



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

A-570-831

Fresh Garlic from the People's Republic of China: Preliminary Results, Preliminary Rescission, and Final Rescission, In Part, of the 22nd Antidumping Duty Administrative Review and Preliminary Results of the New Shipper Reviews; 2015-2016

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

SUMMARY: The Department of Commerce (the Department) is conducting the 22nd administrative review of the antidumping duty order on fresh garlic from the People's Republic of China (PRC) and two concurrent new shipper reviews. The period of review (POR) for the administrative and new shipper reviews is November 1, 2015, through October 31, 2016. The Department preliminarily determines that mandatory respondent, Shandong Jinxiang Zhengyang Import & Export Co., Ltd. (Zhengyang) sold subject merchandise to the United States at less than normal value (NV). We also preliminarily find that the review request made by the Coalition for Fair Trade in Garlic (the CFTG) was not valid, and accordingly have preliminarily rescinded the review with respect to seven companies, including the other mandatory respondent, Zhengzhou Harmoni Spice Co., Ltd. (Harmoni). The Department also preliminarily determines that the new shipper reviews respondents, Qingdao Joinseafoods Co., Ltd. and Join Food Ingredient Inc. (collectively, Join) and Zhengzhou Yudi Shengjin Agricultural Trade Co., Ltd. (Yudi), each made sales of subject merchandise at less than normal value. We invite interested parties to comment on these preliminary results.

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

FOR FURTHER INFORMATION CONTACT: Kathryn Wallace or Alexander Cipolla,
AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade
Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington,
DC 20230; telephone: (202) 482-6251 or (202) 482-4956.

Scope of the Order

The merchandise covered by the order includes all grades of garlic, whole or separated into constituent cloves. Fresh garlic that are subject to the order are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) 0703.20.0010, 0703.20.0020, and 0703.20.0090. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive. For a full description of the scope of this order, please see “Scope of the Order” in the accompanying Preliminary Decision Memorandum.¹

Partial Rescission of Administrative Review

On January 13, 2017, the Department initiated a review of 35 companies in this administrative review.² On April 13, 2017, review requests were timely withdrawn for six companies.³ In addition, as discussed in the accompanying Issues and Decision Memorandum, one of the companies for which the review request was timely rescinded is a part of the QTF-Entity, which submitted a separate rate application. Accordingly, this company remains subject to review. Moreover, the Department inadvertently initiated a review of one company without a

¹ See Memorandum, “Decision Memorandum for the Preliminary Results, Preliminary Rescission, and Final Rescission, In Part, of the 2015-2016 Antidumping Duty Administrative Review and Preliminary Results of the New Shipper Reviews: Fresh Garlic from the People’s Republic of China” (November 30, 2017) (Preliminary Decision Memorandum).

² See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 4294 (January 13, 2017) (*Initiation Notice*). For a list of the 35 companies, see 82 FR 4296-4297.

³ See Petitioners’ Letter, “22nd Administrative Review of the Antidumping Duty Order on Fresh Garlic from the People’s Republic of China – Petitioners’ Withdrawal of Certain Requests for Administrative Review,” (April 13, 2017).

request. The Department is, therefore, partially rescinding this administrative review with respect to the companies listed in Appendix I, in accordance with 19 CFR 351.213(d)(1).

Preliminary Rescission of Administrative Review

In addition, as discussed in depth at “Preliminary Rescission of Administrative Review” in the accompanying Preliminary Decision Memorandum, the Department has preliminarily determined that the review request from the CFTG was invalid, and is preliminarily rescinding the administrative review with respect to the companies listed in Appendix II.

Methodology

The Department is conducting these reviews in accordance with section 751(a)(1)(B) and 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.214. Export prices were calculated in accordance with section 772(a) of the Act; constructed export prices were calculated in accordance with section 772(b) of the Act. Because the PRC is a non-market economy (NME) within the meaning of section 771(18) of the Act, NV has been calculated in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum, which is hereby adopted by this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn/>. The signed Preliminary

Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Determination of No Shipments

As discussed at “Preliminary Determination of No Shipments” in the accompanying Preliminary Decision Memorandum, 14 companies timely filed “no shipment” certifications stating that they had no entries into the United States of subject merchandise during the POR. However, no review requests were submitted for five of these companies. Moreover, review requests were timely withdrawn for two of these companies. In addition, two of these companies are a part of the QTF-entity, which filed a separate rate certification, as discussed at “Separate Rate Status of the QTF-Entity” in the accompanying Issues and Decision Memorandum.

