



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 Duty Administrative Review; Notice of Amended Final Results

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

SUMMARY: On February 8, 2024, the U.S. Court of International Trade (CIT) issued its final judgment in *American Manufacturers of Multilayered Wood Flooring v. United States*, Court No. 21-00595, Slip Op. 24-13 (CIT February 8, 2024), sustaining the U.S. Department of Commerce's (Commerce) 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 December 1, 2018, through November 30, 2019. 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 certain non-individually-examined companies.

DATES: Applicable February 18, 2024.

FOR FURTHER INFORMATION CONTACT: David Williams, 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) 482-4338.

SUPPLEMENTARY INFORMATION:

[Background](#)

On February 6, 2020, Commerce published the notice of initiation of the 2018-2019 AD administrative review of the *Order*.¹ Commerce subsequently received a separate rate certification (SRC) from Dalian Qianqiu Wooden Product Co., Ltd., Fusong Jinlong Wooden Group Co., Ltd., Fusong Jinqiu Wooden Product Co., Ltd., and Fusong Qianqiu Wooden Products Co., Ltd. (collectively, Jinlong),² among other companies. Commerce selected Jinlong and Senmao Bamboo and Wood Industry Co., Ltd. (Senmao) as mandatory respondents and issued AD questionnaires to both companies.³ On April 14, 2020, Jinlong notified Commerce that it did not intend to participate in the administrative review.⁴

On October 29, 2021, Commerce published its *Final Results*, in which Commerce determined that Jinlong did not establish eligibility for a separate rate because it failed to respond to Section A of Commerce's AD questionnaire, which included questions relevant to demonstrating eligibility for a separate rate.⁵ Although Jinlong submitted an SRC on the record, Commerce explained that, consistent with its *Initiation Notice* and prior practice, companies that file SRCs and are later selected as mandatory respondents are not considered eligible for a separate rate unless they respond to the AD questionnaire.⁶ In denying Jinlong a separate rate, Commerce found that Jinlong was part of the China-wide entity which was subject to a weighted-average dumping margin of 85.13 percent. Commerce calculated a zero percent weighted-average dumping margin for Senmao.⁷ Commerce assigned a zero percent weighted-

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 6896 (February 6, 2020) (*Initiation Notice*); see also *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) (*Order*).

² See Jinlong's Letter, "Separate Rate Certification," dated March 9, 2020.

³ See *Multilayered Wood Flooring from the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review, Preliminary Determination of No Shipments, Preliminary Successor in-Interest Determination, and Rescission of Review, in Part; 2018-2019*, 86 FR 22016 (April 26, 2021), and accompanying Preliminary Decision Memorandum.

⁴ See Jinlong's Letter, "Jinlong Notice of Intent Not to Participate," dated April 14, 2020.

⁵ See *Multilayered Wood Flooring from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Partial Rescission; 2018-2019*, 86 FR 59987 (October 29, 2021) (*Final Results*), and accompanying Issues and Decision Memorandum at Comment 1.

⁶ *Id.*

⁷ See *Final Results*, 86 FR at 59988.

average dumping margin to each of the separate-rate companies not individually examined in the review.

The American Manufacturers of Multilayered Wood Flooring (AMMWF) appealed Commerce's *Final Results*. On March 21, 2023, the CIT remanded the *Final Results* to Commerce, directing Commerce to reconsider whether Jinlong was eligible for a separate rate based on its SRC, notwithstanding its failure to respond to Commerce's AD questionnaire.⁸ The CIT held that, because Commerce accepted SRCs for other non-individually examined respondents as sufficient evidence to grant separate rates, this disparate treatment of respondents who appear to be similarly situated is arbitrary and capricious.⁹

In its final remand redetermination, issued in August 2023, Commerce (1) evaluated Jinlong's eligibility for a separate rate based on its SRC and assigned Jinlong a weighted-average dumping margin based on adverse facts available (AFA) in accordance with sections 776(a) and (b) of the Tariff Act of 1930, as amended (the Act), because Jinlong did not cooperate to the best of its ability by failing to respond to the AD questionnaire; and (2) recalculated the dumping margin assigned to the eligible separate-rate companies not selected for individual examination.¹⁰ Commerce assigned the simple average of Jinlong's AFA-based margin and Senmao's zero percent margin (*i.e.*, 42.57 percent) to eligible separate-rate companies.¹² The CIT sustained Commerce's final redetermination.¹¹

⁸ See *American Manufacturers of Multilayered Wood Flooring v. United States*, Court No. 21-00595 (March 21, 2023).

⁹ *Id.*

¹⁰ As explained in the final remand redetermination, we determined Jinlong is eligible for a separate rate "for the sole purpose of calculating the rate for the separate rate respondents that have entries enjoined for this period of review because Jinlong is not a party to this litigation and does not have entries enjoined for this period of review." See *Final Results of Remand Redetermination, American Manufacturers of Multilayered Wood Flooring v. United States*, CIT Court No. 21-00595, dated August 8, 2023.

¹¹ See *American Manufacturers of Multilayered Wood Flooring v. United States*, Slip Op. 24-13, dated February 8, 2024.

