and, as a result, Commerce found it ineligible for a separate rate and that it would remain part of the China-wide entity, for which no review was requested.<sup>1</sup> At that time, the rate for the China-wide entity was 453.79 percent, as established in *Final Results 12-13*.<sup>2</sup> The rate of 453.79 percent was originally calculated in *Final Results 10-11* for respondent Baoding Mantong Fine Chemistry Co., Ltd. (Baoding Mantong).<sup>3</sup> Baoding Mantong challenged that rate in *Baoding Mantong Fine Chemistry Co., Ltd. v. United States*, Consol. Ct. No. 12-00362. In that separate proceeding, this Court twice remanded the calculation of the rate to Commerce, sustaining Commerce's second remand redetermination, which reduced Baoding Mantong's calculated margin to 0.00 percent for the *Final Results 10-11*.<sup>4</sup>

During the 2015/2016 administrative review, Pharm-Rx Chemical Corporation (Pharm-Rx) challenged Commerce's application of the rate of 453.79 percent to the China-wide entity in *Final Results 15-16*.<sup>5</sup> However, Commerce declined to change the rate, as the litigation

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<sup>1</sup> See *Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Rescission of Administrative Review, In Part; 2015-2016*; 82 Fed. Reg. 47,474 (October 12, 2017) (*Final Results 15-16*) and accompanying issues and decision memorandum at Comment 3.

<sup>2</sup> See *Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 79 Fed. Reg. 64,746, 64,748 (October 31, 2014) (*Final Results 12-13*).

<sup>3</sup> See *Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 77 Fed. Reg. 64,100, 64,101 (October 18, 2012) (*Final Results 10-11*).

<sup>4</sup> See *Baoding Mantong Fine Chemistry Co., Ltd.*, Slip Op. 17-169, 279 F. Supp. 3d 1321 (Ct. Int'l Trade Dec. 20, 2017) (*Baoding Mantong*). In an earlier decision, *Baoding Mantong Fine Chemistry Co., Ltd.*, 41 CIT \_\_\_\_, 222 F. Supp. 3d 1231 (Ct. Int'l Trade 2017), the Court sustained an initial revision by Commerce of Baoding Mantong's rate to 64.97 percent.

<sup>5</sup> See *Final Results 15-16* at Comment 3.

concerning *Final Results 10-11* had not yet resulted in a final judgment, and the China-wide entity was not under review for the 2015/2016 period.<sup>6</sup>

In light of the final judgment issued in *Baoding Mantong*, the Court granted Commerce's motion for a voluntary remand to reevaluate its application of the China-wide entity rate to Huayang Chemical in *Final Results 15-16*. In the Final Results of Redetermination, Commerce selected as the China-wide rate for the 2015/2016 review review the China-wide rate stemming from the underlying less-than-fair-value investigation.<sup>7</sup> This rate, set at 155.89 percent, had been in effect prior to the China-wide rate being set at 453.79 percent in *Final Results 12-13*. On September 7, 2018, the Court sustained the Final Results of Redetermination.<sup>8</sup>

#### Timken Notice

In its decision in *Timken*,<sup>9</sup> as clarified by *Diamond Sawblades*,<sup>10</sup> 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), Commerce must publish a notice of a court decision that is not "in harmony" with a Commerce determination and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's September 7, 2018, final judgment sustaining the Final Results of Redetermination constitutes a final decision of the Court that is not in harmony with *Final Results 15-16*. This notice is published in fulfillment of the *Timken* publication requirements. Accordingly, Commerce will continue the suspension of liquidation of the subject merchandise pending a final and conclusive court decision.

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<sup>6</sup> *Id.*

<sup>7</sup> See "Final Results of Redetermination Pursuant to Court Remand," dated June 4, 2018 (Final Results of Redetermination). See also "Antidumping Duty Order: Glycine from the People's Republic of China," 60 Fed. Reg. 16,116, (March 29, 1995).

<sup>8</sup> See *Pharm-Rx Chemical Corporation v. United States*, Court No. 17-00268, Slip Op. 18-113 (CIT September 7, 2018).

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

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

Amended Final Results of Review

Because there is now a final court decision, Commerce is amending *Final Results 15-16* with respect to the China-wide rate previously assigned to the exporter. Based on the Final Results of Redetermination, as sustained by the CIT, the revised China-wide rate, for the period March 1, 2015, through February 28, 2016, is as follows:

<b>Producer or Exporter</b>	<b>Weighted-Average Dumping Margin (percent)</b>
China-wide Entity	155.89

In the event the Court's ruling is not appealed or, if appealed, upheld by a final and conclusive court decision, Commerce will instruct the U.S. Customs and Border Protection (CBP) to assess antidumping duties on unliquidated entries of subject merchandise with respect to Pharm-Rx.

Cash Deposit Requirements

As the China-wide entity's cash deposit rate has not been subject to subsequent administrative reviews, Commerce will issue revised cash deposit instructions to CBP adjusting the rate for the China-wide entity to 155.89 percent, effective September 17, 2018.

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.

Dated: September 25, 2018.

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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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