

FINAL REMAND REDETERMINATION
Diamond Sawblades Manufacturers' Coalition v. United States
Court No. 16-00124, Slip Op. 18-28

Summary

The Department of Commerce (Commerce) has prepared these final results of remand redetermination in accordance with the March 22, 2018, order of the United States Court of International Trade (CIT or Court) in *Diamond Sawblades Manufacturers' Coalition v. United States*, 301 F. Supp. 3d 1326 (CIT 2018) (*Remand Order* or *Diamond Sawblades Manufacturers' Coalition*). The litigation involves challenges to our *Final Results*¹ in the administrative review of the antidumping duty order on diamond sawblades and parts thereof (diamond sawblades) from the People's Republic of China (China) covering the period of review November 1, 2013, through October 31, 2014.

In its *Remand Order*, the CIT remanded the *Final Results* to Commerce to re-examine: (1) the withdrawals of review requests with respect to Weihai Xiangguang Mechanical Industrial Co., Ltd. (Weihai) in light of *Glycine & More, Inc. v. United States*, 880 F.3d 1335 (Fed. Cir. 2018) (*Glycine & More*); and (2) the surrogate truck freight distance used in the valuation of the truck freight expense. In addition, the CIT granted Commerce's request for a voluntary remand to address the issues concerning the valuation of Weihai's purchased cores and the rate for non-selected separate rate respondents.

¹ See *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 81 FR 38673 (June 14, 2016) (*Final Results*).

As discussed in detail below, for these final results of the remand redetermination, Commerce intends to rescind the underlying administrative review in part with respect to Weihai. For these final results of the remand redetermination, Commerce also revised the surrogate truck freight distance. Because we intend to rescind the underlying administrative review in part with respect to Weihai, the issue relating to the valuation of Weihai's purchased cores is moot.

Background

The petitioner,² Weihai, and Robert Bosch Tools Corporation (Bosch) requested the underlying administrative review with respect to, *inter alia*, Weihai.³ Commerce initiated the underlying administrative review with respect to Weihai, as well as other respondents.⁴ On March 23, 2015, the petitioner and Weihai timely withdrew their review requests for Weihai.⁵ Bosch did not withdraw its review request for Weihai, and on April 7, 2015, we selected Weihai for individual examination.⁶ On April 8, 2015, 16 days after the March 23, 2015, deadline to withdraw review requests had passed, Bosch filed a letter withdrawing its review request for Weihai. Shortly thereafter, the petitioner and Weihai requested that Commerce accept Bosch's letter of withdrawal and rescind the administrative review in part for Weihai.⁷ On May 12, 2015, we denied Bosch's withdrawal of review request for Weihai based on the fact that Bosch failed

² The petitioner is Diamond Sawblades Manufacturers' Coalition.

³ See the review request by the petitioner dated November 26, 2014, and the review requests by Weihai and Bosch dated December 1, 2014.

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 79 FR 76956 (December 23, 2014).

⁵ See the letters of withdrawal of review requests for Weihai dated March 20, 2015.

⁶ See the Memorandum, "Diamond Sawblades and Parts Thereof from the People's Republic of China: Selection of Respondents for Individual Examination," dated April 7, 2015.

⁷ See Weihai's rescission request dated April 13, 2015, and the petitioner's rescission request dated April 14, 2015.

to demonstrate an extraordinary circumstance for the untimely withdrawal of the review request.⁸ We completed the individual examination of Weihai for the *Final Results*.

In the *Preliminary Results*, we calculated the surrogate truck freight distance by averaging two distances: (1) between the center of Bangkok and the Port of Bangkok, and (2) between the center of Bangkok and the Port of Laem Chabang.⁹ In the *Final Results*, we revised the surrogate distance for the valuation of truck freight and used only the distance between the industrial estates in Bangkok and the Port of Bangkok.¹⁰

For the *Final Results*, the petitioner requested two revisions to our build-up methodology for valuing Weihai's purchased cores. We made one of the two revisions but we declined to make the other requested revision.¹¹ The petitioner challenged our decision at the CIT and the United States moved for a voluntary remand on this issue.

CIT's Decision

Withdrawal of Review Requests for Weihai

On January 23, 2018, the U.S. Court of Appeals for the Federal Circuit (CAFC) affirmed the CIT decision in *Glycine & More, Inc. v. United States*, 107 F. Supp. 3d 1356 (CIT 2015), which held that a 2011 *Federal Register* notice in which Commerce explained that it would apply an "extraordinary circumstances" standard in considering whether to grant an untimely withdrawal of a request for administrative review had no legal standing and, instead, the only applicable standard for considering such requests is the standard provided for in 19 CFR

⁸ See the Memorandum, "Diamond Sawblades and Parts Thereof from the People's Republic of China: Denial of a Late Withdrawal of Review Request" dated May 12, 2015.

