

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

[A-570-867]

**Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order Pursuant to Court Decision: Certain Automotive Replacement Glass Windshields From the People's Republic of China**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**DATES:** *Effective Date:* November 7, 2007.

**SUMMARY:** On May 10, 2007, the United States Court of International Trade ("Court") sustained the *Final Results of Redetermination Pursuant to Court Remand, Fuyao Glass Industry Group Co., Ltd. et al., v. United States* (February 15, 2006) ("Third Remand Redetermination") made by the Department of Commerce ("the Department") pursuant to the Court's third remand of the final determination of the less-than-fair-value investigation of Certain Automotive Replacement Glass Windshields from the People's Republic of China ("PRC"). See *Fuyao Glass Industry Group Co. v. United States*, Consol. Court No. 02-00282, Slip Op. 06-21 (CIT February 15, 2006) ("*Fuyao Glass III*"). As there is now a final and conclusive court decision in this case, the Department is amending the final determination and antidumping duty order of this investigation.

**FOR FURTHER INFORMATION CONTACT:** Paul Stolz or Robert Bolling, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4474 and (202) 482-3434, respectively.

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

This case arose out of the Department's *Antidumping Duty Order on Certain Automotive Replacement Glass Windshields From the PRC*, 67 FR 16087 (April 4, 2002) and the Department's *Final Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields From the People's Republic of China*, 67 FR 6482 (February 12, 2002) ("*Final Determination*"), and accompanying Issues and Decisions Memorandum ("Decision Memo"), as amended at 67 FR 11670 (March 15,

2002), covering the period of investigation ("POI"), July 1, 2000, through December 31, 2000. Following publication of the *Final Determination*, in separate actions, Fuyao Glass Industry Group Co., Ltd. *et al.* ("Fuyao"), Xinyi Automotive Glass (Shenzhen) Co., Ltd. ("Xinyi"),<sup>1</sup> Shenzhen Benxun Automotive Glass Co., Ltd. (Benxun),<sup>2</sup> and Changchun Pilkington Safety Glass, Co., Ltd., Guilin Pilkington Safety Glass Co., Ltd., and Wuhan Yao hua Pilkington Safety Glass Co., Ltd. (collectively "Pilkington") filed lawsuits with the Court challenging the Department's *Final Determination*.<sup>3</sup> Collectively, the plaintiffs contested several aspects of the *Final Determination*, including the Department's decision to disregard certain market economy inputs. On August 2, 2002, all lawsuits challenging the *Final Determination*, including Xinyi's lawsuit, were consolidated into *Fuyao Glass Industry Group Co., Ltd. v. United States*, Consol. Court No. 02-00282. On February 15, 2006, while the cases were still consolidated, the Court issued a third remand order to the Department concerning its decision regarding certain market economy inputs. See *Fuyao Glass III*. The Court concluded with respect to the standard applied in the Department's analysis, that the Department must conduct its analysis "in accordance with the court's finding with respect to the use of the word 'are' rather than 'may be' when applying its subsidized price methodology." *Id.* at 9. The Court further directed the Department to either (1) "concur with the court's conclusions with respect to substantial evidence, or (2) re-open the record \* \* \*." *Id.* at 7. The Court concluded that it does not find the Department's determination, that prices from South Korea and Indonesia are subsidized, is supported by substantial record evidence. See *id.* at 16. Pursuant to the Court's ruling, and under respectful protest, the Department concurred that the record evidence does not contain substantial evidence to support a conclusion that prices from South Korea and Indonesia are subsidized. See *Viraj Group v. United States*, 343 F.3d 1371, 1376 (Fed. Cir. 2003). Because the Court

<sup>1</sup> Fuyao and Xinyi were mandatory respondents during the POI.

<sup>2</sup> The Department determined that Shenzhen CSG Automotive Glass Co., Ltd. is a successor-in-interest to Benxun. See *Notice of Final Results of Antidumping Duty Changed Circumstances Review: Automotive Replacement Glass Windshields From the People's Republic of China*, 69 FR 43388 (July 20, 2004).

