*of China*, 67 FR 16087 (April 4, 2002) (''Order''). The final judgment in this case was not in harmony with the Department's *Final Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields From the People's Republic of China*, 67 FR 6482 (February 12, 2002) (''*Final Determination*''), and accompanying Issues and Decisions Memorandum (''Decision Memo''), as amended at 67 FR 11670 (March 15, 2002), covering the period of investigation (''POI''), July 1, 2000 through December 31, 2000.

**EFFECTIVE DATE:** November 7, 2007.

**FOR FURTHER INFORMATION CONTACT:** Paul Stolz, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482–4474.

**SUPPLEMENTARY INFORMATION:**

**Background**

In separate actions, plaintiffs, Fuyao Glass Industry Group Co., Ltd. (''Fuyao''), Xinyi Automotive Glass Co., Ltd. (''Xinyi''), Changchun Pilkington Safety Glass, Co., Ltd, Guilin Pilkington Safety Glass Co., Ltd., and Wuhan Yaohua Pilkington Safety Glass Co., Ltd. (collectively ''Pilkington''), and Benxun Automotive Glass Co., Ltd. (''Benxun'') [1] contested several aspects of the *Final Determination*, including the Department's decision to disregard certain market economy inputs.[2] On February 15, 2006, while the cases were consolidated, the Court remanded the Department's decision regarding certain market economy inputs to the Department. *See Fuyao Glass Industry Group Co., Ltd. v. United States*, Consol. Court No. 02–00282, 2006 Ct. Int'l Trade Lexis 21, Slip Op. 2006–21 (CIT February 15, 2006) (''*Fuyao Glass III*''). In its remand to the Department, the Court concluded with respect to the standard applied in the Department's analysis that the Department must conduct its analysis ''in accordance with the court's finding with respect to the use of the word 'are' rather than 'may be' when applying its subsidized price methodology.'' *Fuyao Glass III*, Slip Op. P. 9. The Court further directed the Department to either (1) ''concur with the court's conclusions with respect to substantial evidence, or (2) re–open the record . . .'' *Fuyao Glass III*, Slip Op. P. 7. The Court concluded that it does not find the Department's determination, *i.e.*, that prices from South Korea and Indonesia are subsidized, is supported by substantial record evidence. *See Fuyao Glass III*, Slip Op. p. 16. Pursuant to the Court's ruling, and under respectful protest, the Department concurred that the record evidence does not contain substantial evidence to support a conclusion that prices from South Korea and Indonesia are subsidized. *See Viraj Group v. United States*, 343 F.3d 1371, 1376 (Fed. Cir. 2003). Because the Court found that the evidence on the record does not support the Department's determination to disregard prices from South Korea and Indonesia, in the remand results, the Department determined to calculate the dumping margin for Fuyao and Xinyi, mandatory respondents, based upon prices the plaintiffs actually paid to suppliers located in South Korea and Indonesia. As a result of its remand determination, the Department calculated zero margins for both Fuyao and Xinyi.

In *Fuyao Glass Industry Group Co. v. United States*, Consol. Court No. 02–00282, (Orders of November 2, 2006 and December 19, 2006) (''*Fuyao Glass IV*''), the Court then granted the Department's request for a voluntary remand and instructed the Department to devise a reasonable methodology to calculate an antidumping margin for Pilkington and Benxun, taking into consideration the zero margins assigned to Fuyao and Xinyi. On January 8, 2007, the Court severed Fuyao's and Xinyi's actions, Court Nos. 02–00282 and 02–00321, from the consolidated action, and designated Pilkington's action, Court No. 02–00312, as the lead case, under which Court Nos. 02–00319 and 02–00320 were consolidated. On May 10, 2007, and June 28, 2007, respectively, the Court issued final judgments in Court Nos. 02–00282 and 02–00321, wherein it affirmed the Department's third remand results with respect to Fuyao's and Xinyi's actions. The Department then completed its voluntary remand in which it devised a reasonable methodology to calculate an antidumping margin for Pilkington and Benxun, taking into consideration the zero margins assigned to Fuyao and Xinyi. Specifically, on remand, the Department identified the control numbers (''CONNUMS'') shared by the Pilkington Plaintiffs, Benxun, Fuyao and Xinyi, as reported in their questionnaire responses, and ''impute{d} Fuyao's and Xinyi's CONNUM–specific margins to the matching CONNUMs of the {the Pilkington Plaintiffs} and Benxun.'' Commerce then weight–averaged those CONNUM–specific margins, which resulted in the *de minimis* antidumping margin of 1.47 percent for the Pilkington Plaintiffs and Benxun.