⁹ See the Memorandum, "Diamond Sawblades and Parts Thereof from the People's Republic of China: Surrogate Values for the Preliminary Results of Review," dated November 30, 2015, at 8, and Exhibit 2, Truck Freight tab.

¹⁰ See *Final Results* and accompanying Issues and Decision Memorandum (I&D Memo) at Comment 19.

¹¹ *Id.* at Comments 11 and 13.

351.213(d)(1).¹² In the *Remand Order*, the CIT remanded the issue to Commerce because Commerce’s decision not to accept Bosch’s untimely withdrawal of its review request “was based on the ‘extraordinary circumstances’ standard of the invalidated *2011 Notice*.”¹³

Surrogate Truck Freight Distance

In the *Remand Order*, the CIT remanded the issue of truck freight distance for Commerce to address more fully Weihai’s arguments. Specifically, the CIT stated that “[i]n the absence of full consideration and explanation, ‘Port Name: Bangkok’ cannot be concluded to amount to more than a mere scintilla, and as that also appears to be the only buttress upholding the determination of truck freight distance, the derivative conclusions of irrelevancy expressed in the *IDM* appear to amount to circular reasoning.”¹⁴ The CIT noted both Weihai’s arguments that the *Doing Business Thailand 2015* survey questionnaire asked companies to report the seaport to which they export the products, and evidence suggesting that the Port of Bangkok is a riverport, not a seaport, and the Port of Laem Chabang is a seaport. The CIT also noted inconsistencies from one review to another in Commerce’s calculations of the surrogate truck freight distances between Bangkok and the port(s) ranging from 37 kilometers to 183 kilometers. Given these considerations, the CIT concluded that Commerce’s reasoning did not evince complete consideration of or address Weihai’s arguments on the record.

Valuation of Steel Cores

In its *Remand Order*, the CIT granted Commerce’s motion for a voluntary remand on the issue concerning the valuation of Weihai’s purchased cores.

¹² See *Glycine & More*. See also *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 76 FR 45773 (August 1, 2011) 19 CFR 351.213(d)(1) (“The Secretary may extend this time limit if the Secretary decides that it is reasonable to do so.”).

¹³ See *Diamond Sawblades Manufacturers’ Coalition*, 301 F. Supp. 3d at 1359.

¹⁴ *Id.* at 1349.

Rate for Non-Selected Separate Rate Respondents

In its *Remand Order*, the CIT granted Commerce's motion for a voluntary remand to reconsider the rate for non-selected separate rate respondents.

Discussion

Withdrawal of Review Requests for Weihai

In the *Remand Order*, the CIT remanded Commerce's decision to deny the untimely filed withdrawal of Bosch's review request where Commerce's denial was based on the extraordinary circumstances standard that *Glycine & More* found to be inapplicable.¹⁵ Pursuant to the Court's remand, we have examined the circumstances pertaining to our decision to deny Bosch's untimely withdrawal of its review request and find them to be similar to the circumstances of the administrative review underlying *Glycine & More*. Bosch's withdrawal of its review request occurred 16 days after the close of the 90-day period for timely withdrawals of review requests pursuant to 19 CFR 351.213(d)(1), and one day after we issued the respondent selection memorandum and original questionnaire to Weihai. The petitioner and Weihai had already timely withdrawn their review requests for Weihai. In the administrative review underlying *Glycine & More*, the party that untimely withdrew its request for review eight days after the deadline for withdrawing review requests was selected for individual examination on July 9, 2012, the original questionnaire was issued nine days later on July 18, 2012, the 90-day period ended on July 30, 2012, and the respondent withdrew its review request on August 7, 2012, which was almost a month after it was selected for individual examination and 20 days after it received the original questionnaire.¹⁶

¹⁵ *Id.* at 1357-59.

¹⁶ See *Glycine & More, Inc.*, 107 F. Supp. 3d at 1358.

