



A-570-900
Admin. Rev.: 11/1/10 – 10/31/11
Public Document
AD/CVD 1: YJC

July 11, 2013

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Import Administration

FROM: Christian Marsh *CM*
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Amended Final Results of the
Antidumping Duty Administrative Review: Diamond Sawblades
and Parts Thereof from the People's Republic of China Covering
the Period November 1, 2010, through October 31, 2011

Summary

The Department of Commerce (the Department) is amending the final results of the administrative review of the antidumping duty order on diamond sawblades and parts thereof (diamond sawblades) from the People's Republic of China (the PRC) to correct a ministerial error. The period of review is November 1, 2010, through October 31, 2011.

Background

On June 11, 2013, and June 13, 2013, the Department disclosed to interested parties its calculations for the *Final Results*.¹ On June 17, 2013, Weihai Xiangguang Mechanical Industrial Co., Ltd. (Weihai) filed a ministerial error allegation. On June 24, 2013, the petitioner, Diamond Sawblades Manufacturers Coalition, filed comments in response to Weihai's ministerial error allegation.

Scope of the Order

The products covered by the order are all finished circular sawblades, whether slotted or not, with a working part that is comprised of a diamond segment or segments, and parts thereof, regardless of specification or size, except as specifically excluded below. Within the scope of the order are semifinished diamond sawblades, including diamond sawblade cores and diamond sawblade segments. Diamond sawblade cores are circular steel plates, whether or not attached to

¹ See *Diamond Sawblades and Parts Thereof From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010–2011*, 78 FR 36166 (June 17, 2013) (*Final Results*) and accompanying Issues and Decision Memorandum (Final Results Memo).



non-steel plates, with slots. Diamond sawblade cores are manufactured principally, but not exclusively, from alloy steel. A diamond sawblade segment consists of a mixture of diamonds (whether natural or synthetic, and regardless of the quantity of diamonds) and metal powders (including, but not limited to, iron, cobalt, nickel, tungsten carbide) that are formed together into a solid shape (from generally, but not limited to, a heating and pressing process).

Sawblades with diamonds directly attached to the core with a resin or electroplated bond, which thereby do not contain a diamond segment, are not included within the scope of the order. Diamond sawblades and/or sawblade cores with a thickness of less than 0.025 inches, or with a thickness greater than 1.1 inches, are excluded from the scope of the order. Circular steel plates that have a cutting edge of non-diamond material, such as external teeth that protrude from the outer diameter of the plate, whether or not finished, are excluded from the scope of the order. Diamond sawblade cores with a Rockwell C hardness of less than 25 are excluded from the scope of the order. Diamond sawblades and/or diamond segment(s) with diamonds that predominantly have a mesh size number greater than 240 (such as 250 or 260) are excluded from the scope of the order.

Merchandise subject to the order is typically imported under heading 8202.39.00.00 of the Harmonized Tariff Schedule of the United States (HTSUS). When packaged together as a set for retail sale with an item that is separately classified under headings 8202 to 8205 of the HTSUS, diamond sawblades or parts thereof may be imported under heading 8206.00.00.00 of the HTSUS. On October 11, 2011, the Department included the 6804.21.00.00 HTSUS classification number to the customs case reference file, pursuant to a request by U.S. Customs and Border Protection (CBP).²

The tariff classification is provided for convenience and customs purposes; however, the written description of the scope of the order is dispositive.

Ministerial Error

Section 751(h) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.224(f) define a “ministerial error” as an error “in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any similar type of unintentional error which the Secretary considers ministerial.” After analyzing Weihai’s ministerial error comment, we have determined, in accordance with section 751(h) of the Act and 19 CFR 351.224(e), that we made a ministerial error in our calculations for the *Final Results*.

Weihai submitted its original factors of production (FOP) database on April 20, 2012. On December 21, 2012, Weihai submitted a corrected FOP database. For the *Final Results*, we intended to merge certain data from the original database (relating to ammonia, argon, and nitrogen) into the corrected FOP databases. However, due to an inadvertent programming error, we merged both databases and incorporated into the corrected FOP database FOP data for other field variables from the original FOP database.

² See *Diamond Sawblades and Parts Thereof From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review*, 76 FR 76128 (December 6, 2011).

This constitutes a ministerial error. Therefore, in accordance with section 751(h) of the Act and 19 CFR 351.224(e), we are amending the *Final Results* to correct this error.

Rate for Non-Selected Separate-Rate Recipients

As explained in the Final Results Memo, neither the statute nor the Department's regulations address the establishment of a rate to be applied to respondents not selected for individual examination (non-selected respondents) when the Department limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, the Department looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for respondents which we did not individually examine in an administrative review. Section 735(c)(5)(A) of the Act articulates a preference that we are not to calculate an all-others rate using rates which are zero, *de minimis* or based entirely on facts available. Accordingly, the Department's usual practice has been to average the weighted-average dumping margins for the companies selected for individual examination (selected respondents), excluding rates that are zero, *de minimis*, or based entirely on facts available. Section 735(c)(5)(B) of the Act also provides that, where all rates of individually investigated respondents are zero, *de minimis*, or based entirely on facts available, we may use "any reasonable method" for assigning the all-others rate, including "averaging the estimated weighted-average dumping margins determined for the exporters and producers individually investigated."

