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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-932]

Certain Steel Threaded Rod from the People's Republic of China: Notice of Court Decision Not in Harmony with the Final Results of Administrative Review and Notice of Amended Final Results of Antidumping Duty Administrative Review

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

SUMMARY: On June 22, 2020, the United States Court of International Trade (CIT) sustained the final results of redetermination pertaining to the fifth administrative review of the antidumping duty order on certain steel threaded rod (steel threaded rod) from the People's Republic of China (China) covering the period of review (POR) April 1, 2013 through March 31, 2014. The Department of Commerce (Commerce) is notifying the public that the CIT's final judgment in this case is not in harmony with the final results of the administrative review, and that Commerce is amending the final results with respect to the dumping margin calculated for Jiaxing Brother Fastener Co., Ltd. (a/k/a Jiaxing Brother Standard Parts, Co., Ltd.), IFI & Morgan Ltd., and RMB Fasteners Ltd. (collectively, RMB/IFI Group).

DATES: Applicable July 2, 2020.

FOR FURTHER INFORMATION CONTACT: Benito Ballesteros, 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) 482-7425.

SUPPLEMENTARY INFORMATION:

Background

On November 12, 2015, Commerce published its *Final Results* in the 2013-2014 administrative review of steel threaded rod from China.¹ During the review, Commerce selected Thailand as the primary surrogate country, finding that data from Thailand provided the best available information on the record to value the RMB/IFI Group's reported factors of production (FOPs).

Commerce valued hours of labor with data from the National Statistical Office of Thailand's Labor Force Survey of the Whole Kingdom (NSO or NSO data) from the second and third quarters of 2013, because it found the data to be more industry-specific and contemporaneous with the POR than the alternative data on the record, *i.e.*, International Labor Organization Chapter 6A data.² In addition, Commerce derived surrogate financial ratios from the financial statements of three Thai companies. In the calculation of surrogate financial ratios, Commerce categorized selling, general, and administrative (SG&A) labor-related line items as SG&A expenses. As a result, the SG&A surrogate financial ratio numerator included these line items' values, along with other SG&A expenses, and the denominator represented the total cost of manufacturing, *i.e.*, the sum of raw materials, manufacturing labor, energy, manufacturing overhead, and finished goods.³

The RMB/IFI Group challenged the *Final Results*, contesting Commerce's selection of Thailand as the primary surrogate country, selection of Global Trade Atlas data from Thailand to

¹ See *Certain Steel Threaded Rod from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 69938 (November 12, 2015) (*Final Results*), and accompanying Issues and Decision Memorandum (IDM).

² See *Jiaying Brother Fastener Co., Ltd. et al. v. United States*, Court No. 15-00313, Slip Op. 20-11 (CIT January 29, 2020) (Remand Order) at 20.

³ *Id.* at 20-21.

value steel threaded rod inputs, and decision not to adjust the surrogate financial ratios.⁴ On January 29, 2020, the CIT issued the Remand Order, in which it sustained Commerce’s selection of Thailand as the primary surrogate country and calculation of the RMB/IFI Group’s steel threaded rod FOP.⁵ However, the CIT held that Commerce’s decision not to make any adjustments to the calculation of the surrogate financial ratios was inadequately explained,⁶ and it remanded Commerce’s calculation of the surrogate financial ratios as related to labor for further explanation or reconsideration. In particular, the CIT directed Commerce to explain “the basis for finding record evidence that allows it to conclude that it could capture, and not overstate, labor costs by applying the NSO quarterly data and, as a result, decline to adjust the surrogate financial ratios.”⁷ The CIT also stated that “{o}n remand, Commerce may wish to reopen the record.”⁸

On February 25 and 26, 2020, Commerce opened the record and placed additional reports from Thailand’s NSO on the record. Commerce received no comments on these reports.