We have considered whether it is reasonable to extend the deadline to withdraw review requests pursuant 19 CFR 351.213(d)(1) and to accept Bosch's untimely withdrawal. Only one day after we selected respondents for individual examination and issued questionnaires to the selected respondents, Bosch filed its withdrawal of review request with respect to Weihai. At the time Bosch submitted its withdrawal of its review request, all other parties who had requested a review for Weihai had already withdrawn their requests and, moreover, expressed the position that the review not be conducted for Weihai. In addition, the petitioner and Weihai requested that Commerce accept Bosch's untimely filed withdrawal of review request and rescind the administrative review in part for Weihai.¹⁷

Given the considerations outlined above, and pursuant to 19 CFR 351.213(d)(1), we find it reasonable to extend the 90-day deadline to April 8, 2015, to accept Bosch's withdrawal of review request for Weihai, and to rescind the underlying administrative review in part for Weihai.

Surrogate Truck Freight Distance

In the underlying administrative review, we relied on *Doing Business Thailand 2015* to value truck freight expenses, and determined the truck freight distance to use as the denominator for calculating surrogate truck freight expenses. To determine the truck freight distance, Commerce used the distance between industrial estates in Bangkok and the Port of Bangkok, where *Doing Business Thailand 2015* states that the name of the port is "Bangkok."¹⁸ Weihai argued that this "Bangkok" port refers to the Port of Laem Chabang, not to the Port of Bangkok,

¹⁷ See Weihai's rescission request dated April 13, 2015, and the petitioner's rescission request dated April 14, 2015.

¹⁸ See the petitioner's surrogate values comments dated July 16, 2015, at Exhibit 4B, and the petitioner's surrogate values comments dated November 2, 2015, at Exhibit 5B.

for the reasons it raised for the *Final Results*.¹⁹ We found that the “Bangkok” port is the Port of Bangkok and explained our rationale in the *Final Results*.²⁰

Upon further review of the information on the record and Weihai’s arguments, we find that *Doing Business Thailand 2015*’s reference to “port Name: Bangkok” is ambiguous. Specifically, if interpreted literally, we find that the *Doing Business Thailand 2015* report’s language “Port Name: Bangkok” supports using the distance from Bangkok to the Port of Bangkok. Also, if interpreted in the context of relevant record information which refers to the seaport (rather than to the riverport) to which products manufactured in Bangkok were shipped to for exportation, we also find it reasonable to determine that the *Doing Business Thailand 2015* report’s language “Port Name: Bangkok” supports using the distance from Bangkok to the Port of Laem Chabang. Furthermore, in light of the above, it is not clear whether *Doing Business Thailand 2015*’s reference pertains only to a single port. Therefore, given these multiple possible interpretations based on the information on the record of the underlying administrative review, we find it appropriate to use the simple average of the two distances between the industrial estates in Bangkok and the Port of Bangkok and the industrial estates in Bangkok and the Port of Laem Chabang.²¹

The CIT pointed out the different reviews in which Commerce relied on *Doing Business Thailand 2015* and used different distances.²² The difference is due to the fact that, in each of

¹⁹ See *Final Results* and accompanying I&D Memo at Comment 19. See also Weihai’s administrative rebuttal brief dated April 13, 2016, at 34-39.

²⁰ See *Final Results* and accompanying I&D Memo at Comment 19.

²¹ See Weihai’s surrogate values comments dated November 3, 2015 at Exhibits 5H and 5I.

²² See *Diamond Sawblades Manufacturers’ Coalition*, 301 F. Supp. 3d at 1349, citing *Certain Activated Carbon from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 61172 (October 9, 2015) (*Activated Carbon*), and accompanying I&D Memo at Comment 13, *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People’s Republic of China: Final Results of the Antidumping Duty Administrative Review; 2013-2014*, 81 FR 1396 (January 12, 2016) (*Tapered Roller Bearings*), and accompanying I&D Memo at Comment 3, and *Chlorinated Isocyanurates from the People’s Republic of China:*

these segments of proceedings, Commerce relied on the information on the record of each segment.²³ The surrogate truck freight distance for this remand redetermination is 73 kilometers and is based on the record of the administrative review underlying this remand redetermination.²⁴

Because we intend to rescind the underlying administrative review in part with respect to Weihai, this revision applies only to the other individually examined respondent, the Jiangsu Fengtai Single Entity.²⁵

Valuation of Steel Cores

Because we intend to rescind the underlying administrative review in part with respect to Weihai and because this issue pertains only to Weihai, this issue is moot.

The Petitioner's and Weihai's Comments

The petitioner and Weihai agree with the draft remand redetermination.²⁶

Preliminary Results of Antidumping Duty Administrative Review; 2013-2014, 80 FR 39060 (July 8, 2015), and accompanying Preliminary Decision Memorandum at 18-19, unchanged in *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 81 FR 1167 (January 11, 2016).