Accordingly, the Department, consistent with its practice, requested that U.S. Customs and Border Protection (CBP) conduct a query of potential shipments made by the remaining five companies. Based on the certifications by the remaining companies and our analysis of CBP information, we preliminarily determine that the companies listed in Appendix IV did not have any reviewable transactions during the POR. In addition, the Department finds that consistent with its refinement to its assessment practice in NME cases, further discussed below, it is appropriate not to preliminarily rescind the administrative review, in part, in these circumstances, but rather to complete the administrative review with respect to these five companies, and issue appropriate instructions to CBP based on the final results of the administrative review.⁴

Verification

As provided in section 782(i) of the Act, we intend to verify the information provided by respondents using standard verification procedures, including on-site inspection of the producer's

⁴ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694-95 (October 24, 2011); see also “Assessment Rates” section below.

and exporter's facilities, and examination of relevant sales and financial records. Our verification results will be outlined in the verification report for the respective respondents after completion of the verification.

Preliminary Determination of Separate Rates for Non-Selected Companies

In accordance with section 777A(c)(2)(B) of the Act, the Department employed a limited examination methodology, as it determined that it would not be practicable to examine individually all companies for which a review request was made.⁵ There were six exporters of subject merchandise from the PRC that have demonstrated their eligibility for a separate rate but were not selected for individual examination in this review. These six exporters are listed in Appendix III.

Neither the Act nor the Department's regulations address the establishment of the rate applied to individual companies not selected for examination where the Department limited its examination in an administrative review pursuant to section 777A(c)(2) of the Act. The Department's practice in cases involving limited selection based on exporters accounting for the largest volume of imports has been to look to section 735(c)(5) of the Act for guidance, which provides instructions for calculating the all-others rate in an investigation. Section 735(c)(5)(A) of the Act instructs the Department to use rates established for individually investigated producers and exporters, excluding any rates that are zero, *de minimis*, or based entirely on facts available in investigations. In the administrative review, Zhengyang is the only reviewed respondent that received a weighted-average margin. Therefore, for the preliminary results, the Department has preliminarily determined to assign Zhengyang's margin to the non-selected separate-rate companies.

⁵ See Memorandum, "Administrative Review of the Antidumping Duty Order on Fresh Garlic from the People's Republic of China: Respondent Selection Memorandum," dated March 7, 2017.

PRC-Wide Entity

The Department's policy regarding conditional review of the PRC-wide entity applies to this administrative review.⁶ Under this policy, the PRC-wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested, and the Department did not self-initiate, a review of the PRC-wide entity for this POR, the entity is not under review and the entity's rate (i.e., \$4.71/kg) is not subject to change.⁷ Aside from the no shipments companies discussed below, and the companies for which the review is being rescinded, the Department considers all other companies for which a review was requested, and which did not preliminarily qualify for a separate rate, to be part of the PRC-wide entity. For additional information, see the Preliminary Decision Memorandum.

Preliminary Results of Administrative Review

The Department preliminarily determines that the following weighted-average dumping margins exist for the administrative review covering the period November 1, 2015, through October 31, 2016:

Exporter	Weighted-Average Margin (dollars per kilogram)
Shandong Jinxiang Zhengyang Import & Export Co., Ltd.	2.69
Jining Shunchang Import & Export Co., Ltd.	2.69
Jinxiang Feiteng Import & Export Co., Ltd.	2.69
Qingdao Sea-Line International Trading Co., Ltd.	2.69
Shenzhen Bainong Co., Ltd.	2.69
Shenzhen Xinboda Industrial Co., Ltd.	2.69
Weifang Hongqiao International Logistics Co., Ltd.	2.69

⁶ See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013).

⁷ See *Fresh Garlic from the People's Republic of China: Final Results and Partial Rescission of the 13th Antidumping Duty Administrative Review and New Shipper Reviews*, 74 FR 29174 (June 19, 2009).

