

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-909]

Certain Steel Nails From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Scope Ruling and Notice of Amended Final Scope Ruling Pursuant to Court Decision

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

SUMMARY: On August 3, 2021, the U.S. Court of International Trade (CIT) issued its final judgment in *Simpson Strong-Tie Company v. United States*, Court No. 17-00287, sustaining the Department of Commerce (Commerce)'s remand redetermination pertaining to a scope ruling in which Commerce found Simpson Strong-Tie Company's (Simpson's) split-drive anchors to be outside the scope of the antidumping duty (AD) order on certain steel nails (nails) from the People's Republic of China (China). Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's scope ruling, and that Commerce is amending the scope ruling to find that split-drive anchors are not covered by the order.

DATES: Applicable August 13, 2021.

FOR FURTHER INFORMATION CONTACT: Kelsie Hohenberger, 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) 482-2517.

Background

On December 1, 2017, Commerce found Simpson's split-drive anchors, which consist of a split shank and a blunt tip, to be within the scope of the AD order on nails from China.¹

Simpson appealed Commerce's *Final Scope Ruling*. On June 12, 2019, and July 22, 2019, the CIT stayed the case pending a final and conclusive determination from the U.S. Court of Appeals for the Federal Circuit (CAFC) in a case involving a similar product. On August 28, 2020, the CAFC issued a final ruling that case.² In light of the CAFC's decision, Commerce requested that the CIT remand this matter for further consideration. On November 18,

2020, the CIT remanded the *Final Scope Ruling* to Commerce.³

In its final remand redetermination, issued in February 2021, Commerce found Simpson's split-drive anchors to be outside the scope of the AD order on nails from China.⁴ The CIT sustained Commerce's final redetermination.⁵

Timken Notice

In its decision in *Timken*,⁶ as clarified by *Diamond Sawblades*,⁷ the CAFC held that, pursuant to sections 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 August 3, 2021, judgment constitutes a final decision of the CIT that is not in harmony with Commerce's *Final Scope Ruling*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Scope Ruling

In accordance with the CIT's August 3, 2021, final judgment, Commerce is amending its *Final Scope Ruling* and finds that the scope of the AD order on nails from China does not cover the products addressed in the *Final Scope Ruling*.

Liquidation of Suspended Entries

Commerce will instruct U.S. Customs and Border Protection (CBP) that, pending any appeals, Simpson's split-drive anchors will not be subject to a cash deposit requirement. In the event that the CIT's final judgment is not appealed or is upheld on appeal, Commerce will instruct CBP to liquidate entries of Simpson's split-drive anchors without regard to antidumping duties and to lift suspension of liquidation of such entries.

Notification to Interested Parties

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

³ See *Simpson Strong-Tie Co. v. United States*, Court No. 17-00287, ECF No. 50 (CIT November 18, 2020).

⁴ See Final Results of Redetermination Pursuant to *Simpson Strong-Tie Co. v. United States*, Court No. 17-00287, ECF No. 50 (CIT November 18, 2020), dated February 16, 2021.

⁵ See *Simpson Strong-Tie Co. v. United States*, Slip Op. 21-95, Court No. 17-00269 (CIT 2021).

⁶ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

⁷ See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

Dated: August 5, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XB215]

Magnuson-Stevens Fishery Conservation and Management Act; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permit

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; request for comments.

SUMMARY: NMFS has determined that seven exempted fishing permit (EFP) applications warrant further consideration and is requesting public comment on the applications. All EFP applicants request an exemption from a single prohibition (the use of unauthorized gear to harvest highly migratory species (HMS)) under the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (HMS FMP) to test the effects and efficacy of using standard deep-set buoy gear (DSBG), and/or deep-set linked buoy gear (DSLBG), to harvest swordfish and other HMS off of the U.S. West Coast.

DATES: Comments must be submitted in writing by September 10, 2021.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2020-0070, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-2020-0070, in the Search box. Click on the "Comment" icon, complete the required fields, and enter or attach your comments.

- **Mail:** Attn: Chris Fanning, NMFS West Coast Region, 501 W Ocean Blvd., Suite 4200, Long Beach, CA 90802. Include the identifier "NOAA-NMFS-2020-0070" in the comments.

- **Email:** wcr.hms@noaa.gov.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record

¹ See Memorandum, "Final Scope Ruling on Simpson Strong-Tie Company's Anchors," dated December 1, 2017 (*Final Scope Ruling*).

² See *OMG, Inc. v. United States*, 972 F.3d 1358 (Fed. Cir. 2020).