On April 23, 2020, Commerce issued the *Final Remand Results*⁹ and determined that, because the NSO data were industry-specific and contemporaneous with the POR, it was appropriate to rely on the NSO data to value labor, and to treat labor-related SG&A costs in the same manner as the surrogate companies did in their financial statements. Moreover, we found that the NSO data did not provide the information necessary to accurately adjust the surrogate financial ratios to account for any potential overstatement in labor costs because the record

⁴ *Id.* at 2.

⁵ *Id.* at 25.

⁶ *Id.* at 21.

⁷ *Id.* at 24.

⁸ *Id.*

⁹ See *Final Results of Redetermination Pursuant to Court Remand in Jiaying Brother Fastener Co., Ltd. (a/k/a Jiaying Brother Standard Part Co., Ltd.), IFI & Morgan Ltd., and RMB Fasteners Ltd. v. United States*, Consol. Ct. No. 15-00313 (April 23, 2020) (*Final Remand Results*).

lacked evidence to support a finding as to what extent, or by what percentage, the NSO data also covered SG&A labor.¹⁰ Moreover, given that the RMB/IFI Group did not report labor hours associated with SG&A staff, we declined to assume that the NSO data would accurately compensate for, and not overstate, the respondent's unreported SG&A labor hours. As a result, we did not transfer the surrogate financial statements' SG&A labor-related line items to the denominator in the surrogate financial ratio calculation, because doing so could distort the calculation and result in an undervaluation of labor-related SG&A expenses.¹¹ We did not make the adjustments proposed by the RMB/IFI Group, but revised the respondent's weighted-average margin to 39.53 percent, which increased from the 39.42 percent margin calculated in the *Final Results* due to the incorporation of additional quarters of labor data that were placed on the record during the remand proceeding.

Timken Notice

In its decision in *Timken*,¹² as clarified by *Diamond Sawblades*,¹³ the Court of Appeals for the Federal Circuit (CAFC) held that, pursuant to section 516A 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 June 22, 2020 judgment sustaining the *Final Remand Results* constitutes a final decision of the Court that is not in harmony with Commerce's *Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*.

¹⁰ *Id.* at 8-10.

¹¹ *Id.* at 11-12.

¹² See *Timken Co., v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

¹³ See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

Amended Final Results

Because there is now a final court decision, Commerce is amending the *Final Results* with respect to the RMB/IFI Group. The revised weighted-average dumping margin for the RMB/IFI Group for the period April 1, 2013 through March 31, 2014 is as follows:

Exporter	Weighted-Average Margin (Percent)
RMB/IFI Group	39.53

Assessment Instructions

In the event the CIT’s ruling is not appealed or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on unliquidated entries of subject merchandise exported by the RMB/IFI Group in accordance with 19 CFR 351.212(b)(1). Commerce will calculate importer-specific *ad valorem* assessment rates on the basis of the ratio of the total amount of dumping calculated for each importer’s examined sales and the total entered value of those sales, in accordance with 19 CFR 351.212(b)(1). We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific *ad valorem* assessment rate calculated is not zero or *de minimis*. Where an importer-specific *ad valorem* assessment rate is zero or *de minimis*,¹⁴ we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

¹⁴ See 19 CFR 351.106(c)(2).

Pursuant to Commerce's assessment practice, for entries that were not reported in the US sales data submitted by the RMB/IFI Group during this review, Commerce will instruct CBP to liquidate such entries at the China-wide entity rate.¹⁵

Cash Deposit Requirements

The cash deposit rate calculated for the RMB/IFI Group in the 2013-2014 administrative review has been superseded by cash deposit rates calculated in intervening administrative reviews of the antidumping duty order on steel threaded rod from China.¹⁶ Thus, we will not alter the RMB/IFI Group's cash deposit rate.

Notification to Interested Parties

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

Dated: July 2, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

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¹⁵ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

¹⁶ See *Certain Steel Threaded Rod from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2014-2015*, 81 FR 83800 (November 22, 2016); and *Certain Steel Threaded Rod from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2015-2016*, 82 FR 51611 (November 7, 2017).