Timken Notice

In its decision in *Timken*,¹² as clarified by *Diamond Sawblades*,¹³ the Court of Appeals for the Federal Circuit held that, pursuant to sections 516A(c) and (e) of 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 February 8, 2024, 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 the eligible separate-rate companies not selected for individual examination as follows:

Exporter	Dumping Margin (percent)
Non-Individually-Examined Companies ¹⁴	42.57

Cash Deposit Requirements

Because certain separate rate respondents have a superseding cash deposit rate, *i.e.*, there have been final results published in a subsequent administrative review, Commerce will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP) for those companies. However, Commerce will issue revised cash deposit instructions to CBP for the separate rate respondents that do not have a superseding cash deposit rate.¹⁵

Liquidation of Suspended Entries

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

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

¹⁴ See Appendix II for a list of these companies.

¹⁵ See Appendix I.

At this time, Commerce remains enjoined by CIT order from liquidating entries that were exported by the non-individually-examined separate rate respondents¹⁶ and were entered, or withdrawn from warehouse, for consumption during the period December 1, 2018, through November 30, 2019. 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 the non-individually examined separate rate respondents in accordance with 19 CFR 351.212(b), where appropriate. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review at the AD rate noted in the table above.

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: February 20, 2024.

Ryan Majerus,
Deputy Assistant Secretary
for Policy and Negotiations,
performing the non-exclusive functions and duties
of the Assistant Secretary for Enforcement and Compliance.

¹⁶ See Appendix II.

Appendix I
Non-Individually-Examined Companies Receiving a Separate Rate

Arte Mundi (Shanghai) Aesthetic Home Furnishings Co., Ltd. (successor-in-interest to Scholar Home (Shanghai) New Material Co., Ltd.)
Dalian Jiahong Wood Industry Co., Ltd.
Dongtai Fuan Universal Dynamics, LLC
Dunhua City Hongyuan Wood Industry Co., Ltd.
Hailin Linjing Wooden Products Co., Ltd.
Hunchun Xingjia Wooden Flooring Inc.
Huzhou Chenghang Wood Co., Ltd
Huzhou Sunergy World Trade Co., Ltd.
Jiangsu Keri Wood Co., Ltd.
Jiangsu Mingle Flooring Co., Ltd
Jiangsu Simba Flooring Co., Ltd.
Jiashan On-Line Lumber Co., Ltd.
Kingman Floors Co., Ltd.
Linyi Youyou Wood Co., Ltd.
Pinge Timber Manufacturing (Zhejiang) Co., Ltd.
Sino-Maple (Jiangsu) Co., Ltd.
Suzhou Dongda Wood Co., Ltd.
Tongxiang Jisheng Import and Export Co., Ltd.
Zhejiang Longsen Lumbering Co., Ltd

Appendix II Companies Subject to Injunction
A&W (Shanghai) Woods Co., Ltd.
Arte Mundi (Shanghai) Aesthetic Home Furnishings Co., Ltd. (successor-in-interest to Scholar Home (Shanghai) New Material Co., Ltd.)
Benxi Wood Company
Dalian Jiahong Wood Industry Co., Ltd.
Dalian Kemian Wood Industry Co., Ltd.
Dalian Penghong Floor Products Co., Ltd./Dalian Shumaike Floor Manufacturing Co., Ltd.
Dongtai Fuan Universal Dynamics, LLC
Dun Hua Sen Tai Wood Co., Ltd.
Dunhua City Hongyuan Wood Industry Co., Ltd.
Dunhua Shengda Wood Industry Co., Ltd.
Hailin Linjing Wooden Products Co., Ltd.
Hunchun Xingjia Wooden Flooring Inc.
Huzhou Chenghang Wood Co., Ltd.
Huzhou Fulinmen Imp. & Exp. Co., Ltd.
Huzhou Jesonwood Co., Ltd.
Huzhou Sunergy World Trade Co., Ltd.
Jiangsu Guyu International Trading Co., Ltd.
Jiangsu Keri Wood Co., Ltd.
Jiangsu Mingle Flooring Co., Ltd.
Jiangsu Simba Flooring Co., Ltd.
Jiashan HuiJiaLe Decoration Material Co., Ltd.
Jiashan On-Line Lumber Co., Ltd.
Jiaxing Hengtong Wood Co., Ltd.
Kemian Wood Industry (Kunshan) Co., Ltd.
Kingman Floors Co., Ltd.
Linyi Youyou Wood Co., Ltd.
Metropolitan Hardwood Floors, Inc.
Pinge Timber Manufacturing (Zhejiang) Co., Ltd.
Sino-Maple (Jiangsu) Co., Ltd.
Suzhou Dongda Wood Co., Ltd.
Tongxiang Jisheng Import and Export Co., Ltd.
Yihua Lifestyle Technology Co., Ltd. (successor-in-interest to Guangdong Yihua Timber Industry Co., Ltd.)
Zhejiang Dadongwu Greenhome Wood Co., Ltd.
Zhejiang Fuerjia Wooden Co., Ltd.
Zhejiang Longsen Lumbering Co., Ltd.