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## 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 Final Rescission of the Antidumping Duty New Shipper Review

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

**SUMMARY:** On July 16, 2018, the United States Court of International Trade (CIT) issued a final judgment in *Huzhou Muyun Wood Co., Ltd., LLC. v. United States* ordering the Department of Commerce (Commerce) to proceed with Huzhou Muyun Wood Co., Ltd.'s (Muyun Wood) new shipper review of the antidumping duty order on multilayered wood flooring (wood flooring) from the People's Republic of China (China). Commerce is notifying the public that the final judgment in this case is not in harmony with the final rescission of the new shipper review.

**DATES:** Applicable beginning July 26, 2018.

**FOR FURTHER INFORMATION CONTACT:** Aleksandras Nakutis, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3147.

**SUPPLEMENTARY INFORMATION:****Background**

Muyun Wood is a Chinese producer/exporter of wood flooring. On June 13, 2015, Huzhou Muyun Wood Co., Ltd.'s (Muyun Wood) requested a new shipper review. On July 29, 2015, Commerce initiated the requested new shipper

review covering the period of December 1, 2014, through May 31, 2015.<sup>1</sup>

On October 26, 2016, Commerce issued the *Final Rescission*.<sup>2</sup> In the *Final Rescission*, Commerce determined that Muyun's single sale was not *bona fide* and, accordingly, rescinded its new shipper review. Muyun Wood challenged Commerce's findings in the *Final Rescission* at the CIT.

On December 11, 2017, the CIT remanded for Commerce to determine whether Muyun Wood's sale during the review period was *bona fide*.<sup>3</sup> In accordance with the Court's decision, Commerce reconsidered its previous analysis and continued to determine that Muyun Wood's single sale was non-*bona fide*. Specifically, Commerce considered the following factors weighed against finding Muyun's sale *bona fide*: (1) The price reported by Muyun Wood was significantly higher than the highest comparison sales price for identical merchandise reported during a contemporaneous period; (2) the evidence indicating that Muyun Wood's unaffiliated and new customer did not resell the entirety of the merchandise at question for a profit; and (3) the singular nature of the sale.

On July 16, 2018, the CIT held that Commerce's ultimate conclusion that the sale was not *bona fide* was not supported by substantial evidence and that the rescission of the new shipper review cannot be upheld.<sup>4</sup> The CIT found that the totality of the circumstances do not support a finding that the sale was not *bona fide*, given that the sales quantity was typical, the expenses incurred were normal, the sale was made at arm's length, the payment timing was not atypical, and a substantial majority of the product was resold for a profit.<sup>5</sup> The CIT entered judgment, ordering Commerce to proceed with Muyun Wood's new shipper review.

**Timken Notice**

In its decision in *Timken*, as clarified by *Diamond Sawblades*, the CAFC held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act),

<sup>1</sup> See *Multilayered Wood Flooring from the People's Republic of China: Initiation of Antidumping Duty New Shipper Reviews*; 2014-2015, 80 FR 45192 (July 29, 2015).

<sup>2</sup> See *Multilayered Wood Flooring from the People's Republic of China: Rescission of Antidumping Duty New Shipper Reviews*; 2015-2016, 81 FR 74393 (October 26, 2016) (*Final Rescission*).

<sup>3</sup> See *Huzhou Muyun Wood Co. Ltd. v. United States*, 41 CIT \_\_, 279 F. Supp. 3d 1215 (CIT 2017).

<sup>4</sup> See *Huzhou Muyun Wood Co., Ltd. v. United States*, 2018 WL 3455350 (CIT July 16, 2018).

<sup>5</sup> *Id.* at \*8 (referring to the factors outlined at section 751(a)(2)(B)(iv) of the Act).

Commerce must publish a notice of a court decision that is not "in harmony" with Commerce's determination and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's July 16, 2018 final judgment, ordering Commerce to proceed with Muyun Wood's new shipper review, constitutes a final decision of that court that is not in harmony with the *Final Rescission*.<sup>6</sup> This notice is published in fulfillment of the publication requirements of *Timken*.

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

Dated: August 9, 2018.

**James Maeder,**

*Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

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## DEPARTMENT OF COMMERCE

## International Trade Administration

[C-533-878]

### Stainless Steel Flanges From India: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances

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

**SUMMARY:** The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of stainless steel flanges from India during the period of investigation January 1, 2016, through December 31, 2016.

**DATES:** Applicable August 16, 2018.

**FOR FURTHER INFORMATION CONTACT:** Ryan Mullen or Chelsey Simonovich, 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) 482-5260 or (202) 482-1979, respectively.

**SUPPLEMENTARY INFORMATION:****Background**

On January 23, 2018, Commerce published the *Preliminary*

<sup>6</sup> See *MLWF Amended Final Determination*, 79 FR 21509 (May 2, 2014) (*MLWF Amended Final Determination*).

