



## 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 the Results of Antidumping Administrative Review; Notice of Amended Final Results**

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

**SUMMARY:** On October 30, 2023, the U.S. Court of International Trade (CIT) issued its final judgment in *American Manufacturers of Multilayered Wood Flooring v. United States*, Court No. 20-03948, Slip Op. 23-70 (CIT May 5, 2023), sustaining the U.S. Department of Commerce (Commerce)'s remand results pertaining to the administrative review of the antidumping duty (AD) order on multilayered wood flooring (MLWF) from the People's Republic of China (China) covering the period of review (POR) December 1, 2017, through November 30, 2018. Commerce is notifying the public that the CIT's final judgment 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 Dalian Qianqiu Wooden Product Co., Ltd., Fusong Jinlong Wooden Group Co., Ltd., Fusong Jinqiu Wooden Product Co., Ltd., and Fusong Qianqiu Wooden Product Co., Ltd. (collectively, Jinlong); Jiangsu Guyu International Trading Co., Ltd. (Guyu); and certain non-individually examined respondents.

**DATES:** Applicable November 9, 2023.

**FOR FURTHER INFORMATION CONTACT:** Alexis Cherry, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0607.

**SUPPLEMENTARY INFORMATION:**

## *Background*

On December 3, 2020, Commerce published its *Final Results* in the 2017-2018 AD administrative review of MLWF from China.<sup>1</sup> Commerce determined that mandatory respondents Jinlong and Guyu did not make sales of MLWF from China at prices below normal value (NV) during the POR.<sup>2</sup> Thus, Commerce calculated an estimated weighted-average dumping margin and cash deposit rate (adjusted for subsidy offsets) of 0.00 percent for Jinlong and Guyu, which it applied to the non-individually-examined companies that were found to be eligible for a separate rate.<sup>3</sup>

The American Manufacturers of Multilayered Wood Flooring (the petitioner) appealed Commerce's *Final Results*. On May 5, 2023, the CIT remanded the *Final Results* to Commerce.<sup>4</sup> In the *Remand Order*, the CIT directed Commerce to revise the surrogate manufacturing overhead (MOH) ratio calculation by including the entire amount of indirect production expenses stated in the surrogate financial statement in the numerator, or otherwise explain why it cannot do so.<sup>5</sup> The CIT held that Commerce's determination of the MOH ratio was not supported by substantial evidence because: (1) limiting overhead expenses in the numerator to depreciation, other materials, and third party service expenses is unreasonable in light of the universe of expenses normally considered to make up overhead; and (2) Commerce's claim that using the indirect production expenses entry in the numerator of the MOH ratio may be distortive is a speculative conclusion.<sup>6</sup> Additionally, the CIT remanded the *Final Results* to Commerce to reconsider its application of its Labor Rate Policy, which assumes 24 working days per month, 5.5 working days per week, and eight working hours per day, to calculate a surrogate

---

<sup>1</sup> See *Multilayered Wood Flooring from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Review and Final Determination of No Shipments; 2017-2018*, 85 FR 78118 (December 3, 2020) (*Final Results*), and accompanying Issues and Decision Memorandum (IDM).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*, 85 FR at 78119.

<sup>4</sup> See *American Manufacturers of Multilayered Wood Flooring v. United States*, Court No. 20-03948, Slip Op. 23-70 (CIT May 5, 2023) (*Remand Order*).

<sup>5</sup> *Id.* at 33.

<sup>6</sup> See *Final Results* IDM at 17-20; see also *Remand Order* at 19-20.

hourly labor rate.<sup>7</sup> If Commerce continued to use this policy, the CIT directed Commerce to explain: (1) the source for the assumptions; (2) why it is a reasonable basis on which to calculate the surrogate labor rate; and (3) how it is more specific to Romania than information provided by the petitioner.<sup>8</sup>

In its remand redetermination, issued on August 24, 2023, Commerce revised the surrogate MOH ratio, explained the assumptions underlying its Labor Rate Policy, and revised the surrogate hourly labor rate.<sup>9</sup> On October 30, 2023, the CIT sustained Commerce’s final redetermination.<sup>10</sup>

#### *Timken Notice*

In its decision in *Timken*,<sup>11</sup> as clarified by *Diamond Sawblades*,<sup>12</sup> the U.S. Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of 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 October 30, 2023, judgment constitutes a final decision of the CIT that is not in harmony with Commerce’s *Final Results*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

#### *Amended Final Results*

Because there is now a final court judgment, Commerce is amending its *Final Results* with respect to Jinlong, Guyu, and the non-individually-examined separate rate companies, as follows:

---

<sup>7</sup> See *Remand Order* at 33; see also *Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092, 36093 (June 21, 2011) (Labor Rate Policy).

<sup>8</sup> See *Remand Order* at 33.

<sup>9</sup> See *Final Results of Redetermination Pursuant to Court Remand, American Manufacturers of Multilayered Wood Flooring v. United States*, Court No. 20-3948, dated August 24, 2023 (*Final Remand*), available at <https://access.trade.gov/resources/remands/23-70.pdf>.

<sup>10</sup> See *American Manufacturers of Multilayered Wood Flooring v. United States*, Court No. 20-03948, Slip Op. 23-156 (CIT October 30, 2023).

