

supporting documents, upon the request of either agency.

(I) I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce.

(J) I understand that failure to maintain the required certification and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all sales to which this certification applies are sales of merchandise that is covered by the scope of the antidumping and countervailing duty orders on solar cells and solar modules from China. I understand that such a finding will result in:

- (i) suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;
- (ii) the importer being required to post the antidumping and countervailing duty cash deposits determined by Commerce; and
- (iii) the seller/exporter no longer being allowed to participate in the certification process.

(K) I understand that agents of the exporter, such as freight forwarding companies or brokers, are not permitted to make this certification.

(L) This certification was completed and signed, and a copy of the certification was provided to the importer, on, or prior to, the date of shipment if the shipment date is more than 14 days after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**. If the shipment date is on or before the 14th day after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**, this certification was completed and signed, and a copy of the certification was provided to the importer, by no later than 45 days after publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**.

(M) I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make materially false statements to the U.S. government.

*Signature*

{NAME OF COMPANY OFFICIAL}  
{TITLE OF COMPANY OFFICIAL}

Date

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-583-848, A-570-972]

#### Stilbenic Optical Brightening Agents From Taiwan and the People's Republic of China: Notice of Court Decision Not in Harmony With the Results of Antidumping Sunset Reviews, Reinstatement of Antidumping Duty Orders, and Reconduct of Sunset Reviews

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

**SUMMARY:** On May 28, 2024, the U.S. Court of International Trade (CIT) issued its final judgment in *Archroma U.S., Inc., v. United States et al.*, Court No. 22-00354, finding that the regulatory provision upon which the U.S. Department of Commerce relied to revoke the antidumping duty orders on stilbenic optical brightening agents (OBAs) from Taiwan and the People's Republic of China (China) violates section 751(c) of the Tariff Act of 1930, as amended (the Act) and ordering the U.S. Department of Commerce (Commerce) to: accept the domestic interested party Archroma U.S., Inc.'s (Archroma) substantive response; and conduct a full sunset reviews of these orders. Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final results of the sunset reviews, and that Commerce intends to: reinstate the antidumping duty orders on OBAs from Taiwan and China; accept Archroma's substantive response; and conduct full sunset reviews of these orders under section 751(c)(1) and (d)(2) of the Act. Commerce will begin reconducting the sunset reviews on July 1, 2024.

**DATES:** Applicable June 7, 2024.

#### FOR FURTHER INFORMATION CONTACT:

Joshua Weiner, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3902.

#### SUPPLEMENTARY INFORMATION:

##### Background

On May 10, 2012, Commerce published the antidumping duty orders on OBAs from Taiwan and China in the **Federal Register**.<sup>1</sup> On October 3, 2022,

<sup>1</sup> See *Certain Stilbenic Optical Brightening Agents from Taiwan: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 77 FR 27419 (May 10, 2012); and *Certain Stilbenic Optical Brightening Agents from the People's Republic of China: Amended Final*

Commerce initiated the sunset reviews of the *Orders*.<sup>2</sup>

Pursuant to 19 CFR 351.218(d), the publication of a sunset review notice of initiation in the **Federal Register** establishes two deadlines: a 15-day notice of intent to participate; and a 30-day submission of "complete substantive responses." On October 24, 2022, six days after the 15-day deadline (*i.e.*, October 18, 2022), Archroma submitted its notice of intent to participate in the sunset reviews of the *Orders*; Archroma submitted its substantive response by the requisite deadline. Consequently, Commerce rejected Archroma's notice of intent to participate because it was untimely, and consequently rejected Archroma's substantive response as unsolicited due to Archroma's failure to submit a timely notice of intent to participate.<sup>3</sup> Despite Archroma's subsequent requests for reconsideration,<sup>4</sup> Commerce made no change to its decisions in this regard.<sup>5</sup>

On December 29, 2022, Commerce issued its final results in the sunset reviews of the *Orders*.<sup>6</sup> Because no domestic interested party responded to Commerce's notice of initiation by the applicable deadline, Commerce revoked the *Orders* consistent with section 751(c)(3)(A) of the Act.<sup>7</sup> Archroma subsequently challenged Commerce's *Final Results* at the CIT on that same day.

The CIT held that Commerce could not lawfully revoke the *Orders* solely due to a domestic interested party's untimely filing of a notice of intent to participate.<sup>8</sup> The CIT elaborated that section 751(c) of the Act allows for Commerce to revoke an order only if no domestic interested party provides an "answer to a solicitation for the substantive content that {section

*Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 77 FR 27423 (May 10, 2012) (collectively, *Orders*).

<sup>2</sup> See *Initiation of Five-Year (Sunset) Reviews*, 87 FR 59779 (October 3, 2022).

<sup>3</sup> See Commerce's Letter, "Five-Year ("Sunset") Review of the Antidumping Duty Orders on Stilbenic Optical Brightening Agents from China and Taiwan: Rejection of Notice of Intent to Participate," dated October 28, 2022; see also Memorandum, "Rejection of Certain Documents in ACCESS," dated November 9, 2022.

<sup>4</sup> See Archroma's Letters, "Request for Reconsideration," dated November 11, 2022; and "Supplemental Request for Reconsideration," dated November 17, 2022.

<sup>5</sup> See Commerce's Letter, "Rejection of Request for Reconsideration," dated November 30, 2022.

<sup>6</sup> See *Stilbenic Optical Brightening Agents from People's Republic of China and Taiwan: Final Results of Sunset Reviews and Revocation of Order*, 87 FR 80162 (December 29, 2022) (*Final Results*).