²³ See, e.g., *Activated Carbon* and accompanying I&D Memo at Comment 13 (“Juqiang provided a listing of nine industrial zones/parks for five provinces within Bangkok where the distance to the port ranged from 93 kilometers (‘km’) to 183 km, which we used to convert the freight cost from a U.S. dollar per kilogram (‘USD/kg’) to a USD/kg/km, which further supports that there is more than one possible route within Bangkok to the Bangkok Port thereby negating Juqiang’s argument of only one route.”), and *Tapered Roller Bearings* and accompanying I&D Memo at Comment 3 (“The freight distance of 37.1 km is the average distance between the two industrial estates in Bangkok city, Bang Chan Industrial Estate and Ladkrabang Industrial Estate, to the port of Bangkok. As explained below, we chose this distance because it represents the best available information on the record of this review.”)

²⁴ See the petitioner’s surrogate values comments dated July 16, 2015, at Exhibit 7A, and Weihai’s surrogate values comments dated November 3, 2015, at Exhibits 5H and 5I. See also *Clearon Corp. v. United States*, Court No. 13-00073, slip op 14-88, at 33 (Ct. Int’l Trade July 24, 2014) (“Although Commerce can and does take into consideration its policies and methodologies as expressed in different administrative case precedent when making its determination, it cannot take the factual information underlying those decisions into consideration unless those facts are properly on the record of the proceeding before it.”), and *Jiangsu Senmao Bamboo and Wood Industry Co., Ltd. v. United States*, Consol. Court No. 15-00225, slip op. 18-67 at 35-41 (Ct. Int’l Trade June 8, 2018), where the CIT remanded the final results of an administrative review for using a surrogate truck freight distance which is not on the record of the administrative review.

²⁵ The Jiangsu Fengtai Single Entity is comprised of Jiangsu Fengtai Diamond Tool Manufacture Co., Ltd., Jiangsu Fengtai Tools Co., Ltd., and Jiangsu Fengtai Sawing Industry Co., Ltd. See the Memorandum, “Diamond Sawblades and Parts Thereof from the People’s Republic of China – Collapsing of Jiangsu Fengtai Diamond Tool Manufacture Co., Ltd. and Affiliated Producers,” dated November 30, 2015.

²⁶ See the draft remand comments of the petitioner and Weihai dated July 17, 2018.

Bosun's Comments

Bosun requests that Commerce select Bosun for a truncated individual examination and calculate an individual margin for Bosun. Bosun states that, during the administrative review, both the petitioner and Bosun raised concerns about Commerce's selection of only two respondents for individual examination. Bosun contends that the margin calculated in this remand redetermination for the Jiangsu Fengtai Single Entity is not representative of Bosun's dumping margin.

Bosun notes that the margins for the Jiangsu Fengtai Single Entity and Weihai were deemed representative of the separate rate companies. Bosun explains that Weihai was a significantly larger exporter than the Jiangsu Fengtai Single Entity was and the margin for Weihai is lower than the margin for the Jiangsu Fengtai Single Entity. Bosun contends that the removal of the margin for Weihai from the calculation of the rate for the non-selected separate rate respondents, which includes Bosun, has left an unrepresentative margin that is almost double the rate Commerce had previously deemed representative of the other non-selected separate rate respondents. Bosun argues that it was an individually examined respondent in the administrative reviews immediately prior and subsequent to the underlying administrative review of this remand redetermination, and that its individually assigned dumping margins were equal to or below that of Weihai in each segment in which Bosun was individually examined. Bosun argues that assigning it a margin higher than Weihai's margin during the underlying administrative review is out of sync with the history of the two respondents' rates in previous reviews and the expected dumping margin in this review.

In addition, Bosun repeats similar arguments that it raised in the administrative case brief

with respect to this issue.²⁷ Specifically, Bosun contends that Commerce’s limited respondent selection due to Commerce’s heavy caseload in several cases and its anticipated future workload is impermissible. Citing *Zhejiang Native Produce & Animal By-Products Imp. & Exp. Corp. v. United States*, 637 F. Supp. 2d 1260, 1263-64 (CIT 2009) (*Zhejiang Native Produce*), *Carpenter Technology Corporation v. United States*, 662 F. Supp. 2d 1337, 1343-44 (CIT 2009) (*Carpenter Technology Corporation*), and *Husteel Co. v. United States*, 98 F. Supp. 3d 1315, 1327 (CIT 2015) (*Husteel*), Bosun argues that Commerce cannot rely solely on its workload caused by other antidumping proceedings in deciding that individual examinations are impracticable and that Commerce must at least select more than one (if not three or more) respondents in any given review for its sampling to be representative. Bosun claims that the Jiangsu Fengtai Single Entity’s margin is, therefore, not representative of Bosun’s rate. Bosun explains that its margins have been equal to or below that of Weihai’s margins in the last four completed administrative reviews.

