

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

[A-351-840]

**Certain Orange Juice From Brazil: Notice of Court Decision Not in Harmony With Final Results of Administrative Review and Notice of Amended Final Results of Administrative Review Pursuant to Court Decision**

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

**SUMMARY:** On October 24, 2012, 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 order in *Fischer S.A. Comercio, Industria and Agricultura v. United States*, Court No. 10-00281, Slip Op. 12-59 (CIT 2012) (*Fischer*). The Department is notifying the public that the final CIT judgment in this case is not in harmony with the Department's final results and is amending the final results of the administrative review of the antidumping duty order on certain orange juice (OJ) from Brazil covering the period of review (POR) of March 1, 2008, through February 28, 2009.

**DATES:** *Effective Date:* November 5, 2012.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Eastwood, 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) 482-3874.

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

On August 18, 2010, the Department published its final results in the antidumping duty administrative review of OJ from Brazil covering the POR of March 1, 2008, through February 28, 2009. See *Certain Orange Juice From Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Antidumping Duty Order in Part*, 75 FR 50999 (Aug. 18, 2010) (*Final Results*). In the *Final Results*, the Department: 1) denied offsets to dumping based on constructed export prices that exceeded normal value (NV); and 2) included the amount of a net exchange variation shown on Fischer S.A. Comercio, Industria, and Agricultura's (Fischer's) financial statements in its financial expense ratio. Fischer challenged the Department's *Final Results*. On April 30, 2012, the

CIT remanded to the Department its *Final Results*, directing the Department to: (1) Further explain its "zeroing" methodology (*i.e.*, why the Department's differing interpretation of section 771(35) of the Tariff Act of 1930, as amended (the Act), in antidumping duty investigations and administrative reviews is reasonable); and (2) exclude a "net exchange variation" amount shown in Fischer's financial statements from the calculation of the financial expense ratio.<sup>1</sup> On August 14, 2012, the Department issued its final results of redetermination. See *Final Results of Redetermination Pursuant to Court Remand*, dated August 14, 2012 (Remand Results) (available at <http://ia.ita.doc.gov/remands>). In the Remand Results, the Department provided the required explanation with respect to its "zeroing" methodology and recalculated Fischer's margin after revising its NV to remove the "net exchange variation" account from Fischer's financial expense ratio. On October 24, 2012, the CIT sustained the Remand Results.

**Timken Notice**

Consistent with the decision of the CAFC in *Timken Co. v. United States*, 893 F. 2d 337 (CAFC 1990) (*Timken*), as clarified by *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F. 3d 1374 (CAFC 2010), pursuant to section 516A(c) of 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 "final and conclusive" court decision. The CIT's October 24, 2012, judgment sustaining the Department's Remand Results with respect to Fischer constitutes such a decision. This notice is published in fulfillment of the publication requirements of *Timken*.

**Amended Final Results**

Based on the CIT's affirmation of the Remand Results, the Department amends its *Final Results*, and the weighted-average margin for Fischer for the period March 1, 2008, through February 28, 2009, is 1.18 percent.

The Department will instruct U.S. Customs and Border Protection to assess antidumping duties on entries of the subject merchandise exported during the POR from Fischer based on the revised assessment rates calculated by the Department.

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

<sup>1</sup> See also *Order*, Ct. No. 10-00281 (CIT June 22, 2012).

Dated: December 20, 2012.

**Paul Piquado,**

*Assistant Secretary for Import Administration.*

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**DEPARTMENT OF COMMERCE****International Trade Administration****Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part**

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

**SUMMARY:** The Department of Commerce ("the Department") has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with November anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews. The Department also received a request to revoke one antidumping duty order in part.

**DATES:** Effective December 31, 2012.

**FOR FURTHER INFORMATION CONTACT:** Brenda E. Waters, Office of AD/CVD Operations, Customs Unit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482-4735.

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

The Department has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various antidumping and countervailing duty orders and findings with November anniversary dates. The Department also received a timely request to revoke in part the antidumping duty order on Fresh Garlic from the People's Republic of China ("PRC") for one exporter.

All deadlines for the submission of various types of information, certifications, or comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting time.

**Notice of No Sales**

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review ("POR"), it must notify the Department within 60 days of publication of this notice in the **Federal Register**. All submissions must be filed