<sup>3</sup> Court Nos. 02-00282, 02-00312, 02-00320, and 02-00321.

found that the evidence on the record does not support the Department's determination to disregard prices from South Korea and Indonesia, in the remand results, the Department determined to calculate the dumping margin for Fuyao and Xinyi based upon prices the plaintiffs actually paid to suppliers located in South Korea and Indonesia.

On January 8, 2007, Fuyao's action was severed from the consolidated action. See Court Order of January 8, 2007, in Ct. No. 02-00282. On May 10, 2007, the Court issued a final judgment wherein it affirmed the Department's third remand results with respect to Fuyao's action. On May 30, 2007, consistent with the decision in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990), the Department notified the public that the Court's decision was not in harmony with the Department's final determination. See *Certain Automotive Replacement Glass Windshields From the People's Republic of China: Notice of Decision of the Court of International Trade Not in Harmony*, 72 FR 29969 (May 30, 2007). No party appealed the Court's decision. As there is now a final and conclusive court decision in this case, we are amending our *Final Determination*.

**Amended Final Determination**

As the litigation in this case has concluded, the Department is amending the *Final Determination* to reflect the results of our third remand determination. The revised dumping margin in the amended final determination is as follows:

Exporter	Margin (percent)
Fuyao Glass Industry Group Co., Ltd .....	0.00

The PRC-wide rate continues to be 124.5 percent as determined in the Department's *Final Determination*. The Department intends to issue instructions to U.S. Customs and Border Protection ("CBP") fifteen days after publication of this notice, to revise the cash deposit rates for the company listed above, effective as of the publication date of this notice. Because Fuyao obtained a preliminary injunction, we will also instruct CBP to liquidate all entries without regard to antidumping duties.

This notice is published in accordance with sections 735(d) and 777(i) of the Tariff Act of 1930, as amended.

Dated: October 31, 2007.

**Stephen J. Claeys,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-122-840]

#### Notice of Preliminary Results of Antidumping Duty Administrative Review: Carbon and Certain Alloy Steel Wire Rod From Canada

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on carbon and certain alloy steel wire rod from Canada for the period October 1, 2005, to September 30, 2006 (the POR). We preliminarily determine that sales of subject merchandise by Ivaco Rolling Mills 2004 L.P. and Sivaco Ontario (a division of Sivaco Wire Group 2004 L.P.) (collectively referred to as "Ivaco") have been made below normal value (NV). If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on appropriate entries. Interested parties are invited to comment on these preliminary results. We will issue the final results no later than 120 days from the publication of this notice.

The Department recently concluded a changed circumstance review in which it determined that, as of the publication of that final changed circumstance review, "(1) Ivaco Rolling Mills 2004 L.P. is the successor-in-interest to Ivaco Rolling Mills L.P.; and (2) Sivaco Ontario, a division of Sivaco Wire Group 2004 L.P., is the successor-in-interest to Ivaco Inc. for antidumping duty cash deposit purposes." See *Notice of Final Results of Antidumping Duty Changed Circumstances Review: Carbon and Certain Alloy Steel Wire Rod from Canada*, 72 FR 15102 (March 30, 2007) (Ivaco Changed Circumstances Review). Sivaco Ontario (a Division of Sivaco Wire Group 2004 L.P.) was also identified as the successor-in-interest to Sivaco Ontario. See CBP Message Number 7116210, April 26, 2007. The results of this administrative review, for cash deposit purposes, will apply to Ivaco Rolling Mills 2004 L.P. and to Sivaco Ontario (a division of Sivaco Wire Group 2004 L.P.). Assessment

instructions issued subsequent to the final results would apply to unliquidated entries of not only Ivaco Rolling Mills 2004 L.P. and Sivaco Ontario (a division of Sivaco Wire Group 2004 L.P.), but also those of Ivaco Rolling Mills L.P., Ivaco Inc., and Sivaco Ontario.

