



(BILLING CODE 3510-P)

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-831]

Fresh Garlic from the People's Republic of China: Notice of Court Decision Not in Harmony With Final Results of Administrative Review and Notice of Amended Final Results of Administrative Review

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

SUMMARY: On March 28, 2014, the United States Court of International Trade (“CIT”) issued its final judgment affirming the Department of Commerce’s (“the Department”) final results of redetermination pursuant to second remand of the tenth antidumping duty administrative review of fresh garlic from the People’s Republic of China.¹ Consistent with the decision of the 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 (CAFC 2010) (“*Diamond Sawblades*”), the Department is notifying the public that the final judgment in this case is not in harmony with the Department’s final results and is amending the final results of the tenth administrative review of fresh garlic from the People’s Republic of China (“PRC”) with respect to the margins assigned to Jinan Yipin Corporation (“Jinan Yipin”), Sunny Import & Export Ltd. (“Sunny”), and Linshu Dading Private Agricultural Products Co., Ltd. (“Linshu Dading”) (collectively, “Respondents”) covering the period of review (“POR”) November 1, 2003, through October 31, 2004.²

EFFECTIVE DATE: April 7, 2014.

¹ See *Jinan Yipin Corporation, Ltd. v. United States*, 971 F. Supp. 2d 1296 (CIT 2014) (“*Jinan Yipin III*”); Final Results of Redetermination Pursuant To Second Remand issued by the Department, Consol. Ct. No. 06-00189, Slip Op. 11-119 (CIT 2011), dated March 29, 2012 (“Second Remand”).

² See *Fresh Garlic from the People’s Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review and Final Results of New Shipper Review*, 71 FR 26329 (May 4, 2006) (“*Final Results*”).

FOR FURTHER INFORMATION CONTACT: Erin Begnal, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-1442.

SUPPLEMENTARY INFORMATION: Subsequent to the publication of the *Final Results* on May 4, 2006, seven PRC producers and exporters of fresh garlic filed a complaint with the CIT to challenge various aspects of the *Final Results* of the Department's tenth administrative review of the antidumping duty order on fresh garlic from the PRC.

On May 13, 2009, the Court sustained the Department's *Final Results* as to two of seven issues (the use of the intermediate input methodology to value raw garlic bulbs, and the Department's calculation of surrogate financial ratios), and remanded the remaining five issues for further consideration.³ On January 25, 2010, the Court granted a motion for voluntary dismissal concerning four of the seven PRC producers that were involved in this litigation.⁴ On September 26, 2011, the Court sustained the Department's First Remand⁵ as to one issue, the valuation of ocean freight, and remanded four issues regarding the valuation of (1) raw garlic bulbs, (2) labor, (3) cardboard packing cartons, and (4) plastic jars and lids, to the Department for further consideration.⁶

On March 28, 2014, the Court sustained the Department's Second Remand, affirming the Department's re-calculation of the surrogate labor wage rate and the Department's selection of surrogate values for raw garlic bulbs, cardboard packing cartons, and plastic jars and lids.⁷

³ See *Zhengzhou Harmoni Spice Co. v. United States*, 617 F. Supp. 2d 1281 (CIT 2009).

⁴ See *Zhengzhou Harmoni Spice Co. v. United States*, 675 F. Supp. 2d 1320 (CIT 2010).

⁵ See Final Results of Redetermination Pursuant to Court Remand issued by the Department, Consol. Ct. No. 06-00189, Slip Op. 09-39 (CIT 2009), dated (April 5, 2010) ("First Remand").

⁶ See *Jinan Yipin Corporation, Ltd. v. United States*, 800 F. Supp. 2d 1226 (CIT 2011).

⁷ See *Jinan Yipin III*, 971 F. Supp. 2d at 1296 (CIT 2014).

Timken Notice

In its decision in *Timken*, 893 F.2d at 341, 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 CIT’s March 28, 2014 judgment in this case constitutes a final decision of that court that is not in harmony with the Department’s *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 the expiration of the period of appeal, or if appealed, pending a final and conclusive court decision.

Amended Final Results

Because there is now a final court decision with respect to this case, the Department is amending the *Final Results* with respect to the Respondents’ weighted-average dumping margins for the period November 1, 2003 through October 31, 2004. The revised weighted-average dumping margins are as follows:

Exporter	Percent Margin
Jinan Yipin Corporation, Ltd.	0.00%
Linshu Dading Private Agricultural Products Co., Ltd.	0.00%
Sunny Import & Export Co., Ltd.	0.04%

In the event the CIT’s ruling is not appealed, or if appealed, upheld by the CAFC, because the above margins are *de minimis*, the Department will instruct CBP to liquidate entries of subject merchandise exported by the Respondents without regard to dumping duties.

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

Dated: May 30, 2014.

Paul Piquado,
Assistant Secretary
for Enforcement and Compliance.

[FR Doc. 2014-13258 Filed 06/05/2014 at 8:45 am; Publication Date: 06/06/2014]