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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 Final Results and Notice of Amended Final Results

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

SUMMARY: The Court of International Trade (CIT or Court) sustained the final remand results pertaining to the administrative review of the antidumping duty order on chlorinated isocyanurates (chloro isos) from the People's Republic of China (PRC) covering the period of June 1, 2011, through May 31, 2012. The Department of Commerce (the Department) is notifying the public that the final judgment in this case is not in harmony with the final results of the administrative review and that the Department is amending the final results with respect to the dumping margins assigned to Juangcheng Kangtai Chemical Co., Ltd. (Kangtai), Hebei Jiheng Chemical Co., Ltd. (Jiheng), and Arch Chemicals (China) Co., Ltd. (Arch).

DATES: Effective January 29, 2017.

FOR FURTHER INFORMATION CONTACT: Kaitlin Wojnar, 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) 482-3857.

SUPPLEMENTARY INFORMATION:

Background

On January 30, 2014, the Department issued the *Final Results*.¹ Three parties contested the Department's findings in the *Final Results*. All three plaintiffs (*i.e.*, Kangtai, Jiheng, and Arch) are Chinese producers/exporters of chloro isos. Kangtai and Jiheng were mandatory respondents in the underlying administrative review; Arch was an unexamined respondent that demonstrated eligibility for separate rate status.

In the *Final Results*, the Department assigned weighted-average dumping margins of 59.12 percent and 47.17 percent to Kangtai and Jiheng, respectively.² As a separate rate company, Arch received the margin of 53.15 percent, which is the simple average of the margins calculated for individually examined respondents.³

On August 21, 2015, the CIT remanded various aspects of the *Final Results* to the Department. In particular, the Court instructed the Department to do the following: (1) determine whether or not the selling, general, and administrative expenses contain certain labor items and explain how the methodology used by the Department in the *Final Results* is supported by substantial evidence on the record; (2) select the best surrogate value (SV) rate for chlorine; (3) select the best SV for ammonium chloride; (4) select the best source of SV data for electricity; (5) reexamine the record evidence regarding the SV for ammonium sulfate; (6) explain and support the Department's change in by-product methodology; and (7) consider all

¹ See *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 4875 (January 30, 2014) (*Final Results*), and accompanying Issues and Decision Memorandum.

² See *Final Results*, 79 FR at 4876.

³ *Id.*

arguments from interested parties concerning the deduction of irrecoverable value added tax from U.S. price.⁴

Pursuant to *Kangtai I*, the Department issued its Final Redetermination, which addressed the Court's holdings and revised the weighted-average dumping margins for Kangtai and Jiheng to 48.72 percent and 27.99 percent, respectively, and the simple average dumping margin for Arch to 38.36 percent.⁵ On January 19, 2017, the CIT sustained the Department's Final Redetermination in full.⁶ Thus, the Court affirmed the following dumping margins as calculated by the Department in the Final Redetermination: 48.72 for Kangtai, 27.99 for Jiheng, and 38.36 for Arch.

Timken Notice

In its decision in *Timken*,⁷ as clarified by *Diamond Sawblades*,⁸ the 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 and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's January 19, 2016, final judgment sustaining the Final Redetermination constitutes a final decision of the Court that is not in harmony with the Department's *Final Results*. This notice is published in fulfillment of the *Timken* publication requirements. Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending a final and conclusive court decision.

⁴ See *Juancheng Kangtai Chemical Co., Ltd., et al. v. United States*, CIT Slip Op. 15-93, Consol. Ct. No. 14-00056 (August 21, 2015) (*Kangtai I*).

⁵ See Department Memorandum, "Antidumping Duty Administrative Review of Chlorinated Isocyanurates from the People's Republic of China: Final Results of Redetermination Pursuant to Remand," April 15, 2016 (Final Redetermination) (available at <http://enforcement.trade.gov/remands/15-93.pdf>).

⁶ See *Juancheng Kangtai Chemical Co., Ltd., et al. v. United States*, CIT Slip Op. 17-3, Consol. Ct. No. 14-00056 (January 19, 2017) (*Kangtai II*).

⁷ See *Timken Co. v. United States*, 893 F.2d 337, 341 (Fed. Cir. 1990) (*Timken*).

⁸ See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

Amended Final Results

Because there is now a final court decision, we are amending the *Final Results* with respect to the dumping margins calculated for Kangtai, Jiheng, and Arch. Based on the Final Redetermination, as affirmed by the CIT in *Kangtai II*, the revised dumping margins for Kangtai, Jiheng, and Arch from June 1, 2011, through May 31, 2012, are as follows:

Producer/Exporter	Margins
Juancheng Kangtai Chemical Co., Ltd.	48.72 percent
Hebei Jiheng Chemical Co., Ltd.	27.99 percent
Arch Chemicals (China) Co., Ltd.	38.36 percent

In the event that the CIT's rulings are not appealed or, if appealed, are upheld by a final and conclusive court decision, the Department will instruct Customs and Border Protection (CBP) to assess antidumping duties on unliquidated entries of subject merchandise based on the revised dumping margins listed above.

Cash Deposit Requirements

Since the *Final Results*, the Department has established a new cash deposit rate for Kangtai and Jiheng.⁹ Therefore, this amended final determination does not change the later-established cash deposit rates for Kangtai and Jiheng. Arch does not have a superseding cash deposit rate and, therefore, the Department will issue revised cash deposit instructions to CBP, adjusting the cash deposit rate for Arch to 38.36 percent, effective January 29, 2017.

Notification to Interested Parties

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

/S/ *Ronald K. Lorentzen*

⁹ See, e.g., *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2014-2015*, 82 FR 4852, 4852 (January 17, 2017).

Dated: April 11, 2017.

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

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