

**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-570-851]

**Certain Preserved Mushrooms 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 January 5, 2010, the United States Court of International Trade (CIT) sustained the Department of Commerce's (the Department's) results of redetermination pursuant to the CIT's remand in *Gerber Food (Yunnan) Co., Ltd. and Green Fresh (Zhangzhou) Co., Ltd. v. United States*, Court No. 04-00454 (May 5, 2009) (*Gerber v. United States Remand Order*). See Redetermination Pursuant to Court Remand, dated July 24, 2009 (Remand Redetermination) (found at <http://ia.ita.doc.gov/remands/>); and *Gerber Food (Yunnan) Co., Ltd. and Green Fresh (Zhangzhou) Co., Ltd. v. United States*, Slip Op. 10-2 (January 5, 2010) (*Gerber v. United States II*). 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 the final judgment in this case is not in harmony with the Department's final results of the administrative review of the antidumping duty order on certain preserved mushrooms from the People's Republic of China (PRC) covering the period of review (POR) of February 1, 2002, through January 31, 2003. See *Certain Preserved Mushrooms from the People's Republic of China: Final Results of Sixth Antidumping Duty New Shipper Review and Final Results and Partial Rescission of the Fourth Antidumping Duty Administrative Review*, 69 FR 54635 (September 9, 2004) (*Final Results*).

**FOR FURTHER INFORMATION CONTACT:** Brian Smith, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone (202) 482-1766.

**SUPPLEMENTARY INFORMATION:****Background**

On September 9, 2004, the Department published its final results in the antidumping duty administrative review of certain preserved mushrooms from the PRC covering the POR of

February 1, 2002, through January 31, 2003 (fourth administrative review). See *Final Results*. In the Final Results, the Department applied total adverse facts available (AFA) in calculating the cash deposit and assessment rates for respondent Gerber Food (Yunnan) Co., Ltd. (Gerber), and partial AFA in calculating the cash deposit and assessment rates for respondent Green Fresh (Zhangzhou) Co., Ltd. (Green Fresh). See *Final Results*, 69 FR at 54637-54638. The Department found that Gerber and Green Fresh were involved in a business arrangement/scheme, commencing during the period of the prior (third) administrative review, that resulted in the circumvention of the proper payment of cash deposits on certain POR entries of subject merchandise made by Gerber. As either total or partial AFA, the Department applied the PRC-wide-rate of 198.63 percent to both companies. Gerber and Green Fresh challenged the Department's resorting to the application of AFA to determine their cash deposit and assessment rates in the *Final Results*.

In light of the CIT's analysis in its decisions in the litigation covering the third administrative review (see *Gerber Food (Yunnan) Co., Ltd. and Green Fresh (Zhangzhou) Co., Ltd. v. United States*, Slip Op. 08-97 (September 16, 2008) (*Gerber v. United States I*), which concerned the same parties and many of the same issues as those in the fourth administrative review, and the factual similarity between the administrative records of the third and fourth administrative reviews, the Government of the United States requested a voluntary remand, which the CIT granted on May 5, 2009. See *Gerber v. United States Remand Order*. Pursuant to this remand order and consistent with the Court's analysis in *Gerber v. United States I*, the Department issued its final results of redetermination on July 24, 2009. In this redetermination, the Department recalculated the margin for Gerber using a rate other than the PRC-wide rate as partial AFA with respect to only those sales of subject merchandise made by Gerber during the POR which were exported to the United States using the invoices of Green Fresh. The Department also recalculated the margin for Green Fresh exclusive of the application of AFA. The Department's redetermination resulted in changes to the *Final Results* weighted-average margins for Gerber from 198.63 percent to 22.84 percent, and for Green Fresh from 42.90 percent to 15.83 percent. See *Remand Determination* at 1, and 4-7. The CIT affirmed this redetermination

on January 5, 2010. See *Gerber v. United States II* at 3.

**Timken Notice**

In its decision in *Timken*, 893 F.2d at 341, 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 decision in *Gerber v. United States II* 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. In the event the CIT's ruling is not 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 during the POR from Gerber and Green Fresh based on the revised assessment rates calculated by the Department. This notice of court decision is effective January 15, 2010.

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

Dated: January 19, 2010.

