

FINAL RESULTS OF REDETERMINATION
PURSUANT TO COURT REMAND
SHANDONG HUARONG MACHINERY, CO., LTD., LIAONING MACHINERY IMPORT &
EXPORT CORPORATION, SHANDONG MACHINERY IMPORT & EXPORT
CORPORATION, AND TIANJIN MACHINERY IMPORT & EXPORT CORPORATION V.
UNITED STATES
Court No. 04-00460

SUMMARY AND BACKGROUND

The Department of Commerce (the Department) has prepared these final results of redetermination pursuant to the remand order of the U.S. Court of International Trade (the Court) in Shandong Huarong Machinery, Co., Ltd., Liaoning Machinery Import & Export Corporation, Shandong Machinery Import and Export Corporation, and Tianjin Machinery Import & Export Corporation v. United States, Court No. 04-00460 (November 3, 2004) (Shandong Huarong). On September 15, 2004, the Department published the final results of the twelfth administrative review of the antidumping duty orders on heavy forged hand tools (HFHTs) from the People's Republic of China (PRC). See Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Final Results of Antidumping Duty Administrative Reviews, Final Partial Rescission of Antidumping Duty Administrative Reviews, and Determination Not To Revoke in Part, 69 FR 55581 (September 15, 2004), and accompanying Issues and Decision Memorandum (Final Results). On September 17, 2004, the petitioner, Ames True Temper, submitted comments alleging that the Department made certain ministerial errors in the Final Results. On September 20, 2004, the respondents¹ filed rebuttal comments.

On September 16, 2004, the respondents filed a summons with the Court, and on September 20, 2004, they filed a complaint with the Court in which they identified the aspects of the Final Results they are challenging. On September 28, 2004, the Department filed a motion for a voluntary remand to consider the ministerial error comments submitted by the petitioner and respondents, and make any necessary corrections. On November 3, 2003, the Court issued a limited remand directing the Department to consider the ministerial errors alleged by the petitioner. On December 1, 2004, the Department published amended final results of review, pursuant to the Court's limited remand. See Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Notice of Amended Final Results of Antidumping Duty Administrative Reviews, 69 FR 69892 (December 1, 2004) (Amended Final Results).

¹ The respondents in these reviews are Shandong Huarong Machinery, Co., Ltd. (Huarong), Liaoning Machinery Import & Export Corporation (LMC/LIMAC), Shandong Machinery Import and Export Corporation (SMC), and Tianjin Machinery Import & Export Corporation (TMC).

ALLEGATIONS OF MINISTERIAL ERRORS

The term “ministerial error” is defined by 19 C.F.R. §351.224(f) of the Department’s regulations as “an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial.”

The petitioner submitted comments alleging that the Department made certain ministerial errors in the Final Results with respect to the following three items: (1) the PRC-wide cash deposit rate for the hammers/sledges order, (2) the assessment instructions for U.S. Customs and Border Protection (CBP) regarding how to assess entries made by the PRC-wide entity in all four HFHTs antidumping orders, and (3) the assessment instructions for tampers, which is a product covered by the antidumping order on bars/wedges.

After reviewing the allegations made by the petitioner, we determined, in accordance with 19 C.F.R. §351.224(e), that certain ministerial errors were made in completing the Final Results. First, the Department made a clerical error with respect to the PRC-wide cash deposit rate for the hammers/sledges order. The Department published a cash deposit rate of 27.71 percent, rather than the 45.42 percent rate selected as the adverse facts available (AFA) rate for the PRC-wide entity. See Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Preliminary Results of Administrative Reviews, Preliminary Partial Rescission of Antidumping Duty Administrative Reviews, and Determination Not To Revoke in Part, 69 FR 11371, 11379 (March 10, 2004). Second, the Department’s draft assessment instructions failed to effectuate the substantive decision set forth in the Final Results to apply AFA to the PRC-wide entity under all four HFHTs antidumping orders. The draft assessment instructions incorrectly stated that CBP should assess the entries at the rate in effect on the date of entry, rather than the AFA rate. However, with respect to the petitioner’s third ministerial error allegation, we determined that the Department made no error. The Department’s draft assessment instructions for the bars/wedges order correctly covered all merchandise entered under the bars/wedges order, and the scope of the bars/wedges order specifically includes tampers. For a detailed discussion of our analysis, see Memorandum from Mark Manning, Acting Program Manager, to Holly A. Kuga, Senior Office Director, “Analysis of Ministerial Error Allegations,” dated November 24, 2004.

RESULTS OF REDETERMINATION

Pursuant to the Court’s remand, the Department published the Amended Final Results to correct for a ministerial error that affected the margin for the PRC-wide entity for hammers/sledges. As a result of correcting this ministerial error, we revised the following weighted-average dumping margin for PRC-wide entity:

Manufacturer/exporter	Margin (percent)
PRC-wide entity	
Hammers/Sledges	45.42

In addition, we are also revising our assessment instructions to CBP to indicate that under all four of the HFHT orders, companies subject to the PRC-wide entity rate should be liquidated at the AFA rate.

Joseph A. Spetrini
Acting Assistant Secretary
for Import Administration

Date