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

<sup>12</sup> See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

<b>Exporter</b>	<b>Weighted-Average Dumping Margin (percent)</b>
Dalian Qianqiu Wooden Product Co., Ltd.; Fusong Jinlong Wooden Group Co., Ltd.; Fusong Jinqiu Wooden Product Co., Ltd.; and Fusong Qianqiu Wooden Product Co., Ltd. (collectively, Jinlong)	2.05
Jiangsu Guyu International Trading Co., Ltd.	0.00
Non-Selected Companies Under Review Receiving a Separate Rate <sup>13</sup>	2.05 <sup>14</sup>

### *Cash Deposit Requirements*

For seven separate rate respondents that do not have a superseding cash deposit rate,<sup>15</sup> Commerce will issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP). Because Jinlong, Guyu, and the remaining separate rate respondents have a superseding cash deposit rate, *i.e.*, there have been final results published in a subsequent administrative review, we will not issue revised cash deposit instructions to CBP. This notice will not affect the current cash deposit rate for these companies.

### *Liquidation of Suspended Entries*

At this time, Commerce remains enjoined by CIT order from liquidating entries that: were exported by Jinlong, Guyu, and the non-individually-examined separate rate respondents listed in the Appendix, and were entered, or withdrawn from warehouse, for consumption during the period December 1, 2017, through November 30, 2018. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

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 CBP to assess antidumping duties on unliquidated entries of subject merchandise exported by Jinlong, Guyu, and the non-individually-examined separate rate respondents in accordance with 19 CFR 351.212(b), where appropriate.

---

<sup>13</sup> See Appendix.

<sup>14</sup> As the recalculated margin for Jinlong is the only margin that is not zero, *de minimis*, or determined entirely under section 776 of the Act, we assigned this margin to the non-individually-examined separate rate companies, consistent with the guidance provided in section 735(c)(5) of the Act.

<sup>15</sup> These companies are Anhui Longhua Bamboo Product Co., Ltd.; Dalian Deerfu Wooden Product Co., Ltd.; Dalian Shengyu Science And Technology Development Co., Ltd.; Dunhua City Wanrong Wood Industry Co., Ltd.; Power Dekor Group Co., Ltd.; Yekalon Industry Inc.; and Zhejiang Shiyou Timber Co., Ltd.

We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the weighted-average dumping margin or an importer-specific *ad valorem* assessment rate is not zero or *de minimis*. Where the weighted-average dumping margin or an importer-specific *ad valorem* assessment rate is zero or *de minimis*,<sup>16</sup> we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

*Notification to Interested Parties*

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

**Dated:** November 8, 2023.

**Abdelali Elouaradia,**  
*Deputy Assistant Secretary for Enforcement and Compliance.*

**Appendix**

<b>Non-Individually Examined Companies Eligible for a Separate Rate</b>
A&W (Shanghai) Woods Co., Ltd.
Anhui Longhua Bamboo Product Co., Ltd.
Benxi Wood Company
Dalian Dajen Wood Co., Ltd.
Dalian Deerfu Wooden Product Co., Ltd.
Dalian Jiahong Wood Industry Co., Ltd.
Dalian Kemian Wood Industry Co., Ltd.
Dalian Penghong Floor Products Co., Ltd./ Dalian Shumaike Floor Manufacturing Co., Ltd.
Dalian Shengyu Science And Technology Development Co., Ltd.
Dalian T-Boom Wood Products Co., Ltd.
Dongtai Fuan Universal Dynamics, LLC
Dunhua City Dexin Wood Industry Co., Ltd.
Dunhua City Hongyuan Wood Industry Co., Ltd.
Dunhua City Wanrong Wood Industry Co., Ltd.
Dun Hua Sen Tai Wood Co., Ltd.
Dunhua Shengda Wood Industry Co., Ltd.
Guangzhou Panyu Southern Star Co., Ltd.
HaiLin LinJing Wooden Products, Ltd.
Hangzhou Hanje Tec Company Limited
Hunchun Xingjia Wooden Flooring Inc.
Huzhou Chenghang Wood Co., Ltd

<sup>16</sup> See 19 CFR 351.106(c)(2).

Huzhou Fulinmen Imp. & Exp. Co., Ltd.
Huzhou Sunergy World Trade Co., Ltd.
Jiangsu Keri Wood Co., Ltd.
Jiangsu Mingle Flooring Co., Ltd
Jiangsu Senmao Bamboo and Wood Industry Co., Ltd.
Jiangsu Simba Flooring Co., Ltd.
Jiashan HuiJiaLe Decoration Material Co., Ltd.
Jiaying Hengtong Wood Co., Ltd.
Jilin Xinyuan Wooden Industry Co., Ltd.
Karly Wood Product Limited
Kember Flooring, Inc.
Kemian Wood Industry (Kunshan) Co., Ltd.
Lauzon Distinctive Hardwood Flooring, Inc.
Linyi Youyou Wood Co., Ltd.
Metropolitan Hardwood Floors, Inc.
Mudanjiang Bosen Wood Industry Co., Ltd.
Nakahiro Jyou Sei Furniture (Dalian) Co., Ltd.
Omni Arbor Solution Co., Ltd.
Pinge Timber Manufacturing (Zhejiang) Co., Ltd.
Power Dekor Group Co., Ltd.
Scholar Home (Shanghai) New Material Co., Ltd.
Shenyang Haobainian Wooden Co., Ltd.
Sino-Maple (Jiangsu) Co., Ltd.
Suzhou Dongda Wood Co., Ltd.
Tongxiang Jisheng Import and Export Co., Ltd.
Xuzhou Shenghe Wood Co., Ltd.
Yekalon Industry Inc.
Yihua Lifestyle Technology Co., Ltd. (successor-in-interest to Guangdong Yihua Timber Industry Co., Ltd.)
Zhejiang Dadongwu Green Home Wood Co., Ltd.
Zhejiang Fuerjia Wooden Co., Ltd
Zhejiang Longsen Lumbering Co., Ltd.
Zhejiang Shiyou Timber Co., Ltd.

[FR Doc. 2023-25200 Filed: 11/14/2023 8:45 am; Publication Date: 11/15/2023]