

Reform Act and, if it finds that Amtrak cannot, to notify the President and the Congress.

The Reform Act prescribes that the Council is to consist of eleven members, including the Secretary of Transportation and ten others nominated by the President and the leadership of the Congress. Members serve a five-year term.

Issued in Washington, DC—January 15, 2002.

Thomas A. Till,

Executive Director.

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DEPARTMENT OF COMMERCE

International Trade Administration

(A-588-846)

Notice of Court Decision: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Japan

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

SUMMARY: On December 27, 2001, the United States Court of International Trade issued a final judgment with respect to the litigation in *Nippon Steel Corp. v. United States*, Consol. Ct. No. 99-08-00466, Slip Op. 01-152 ("Nippon IV"). This case arises out of the Department's Notice of Final Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Japan, 64 FR 24329 (May 6, 1999). The final judgment in this case was not in harmony with the Department's May, 1999, Final Determination.

DATES: The effective date of this notice is January 6, 2002, which is 10 days from the date on which the judgment of the Court was issued.

FOR FURTHER INFORMATION CONTACT: Sean Carey at (202) 482-3964 or Maureen Flannery at (202) 482-3020, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION: The decision of the Court of International Trade in *Nippon IV* is that Court's final decision in a series of decisions addressing issues related to the antidumping margin assigned to *Nippon Steel Corporation* ("Nippon") in the above-referenced Final Determination.

In *Nippon Steel Corp. v. United States* ("Nippon I"), 118 F. Supp. 2d 1366 (CIT

2000), that Court (1) remanded for Commerce to determine whether, as to weight conversion factors, *Nippon* acted to the best of its ability within the meaning of 19 U.S.C. § 1677e(b); (2) ordered Commerce to issue a policy statement on ex-parte memoranda in accordance with the opinion; and (3) upheld the Department on all other challenged aspects relating to *Nippon*. In *Nippon Steel Corp. v. United States* ("Nippon II"), 146 F. Supp. 2d 835 (CIT 2001), the Court (1) found that a revised policy statement as to ex-parte memoranda, 66 FR 16906 (March 28, 2001), complied with the Court's order in *Nippon I*; but (2) held that Commerce had erred in finding that *Nippon* did not act to the best of its ability with respect to providing requested weight conversion factors, and that, accordingly, *Nippon*'s failure to timely provide these factors did not warrant an adverse inference in the selection of facts available for the affected sales. Thus, the *Nippon II* Court remanded for Commerce to recalculate *Nippon*'s margin without using an adverse assumption in that respect. In *Nippon Steel Corp. v. United States* ("Nippon III"), Slip Op. 01-122 (CIT, October 12, 2001), the Court (1) rejected *Nippon*'s claims that the Department's remand results methodology impermissibly took a different approach from that used in the investigation, but (2) rejected the Department's selection of the non-adverse facts available associated with the missing weight conversion factors, and remanded again for the Department to devise a new approach to the determination of neutral facts available.

In *Nippon IV*, the Court rejected the "application" of the Department's new approach, taking no position on whether it was reasonable as a general matter, and ordered the Department to use *Nippon*'s untimely submitted (proprietary) weight conversion factor. Slip Op. 01-152, at 6-7. As mentioned above, this decision was issued as a final judgment in this case.

In its decision in *Timken Co. v. United States*, 893 F.2d 337, 341 (Fed. Cir. 1990) ("Timken"), the United States Court of Appeals for the Federal Circuit held that, pursuant to 19 U.S.C. § 1516a(e), the Department must publish a notice of a court decision which is not "in harmony" with a Department determination, and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's decision in *Nippon IV* on December 27, 2001, constitutes a final decision of that court which is "not in harmony" with the Department's final determination of sales at less than fair value. This notice

is published in fulfillment of the publication requirements 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, upon a "conclusive" court decision.

January 15, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-504

Notice of Preliminary Results of Antidumping Duty New Shipper Review: Petroleum Wax Candles from the People's Republic of China

ACTION: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) is conducting a new shipper review of the antidumping duty order on petroleum wax candles from the People's Republic of China (PRC) in response to a request from Shanghai New Star Im/Ex Co., Ltd. (New Star). The review covers the period August 1, 2000 through January 31, 2001.

We preliminarily determine that sales have been made below normal value (NV). The preliminary results are listed below in the section titled "Preliminary Results of Review." If these preliminary results are adopted in our final results, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between the export price (EP) and NV. Interested parties are invited to comment on these preliminary results. (See the "Preliminary Results of Review" section of this notice.)

EFFECTIVE DATE: January 24, 2002.

FOR FURTHER INFORMATION CONTACT: Matthew Renkey or Javier Barrientos, Office of AD/CVD Enforcement VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2312 or (202) 482-2243, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are to the provisions