

751(c) of the Act and published pursuant to section 777(i)(1) of the Act.

Dated: December 4, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

(A-570-863)

#### Honey From the People's Republic of China: Notice of Court Decision Not in Harmony with Final Results of Administrative Review

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

**SUMMARY:** On November 18, 2008, the United States Court of International Trade ("CIT") sustained the remand redetermination issued by the Department of Commerce ("Department") pursuant to the CIT's remand order in the final results of the administrative review of the antidumping duty order on honey from the People's Republic of China. See *Shanghai Eswell Enterprise Co., Ltd., et. al. v. United States*, Court No. 05-00439, Slip Op. 08-124 (CIT November 18, 2008) ("*Eswell II*"). This case arose from the Department's final results for the period of review ("POR") December 1, 2002, through November 30, 2003. See *Honey from the People's Republic of China: Final Results and Final Rescission, In Part, of Antidumping Duty Administrative Review*, 70 FR 38873 (July 6, 2005) ("*Final Results*"). 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*"), the Department is notifying the public that *Eswell II* is not in harmony with the Department's Final Results.

**EFFECTIVE DATE:** December 11, 2008.

**FOR FURTHER INFORMATION CONTACT:** Paul Walker, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482-0413.

**SUPPLEMENTARY INFORMATION:** On September 13, 2007, the CIT remanded the following issues to the Department for further administrative proceedings consistent with its opinion and Order: 1) the calculation of the raw honey surrogate value; 2) the calculation of

surrogate financial ratios with respect to (a) the treatment of honey sales commissions and (b) the treatment of jars, corks, and honey machine purchases; and 3) the use of export price sales for Jinfu Trading Co., Ltd.'s ("Jinfu") U.S. sales. See *Shanghai Eswell Enterprise Co., Ltd., et. al. v. United States*, Slip Op. 07-138 (CIT September 13, 2007) ("*Eswell I*"), at 17-18. Pursuant to the CIT's remand instructions, we: 1) addressed record evidence which indicated a decline in export prices during the second half of the POR and explained why we have refrained from considering these data in calculating a surrogate value for raw honey; 2) (a) discussed evidence which reflects an exact correlation between the selling commission expenses incurred by respondents, and those incurred by the surrogate financial company and further explained our decision in the *Final Results* that the record evidence was insufficient to permit a circumstances of sale adjustment, as well as (b) revised our financial ratio calculations to include reported expenses for jars and corks as direct materials used for producing finished honey and provided further explanation regarding our finding that honey machine purchases do not constitute direct expenses; and 3) addressed the CIT's findings with respect to operational control, and explained our continued finding, in accordance with our decision in the *Final Results of Redetermination Pursuant to Court Remand: Jinfu Trading Co., Ltd. v. United States*, Court No. 04-00597, Slip Op. 07-95 (CIT June 13, 2007).

On January 15, 2008, the Department released the *Draft Results of Redetermination Pursuant to Court Remand* to interested parties. On January 22 and January 24, 2008, we received comments on the draft results of redetermination from interested parties. On February 11, 2008, the Department filed its final results of redetermination pursuant to *Eswell I* with the CIT. See *Final Results of Redetermination Pursuant to Court Remand: Shanghai Eswell Enterprise Co., Ltd. v. United States*, Court No. 06-00430 (February 11, 2008). In responding to the CIT's questions and reassessing the record evidence, we determined it was appropriate to revise our financial ratio calculations to include, as direct materials used to producing finished honey, expenses for jars and corks. Thus, the Department revised, as appropriate, the surrogate financial ratios of the margin calculations for Eswell Enterprise Co., Ltd., Jinfu and Zhejiang Native Produce

and Animal By-Products Import & Export Group Corp. On November 18, 2008, the CIT sustained all aspects of the redetermination made by the Department pursuant to the CIT's remand of the *Final Results*.

In *Timken*, 893 F.2d at 341, the CAFC held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended ("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 decision in *Eswell II* on November 18, 2008, constitutes a decision of the 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. In the event the CIT's ruling is not appealed or, if appealed, upheld by the CAFC, the Department will publish an amended final results and instruct U.S. Customs and Border Protection to revise the cash deposit rates covering the subject merchandise and to assess antidumping duties on entries of the subject merchandise during the POR based on the revised assessment rates calculated by the Department.

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

Dated: December 5, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-421-811]

#### Purified Carboxymethylcellulose From the Netherlands: Final Results of Antidumping Duty Administrative Review

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

**SUMMARY:** On August 7, 2008, the Department of Commerce (Department) published the preliminary results of the administrative review of the antidumping duty order on purified carboxymethylcellulose (CMC) from the