



DEPARTMENT OF COMMERCE
International Trade Administration
[A-570-831]

Fresh Garlic from the People's Republic of China: Initiation of Antidumping Duty New Shipper Review; 2015-2016

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

SUMMARY: The Department of Commerce (the Department) is initiating a new shipper review (NSR) with respect to Qingdao Joinseafoods Co. Ltd. and Join Food Ingredient Inc. ("Join") in the context of the antidumping duty order on Fresh Garlic from the People's Republic of China (PRC). The period of review (POR) is November 1, 2015, through October 31, 2016.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Chien-Min Yang, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5484.

SUPPLEMENTARY INFORMATION:

Background

The Department published the antidumping duty order on fresh garlic from the PRC in the Federal Register on November 16, 1994.¹ On November 30, 2016, the Department received a timely request for a NSR from Join.² Join certified that it is the exporter and producer of the fresh garlic upon which the request for a NSR is based.³ Pursuant to section 751(a)(2)(B)(i)(I) of

¹ See Antidumping Duty Order: Fresh Garlic from the People's Republic of China, 59 FR 59209 (November 16, 1994).

² See Join's request for a NSR dated November 30, 2016.

³ Id. at Exhibit 1.

the Act and 19 CFR 351.214(b)(2)(i), Join certified that it did not export fresh garlic for sale to the United States during the period of investigation (POI).⁴ Moreover, pursuant to section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(b)(2)(iii)(A), Join certified that, since the investigation was initiated, it has never been affiliated with any exporter or producer which exported the subject merchandise to the United States during the POI, including those not individually examined during the investigation.⁵ Further, as required by 19 CFR 351.214(b)(2)(iii)(B), it certified that its export activities are not controlled by the central government of the PRC.⁶ Join also certified it had no shipments of subject merchandise subsequent to the POR.⁷

In addition to the certifications described above, pursuant to 19 CFR 351.214(b)(2)(iv), Join submitted documentation establishing the following: (1) the date of its first sale to an unaffiliated customer in the United States; (2) the date on which the fresh garlic was first entered; and (3) the volume of that shipment.⁸

The Department queried the database of U.S. Customs and Border Protection (CBP) in an attempt to confirm that the shipment reported by Join had entered the United States for consumption and that liquidation had been properly suspended for antidumping duties. The information which the Department examined was consistent with that provided by Join in its request.⁹

⁴ Id.

⁵ Id.

⁶ Id.

⁷ Id. at page 2.

⁸ Id. at Exhibit 2.

⁹ See Memorandum to the File from Chien-Min Yang, “New Shipper Review of the Antidumping Duty Order on Fresh Garlic from the People’s Republic of China: Customs Entries from November 1, 2015, to October 31, 2016,” dated December 13, 2016.

Period of Review

Pursuant to 19 CFR 351.214(c), an exporter or producer may request a NSR within one year of the date on which its subject merchandise was first entered. Moreover, 19 CFR 351.214(d)(1) states that if the request for the review is made during the twelve-month period ending with the end of the anniversary month, the Secretary will initiate a NSR in the calendar month immediately following the anniversary month. Further, 19 CFR 315.214(g)(1)(i)(A) states that if the NSR was initiated in the month immediately following the anniversary month, the POR will be 12-month period immediately preceding the anniversary month. Join made the request for a NSR, that included all documents and information required by the statute and regulations, within one year of the date on which its fresh garlic first entered. Its request was filed in November, which is the anniversary month of the order. Therefore, the POR is November 1, 2015, through October 31, 2016. *Id.*

Initiation of New Shipper Review

Pursuant to section 751(a)(2)(B) of the Act and 19 CFR 351.214(b), and the information on the record, the Department finds that Join's request meets the threshold requirements for initiation of a NSR for shipments of fresh garlic from the PRC produced and exported by Join, and, therefore, is initiating a NSR of Join. Absent a determination that the new shipper review is extraordinarily complicated, the Department intends to issue the preliminary results within 180 days after the date on which this review is initiated and the final results within 90 days after the date on which we issue the preliminary results.¹⁰ If the information supplied by Join is found to be incorrect or insufficient during the course of this proceeding, the Department may rescind the review for Join or apply facts available pursuant to section 776 of the Act, depending on the facts on the record.

¹⁰ See section 751(a)(2)(B)(iv) of the Act.

It is the Department's usual practice in cases involving non-market economies to require that a company seeking to establish eligibility for an antidumping duty rate separate from the country-wide rate (i.e., a separate rate) provide evidence of de jure and de facto absence of government control over the company's export activities.¹¹ Accordingly, the Department will issue questionnaires to Join, which will include a section requesting information with regard to its export activities for the purpose of establishing its eligibility for a separate rate. The review will proceed if the responses provide sufficient indication that Join is not subject to either de jure or de facto government control with respect to its exports of fresh garlic from the PRC.

On February 24, 2016, the President signed into law the "Trade Facilitation and Trade Enforcement Act of 2015," H.R. 644, which made several amendments to section 751(a)(2)(B) of the Act. We will conduct this new shipper review in accordance with section 751(a)(2)(B) of the Act, as amended by the Trade Facilitation and Trade Enforcement Act of 2015.¹²

Interested parties requiring access to proprietary information in this proceeding should submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214 and 351.221(c)(1)(i).

Dated: December 22, 2016.

Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

¹¹ See Import Administration Policy Bulletin, Number: 05.1. (<http://ia.ita.doc.gov/policy/bull05-1.pdf>).

¹² The Trade Facilitation and Trade Enforcement Act of 2015 removed from section 751(a)(2)(B) of the Act the provision directing the Department to instruct Customs and Border Protection to allow an importer the option of posting a bond or security in lieu of a cash deposit during the pendency of a new shipper review.

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