**Ronald K. Lorentzen**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 2010-1340 Filed 1-22-04; 8:45 am]

**BILLING CODE 3510-DS-S**

**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-489-501]

**Certain Welded Carbon Steel Pipe and Tube from Turkey: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review**

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

**FOR FURTHER INFORMATION CONTACT:** Joy Zhang, or Christopher Hargett, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4014, 14th Street and Constitution Ave., NW, Washington, DC

20230, telephone: (202) 482-1168 or (202) 482-4161, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On June 24, 2009, the U.S. Department of Commerce ("the Department") published a notice of initiation of the administrative review of the antidumping duty order on certain welded carbon steel pipe and tube from Turkey covering the period May 1, 2008, through April 30, 2009. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 74 FR 30052 (June 24, 2009). The preliminary results are currently due no later than January 31, 2010.

**Extension of Time Limit for Preliminary Results**

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order for which a review is requested. Section 751(a)(3)(A) of the Act further states that if it is not practicable to complete the review within the time period specified, the administering authority may extend the 245-day period to issue its preliminary results to up to 120 days.

We determine that completion of the preliminary results of this review within the 245-day period is not practicable for the following reason. The respondent claimed that during the period of review, there were significant changes in the total cost of manufacturing due to significant changes in the cost of the primary raw material, hot-rolled sheet. This requires the Department to gather and analyze a significant amount of information pertaining to the company's sales practices and manufacturing costs. Given the complexity of this issue, and in accordance with section 751(a)(3)(A) of the Act, we are extending the time period for issuing the preliminary results of the review by 120 days. The preliminary results are now due no later than May 31, 2010. The final results continue to be due 120 days after publication of the preliminary results.

This notice is issued and published in accordance with section 751(a)(3)(A) of the Act.

Dated: January 19, 2010.

**John M. Andersen,**

*Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2010-1343 Filed 1-22-10; 8:45 am]

**BILLING CODE 3510-DS-S**

**DEPARTMENT OF COMMERCE**

**Bureau of Industry and Security**

**Transportation And Related Equipment Technical Advisory Committee; Notice of Partially Closed Meeting**

The Transportation and Related Equipment Technical Advisory Committee will meet on February 10, 2010, 9:30 a.m., in the Herbert C. Hoover Building, Room 6087B, 14th Street between Constitution & Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to transportation and related equipment or technology.

**Public Session**

1. Welcome and Introductions.
2. Review Status of Working Groups.
3. Proposals from the Public.

**Closed Session**

4. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 sections 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at [Yspringer@bis.doc.gov](mailto:Yspringer@bis.doc.gov) no later than February 3, 2010. A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on November 9, 2009, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 section (10)(d)), that the portion of the meeting dealing with matters the disclosure of portion of the meeting dealing with matters the disclosure of which would be likely to frustrate significantly implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C.

app. 2 section 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482-2813.

Dated: January 19, 2010.

**Yvette Springer,**

*Committee Liaison Officer.*

[FR Doc. 2010-1346 Filed 1-22-10; 8:45 am]

**BILLING CODE 3510-JT-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**RIN: 0648-XT94**

**Mid-Atlantic Fishery Management Council; Public Meetings**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of public meetings.

**SUMMARY:** The Mid-Atlantic Fishery Management Council (Council) and its Executive Committee will hold public meetings.

**DATES:** The meetings will be held Tuesday, February 9, 2010 through Thursday, February 11, 2010. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

**ADDRESSES:** The meetings will be held at the Hyatt Regency Chesapeake Bay Hotel, 100 Heron Blvd, Cambridge, MD 21613; telephone: (410) 901-1234

*Council address:* Mid-Atlantic Fishery Management Council, 300 S. New St., Room 2115, Dover, DE 19904; telephone: (302) 674-2331.

**FOR FURTHER INFORMATION CONTACT:** Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 674-2331 ext. 19.

**SUPPLEMENTARY INFORMATION:**

**Tuesday, February 9, 2010**

9 a.m. until 10 a.m. -- The Executive Committee will meet.

10 a.m. -- The Council will convene.

10 a.m. until 11 a.m. -- The Council will receive the Standardized Bycatch Reporting Methodology (SBRM) Annual Report.

11 a.m. until 12 p.m. -- The Council will hear a presentation on the peer review of the Albatross/Bigelow vessel calibration data and analyses including summary results and recommendations.

1 p.m. until 5:30 p.m. -- There will be a Council Workshop on the Research Set-Aside (RSA) Program.