As a result of the correction of the ministerial error, both selected respondents have a dumping margin of zero percent. In other recent administrative reviews, the Department has determined that a "reasonable method" to use when the rates for the respondents selected for individual examination are zero, *de minimis*, or based entirely on facts available, is to assign non-selected separate-rate recipients the average of the most recently-determined weighted-average dumping margins that are not zero, *de minimis*, or based entirely on facts available.³ These rates may be from the investigation, a prior administrative review, or a new shipper review. If any such separate-rate recipient had its own calculated rate that is contemporaneous with or more recent than such prior determined rates, however, the Department has applied such an individual rate to the separate-rate recipient, including when that rate is zero or *de minimis*.⁴

³ See, e.g., *Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2011–2012*, 78 FR 4385 (January 22, 2013), unchanged in *Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2011–2012*, 78 FR 29113, (May 17, 2013).

⁴ See, e.g., *Ball Bearings and Parts Thereof From France, Germany, and Italy: Preliminary Results of Antidumping Duty Administrative Reviews and Rescission of Antidumping Duty Administrative Reviews in Part*, 77 FR 33159 (June 5, 2012), unchanged in *Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012).

However, all prior rates for this proceeding were calculated using a methodology the Department abandoned in its *Final Modification for Reviews* pursuant to section 123 of the Uruguay Round Agreements Act.⁵ Therein, the Department stated that it will not use this methodology in administrative reviews with preliminary determinations issued after April 16, 2012. Therefore, we are not applying rates calculated in prior reviews to the non-selected respondents in this review. Based on this, and consistent with the statute and the Department's prior decisions with similar circumstances, we determine that a reasonable method for determining the weighted-average dumping margins for the non-selected respondents in the amended final results of this administrative review is to average the weighted-average dumping margins calculated for the selected respondents. Consequently, the rate established for the non-selected separate rate respondents is 0.00 percent.

The petitioner in its June 24 comments states that if the Department accepts all or part of Weihai's ministerial error allegation, thus resulting in a *de minimis* or zero margin upon correction, then the Department should update the margin for non-selected respondents. Specifically, the petitioner suggests that the Department follow the same methodology it used in a recent investigation on *Hardwood and Decorative Plywood from the PRC*⁶ where the Department calculated a simple average of the rates determined for the two mandatory respondents and the PRC-wide entity. The petitioner argues that the Department reached a similar result in *Certain Lined Paper Products from India*.⁷

We disagree with the petitioner that we should follow the methodology used in *Hardwood and Decorative Plywood from the PRC*. In that case, the Department calculated the PRC-wide rate, which it used as part of the weighted-average margin for the non-selected respondents, whereas in this administrative review, the PRC wide rate was not calculated but was brought forth from the less than fair value investigation. Further, the methodology in *Hardwood and Decorative Plywood from the PRC* was used in a preliminary determination, not in a final determination and, thus, the methodology used in *Hardwood and Decorative Plywood from the PRC* is subject to change from the preliminary to the final determination. Thus, the fact pattern in *Hardwood and Decorative Plywood from the PRC* is not the same as the fact pattern in this case.

We also disagree that *Certain Lined Paper Products from India* serves as precedent. In that case we also faced a different fact pattern than here. For example, the Department determined in *Certain Lined Paper Products from India* that because certain respondents refused to provide quantity and value (Q&V) data during the respondent selection process, the Department was obligated to conduct its respondent selection analysis based on an incomplete universe of potential respondents. The Department determined that the fact that there were other companies

⁵ See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012) (*Final Modification for Reviews*).

⁶ See *Hardwood and Decorative Plywood From the People's Republic of China: Antidumping Duty Investigation*, 78 FR 25946 (May 3, 2013) (*Hardwood and Decorative Plywood from the PRC*), and accompanying Decision Memorandum at 17-18.

⁷ See *Certain Lined Paper Products From India: Final Results of Antidumping Duty Administrative Review; 2010-2011*, 78 FR 22232 (April 15, 2013) (*Certain Lined Paper Products from India*), and accompanying Issues and Decision Memorandum at 13.

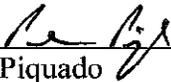
that might otherwise have been selected for investigation but chose not to respond to the Q&V questionnaires should be reflected in the Department's analysis. Thus, the Department determined in that case that a reasonable method for assigning a margin to non-selected respondents was to utilize the weighted-average rates calculated for the two mandatory respondents (zero percent) and the adverse-facts available (AFA) rate assigned to the uncooperative respondents (22.02 percent). The Department concluded that by using this methodology it could account for the fact that it was precluded from conducting its respondent selection analysis based on responses to all the Q&V questionnaires issued. In contrast, in this case, we did not issue Q&V questionnaires as part of the respondent selection process because we used CBP data for purposes of respondent selection. In addition, we also have not assigned an AFA rate to any mandatory or separate rate respondents in this case and, thus, the methodology used in *Certain Lined Paper Products from India* is not applicable here.

Recommendation

Based on our analysis of the comments received, we recommend adopting the above positions. If these recommendations are accepted, we will publish the amended final results of review and the final dumping margins for all of the reviewed companies in the *Federal Register*.

Agree

Disagree



Paul Piquado
Assistant Secretary
for Import Administration

11 July 2013
(Date)