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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 July 22, 2020, the United States Court of International Trade (CIT) sustained the final results of redetermination pertaining to the fourth 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, 2012 through March 31, 2013. 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, the RMB/IFI Group).

DATES: Applicable August 1, 2020.

FOR FURTHER INFORMATION CONTACT: Jerry Huang, 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) 482-4047.

SUPPLEMENTARY INFORMATION:

Background

On December 3, 2014, Commerce published its *Final Results* in the 2012-2013 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 also relied on a "Doing Business 2014: Thailand" report from the World Bank to derive the RMB/IFI Group's brokerage and handling (B&H) costs.

The RMB/IFI Group challenged several aspects of the *Final Results*, including Commerce's surrogate value (SV) calculation for B&H costs. In *Jiaxing Brother I*,² the CIT sustained all other challenged determinations, but remanded the *Final Results* to Commerce to reconsider the calculation of the B&H SV, finding Commerce's calculation unsupported by substantial evidence. In the First Remand Redetermination, Commerce revised the numerator of the B&H SV calculation downward to account for expenses associated with obtaining letters of credit. However, Commerce continued to rely on 10,000 kilograms (kgs) – which is the container weight assumption underlying the World Bank survey data – as the denominator for the SV calculation, explaining that the use of the 10,000 kg figure has been adopted as the standard methodology across many cases. Commerce also noted that using this figure avoids

¹ See *Certain Steel Threaded Rod from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 79 FR 71743 (December 3, 2014) (*Final Results*), and accompanying Issues and Decision Memorandum (IDM).

² See *Jiaxing Brother Fastener Co., Ltd. et al. v. United States*, 380 F. Supp. 3d 1343 (CIT 2019) (*Jiaxing Brother I*).

mixing different sources of data in the calculation of the B&H SV, which would yield distorted results.³

On February 3, 2020, the CIT issued *Jiaxing Brother II*.⁴ The Court sustained Commerce's determination to adjust the numerator of the B&H SV calculation in order to take into account the cost of acquiring letters of credit.⁵ With respect to the denominator, the CIT acknowledged Commerce's preference to use a single source for the B&H calculation and Commerce's past practice in this regard. However, it held that Commerce must further explain why using the weight of 10,000 kg as the denominator is reasonable and supported by substantial evidence in light of the RMB/IFI Group's information indicating that B&H costs were not based on the specific weight of a container.⁶

In its Second Remand Redetermination, consistent with *Jiaxing Brother II*, Commerce provided additional explanation regarding the selection of the 10,000 kg denominator.⁷ Commerce compared the 10,000 kg figure assumed in the World Bank report to the alternatives proposed by the RMB/IFI Group (*i.e.*, the purported average weight of the RMB/IFI Group's shipments or the maximum theoretical weight of a container) as well as to other information contained on the administrative record. Based on this analysis, Commerce found that the 10,000 kg figure continues to be the best data available on the record.⁸ On July 22, 2020, the Court

³ See Final Results of Redetermination Pursuant to *Jiaxing Brother Fastener Co., Ltd. (a/k/a Jiaxing Brother Standard Part Co., Ltd.), IFI & Morgan Ltd., and RMB Fasteners Ltd. v. United States*, Court No. 14-00316, Slip Op. 19-55 (CIT May 9, 2019), dated August 27, 2019 (First Remand Redetermination).

⁴ See *Jiaxing Brother Fastener Co., Ltd. et al. v. United States*, 425 F. Supp. 3d 1338 (CIT 2020) (*Jiaxing Brother II*).

⁵ *Id.*, 425 F. Supp. 3d at 1351.

⁶ *Id.*, 425 F. Supp. 3d at 1348-51.

⁷ See Final Results of Redetermination Pursuant to *Jiaxing Brother Fastener Co., Ltd. et al. v. United States*, Court No. 14-00316, Slip Op. 20-13 (CIT February 3, 2020), dated April 17, 2020 (Second Remand Redetermination).

⁸ *Id.*

sustained Commerce’s determination to use the weight of 10,000 kg as the denominator for the SV calculation.⁹

Due to the removal of expenses associated with obtaining letters of credit in the B&H SV calculation, we have revised the RMB/IFI Group’s weighted-average margin. The RMB/IFI Group’s weighted-average margin decreased to 46.78 percent from the 47.62 percent margin calculated in the *Final Results*.¹⁰

Timken Notice

In its decision in *Timken*,¹¹ as clarified by *Diamond Sawblades*,¹² the Court of Appeals for the Federal Circuit 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 July 22, 2020 judgment sustaining the Second Remand Redetermination 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*.

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, 2012 through March 31, 2013 is as follows:

Exporter	Weighted-Average Margin (percent)
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⁹ See *Jiaying Brother Fastener Co., Ltd. et al. v. United States*, Court No. 14-00316, Slip Op. 20-102 (CIT July 22, 2020) at 13.

¹⁰ See First Remand Redetermination at 29.

¹¹ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

¹² See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

RMB/IFI Group	46.78
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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*,¹³ we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Pursuant to Commerce's assessment practice, for entries that were not reported in the U.S. 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.¹⁴

¹³ See 19 CFR 351.106(c)(2).

¹⁴ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

Cash Deposit Requirements

The cash deposit rate calculated for the RMB/IFI Group in the 2012-2013 administrative review has been superseded by a cash deposit rate calculated in an intervening administrative review of the antidumping duty order on steel threaded rod from China.¹⁵ 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 28, 2020.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.
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¹⁵ See *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).