On August 3, 2007, the Court issued a final judgement, wherein it affirmed the Department's fourth remand results with respect to Pilkington and Benxun.

**Timken Notice**

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 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. The Court's decision in *Pilkington* on August 3, 2007, constitutes a final decision of that court that is not in harmony with the Department's *Final Determination*. This notice is published in fulfillment of the publication requirements of *Timken*. Accordingly, the Department will issue an amended final determination and revised instructions to U.S. Customs and Border Protection if the Court's decision is not appealed or if it is affirmed on appeal.

This notice is issued and published in accordance with section 516A(c)(1) of the Act.

Dated: October 31, 2007.

**Stephen J. Claeys,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E7–21875 Filed 11–6–07; 8:45 am]

**BILLING CODE 3510–DS–S**

[1] On July 20, 2004, the Department determined that Shenzhen CSG Autoglass Co., Ltd. (''CSG'') is the successor-in-interest to Benxun. The amended final results of this segment of the proceeding will apply to entries made by CSG on or subsequent to July 20, 2004.

[2] Court Nos. 02–00282, 02–00312, 02–00320 and 02–00321. On August 2, 2002, the Court consolidated these actions into Court No. 02–00282.

---

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–867]**

### Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order Pursuant to Court Decision: Certain Automotive Replacement Glass Windshields from the People's Republic of China

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

**EFFECTIVE DATE:** November 7, 2007.

**SUMMARY:** On June 28, 2007, the United States Court of International Trade (''Court'') entered a final judgement in *Xinyi Automotive Glass v. United*

*States*, Ct. No. 02–00321, Judgment (CIT, June 28, 2007) (''*Xinyi v. United States*'') sustaining the third remand results made by the Department of Commerce (''the Department'') pursuant to the Court's remand of the final determination with respect to *Certain Automotive Replacement Glass Windshields from the People' Republic of China* (''PRC'') in Slip Op. 06–21 (CIT, February 15, 2006). This case arises out of the Department's *Antidumping Duty Order on Certain Automotive Replacement Glass Windshields from the People's Republic of China*, 67 FR 16087 (April 4, 2002) (''AD Order''). As there is now a final and conclusive court decision in this case, the Department is amending the final determination and antidumping duty order of this investigation.

**FOR FURTHER INFORMATION CONTACT:** Paul Stolz or Robert Bolling, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4474 and (202) 482–3434, respectively.