Note that Ivaco Rolling Mills 2004 L.P. is referred to below as IRM, and Sivaco Ontario (a division of Sivaco Wire Group 2004 L.P.) is referred to below as Sivaco Ontario (even though "Sivaco Ontario" was the name of the predecessor company to Sivaco Ontario (a division of Sivaco Wire Group 2004 L.P.)).

**DATES:** *Effective Dates:* November 7, 2007.

**FOR FURTHER INFORMATION CONTACT:** Steve Bezirgianian or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-1131 or (202) 482-0649, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On October 29, 2002, the Department published in the **Federal Register** an antidumping duty order on carbon and certain alloy steel wire rod (steel wire rod) from Canada. See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Carbon and Certain Alloy Steel Wire Rod from Canada*, 67 FR 65944 (October 29, 2002) (Order). On October 2, 2006, the Department issued a notice of opportunity to request an administrative review of this order for the October 1, 2005 through September 30, 2006 POR. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 71 FR 57920 (October 2, 2006). On October 31, 2006, Mittal Canada Inc. (formerly Ispat Sidbec Inc.) (Mittal Canada) requested an administrative review of its entries that were subject to the antidumping duty order for this period. On that same date, the Department received a request from petitioners (Mittal Steel USA Inc.—Georgetown, Gerdau USA Inc., Nucor Steel Connecticut Inc., Keystone Consolidated Industries, Inc., and Rocky Mountain Steel Mills) for a review of Ivaco, Inc. and Ivaco Rolling Mills L.P. (which petitioners referred to collectively as "Ivaco"). Ivaco Rolling Mills 2004 L.P. and Sivaco Ontario, a division of Sivaco Wire Group 2004 L.P., also requested a review of their

entries. On November 27, 2006, the Department published the notice of initiation of this antidumping duty administrative review. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 71 FR 68535 (November 27, 2006).<sup>1</sup> Mittal Canada subsequently withdrew its request for review, and the Department rescinded the administrative review with respect to Mittal Canada. See *Partial Rescission of Antidumping Duty Administrative Review: Carbon and Certain Alloy Steel Wire Rod from Canada*, 72 FR 51408 (September 7, 2007).

Ivaco submitted a response to section A of the Department's questionnaire on January 16, 2007, and a response to sections B, C, and D of the Department's questionnaire on February 21, 2007. In response to the Department's supplemental questionnaire dated June 8, 2007, Ivaco submitted a supplemental response for sections A, B, and C on July 13, 2007. In response to the Department's supplemental questionnaire dated September 12, 2007, Ivaco submitted a supplemental response, for sections A, B, C, and D on October 3, 2007. In response to the Department's supplemental questionnaire dated October 10, 2007, Ivaco submitted a supplemental response, for section C on October 17, 2007. On October 11, 2007, petitioners submitted comments regarding Ivaco's claims with respect to levels of trade and certain Ivaco costs, and, on October 19, 2007, Ivaco submitted a response to petitioners' comments on those issues.

The Department is considering IRM and Sivaco Ontario as part of the same entity (referred to collectively in this notice as "Ivaco"), consistent with the Department's treatment of these companies in previous proceedings. See, e.g., *Notice of Final Results of Antidumping Duty Administrative Review: Carbon and Certain Alloy Steel Wire Rod from Canada*, 72 FR 26591 (May 10, 2007) and *Ivaco Changed Circumstance Review*, 72 FR 15102.

#### Scope of the Order

The merchandise subject to this order is certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, 5.00

<sup>1</sup> The Department's initiation notice referenced the following companies: Mittal Canada Inc. (formerly Ispat Sidbec Inc.); Ivaco Rolling Mills 2004 L.P.; and Sivaco Ontario Processing (a division of Sivaco Wire Group 2004 L.P.). The Department, for these preliminary results, is considering that a combined entity referenced as "Ivaco" encompasses the following: Ivaco Rolling Mills L.P.; Ivaco Rolling Mills 2004 L.P.; Ivaco, Inc.; Sivaco Ontario; and Sivaco Ontario (a division of Sivaco Wire Group 2004 L.P.).