

**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-583-008]

**Certain Circular Welded Carbon Steel Pipes and Tubes From Taiwan: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2016-2017**

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

**SUMMARY:** The Department of Commerce (Commerce) determines that Shin Yang Steel Co., Ltd. (Shin Yang), a producer/exporter of merchandise subject to this administrative review, made sales of subject merchandise at less than normal value during the period of review (POR) May 1, 2016, to April 30, 2017.

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

**FOR FURTHER INFORMATION CONTACT:** Scott Hoefke, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-4947.

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

On June 12, 2018, Commerce published its preliminary results of the administrative review of certain circular welded carbon steel pipes and tubes from Taiwan.<sup>1</sup> This review covers Shin Yang Steel Co., Ltd. (Shin Yang) and Yieh Hsing Enterprise Co., Ltd. (Yieh Hsing). We invited interested parties to comment on our preliminary results. We received no comments regarding this administrative review. No interested party requested a hearing.

On January 23, 2018, Commerce exercised its discretion to toll all deadlines for the duration of the closure of the Federal Government from January 20, 2018, through January 22, 2018.<sup>2</sup> The revised deadline for the final determination of this review is now October 10, 2018.

**Scope of the Order**

The merchandise subject to the order is certain circular welded carbon steel pipes and tubes from Taiwan. The

<sup>1</sup> See *Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2016-2017*, 83 FR 27311 (June 12, 2018), and accompanying Preliminary Decision Memorandum.

<sup>2</sup> See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days.

product is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) item numbers 7306.30.5025, 7306.30.5032, 7306.30.5040, and 7306.30.5055.

Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive.<sup>3</sup>

Analysis of Comments Received and Changes Since the Preliminary Results We made no changes to the *Preliminary Results* because we received no comments pertaining to the *Preliminary Results*.

**Final Determination of No Shipments**

In the *Preliminary Results*, Commerce preliminarily determined that Yieh Hsing had no shipments during the POR.<sup>4</sup> Following publication of the *Preliminary Results*, we received no comments from interested parties regarding Yieh Hsing. As a result, and because the record contains no evidence to the contrary, we continue to find that Yieh Hsing made no shipments during the POR. Accordingly, consistent with Commerce's practice, we intend to instruct U.S. Customs and Border Protection (CBP) to liquidate any existing entries of merchandise produced by Yieh Hsing, but exported by other parties without their own rate, at the all-others rate.<sup>5</sup>

**Final Results of the Review**

As a result of this review, we determine that the following weighted-average dumping margin exists for the period May 1, 2016, through April 30, 2017:

| Producer/exporter              | Weight-average dumping margin (percent) <sup>6</sup> |
|--------------------------------|--|
| Shin Yang Steel Co., Ltd ..... | 7.47   |

**Assessment**

Commerce shall determine, and CBP shall assess, antidumping duties on all

<sup>3</sup> The complete description of the scope of the order appears in the Preliminary Decision Memorandum.

<sup>4</sup> See *Preliminary Results*, 83 FR at 27312, and accompanying Preliminary Decision Memorandum, at 2-3.

<sup>5</sup> See, e.g., *Magnesium Metal from the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review*, 75 FR 26922, 26923 (May 13, 2010), unchanged in *Magnesium Metal from the Russian Federation: Final Results of Antidumping Duty Administrative Review*, 75 FR 56989 (September 17, 2010).

<sup>6</sup> In the *Preliminary Results*, Commerce erroneously published a dumping margin for Shin Yang of 6.26 percent. The correct margin should have been 7.47 percent, as reflected in the memorandum, "Preliminary Analysis

appropriate entries covered by this review pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b).

For Shin Yang, because its weighted-average dumping margin is not zero or *de minimis* (i.e., less than 0.5 percent), Commerce has calculated importer-specific antidumping duty assessment rates. We calculated importer-specific *ad valorem* antidumping duty assessment rates by aggregating the total amount of dumping calculated for the examined sales of each importer and dividing each of these amounts by the total entered value associated with those sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review where an importer-specific assessment rate is not zero or *de minimis*. Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the importer-specific assessment rate is zero or *de minimis*.

As noted in the "Final Determination of No Shipments" section, above, Commerce will instruct CBP to liquidate any existing entries of merchandise produced by Yieh Hsing but exported by other parties, at the rate for the intermediate reseller, if available, or at the all-others rate.

**Cash Deposit Requirements**

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rates for the companies listed in these final results will be equal to the rates established in the final results of this review; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior segment of this proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment in which the company was reviewed; (3) if the exporter is not a firm covered in this review or the original less-than-fair-value (LTFV) investigation, but the producer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the subject

Memorandum for Shin Yang Steel Co., Ltd. in the 2016-2017 Administrative Review of Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan," dated June 4, 2018. No party commented on this ministerial error contained in the *Preliminary Results*, but we are correcting the inadvertent error for these final results.

merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 9.70 percent,<sup>7</sup> the all-others rate established in the LTFV investigation. These cash deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

#### Notification to Interested Parties Regarding Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h).

Dated: October 10, 2018.