**Determination in the Federal Register.**<sup>1</sup> A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the accompanying Issues and Decision Memorandum.<sup>2</sup> The Issues and Decision Memorandum is a public document, and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov> and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

#### Scope Comments

In Commerce's Preliminary Scope Decision Memorandum, we set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope) in scope case briefs or other written comments on scope issues.<sup>3</sup> No interested parties submitted timely scope comments. For a complete description of the scope of this investigation, see Appendix I.

#### Scope of the Investigation

The products covered by this investigation are stainless steel flanges from India. For a complete description of the scope of this investigation, see "Scope of the Investigation," in Appendix I of this notice.

#### Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation, and the issues raised in the case and rebuttal briefs filed by the parties, are discussed in the Issues and Decision Memorandum. A list of the

<sup>1</sup> See Stainless Steel Flanges from India: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative and Alignment of Final Determination With Final Antidumping Duty Determination, 83 FR 3118 (January 23, 2018) and accompanying Preliminary Decision Memorandum (Preliminary Determination).

<sup>2</sup> See Memorandum, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Stainless Steel Flanges from India," dated concurrently with this determination and hereby adopted by this notice (Issues and Decision Memorandum).

<sup>3</sup> See Memorandum, "Scope Comments Decision Memorandum for the Preliminary Determinations," dated November 15, 2017 (Preliminary Scope Decision Memorandum).

issues parties raised and to which we responded in the Issues and Decisions Memorandum, is attached to this notice at Appendix II.

#### Verification

Commerce conducted verification of the questionnaire responses submitted by the Government of India and Echjay Forgings Private Limited (Echjay) between June 4 and June 8, 2018.

#### Use of Adverse Facts Available

If necessary information is not available on the record, or an interested party withholds information, fails to provide requested information in a timely manner, significantly impedes a proceeding by not providing information, or information provided cannot be verified, the Department will apply facts available, pursuant to section 776(a)(1) and (2) of the Tariff Act of 1930, as amended (the Act). For purposes of this final determination, Commerce relied, in part, on facts available and, because certain respondents did not cooperate by not acting to the best of their ability to respond to our requests for information, we drew an adverse inference, where appropriate, in selecting from among the facts otherwise available.<sup>4</sup> A full discussion of our decision to rely on adverse facts available is presented in the "Use of Facts Otherwise Available and Adverse Inferences" section of the Issues and Decision Memorandum.

#### Changes Since the Preliminary Determination

Based on our analysis of the comments received from parties and the minor corrections presented, as well as additional items discovered at verification, we made certain changes to the respondents' subsidy rate calculations set forth in the *Preliminary Determination*. For a discussion of these changes, see the Issues and Decision Memorandum and the Final Analysis Memorandum.<sup>5</sup>

#### Final Affirmative Determination of Critical Circumstances

For the *Preliminary Determination*, Commerce found that critical circumstances exist with respect to imports of stainless steel flanges from Bebitz Flanges Works (Bebitz), Echjay, and all-other exporters/producers

<sup>4</sup> See sections 776(a) and (b) of the Act.

<sup>5</sup> See Issues and Decision Memorandum; see also Memorandum, "Final Analysis Memorandum for Echjay Forgings Pvt. Ltd.," dated concurrently with this notice.

covered by the "all-others" rate.<sup>6</sup> We did not modify our critical circumstances for the final determination. Thus, pursuant to section 703(e)(1) of the Act, we continue to find that critical circumstances exist with respect to subject merchandise produced or exported by Bebitz, Echjay, and "all-others."

#### Final Determination

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated a rate for each exporter/producer of the subject merchandise individually investigated, *i.e.*, Echjay and Bebitz. In accordance with section 705(c)(5)(A) of the Act, for companies not individually investigated, we apply an "all-others" rate, which is normally calculated by weighting the subsidy rates of the individual companies selected as mandatory respondents by those companies' exports of the subject merchandise to the United States. Under section 705(c)(5)(A)(i) of the Act, the "all-others" rate excludes zero and *de minimis* rates calculated for the exporters and producers individually investigated, as well as rates based entirely on facts otherwise available. Where the rates for the individually investigated companies are all zero or *de minimis*, or determined entirely using facts otherwise available, section 705(c)(5)(A)(ii) of the Act instructs Commerce to establish an "all-others" rate using "any reasonable method."

In this investigation, Commerce assigned a rate based entirely on facts available to Bebitz. Therefore, the only rate that is not zero, *de minimis* or based entirely on facts otherwise available is the rate calculated for Echjay. Consequently, the rate calculated for Echjay is also assigned as the rate for all-other producers and exporters.

The final subsidy rates are as follows:

Company	Subsidy rate (percent)
Bebitz Flanges Works Private Limited <sup>7</sup> .....	256.16
Echjay Forgings Private Limited <sup>8</sup> .....	4.92
All-Others .....	4.92

<sup>6</sup> See Preliminary Determination, 83 FR at 3118, 3119, and accompanying Preliminary Decision Memorandum at 4-7.