**SUPPLEMENTARY INFORMATION:**

## Background

This case arises out of the Department's AD Order and *Final Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields From the People's Republic of China*, 67 FR 6482 (February 12, 2002) (''*Final Determination*''), and accompanying Issues and Decisions Memorandum (''Decision Memo''), as amended at 67 FR 11670 (March 15, 2002), covering the period of investigation (''POI''), July 1, 2000, through December 31, 2000. Following publication of the *Final Determination*, Fuyao Glass Industry Group Co., Ltd. et al. (''Fuyao''), Xinyi Automotove Glass (Shenzhen) Co., Ltd. (''Xinyi''),[1] Shenzhen Benxun Automotove Glass Co., Ltd. (Benxun),[2] and Changchun Pilkington Safety Glass, Co., Ltd., Guilin Pilkington Safety Glass Co., Ltd., and Wuhan Yao hua Pilkington Safety Glass Co., Ltd. (collectively ''Pilkington'') filed lawsuits with the Court challenging the Department's *Final Determination*.[3] Plaintiffs, Fuyao, Xinyi, Benxun, and Pilkington, initially in separate lawsuits, contested several aspects of the *Final Determination*, including the Department's decision to disregard certain market economy inputs. On August 2, 2002, all law suits challenging the *Final Determination*, including Xinyi's lawsuit, were consolidated into *Fuyao Glass Industry Group Co., Ltd. v. United States*, Consol. Court No. 02–00282. On February 15, 2006, while the cases were still consolidated, the Court issued its third remand concerning the Department's decision concerning certain market economy inputs. *See Fuyao Glass Industry Group Co. v. United States*, Consol. Court No. 02–00282, Slip Op. 2006–21, (CIT, February 15, 2006). In its remand to the Department, the Court concluded with respect to the standard applied in the Department's analysis, that the Department must conduct its analysis ''in accordance with the Court's finding with respect to the use of the word 'are' rather than 'may be' when applying its subsidized price methodology.'' *Id.* at 9. The Court further directed the Department to either (1) ''concur with the court's conclusions with respect to substantial evidence, or (2) re–open the record . . .'' *Id.* at 7. The Court concluded that it does not find the Department's determination, that prices from South Korea and Indonesia are subsidized, is supported by substantial record evidence. *Id.* at 16. Pursuant to the Court's ruling, and under respectful protest, the Department concurred that the record evidence does not contain substantial evidence to support a conclusion that prices from South Korea and Indonesia are subsidized. *See Viraj Group v. United States*, 343 F.3d 1371, 1376 (Fed. Cir. 2003). Because the Court found that the evidence on the record does not support the Department's determination to disregard prices from South Korea and Indonesia, in the remand results, the Department determined to calculate the dumping margin for Fuyao and Xinyi based upon prices the plaintiffs actually paid to suppliers located in South Korea and Indonesia.

On January 8, 2007, Xinyi's action was severed from the consolidated action. *See* Court Order of January 8, 2007, in Ct. No. 02–00282. On June 28, 2007, the Court issued a final judgment, wherein it affirmed the Department's third remand results with respect to Xinyi's action, *Xinyi v. United States*. On September 13, 2007, consistent with the decision in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990), the Department notified the public that the Court's decision was not in harmony with the Department's final determination. *See Certain Automotive Replacement Glass Windshields from The People's Republic of China: Notice of Decision of the Court of International Trade Not in Harmony*, 72 FR 52344 (September 13, 2007). No party appealed the Court's decision. As there is now a final and conclusive court decision in this case, we are amending our *Final Determination.*

## Amended Final Determination

As the litigation in this case has concluded, the Department is amending the *Final Determination* to reflect the results of our third remand determination. The revised dumping margin in the amended final determination is as follows:

| Exporter | Margin (percent) |
|---|---|
| Xinyi Automotive Glass (Shenzhen) Co., Ltd. ..... | 0.00 |

The PRC–wide rate continues to be 124.5 percent as determined in the Department's *Final Determination*. The Department intends to issue instructions to U.S. Customs and Border Protection (''CBP'') fifteen days after publication of this notice, to revise the cash deposit rates for the company listed above, effective as of the publication date of this notice. Because Xinyi obtained a preliminary injunction, we will also instruct CBP to liquidate all entries, without regard to antidumping duties.

This notice is published in accordance with sections 735(d) and 777(i) of the Tariff Act of 1930, as amended.

Dated: October 31, 2007.

**Stephen J. Claeys,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E7–21876 Filed 11–6–07; 8:45 am]

**BILLING CODE 3510–DS–S**

[1] Fuyao and Xinyi were mandatory respondents during the POI.

[2] The Department determined that Shenzhen CSG Automotive Glass Co., Ltd. is a successor-in-interest to Benxun. See Notice of Final Results of Antidumping Duty Changed Circumstances Review: Automotive Replacement Glass Windshields From the People's Republic of China, 69 FR 43388 (July 20, 2004).

[3] Court Nos. 02–00282, 02–00312, 02–00320, and 02–00321.