Preliminary Results of New Shipper Reviews

The Department preliminarily determines that the following weighted-average dumping margins exist for the new shipper review covering the period November 1, 2015, through October 31, 2016:

Exporter	Weighted-Average Margin (dollars per kilogram)
Qingdao Joinseafoods Co., Ltd. and Join Food Ingredient Inc.	2.20
Zhengzhou Yudi Shengjin Agricultural Trade Co., Ltd.	3.19

Disclosure, Public Comment and Opportunity to Request a Hearing

The Department intends to disclose the calculations used in our analyses to parties in this review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Case briefs or other written comments may be submitted by interested parties no later than seven days after the date on which the final verification report is issued in these proceedings and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.⁸ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.⁹ Any electronically filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by the date and time it is due.

Pursuant to 19 CFR 351.310, any interested party may request a hearing within 30 days of publication of this notice. Hearing requests should contain the following information: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the

⁸ See 19 CFR 351.309. See also 19 CFR 351.303 (for general filing requirements).

⁹ See 19 CFR 351.309(c)(2).

issues to be discussed. Oral presentations will be limited to issues raised in the case and rebuttal briefs. If a party requests a hearing, the Department will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing.

The Department intends to issue the final results of these reviews, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review, in accordance with 19 CFR 351.212(b). For the companies for which this review is rescinded, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions with respect to the companies for which this review is rescinded to CBP 15 days after the publication of this notice. For the remaining companies subject to review, the Department will direct CBP to assess rates based on the per-unit (*i.e.*, per kilogram) amount on each entry of the subject merchandise during the POR. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of review.

Pursuant to the Department's assessment practice in NME cases, for merchandise that was not reported in the U.S. sales databases submitted by an exporter individually examined during this review, but that entered under the case number of that exporter (*i.e.*, at the

individually-examined exporter's cash deposit rate), the Department will instruct CBP to liquidate such entries at the NME-wide rate. In addition, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.*, at that exporter's rate) will be liquidated at the PRC-wide rate.¹⁰

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2) of the Act: (1) for the companies listed above, the cash deposit rate will be the rate established in these final results of review (except, if the rate is zero or *de minimis*, then zero cash deposit will be required for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 4.71 U.S. dollars per kilogram; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties

¹⁰ For a full discussion of this practice, see *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these preliminary results in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.213(h) and 351.221(b)(4).

Dated: November 29, 2017

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary of Enforcement and Compliance

Appendix I

Companies for Which Administrative Reviews Have Been Rescinded

1. Jining Alpha Food Co., Ltd.
2. Jining Yongjia Trade Co., Ltd.
3. Jinxiang Hejia Co., Ltd.
4. Qingdao Joinseafoods Co., Ltd. and Join Food Ingredient Inc.
5. Zhengzhou Yudi Shengjin Agricultural Trade Co., Ltd.
6. Jinxiang Shengtai Fruits & Vegetables Co., Ltd.

Appendix II

Companies for Which Administrative Reviews Have Been Preliminarily Rescinded

1. Jinxiang Jinma Fruits Vegetables Products Co., Ltd
2. Juxian Huateng Food Co., Ltd.
3. Qingdao Hailize (Sea-Line) International Trading Co., Ltd.
4. Qingdao Jiuyihongrun Foods Co., Ltd.
5. Qingdao Ritai Food Co., Ltd.
6. Zhengzhou Harmoni Spice Co. Ltd.
7. Zhonglian Nongchan Co., Ltd.

Appendix III

Non-Selected Separate Rate Companies

1. Jining Shunchang Import & Export Co., Ltd.
2. Jinxiang Feiteng Import & Export Co., Ltd.
3. Qingdao Sea-Line International Trading Co., Ltd.
4. Shenzhen Bainong Co., Ltd.
5. Shenzhen Xinboda Industrial Co., Ltd.
6. Weifang Hongqiao International Logistics Co., Ltd.

Appendix IV

Companies That Have Certified No Shipments

1. Jinan Farmlady Trading Co., Ltd.
2. Jining Shengtai Fruits & Vegetables Co., Ltd.
3. Jining Yifa Garlic Produce Co., Ltd.
4. Jinxiang Richfar Fruits & Vegetables Co., Ltd.
5. Shijiazhuang Goodman Trading Co., Ltd.

[FR Doc. 2017-26378 Filed: 12/6/2017 8:45 am; Publication Date: 12/7/2017]