Commerce’s Position

First, we note that we addressed Bosun’s arguments regarding respondent selection in the *Final Results*,²⁸ but Bosun did not raise this issue before the Court in its initial briefing in this case.²⁹ In the *Final Results*, in response to Bosun’s arguments in its administrative case brief that it be selected for individual examination, we explained that “we properly determined not to select Bosun for individual examination and, in any event, Bosun did not request that it be selected for individual examination as either a mandatory respondent or a voluntary respondent

²⁷ See Bosun’s administrative case brief dated January 19, 2016, at 5-10 and *Final Results* and accompanying I&D Memo at Comment 1.

²⁸ See *Final Results*, 81 FR at 38673, and accompanying I&D Memo at Comment 1, for Commerce’s complete explanation on this issue.

²⁹ See *Diamond Sawblades Manufacturers’ Coalition*.

until it filed its {administrative} case brief.”³⁰

As we explained in the *Final Results* in response to similar arguments raised by Bosun, we continue to find that we properly determined not to examine Bosun individually.³¹ Section 777A(c)(2) of the Tariff Act of 1930, as amended (the Act) provides that, when we are faced with a large number of companies such that individual examination of all companies would be impracticable, we may limit our individual examination of companies to a reasonable number of such companies. In addition, section 777A(c)(2) of the Act permits us to determine margins for a reasonable number of exporters by limiting our examination either: (1) through a sampling of exporters, producers, or types of products; or (2) by selecting the exporters accounting for the largest volume of the subject merchandise.

On March 20, 2015, we released the CBP data containing entries of subject merchandise and solicited comments from interested parties on the selection of mandatory respondents.³² The petitioner provided comments concerning respondent selection.³³ Bosun, for its part, provided no comments concerning our respondent selection methodology, the CBP data, or why we should select Bosun for individual examination. The arguments raised by Bosun in its administrative case brief represented the first time in the underlying administrative review that Bosun requested that it be selected for individual examination or otherwise commented upon our respondent selection methodology. In the *Final Results*, we decided that, because Bosun raised its arguments at a late stage in the underlying administrative review, it prevented us from acting upon them within the deadlines of the underlying administrative review.³⁴

³⁰ See *Final Results*, 81 FR at 38673, and accompanying I&D Memo at Comment 1, for Commerce’s complete explanation on this issue.

³¹ See *Final Results* and accompanying I&D Memo at Comment 1.

³² See Letter to interested parties dated March 20, 2015.

³³ See the petitioner’s comments on respondent selection dated March 27, 2015.

³⁴ See *Final Results* and accompanying I&D Memo at Comment 1.

In selecting respondents for individual examination, we took into consideration the petitioner's comments on respondent selection, as well as the number of respondents in the underlying administrative review, our resources such as current and anticipated workload, and deadlines expected to coincide with the segment in question.³⁵ In the Respondent Selection Memo, we explained that it would not be practicable in the underlying administrative review to examine all 63 companies for which we had initiated a review in light of, *inter alia*, our limited resources. Thus, in accordance with section 777A(c)(2) of the Act, and after determining to limit respondents in light of the large number of respondents, we determined that we could select two respondents for individual examination based on their volume of exports.³⁶

Our decision to limit the number of respondents for individual examination in the underlying administrative review is distinguishable from *Carpenter Technology Corporation* and *Zhejiang Native Produce*.³⁷ Because the number of respondents in the underlying administrative review here was large with 63 exporters, we reasonably concluded that it was impracticable to examine all 63 exporters in the underlying administrative review.³⁸ Therefore, our respondent selection in the underlying administrative review was based on the statutory criterion in section 777A(c)(2) of the Act. The heavy caseload that made the individual examination of 63 exporters impracticable was a practical concern related to the statutory criterion in section 777A(c)(2) of the Act, and not the only criterion relied upon in our respondent selection.³⁹ *Husteel* is distinguishable here as well. In *Husteel*, the CIT remanded the final determination of an

³⁵ See Memorandum entitled "Diamond Sawblades and Parts Thereof from the People's Republic of China: Selection of Respondents for Individual Examination" dated April 7, 2015 (Respondent Selection Memo).

³⁶ *Id.* See also *Final Results* and accompanying I&D Memo at Comment 1.

