

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 New Shipper Review and Notice of Amended Final Results of New Shipper Review

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

SUMMARY: On June 11, 2012,¹ the United States Court of International Trade (CIT) sustained the Department of Commerce's (the Department) results of redetermination² pursuant to the CIT's *Hejia Remand Order* 2.³

Consistent with the decision of the United States Court of Appeals for the Federal Circuit (CAFC) in *Timken*,⁴ as clarified by *Diamond Sawblades*,⁵ the Department is notifying the public that the final judgment in this case is not in harmony with the Department's *Final Results*⁶ and is amending the final results of the new shipper review of the antidumping duty order on fresh garlic from the People's Republic of China (PRC) covering the period of review of November 1, 2007, through June 9, 2008, with respect to the margin assigned to Jinxiang Hejia Co., Ltd. (Hejia).

DATES: *Effective Date:* June 21, 2012.

FOR FURTHER INFORMATION CONTACT: Lingjun Wang, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-2316.

SUPPLEMENTARY INFORMATION:**Background**

Subsequent to completion of its new shipper review under the antidumping duty order on fresh garlic from the PRC, Hejia challenged certain aspects of the

¹ See *Jinxiang Hejia Co., Ltd. v. United States*, Slip-Op.12-80 (CIT 2012).

² See Department of Commerce Final Results of Redetermination Pursuant to Remand, CIT Court No. 09-00471 (December 9, 2011) (*Second Remand Results*).

³ See *Jinxiang Hejia Co. v. United States*, Slip Op. 11-112 (CIT 2011) (*Hejia Remand Order* 2).

⁴ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

⁵ See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

⁶ See *Fresh Garlic from the People's Republic of China: Final Results and Final Rescission, In Part, of New Shipper Reviews*, 74 FR 50952 (October 2, 2009) (*Final Results*) and accompanying Issues and Decision Memorandum.

Department's *Final Results* at the CIT. On January 14, 2011 the Department filed its *First Remand Results*.⁷ On September 7, 2011, the CIT affirmed, in part, the *First Remand Results* and remanded the weighted-average methodology used by the Department to determine the surrogate value (SV) for the single-clove raw garlic input.⁸ On December 9, 2011, the Department issued its *Second Remand Results* under protest, wherein we removed a sales offer of Nepalese origin and thereafter used a simple average methodology to determine the SV for the single-clove raw garlic input. As a result, we calculated a revised weighted-average dumping margin of 0.00 percent for Hejia.

Timken Notice

In its decision in *Timken*, as clarified by *Diamond Sawblades*, the CAFC has 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.⁹ The CIT's June 11, 2012, judgment sustaining the *Second Remand Results* constitutes a final decision of that court that is not in harmony with the *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 Hejia, we are amending the *Final Results* with respect to the margin for Hejia. The revised dumping margin is as follows:

Exporter	Weighted-average margin (percent)
Jinxiang Hejia Co., Ltd	0.00

In the *Final Results*, Hejia was assigned a rate of 15.37 percent. Pursuant to court order, Hejia's revised margin for the period November 1, 2007, through June 9, 2008, is 0.00 percent. Accordingly, if the CIT's ruling is not

⁷ See Department of Commerce Final Results of Redetermination Pursuant to Court Order, CIT Court No. 09-00471 (January 14, 2011) (*First Remand Results*).

⁸ See *Hejia Remand Order* 2.

⁹ See *Timken*, 893 F.2d at 341.

appealed or, if appealed, upheld by the CAFC, the Department will instruct U.S. Customs and Border Protection to assess antidumping duties on entries of the subject merchandise exported by Hejia during the POR at 0.00 percent. Additionally, because Hejia has not been subject to an administrative proceeding since its November 1, 2007, through June 9, 2008 new shipper review, Hejia's cash deposit rate will be 0.00 percent, effective as of June 21, 2012 (*i.e.*, 10 days after the issuance of the CIT's ruling).

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

Dated: June 21, 2012.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

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DEPARTMENT OF COMMERCE

International Trade Administration

Meeting of the United States Travel and Tourism Advisory Board

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting.

SUMMARY: This notice sets forth the schedule and agenda for an open meeting of the United States Travel and Tourism Advisory Board (Board). The agenda may change to accommodate Board business. The final agenda and address of the meeting will be posted at least one week in advance of the meeting on the Department of Commerce Web site for the Board at http://tineta.doc.gov/TTAB/TTAB_Home.html.

DATES: July 13, 2012; 8:30 a.m.–10:30 a.m. Eastern Daylight Time (EDT).

ADDRESSES: The meeting will be held in the Detroit, Michigan metropolitan area. The exact address of the meeting will be posted on the Department of Commerce Web site for the Board (http://tineta.doc.gov/TTAB/TTAB_Home.html) at least one week in advance of the meeting. If you wish to receive an email with the location of the meeting, please send an email with the subject "7/13 TTAB Meeting RSVP" to ocacie@trade.gov.

FOR FURTHER INFORMATION CONTACT: Jennifer Pilat, the United States Travel and Tourism Advisory Board, Room 4043, 1401 Constitution Avenue NW., Washington, DC 20230, telephone: 202-