



BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-900]

Diamond Sawblades and Parts Thereof from the People's Republic of China: Notice of Court Decision Not in Harmony with Final Determination of Sales at Less than Fair Value and Notice of Amended Final Determination of Sales at Less than Fair Value Pursuant to Court Decision

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

SUMMARY: On October 11, 2013, the United States Court of International Trade ("Court" or "CIT") issued its final judgment in *Advanced Technology & Materials v. United States*,¹ sustaining the Department of Commerce's (Department) *Second Remand Results*.² Consistent with the decision of the United States Court of Appeals for the Federal Circuit ("Federal Circuit") in *Timken Co., v. United States*, 893 F.2d 337 (Fed. Cir. 1990) ("*Timken*"), as clarified by *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) ("*Diamond Sawblades*"), the Department is notifying the public that the final CIT judgment in this case is not in harmony with the Department's *Final Determination*³ and is amending the

¹ *Advanced Technology & Materials v. United States*, Court No. 09-511, Slip Op. 13-129 (CIT October 11, 2013) ("*AT&M v. United States*").

² See *Final Results of Redetermination Pursuant to Advanced Technology & Materials Co., Ltd., Beijing Gang Yan Diamond Products Company, and Gang Yan Diamond Products, Inc. with Bosun Tools Group Co. Ltd. v. United States and Diamond Sawblades Manufacturers Coalition, Weihai Xiangguang Mechanical Industrial Co., Ltd., and Qingdao Shinhan Diamond Industrial Co., Ltd.*, Consol. Court No. 09-00511, Slip op. 12-147 (CIT2012), dated May 6, 2013 ("*Second Remand Results*").

³ See *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 71 FR 29303 (May 22, 2006) ("*Final Determination*").

Final Determination with respect to the AT&M Entity's⁴ eligibility for a separate rate in the less-than-fair-value investigation.

EFFECTIVE DATE: October 21, 2013

FOR FURTHER INFORMATION CONTACT: Matthew Renkey, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2312.

SUPPLEMENTARY INFORMATION:

On May 6, 2013, the Department filed the *Second Remand Results*, in which the Department determined that the AT&M Entity was not entitled to a rate separate from that of the People's Republic of China ("PRC")-wide entity. On October 11, 2013, the Court sustained the Department's *Second Remand Results*.⁵

Timken Notice

In its decision in *Timken*, 893 F.2d at 341, as clarified by *Diamond Sawblades*, the Federal Circuit has held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended ("Act"), the Department must publish a notice of a court decision not "in harmony" with a Department determination, and must suspend liquidation of entries pending a "conclusive" court decision. The Court's October 11, 2013, judgment constitutes a final decision of the Court that is not in harmony with the Department's *Final Determination*. This notice is published in fulfillment of the publication requirement of *Timken*. Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal, or if appealed, pending a final and conclusive court decision. Since the *Final*

⁴ The AT&M entity includes: Advanced Technology & Materials Co., Ltd. ("AT&M"), Beijing Gang Yan Diamond Products Company ("BGY"), and Yichang HXF Circular Saw Industrial Co., Ltd. ("Yichang HXF").

⁵ See *AT&M v. United States*.

Determination, the Department has established a new cash deposit rate for the AT&M entity.⁶ Therefore, this amended final determination does not change the AT&M entity's cash deposit rate.

Amended Final Determination

Because there is now a final court decision, we are amending the *Final Determination* with respect to the AT&M entity's separate rate status. This notice is issued and published in accordance with sections 516A(e)(1), 735, and 777(i)(1) of the Act.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

__October 23, 2013_____
Date

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⁶ See *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2009-2010*, 78 FR 11143 (February 15, 2013).