³⁷ See *Zhejiang*, 637 F. Supp. 2d at 1263-65; *Carpenter Technology Corporation*, 662 F. Supp. 2d at 1344 (quoting *Zhejiang*, 637 F. Supp. 2d at 1263-64).

³⁸ See Respondent Selection Memo at 2.

³⁹ *Id.*

investigation because the two respondents selected for individual examination produced only welded oil country tubular goods (OCTG) and one respondent that produced seamless OCTG was not selected, despite requests that this latter seamless OCTG producer be also selected for individual examination so the selected respondents are representative of the Korean market.⁴⁰ Here, Bosun did not argue that its diamond sawblades are unique from diamond sawblades exported by the Jiangsu Fengtai Single Entity.

Even if there were merit to Bosun's arguments for us to select it for individual examination in addition to the mandatory respondents, again, Bosun was silent when we solicited comments for respondent selection earlier in the underlying administrative review, and Bosun did not request voluntary respondent treatment either.⁴¹ Although Bosun now suggests that we should individually examine it in this remand redetermination through a truncated individual examination, this does not excuse the salient point that Bosun did not comment on respondent selection, even though it could have,⁴² and Bosun took no steps to seek individual examination by seeking voluntary treatment, in the underlying administrative review.⁴³ Because it failed to take these steps to protect its interests in the underlying administrative review, it should not be permitted to do so in this remand redetermination. Furthermore, we do not have Bosun's sales and factors of production data and we do not have surrogate value information specifically for Bosun on the record.

We disagree with Bosun's arguments that the Jiangsu's Fengtai Single Entity's margin is not representative of Bosun's separate rate. Bosun argued in its administrative case brief that

⁴⁰ See *Husteel*, 98 F. Supp. 3d at 1329-32.

⁴¹ See *Final Results* and accompanying I&D Memo at Comment 1.

⁴² See Letter to interested parties dated March 20, 2015.

⁴³ See Section 782(a) of the Act.

Commerce selected two respondents with two extreme examples and calculated an unreasonable separate rate for non-selected respondents.⁴⁴ Because Bosun argued in its administrative case brief that the separate rate assigned to Bosun was unreasonable, we responded to this argument in the *Final Results*. This time, in its draft remand comments, Bosun argues that the margins for the Jiangsu Fengtai Single Entity and Weihai were representative of the separate rate companies,⁴⁵ but the margin of the Jiangsu Fengtai Single Entity alone is not representative of Bosun's margin. However, our calculation of the final remand separate rate for non-selected respondents, including Bosun, is consistent with our practice of assigning to non-selected respondents an individually calculated margin when there is only one respondent for which a margin was calculated above *de minimis*.⁴⁶

Moreover, we find Bosun's reliance on comparisons between its separate rate and Weihai's margin misplaced. As a preliminary matter, because we intend to rescind the underlying administrative review in part for Weihai, we have not determined a revised calculated dumping margin for Weihai in these results of remand redetermination based on other issues the Court remanded that would be otherwise relevant to Weihai's previously-calculated rate from the *Final Results*. Therefore, Bosun's claim that it is being assigned "a margin three-times higher than Weihai's rate during this review" is unsubstantiated.⁴⁷ We note that, as part of its remand order, the Court also remanded Commerce's methodology for valuing Weihai's purchased cores

⁴⁴ See Bosun's administrative case brief dated January 19, 2016, at 10 ("Instead, the Department has assigned Bosun a rate that is some 16 times higher than Weihai's rate. This type of glaring discrepancy – completely out of sync with the history of the two respondents' rates in previous reviews – can only occur when the Department is not selecting a representative group of respondents in the segment.").

⁴⁵ See Bosun's draft remand comments dated July 17, 2018, at 6 ("Accordingly the record had two different margins on the record that weight averaged together were deemed representative of the separate rate companies.")

⁴⁶ See, e.g., *Truck and Bus Tires from the People's Republic of China: Final Affirmative Determinations of Sales at Less Than Fair Value and Critical Circumstances*, 82 FR 8599 (January 27, 2017), and accompanying I&D Memo at 7.

⁴⁷ See Bosun's draft remand comments dated July 17, 2018, at 6.

and the surrogate value for truck freight. If Commerce were not rescinding the underlying administrative review, in part, for Weihai, the resolution of these issues could impact the recalculated margin for Weihai based on the record of this review. Therefore, Bosun's reliance on a comparison with that margin to show unrepresentativeness is misplaced.

Bosun's reliance on a comparison between its rate and the Jiangsu Fengtai Single Entity's margin in the administrative review immediately subsequent to the underlying administrative review is similarly misplaced, because in that administrative review, the Jiangsu Fengtai Single Entity received a rate based on total adverse facts available, not a calculated margin.⁴⁸ Here, the Jiangsu Fengtai Single Entity received a calculated margin.

