

Written comments and recommendations on this change in burden should be sent within 30 days of publication of this notice to *OIRA Submission@omb.eop.gov* or fax to (202) 395-5806.

**Sheleen Dumas,**  
Departmental PRA Lead, Office of the Chief  
Information Officer.

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## 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 Results of Administrative Review and Notice of Amended Final Results Pursuant to Court Decision**

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

**SUMMARY:** On July 3, 2017, the Court of International Trade (CIT or Court) sustained the Department of Commerce's (the Department) final remand results pertaining to the sixth administrative review of the antidumping duty order on certain steel nails from the People's Republic of China (PRC) covering the period of August 1, 2013, through July 31, 2014. The Department is notifying the public that the final judgment in this case is not in harmony with the final results of the administrative review. Therefore, the Department is amending the final results with respect to the dumping margin assigned to SDC International Aust. PTY. Ltd. (SDC).

**DATES:** Applicable July 13, 2017.

**FOR FURTHER INFORMATION CONTACT:** Annatheia Cook, 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) 482-0250.

#### **SUPPLEMENTARY INFORMATION:**

#### **Background**

As part of the sixth administrative review of certain steel nails from the PRC, on August 29, 2014, Mid-Continent Nail Corporation (Mid Continent), the petitioner, requested a review of "SDC INTERNATIONAL AUSTRALIA (PTY) LTD." <sup>1</sup> On

September 2, 2014, Progressive Steel and Wire (Progressive Wire), a domestic interested party, requested a review of "SDC International Aust. Pty., Ltd." and "SDC International Australia Pty., Ltd." <sup>2</sup> On September 30, 2014, the Department initiated a review of, among other companies: "SDC International Aust. Pty., Ltd.," "SDC International Australia Pty., Ltd.," and "SDC International Australia (Pty) Ltd."

On March 8, 2016, the Department issued the *6th AR Final Results*,<sup>3</sup> where the Department continued to grant a separate rate only to "SDC International Aust. PTY. LTD."—the full business name requested by SDC in its separate rate certification and supported by the company's business license.<sup>4</sup> SDC challenged the *6th AR Final Results* before the CIT.<sup>5</sup>

The Department requested a voluntary remand to address whether the Department improperly included permutations of SDC's company name as part of the PRC-wide entity, subjecting these name permutations to the PRC-wide entity rate. On January 20, 2017, the Court granted the Department's request for a voluntary remand to reevaluate its determination regarding permutations of SDC's name.

On July 3, 2017, the CIT sustained the Department's final remand determination, affirming the Department's determination to continue to grant a separate rate to the name SDC provided on its business license—"SDC International Aust. PTY. LTD."—and no other names.<sup>6</sup> The CIT further affirmed the Department's determination to amend its *6th AR Final Results*, issue accompanying liquidation instructions indicating that any entries under "SDC International Australia Pty., Ltd." and "SDC International Australia (Pty) Ltd." for this review period may be assessed at the separate rate for "SDC International Aust. PTY. LTD.," and to no longer list these name permutations in the PRC-wide entity.

<sup>2</sup> See Progressive Steel & Wire LLC's "Request for Administrative Review," September 2, 2014, at Attachment 1.

<sup>3</sup> See *Certain Steel Nails from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 81 FR 14092 (March 16, 2016) (*6th AR Final Results*) and accompanying Issues and Decision Memorandum.

<sup>4</sup> See *6th AR Final Results*.

<sup>5</sup> CIT Court No. 16-00062.

<sup>6</sup> See *SDC International Aust. PTY. LTD. v. United States*, CIT Slip Op. 17-78, Ct. No. 16-00062 (July 3, 2017).

#### **Timken Notice**

In its decision in *Timken*,<sup>7</sup> as clarified by *Diamond Sawblades*,<sup>8</sup> the Court of Appeals for the Federal Circuit held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), the Department must publish a notice of a court decision that is not "in harmony" with a Department determination and must suspend liquidation of entries pending a "conclusive" court decision. The Court's July 3, 2017, judgment in *SDC International Aust. PTY. Ltd. v. United States* constitutes a final decision of the Court that is not in harmony with the Department's *AR6 Final Results*. 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 at issue pending expiration of the period to appeal or, if appealed, a final and conclusive court decision.

#### **Amended Final Results**

Because there is now a final court decision, the Department hereby amends the *AR6 Final Results* with respect to the companies identified below. Based on the Remand Results, as affirmed by the Court in *SDC International Aust. PTY. Ltd. v. United States*, the revised combination-rate weighted average-dumping margin for the companies listed below during the period August 1, 2013, through July 31, 2014 is as follows:

Exporter	Weighted-average margin (percent)
SDC International Aust. PTY. Ltd. (SDC) <sup>9</sup> .....	11.95

In the event that the CIT's ruling is not appealed or, if appealed, is upheld by a final and conclusive court decision, the Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on

<sup>7</sup> See *Timken Co. v. United States*, 893 F.2d 337, 341 (Fed. Cir. 1990) (*Timken*).

<sup>8</sup> See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

<sup>9</sup> The Department determines that any entries under "SDC International Australia Pty., Ltd." and "SDC International Australia (Pty) Ltd." for this review period may be assessed at the separate rate for "SDC International Aust. PTY. LTD." The Department will issue accompanying liquidation instructions indicating that these permutations are assessed at the separate rate, i.e. 11.95%, and will no longer identify these name permutations as part of the PRC-wide entity for this review period. These changes to the *6th AR Final Results* are specific to, and a result of, the above-referenced remand redetermination.

<sup>1</sup> See Mid Continent's "Request for Sixth Administrative Review," August 29, 2014, at Attachment 1.

unliquidated entries of subject merchandise based on the revised dumping margin listed above.

#### Cash Deposit Requirements

Because there is now a final court decision, we are amending the *AR6 Final Results* and have revised the weighted-average dumping margin for the companies as shown above. As a result of the Final Remand Results, and as affirmed by the Court in *SDC International Aust. PTY. Ltd. v. United States*, the cash deposit rate for the companies listed above is 11.95%, effective July 13, 2017. The Department will instruct CBP accordingly.

#### Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: August 3, 2017.

**Carole Showers,**

*Executive Director, Office of Policy, performing the duties of Deputy Assistant Secretary for Enforcement and Compliance.*

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#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

**RIN 0648-XF213**

##### Marine Mammals; File No. 16609-01

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

**ACTION:** Notice; receipt of application for permit amendment.

**SUMMARY:** Notice is hereby given that Zoological Society of San Diego [Douglas Myers, Responsible Party], P.O. Box 120551, San Diego, CA 92112, has applied for an amendment to Scientific Research Permit No. 16609.

**DATES:** Written, telefaxed, or email comments must be received on or before September 11, 2017.

**ADDRESSES:** The application and related documents are available for review by selecting "Records Open for Public Comment" from the "Features" box on the Applications and Permits for Protected Species home page, <https://apps.nmfs.noaa.gov>, and then selecting File No. 16609 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources,

NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427-8401; fax (301) 713-0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713-0376, or by email to [NMFS.Pr1Comments@noaa.gov](mailto:NMFS.Pr1Comments@noaa.gov). Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

#### FOR FURTHER INFORMATION CONTACT:

Shasta McClenahan or Jennifer Skidmore, (301) 427-8401.

**SUPPLEMENTARY INFORMATION:** The subject amendment to Permit No. 16609 is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222-226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

Permit No. 16609, issued on April 27, 2017 (82 FR 29053), authorizes the receipt, import, and export of biological samples to establish and bank cell lines from any species of cetacean, pinniped, or sea turtle, including ESA-listed species, from up to 30 individuals of each species. The permit holder is requesting to amend the authorization to increase the annual number of samples to 60 individuals of each species, for receipt, import, and export to fulfill a new research objective to perform contaminant analysis.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal

Commission and its Committee of Scientific Advisors.

**Julia Harrison,**

*Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.*

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#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

**RIN 0648-XF574**

##### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to US 101/ Chehalis River Bridge-Scour Repair in Washington State

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

**ACTION:** Proposed incidental harassment authorization (IHA); request for comments.

**SUMMARY:** NMFS has received a request from Washington State Department of Transportation (WSDOT) for authorization to take marine mammals incidental to US 101/Chehalis River Bridge-Scour Repair in Washington State. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to incidentally take marine mammals during the specified activities.

**DATES:** Comments and information must be received no later than September 11, 2017.

**ADDRESSES:** Comments should be addressed to Julie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to [ITP.guan@noaa.gov](mailto:ITP.guan@noaa.gov).

**Instructions:** NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at [www.nmfs.noaa.gov/pr/permits/incidental/construction.htm](http://www.nmfs.noaa.gov/pr/permits/incidental/construction.htm) without