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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-992]

Monosodium Glutamate from the People's Republic of China: Notice of Court Decision Not in Harmony with Second Amended Final Determination in Less Than Fair Value Investigation and Notice of Third Amended Final Determination

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

SUMMARY:

On November 3, 2017, the Court of International Trade (CIT or Court) sustained the final remand results pertaining to the less than fair value investigation of monosodium glutamate (MSG) from the People's Republic of China (PRC). The Department of Commerce (the Department) is notifying the public that the final judgment in this case is not in harmony with the second amended final determination of the less than fair value investigation and that the Department is amending the second amended final determination with respect to the dumping margins assigned to Langfang Meihua Bio-Technology Co., Ltd.'s (Meihua).

DATES: Effective November 13, 2017.

FOR FURTHER INFORMATION CONTACT: Jun Jack Zhao, 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) 482-1396.

SUPPLEMENTARY INFORMATION:

Background

On September 29, 2014, the Department issued the *Final Determination*.¹ On November 26, 2014, in response to ministerial error allegations, the Department issued the *Amended Final Determination* and on January 6, 2015, in response to additional comments concerning inadvertent errors in the *Amended Final Determination*, the Department issued the *Second Amended Final Determination and Order*.² Meihua³ is a Chinese producer/exporter of MSG and was a mandatory respondent in the underlying less than fair value investigation. In the *Second Amended Final Determination and Order*, the Department assigned a dumping margin of 21.28 percent to Meihua.

On April 25, 2017, the Court issued its *Remand Order*⁴ and directed the Department to: (1) reconsider the Department's selection of the best available information in setting the distance used to calculate a surrogate value for inland freight and (2) reconsider petitioner's, Ajinomoto North America, Inc.'s, (Ajinomoto) argument to calculate the corn factor of production (FOP) based upon the respondent Meihua's actual production experience.

¹ See *Monosodium Glutamate from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and the Final Affirmative Determination of Critical Circumstances*, 79 FR 58326 (September 29, 2014) (*Final Determination*).

² See *Monosodium Glutamate from the People's Republic of China, and the Republic of Indonesia: Antidumping Duty Orders and Monosodium Glutamate From the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value*, 79 FR 70505 (November 26, 2014) (*Amended Final Determination*), and, *Monosodium Glutamate from the People's Republic of China: Second Amended Final Determination of Sales at Less Than Fair Value and Amended Antidumping Duty Order*, 80 FR 487 (January 6, 2015) (*Second Amended Final Determination and Order*), respectively.

³ Meihua, or Meihua Group, consists of Langfang Meihua Bio-Technology Co., Ltd., Tongliao Meihua Biological SCI-TECH Co., Ltd., Meihua Group International Trading (Hong Kong) Limited, and Meihua Holdings Group Co., Ltd, Bazhou Branch. See the Department's preliminary decision memorandum, "Decision Memorandum for the Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances, and Postponement of Final Determination of the Antidumping Duty Investigation of Monosodium Glutamate from the People's Republic of China," dated May 1, 2014, at 8-9, unchanged in *Amended Final Determination*.

⁴ See *Ajinomoto North America, Inc. v. United States*, Court No. 14-00351, Slip Op. 17-48 (April 25, 2017) (*Remand Order*).

Pursuant to the *Remand Order*, the Department issued its Final Redetermination, which addressed the Court's *Remand Order* and revised the weighted-average dumping margin for Meihua to 34.15 percent.⁵ On November 3, 2017, the CIT sustained in whole the Department's Final Redetermination.⁶

Timken Notice

In its decision in *Timken*,⁷ as clarified by *Diamond Sawblades*,⁸ the United States Court of Appeals for the Federal Circuit held that, pursuant to sections 516A(c) and (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 November 3, 2017, final judgment sustaining the Department's Final Redetermination constitutes a final decision of the Court that is not in harmony with the *Second Amended Final Determination and Order*. This notice is published in fulfillment of the publication requirements of *Timken*.

Third Amended Final Determination

Because there is now a final court decision, the Department is amending the *Second Amended Final Determination and Order* with respect to the dumping margin calculated for Meihua. The revised dumping margin for Meihua, is 34.15 percent.⁹

⁵ See Department Memorandum dated August 30, 2017, "Final Results of Redetermination Pursuant to Court Remand Monosodium Glutamate from the People's Republic of China Ajinomoto North America, Inc. v. United States Court No. 14-00351, Slip Op. 17-48 (CIT April 25, 2017)," (Final Redetermination).

⁶ See *Ajinomoto North America, Inc. v. United States*, Court No. 14-00351, Slip Op. 17-150 (CIT 2017).

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

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

⁹ See Final Redetermination.

Cash Deposit Requirements

Since the *Second Amended Final Determination and Order*, the Department has established a new cash deposit rate for Meihua.¹⁰ Therefore, the Department is not amending the cash deposit rate for Meihua.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e)(1), 735(c)(1), and 777(i)(1) of the Act.

Dated: December 11, 2017.

Gary Taverman,
Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the Assistant Secretary for
Enforcement and Compliance.

¹⁰ See, e.g., *Monosodium Glutamate from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2014-2015*, 81 FR 89062 (December 9, 2016).

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