Regarding Bosun's arguments that the single rate of the Jiangsu Fengtai Single Entity is not representative of Bosun's margin, we followed our established methodology for determining a rate for non-selected separate rate respondents. Our practice in administrative reviews involving imports from non-market economy countries – where we limit the number of respondents for individual examination based on exporters accounting for the largest volumes of exports – has been to seek guidance from section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation.⁴⁹ Section 735(c)(5)(A) of the Act states that:

the estimated all-others rate shall be an amount equal to the weighted average of the estimated weighted average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 {(facts available)}.

Here, the Jiangsu Fengtai Single Entity's margin is not zero, *de minimis*, or determined

⁴⁸ *Id.* at 7. See also *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2014-2015*, 82 FR 26912 (June 12, 2017), and accompanying I&D Memo at 7-13.

⁴⁹ See, e.g., *Administrative Review of Certain Frozen Warmwater Shrimp from the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 75 FR 49460 (August 13, 2010).

entirely under section 776 of the Act. Therefore, Commerce reasonably determined, consistent with the statute and our practice, that the rate assigned to the separate rate companies is the margin calculated for the only remaining mandatory respondent in the underlying administrative review, the Jiangsu Fengtai Single Entity. Furthermore, our practice is guided by the statute covering the calculation of separate rates for non-selected respondents in investigations, which does not require that we take into consideration margins for a respondent in prior or subsequent reviews, as Bosun argues we should.

Comments from the Jiangsu Fengtai Single Entity and 16 Other Respondents

The Jiangsu Fengtai Single Entity and 16 non-selected separate rate respondents⁵⁰ support Commerce's recalculation of the surrogate truck freight distance for the draft results of remand redetermination. However, the 16 respondents oppose the intended rescission of the underlying administrative review, in part, with respect to Weihai. The 16 respondents distinguish this case from *Glycine & More*. Specifically, the 16 respondents argue that, in *Glycine & More*, Commerce's 2011 notice that adopted the extraordinary circumstances standard was contrary to law and inapplicable in light of 19 CFR 351.213(d)(1), which permitted Commerce to extend the deadline for parties to withdraw administrative review requests after the 90-day period if it is reasonable to do so, whereas in the underlying administrative review, the regulation currently governing the extraordinary circumstances standard is 19 CFR 351.302(c), which is applicable to all administrative reviews initiated on or after October 20, 2013. The 16

⁵⁰ These 16 non-selected separate rate respondents are Chengdu Huifeng Diamond Tools Co., Ltd., Danyang Huachang Diamond Tools Manufacturing Co., Ltd., Danyang NYCL Tools Manufacturing Co., Ltd., Danyang Weiwang Tools Manufacturing Co., Ltd., Guilin Tebon Superhard Material Co., Ltd., Hangzhou Deer King Industrial and Trading Co., Ltd., Hong Kong Hao Xin International Group Limited, Jiangsu Inter-China Group Corporation, Jiangsu Youhe Tool Manufacturer Co., Ltd., Orient Gain International Limited, Pantos Logistics (HK) Company Limited, Qingyuan Shangtai Diamond Tools Co., Ltd., Quanzhou Zhongzhi Diamond Tool Co., Ltd., Rizhao Hein Saw Co., Ltd., Wuhan Wanbang Laser Diamond Tools Co., and Zhejiang Wanli Tools Group Co., Ltd. (collectively 16 respondents).

respondents contend that, despite the factual similarity between *Glycine & More* and this case, because the underlying administrative review was initiated on December 24, 2014, both 19 CFR 351.213(d)(1) and 19 CFR 351.302(c) are applicable to this case. The 16 respondents argue, however, that Commerce stated its intent to rescind the underlying administrative review, in part, with respect to Weihai without taking into consideration the applicability of 19 CFR 351.302(c) and increased the rate for the non-selected separate rate respondents from 29.76 percent to 56.67 percent. The 16 respondents claim that Commerce's draft results of remand redetermination is legally deficient for failure to even mention 19 CFR 351.302(c). The 16 respondents request that Commerce reverse the intent to rescind the underlying administrative review, in part, with respect to Weihai and calculate a margin for Weihai and, if the margin for Weihai is above *de minimis*, recalculate the separate rate for the non-selected separate rate respondents, accordingly.