#### Gary Taverman,

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-985]

#### Xanthan Gum From the People's Republic of China: Notice of Court Decision Not in Harmony With Amended Final Determination in Less Than Fair Value Investigation; Notice of Amended Final Determination Pursuant to Court Decision; Notice of Revocation of Antidumping Duty Order in Part; and Discontinuation of Fourth and Fifth Antidumping Duty Administrative Reviews in Part

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

**SUMMARY:** On September 17, 2018, the United States Court of International Trade (CIT or Court) sustained the Department of Commerce's (Commerce) remand redetermination pertaining to the less-than-fair-value (LTFV) investigation of xanthan gum from the People's Republic of China (China). Because of the CIT's final decision, we are notifying the public that the CIT's decision is not in harmony with Commerce's final determination in the LTFV investigation of xanthan gum from China. Pursuant to the CIT's final judgment, Neimenggu Fufeng Biotechnologies Co., Ltd. (aka Inner Mongolia Fufeng Biotechnologies Co., Ltd.) and Shandong Fufeng Fermentation, Co., Ltd. (collectively, Fufeng) are being excluded from the order.

**DATES:** September 27, 2018.

**FOR FURTHER INFORMATION CONTACT:** Stephen Bailey, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-0193.

#### SUPPLEMENTARY INFORMATION:

#### Background

The litigation in this case relates to Commerce's final determination in the antidumping duty investigation covering xanthan gum from China,<sup>1</sup> which was later amended.<sup>2</sup> In its *Amended Final Determination and Order*, Commerce reached affirmative

determinations for mandatory respondents Fufeng and Deosen Biochemical Ltd. (Deosen).<sup>3</sup> CP Kelco U.S. and Fufeng appealed the *Amended Final Determination and Order* to the CIT, and on March 31, 2015, the CIT sustained, in part, and remanded, in part, Commerce's *Final Determination*,<sup>4</sup> as modified by the *Amended Final Determination*.<sup>5</sup> Specifically, the Court remanded, for reevaluation, Commerce's conclusion that the Thai Ajinomoto financial statements constituted a better source for calculating surrogate financial ratios than the Thai Fermentation statements, and granted the Government's request for a voluntary remand to reconsider Commerce's allocation of energy consumed at Fufeng's Neimenggu plant between the production of subject and non-subject merchandise.<sup>6</sup> Pursuant to a series of remand orders issued by the Court that resulted in four remand redeterminations, Commerce adjusted its allocation of energy consumed at Fufeng's Neimenggu plant and revised Fufeng's weighted average dumping margin by using Thai Fermentation's financial statements to derive the surrogate financial ratios.<sup>7</sup> On September 17, 2018, the CIT sustained Commerce's Final Remand Redetermination.<sup>8</sup>

#### Timken Notice

In its decision in *Timken*,<sup>9</sup> as clarified by *Diamond Sawblades*,<sup>10</sup> the United States Court of Appeals for the Federal Circuit (CAFC) held that, pursuant to section 516A(e) 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 September 17, 2018, final judgment sustaining Commerce's fourth remand redetermination<sup>11</sup> constitutes a final

<sup>3</sup> *Id.* at 43144.

<sup>4</sup> *See Final Determination*, 78 FR at 33351.

<sup>5</sup> *See CP Kelco US, Inc. v. United States*, Slip Op. 15-27, (CIT Mar. 31, 2015) (*CP Kelco I*).

<sup>6</sup> *Id.* at 2-3, 11-15, 32-34.

<sup>7</sup> *Id.*; *see also CP Kelco US, Inc. v. United States*, Slip Op. 16-36 (CIT Apr. 8, 2016) (*CP Kelco II*); *CP Kelco US, Inc. v. United States*, 211 F. Supp. 3d 1338 (CIT 2017) (*CP Kelco III*); *CP Kelco US, Inc. v. United States*, Slip Op. 18-36 (CIT Apr. 5, 2018) (*CP Kelco IV*).

<sup>8</sup> *See CP Kelco US, Inc. v. United States*, Slip Op. 18-120 (CIT Sept. 17, 2018) (*CP Kelco V*).

<sup>9</sup> *See Timken Co. v. United States*, 893 F.2d 337, 341 (Fed. Cir. 1990) (*Timken*).

<sup>10</sup> *See Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

<sup>11</sup> *See CP Kelco V*, at 6; *see also CP Kelco US, Inc. v. United States*, Court No. 13-00288, Slip Op. 18-

<sup>7</sup> *See Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan: Antidumping Duty Order*, 49 FR 19369 (May 7, 1984).

<sup>1</sup> *See Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013) (*Final Determination*) and accompanying Issues and Decision Memorandum.

<sup>2</sup> *See Xanthan Gum from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 78 FR 43143 (July 19, 2013) (*Amended Final Determination and Order*).