<sup>7</sup> As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with Bebitz Flanges Works: Viraj Profiles Limited.

<sup>8</sup> As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with Echjay Forgings Private Limited: Echjay Forging Industries Private Limited.

## Disclosure

We intend to disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

## Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination* and pursuant to section 703(d) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of any entries of merchandise under consideration from India that were entered, or withdrawn from warehouse, for consumption on or after October 25, 2017, which is 90 days prior to the date of publication in the **Federal Register** of the *Preliminary Determination*. In accordance with section 703(d) of the Act, we issued instructions to CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or withdrawn from warehouse, on or after May 22, 2018, but to continue the suspension of liquidation on all entries from January 23, 2018, through May 21, 2018.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a countervailing duty order and will require a cash deposit of estimated countervailing duties for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

## U.S. International Trade Commission Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Acting Assistant Secretary for Enforcement and Compliance.

## Notification Regarding Administrative Protective Orders

This notice serves as a reminder to parties such to an APO of their

responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or, alternatively, conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation that is subject to sanction.

## Notification to Interested Parties

This determination is published pursuant to section 705(d) and 777(i) of the Act and 19 CFR 351.210(c).

Dated: August 10, 2018.

### James Maeder,

*Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

## Appendix I

### Scope of the Investigation

The products covered by this investigation are certain forged stainless steel flanges, whether unfinished, semi-finished, or finished (certain forged stainless steel flanges). Certain forged stainless steel flanges are generally manufactured to, but not limited to, the material specification of ASTM/ASME A/SA182 or comparable domestic or foreign specifications. Certain forged stainless steel flanges are made in various grades such as, but not limited to, 304, 304L, 316, and 316L (or combinations thereof). The term "stainless steel" used in this scope refers to an alloy steel containing, by actual weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. Unfinished stainless steel flanges possess the approximate shape of finished stainless steel flanges and have not yet been machined to final specification after the initial forging or like operations. These machining processes may include, but are not limited to, boring, facing, spot facing, drilling, tapering, threading, beveling, heating, or compressing. Semi-finished stainless steel flanges are unfinished stainless steel flanges that have undergone some machining processes. The scope includes six general types of flanges. They are: (1) Weld neck, generally used in butt-weld line connection; (2) threaded, generally used for threaded line connections; (3) slip-on, generally used to slide over pipe; (4) lap joint, generally used with stub-ends/butt-weld line connections; (5) socket weld, generally used to fit pipe into a machine recession; and (6) blind, generally used to seal off a line. The sizes and descriptions of the flanges within the scope include all pressure classes of ASME B16.5 and range from one-half inch to twenty-four inches nominal pipe size. Specifically excluded from the scope of this investigation are cast stainless steel flanges. Cast stainless steel flanges generally are manufactured to specification ASTM A351.

The country of origin for certain forged stainless steel flanges, whether unfinished, semi-finished, or finished is the country where the flange was forged. Subject merchandise includes stainless steel flanges as defined above that have been further processed in a third country. The processing includes, but is not limited to, boring, facing, spot facing, drilling, tapering, threading, beveling, heating, or compressing, and/or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the stainless steel flanges.

Merchandise subject to the investigation is typically imported under headings 7307.21.1000 and 7307.21.5000 of the Harmonized Tariff Schedule of the United States (HTS). While HTS subheadings and ASTM specifications are provided for convenience and customs purposes, the written description of the scope is dispositive.

## Appendix II

### List of Topics Discussed in the Final Decision Memo

- I. Summary
- II. Background
- III. Scope of The Investigation
- IV. Final Determination of Critical Circumstances
- V. Subsidies Valuation Information
- VI. Benchmarks and Interest Rates
- VII. Use of Facts Otherwise Available and Adverse Inferences
- VIII. Analysis of Programs
- IX. Discussion of the Issues
  - Comment 1: The Application of AFA to Bebitz
  - Comment 2: SHIS Licenses Discovered at Verification
  - Comment 3: Echjay's Reporting of the Provision of Stainless Steel, Billet, and Bar by SAIL for LTAR
  - Comment 4: Whether Sufficient Information Exists to Calculate a Subsidy Rate for EFIPL
  - Comment 5: Whether AAP, DDB, EPCGS, SHIS, and IEIS are Countervailable
  - Comment 6: Whether the GOI Provided Sufficient Information for Certain Programs
- X. Conclusion

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-533-843]

### Certain Lined Paper Products From India: Notice of Partial Rescission of Antidumping Duty Administrative Review; 2016-2017

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

**DATES:** Applicable August 16, 2018.

**FOR FURTHER INFORMATION CONTACT:** Cindy Robinson or Joy Zhang AD/CVD