Commerce's Position

We disagree with the 16 respondents on the issue of the stated intent to rescind the underlying administrative review, in part, with respect to Weihai. While 19 CFR 351.302(c) became effective to all segments initiated on or after October 21, 2013,⁵¹ and the underlying administrative review was initiated on December 23, 2014,⁵² 19 CFR 351.213(d)(1) continues to provide that an extension for a withdrawal of review requests may be granted if it is reasonable to do so. When we revised 19 CFR 351.302(c) in 2013, it did not replace or invalidate 19 CFR 351.213(d)(1), under which we may continue to extend the deadline for a withdrawal of review request if we determine it is reasonable to do so.⁵³ The latter regulation speaks specifically to the issue of extending the deadline for review requests. Therefore, although there is no

⁵¹ See *Extension of Time Limits*, 78 FR 57790, 57796 (September 20, 2013).

⁵² See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 79 FR 76956 (December 23, 2014).

⁵³ See *Extension of Time Limits*.

extraordinary circumstance to extend the deadline for Bosch's letter withdrawing its review request with respect to Weihai under 19 CFR 351.302(c), we do not read that as the applicable regulation here. In light of the facts of this case described above, we find it reasonable to extend the deadline for Bosch's withdrawal request under 19 CFR 351.213(d)(1) and state our intent to rescind the underlying administrative review, in part, with respect to Weihai.

Final Results of Redetermination

Pursuant to the *Remand Order*, we have reconsidered our determination as described above and recalculated the margin for the Jiangsu Fengtai Single Entity. Specifically, we modified the surrogate truck freight distance as described above. Also, we intend to extend the 90-day deadline for withdrawing a review request to April 8, 2015, to accept Bosch's withdrawal of review request for Weihai, and to rescind the underlying administrative review, in part, for Weihai. The cores valuation issue concerning Weihai is, therefore, moot. In the *Final Results*, the rate assigned to the non-individually examined separate rate companies was based on the weighted average of the margins calculated for the Jiangsu Fengtai Single Entity and Weihai.⁵⁴ Because we intend to rescind the review, in part, with respect to Weihai, the rate applicable to the non-individually examined separate rate respondents will be the rate of the remaining individually examined respondent following the rescission, the Jiangsu Fengtai Single Entity, whose rate is not zero, *de minimis*, or determined entirely based on facts available. Therefore, for these final results of remand redetermination, the rate assigned to the non-individually examined companies is the rate for the Jiangsu Fengtai Single Entity, the only remaining individually examined respondent in the underlying administrative review. The rates determined in this final remand are as follows:

⁵⁴ See *Final Results* and accompanying I&D Memo at 5-6.

Company	Final Results Margin (Percent)	Remand Margin (Percent)
Bosun Tools Co., Ltd.	29.76	56.67
Chengdu Huifeng Diamond Tools Co., Ltd.	29.76	56.67
Danyang Huachang Diamond Tools Manufacturing Co., Ltd.	29.76	56.67
Danyang NYCL Tools Manufacturing Co., Ltd.	29.76	56.67
Danyang Weiwang Tools Manufacturing Co., Ltd.	29.76	56.67
Guilin Tebon Superhard Material Co., Ltd.	29.76	56.67
Hangzhou Deer King Industrial and Trading Co., Ltd.	29.76	56.67
Hong Kong Hao Xin International Group Limited	29.76	56.67
Huzhou Gu's Import & Export Co., Ltd.	29.76	56.67
Jiangsu Fengtai Single Entity	61.48	56.67
Jiangsu Huachang Tools Manufacturing Co., Ltd.	29.76	56.67
Jiangsu Inter-China Group Corporation	29.76	56.67
Jiangsu Youhe Tool Manufacturer Co., Ltd.	29.76	56.67
Orient Gain International Limited	29.76	56.67
Pantos Logistics (HK) Company Limited	29.76	56.67
Qingyuan Shangtai Diamond Tools Co., Ltd.	29.76	56.67
Quanzhou Zhongzhi Diamond Tool Co., Ltd.	29.76	56.67
Rizhao Hein Saw Co., Ltd.	29.76	56.67
Saint-Gobain Abrasives (Shanghai) Co., Ltd.	29.76	56.67
Shanghai Jingquan Industrial Trade Co., Ltd.	29.76	56.67

Wuhan Wanbang Laser Diamond Tools Co.	29.76	56.67
Xiamen ZL Diamond Technology Co., Ltd.	29.76	56.67
Zhejiang Wanli Tools Group Co., Ltd.	29.76	56.67

8/6/2018

X *James Maeder*

Signed by: JAMES MAEDER

James Maeder
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the duties of the Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations