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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-898]

Chlorinated Isocyanurates from the People's Republic of China: Notice of Court Decision Not in Harmony With the Final Results and Amended Final Results of the Antidumping Duty Administrative Review; 2010-2011

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

SUMMARY: On November 23, 2016, the United States Court of International Trade (the Court) sustained the final second remand redetermination pertaining to the administrative review of the antidumping duty order on Chlorinated Isocyanurates from the People's Republic of China (PRC) for the period of review of June 1, 2010, through May 31, 2011.¹ Consistent with the decision of the United States Court of Appeals for the Federal Circuit (CAFC) in *Timken Co., v United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), as clarified by *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*), the Department of Commerce (the Department) is notifying the public that the final judgment in this case is not in harmony with the *2010-2011 AR Final Results*,² and that the Department is amending the *2010-2011 AR Final Results* with respect to the weighted-average dumping margin assigned to both Juangcheng Kangtai Chemical Co. Ltd. (Kangtai), and Hebei Jiheng Chemical Co., Ltd. (Jiheng).

DATE: EFFECTIVE December 3, 2016.

¹ See *Clearon Corp., and Occidental Chemical Corp., et al. v. United States*, Consol. Ct. No. 13-00073, Slip Op. 16-110 (CIT 2016); see also Memorandum, "Antidumping Duty Administrative Review of Chlorinated Isocyanurates from the People's Republic of China: Final Results of Second Redetermination Pursuant to Remand," March 22, 2016 (Final Second Redetermination), and available here: <http://enforcement.trade.gov/remands/15-91.pdf>.

² See *Chlorinated Isocyanurates From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011*, 78 FR 4386 (January 22, 2013) (*2010-2011 AR Final Results*).

FOR FURTHER INFORMATION CONTACT: Emily Halle, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-0176.

SUPPLEMENTARY INFORMATION:

Background

On January 22, 2013, the Department published the *2010-2011 AR Final Results*. On July 24, 2014, the Court remanded the *2010-2011 AR Final Results* to the Department regarding our primary surrogate country selection as follows: (1) provide a reasonable explanation why the range of the GNIs listed on the Surrogate Country Memorandum qualify the countries as proximate and “economically comparable” to the PRC, including a discussion of why the Department believes India’s GNI does not, if that continues to be our determination, qualify it as an economically comparable country, and (2) place the data on the record that the Department relied upon to make our determination. The Court also accepted the Department’s request for a voluntary remand of the final results with the following instructions to: (1) reconsider whether the ILO wage rate used to value the labor FOP includes labor, retirement, and employee benefit expenses, and whether these expenses are double counted if the Department does not adjust the financial ratio to correctly reflect overlapping expenses in the financial statements; (2) explain the Department’s change in methodology for calculating intra-company transportation costs by collecting additional information if necessary and to provide parties an opportunity to comment on any new additional information; and (3) explain our change in the calculation of our by-product methodology and to request additional information if necessary, and to provide parties an opportunity to comment on any new additional information.³

³ See *Clearon Corp., and Occidental Chemical Corp., et. al. v. United States*, Slip Op. 14-88, Consolidated Court No. 13-00073 (CIT 2014) (*First Redetermination*).

Upon consideration of the First Remand Results,⁴ on August 20, 2015, the Court remanded the *2010-2011 AR Final Results* and First Remand Results to the Department as follows: (1) to either remove the labor items identified among the selling, general and administrative (SG&A) expenses of the financial statements from MVC or explain why adhering to the Department’s Labor Methodology policy is inappropriate in this instance; (2) to either supply valid reasons to support changing the byproduct methodology in this proceeding which amounts to a “sufficient, reasoned analysis,” supported by substantial evidence, or to revert to the “former” methodology, with any appropriate modification (*e.g.*, capping) to avoid illogical conclusions that do not match the real world experience of the respondents; (3) to value urea using Philippine domestic pricing data or explain why GTA import data is superior to the domestic pricing data on the record; and (4) to select the best SVs for hydrogen and chlorine that reflect a full consideration of the interested parties’ comments and how these inputs were valued in prior administrative reviews.⁵ On November 23, 2016, the Court sustained the Department’s Final Second Redetermination, and entered final judgment.⁶

Timken Notice

In its decision in *Timken*, as clarified by *Diamond Sawblades*, the CAFC 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 and must suspend liquidation of entries pending a “conclusive” court decision. The Court’s final judgment affirming the *2010-2011 AR Final Results* constitutes the Court’s

⁴ See *Clearon Corp., and Occidental Chemical Corp., et. al. v. United States*, Final Results of Redetermination Pursuant to Remand, December 11, 2014 (First Remand Results).

⁵ See *Clearon Corp., and Occidental Chemical Corp., et. al. v. United States*, Slip Op. 15-91, Consolidated Court No. 13-00073 (CIT 2015).

⁶ See *Clearon Corp., and Occidental Chemical Corp., et. al. v. United States*, Slip Op. 16-110, Consolidated Court No. 13-00073 (CIT 2016).

final decision which is not in harmony with the *2010-2011 AR Final Results*. 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 a final and conclusive court decision.

Amended Final Results of Review

Because there is now a final court decision, the Department is amending the *2010-2011 AR Final Results* with respect to Jiheng and Kangtai, as follows:

<i>Exporter</i>	<i>Weighted-Average Margin Percentage</i>
Hebei Jiheng Chemical Co., Ltd.	31.22
Juancheng Kangtai Chemical Co., Ltd.	34.21

In the event the Court's ruling is not appealed or, if appealed, upheld by a final and conclusive court decision, the Department will instruct the U.S. Customs and Border Protection to assess antidumping duties on unliquidated entries of subject merchandise based on the revised rate the Department determined and listed above.

Cash Deposit Requirements

Because there have been subsequent administrative reviews for Jiheng and Kangtai, the case deposit rates will remain the rates established in the *2012-2013 Final Results*, which are 0.00 percent respectively for both Jiheng and Kangtai.⁷

⁷ See *Chlorinated Isocyanurates From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 4539 (January 28, 2015) (*2012-2013 Final Results*).

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: December 15, 2016

Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

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