<sup>7</sup> *Id.*

<sup>8</sup> See *Archroma U.S., Inc., v. United States et al.*, Court No. 22-00354, Slip Op. 24-61 (CIT May 28, 2024).

751(c)(2) of the Act} instructs the agency to seek.”<sup>9</sup> According to the CIT, because Archroma’s timely substantive response satisfied the request for substantive material pursuant to section 751(c)(2)(B) of the Act, the agency was obligated to conduct the sunset reviews of the *Orders*.<sup>10</sup> Additionally, the CIT held that Commerce’s regulations at 19 CFR 351.218(d)(1), which sets the 15-day procedural deadline for a notice of intent to participate, violates section 751(c)(2)–(3) of the Act, because it removes from domestic interested parties the statutory right to submit substantive information in a sunset review if, as here, a timely notice of intent is not filed.<sup>11</sup> Consequently, the CIT issued a declaratory judgment and injunction, ordering Commerce to accept Archroma’s substantive response, and conduct full sunset reviews of the *Orders*.

### Timken Notice

In its decision in *Timken*,<sup>12</sup> as clarified by *Diamond Sawblades*,<sup>13</sup> the U.S. Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) and (e) of the Act, Commerce must publish a notice of court decision that is not “in harmony” with an agency determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT’s May 28, 2024, judgment constitutes a final decision that is not in harmony with Commerce’s *Final Results*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

### Reinstatement of Antidumping Duty Orders

Pursuant to the CIT’s May 28, 2024, final decision, Commerce is reinstating the *Orders*.

### Reconducting of Sunset Reviews

Through this notice, we are notifying the public that Commerce is reconducting its sunset reviews of the *Orders* in accordance with the CIT’s judgment. Commerce will begin reconducting the sunset review on July 1, 2024, to coordinate with the U.S. International Trade Commission’s sunset reviews, pursuant to section 751(c) of the Act.

### Liquidation of Suspended Entries

At this time, Commerce remains enjoined by CIT order from liquidating entries of OBAs China and Taiwan that are or were entered, or withdrawn from warehouse for consumption, on or after November 27, 2022. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process. In the event the CIT’s ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on unliquidated entries of OBAs China and Taiwan that are or were entered, or withdrawn from warehouse for consumption, on or after November 27, 2022, as appropriate.

### Cash Deposit Rates

At this time, Commerce remains enjoined by CIT order to require cash deposits at a rate of zero percent for entries of OBAs from China and Taiwan that are or were entered, or withdrawn from warehouse for consumption, on or after November 27, 2022. Upon a final and conclusive court decision in the litigation, Commerce intends to issue revised cash deposit instructions to CBP as appropriate.

### Notification to Interested Parties

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

Dated: June 20, 2024.

#### Ryan Majerus,

*Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2024–14029 Filed 6–25–24; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### United States-Mexico-Canada Agreement (USMCA), Article 10.12: Binational Panel Review: Notice of Request for Panel Review

**AGENCY:** United States Section, USMCA Secretariat, International Trade Administration, Department of Commerce.

**ACTION:** Notice of USMCA request for panel review.

**SUMMARY:** A Request for Panel Review was filed on behalf of Grupo Aceroro S.A. de C.V. with the United States Section of the USMCA Secretariat on June 6, 2024, pursuant to USMCA

Article 10.12. Panel Review was requested of the U.S. Department of Commerce’s Final Results in the 2021–2022 Administrative Review of Antidumping Duty Order on Steel Concrete Reinforcing Bar from Mexico.

#### FOR FURTHER INFORMATION CONTACT:

Vidya Desai, United States Secretary, USMCA Secretariat, Room 2061, 1401 Constitution Avenue NW, Washington, DC 20230, 202–482–5438.

**SUPPLEMENTARY INFORMATION:** The final determination was published in the **Federal Register** on May 10, 2024 (89 FR 40467). The USMCA Secretariat has assigned case number USA–MEX–2024–10.12–03 to this request.

Article 10.12 of Chapter 10 of USMCA provides a dispute settlement mechanism involving trade remedy determinations issued by the Government of the United States, the Government of Canada, and the Government of Mexico. Following a Request for Panel Review, a Binational Panel is composed to review the trade remedy determination being challenged and issue a binding Panel Decision. There are established USMCA *Rules of Procedure for Article 10.12 (Binational Panel Reviews)*, which were adopted by the three governments for panels requested pursuant to Article 10.12(2) of USMCA which requires Requests for Panel Review to be published in accordance with Rule 40. For the complete Rules, please see [https://can-mex-usa-sec.org/secretariat/agreement-accord-acuerdo/usmca-aceum-tmec/rules-regles-reglas/article-article-articulo\\_10\\_12.aspx?lang=eng](https://can-mex-usa-sec.org/secretariat/agreement-accord-acuerdo/usmca-aceum-tmec/rules-regles-reglas/article-article-articulo_10_12.aspx?lang=eng).

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 44 no later than 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is July 8, 2024);

(b) A Party, an investigating authority or other interested person who does not file a Complaint but who intends to participate in the panel review shall file a Notice of Appearance in accordance with Rule 45 no later than 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is July 22, 2024);

(c) The panel review will be limited to the allegations of error of fact or law, including challenges to the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and to the procedural and substantive defenses raised in the panel review.

<sup>9</sup> *Id.* at 16.

<sup>10</sup> *Id.* at 18.

<sup>11</sup> *Id.* at 18.

<sup>12</sup> See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

<sup>13</sup> See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).