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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-831]

Fresh Garlic from the People's Republic of China: Final Results of the 23rd Antidumping Duty Administrative Review; 2016-2017

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

SUMMARY: The Department of Commerce (Commerce) determines that Shandong Jinxiang Zhengyang Import & Export Co., Ltd. (Zhengyang) made sales of fresh garlic from the People's Republic of China (China) at less than normal value during the period of review (POR) November 1, 2016 through October 31, 2017. Commerce finds that Qingdao Sea-line International Trading Co., Ltd. (Sea-line) withheld requested information, significantly impeded the review, and did not cooperate to the best of its ability. Accordingly, pursuant to sections 776(a) and (b) of the Tariff Act of 1930, as amended (the Act), we are relying on adverse facts available.

These determinations and the final dumping margins are discussed below in the "Final Results" section of this notice.

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, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the preliminary results of this administrative review of the antidumping duty order on fresh garlic from China on December 10, 2018.¹ We preliminarily found that the mandatory respondents, Zhengyang and Sea-line, sold subject merchandise to the United States at less than normal value. Furthermore, we found that two companies certified that they made no shipments during the POR and that six companies, in addition to the mandatory respondents, qualified for separate rate status.

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018 through the resumption of operations on January 29, 2019.² If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for the final results was tolled to May 20, 2019.

Between March 8 and March 11, 2019, Zhengyang, Sea-line, and the petitioners³ submitted their respective case briefs.⁴ On March 14, 2019, in response to requests from the petitioners⁵ and Sea-line,⁶ we extended the deadline for interested parties to submit rebuttal briefs by five days.⁷ On March 20, 2019, Sea-line and the petitioners submitted rebuttal briefs.⁸

¹ See *Fresh Garlic from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 63479 (December 10, 2018) (*Preliminary Results*).

² See Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

³ The petitioners are the Fresh Garlic Producers Association and its individual members: Christopher Ranch L.L.C.; The Garlic Company; and Valley Garlic.

⁴ See Zhengyang's Letter, "Fresh Garlic from the People's Republic of China – Case Brief," dated March 8, 2019; see also Sea-line's Letter, "Fresh Garlic from the PRC: Case Brief of Qingdao Sea-line International Trading Co., Ltd.," dated March 8, 2019; Petitioners' Letter, "Fresh Garlic from the People's Republic of China: Petitioners' Case Brief," dated March 11, 2019.

⁵ See Petitioners' Letter, "23rd Administrative Review of the Antidumping Duty Order on Fresh Garlic from the People's Republic of China – Petitioners' Request for Extension of deadline for Submission of Rebuttal Case Briefs," dated March 12, 2019.

On May 10, 2019, Commerce extended the deadlines for the final results of this administrative review from 120 days to 180 days after the publication of the *Preliminary Results*. The new deadline is now July 18, 2019.⁹

Scope of the Order

The products covered by the order are all grades of garlic, whole or separated into constituent cloves, whether or not peeled, fresh, chilled, frozen, water or other neutral substance, but not prepared or preserved by the addition of other ingredients or heat processing. The differences between grades are based on color, size, sheathing, and level of decay. The scope of the order does not include the following: (a) Garlic that has been mechanically harvested and that is primarily, but not exclusively, destined for non-fresh use; or (b) garlic that has been specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed. The subject merchandise is used principally as a food product and for seasoning. The subject garlic is currently classifiable under subheadings: 0703.20.0000, 0703.20.0005, 0703.20.0010, 0703.20.0015, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, 0711.90.6500, 2005.90.9500, 2005.90.9700, 2005.99.9700, of the Harmonized Tariff Schedule of the United States (HTSUS).¹⁰

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive. In order to be excluded from the order, garlic entered under the HTSUS subheadings listed above that is (1) mechanically

⁶ See Sea-line's Letter, "Fresh Garlic from the PRC: Extension Request for Submission of Rebuttal Brief on Behalf of Qingdao Sea-Line International Trading Co., Ltd.," dated March 14, 2019.

⁷ See Memorandum, "23rd Administrative Review of Fresh Garlic from the People's Republic of China: Extension of Rebuttal Briefing Schedule," dated March 14, 2019.

⁸ See Sea-line's Letter, "Fresh Garlic from the PRC: Rebuttal Brief of Qingdao Sea-line International Trading Co., Ltd.," dated May 20, 2019; see also Petitioners' Letter, "Fresh Garlic from the People's Republic of China: Petitioners' Rebuttal Brief," dated March 20, 2019.

⁹ See Memorandum, "Fresh Garlic from the People's Republic of China – 23rd Administrative Review: Extension of Deadline for the Final Results of Review," dated May 10, 2019.

¹⁰ See *Antidumping Duty Order: Fresh Garlic from the People's Republic of China*, 59 FR 59209 (November 16, 1994).

harvested and primarily, but not exclusively, destined for non-fresh use or (2) specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed must be accompanied by declarations to U.S. Customs and Border Protection (CBP) to that effect.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are addressed in the accompanying Issues and Decision Memorandum.¹¹ The issues are identified in Appendix I to this notice. The Issues and 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 in the Central Records Unit, room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results*, and for the reasons explained in the Issues and Decision Memorandum, we have applied facts available with an adverse inference to Sea-line. As such, and as described below, we have revised the margin assigned to the separate rate respondents.

Final Determination of No Shipments

In the *Preliminary Results*, Commerce determined that the QTF-Entity¹² and Jining Shengtai Fruits & Vegetables Co., Ltd. each had no shipments during the POR.¹³ As we have

¹¹ See Memorandum, "Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review: Fresh Garlic from the People's Republic of China; 2016-2017," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum) at "Discussion of the Issues."

¹² The QTF-Entity includes Qingdao Lianghe International Trade Co., Ltd. (Lianghe); Qingdao Xintianfeng Foods Co., Ltd. (QXF); Qingdao Tiantaixing Foods Co., Ltd. (QTF); Qingdao Tianhefeng Foods Co., Ltd. (QTHF);

not received any information to contradict our preliminary findings, we determine that these entities did not have any shipments of subject merchandise during the POR.

China-Wide Entity

As discussed in the *Preliminary Results*, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity.¹⁴ Because no party requested a review of the China-wide entity, the entity is not under review and the entity's rate (*i.e.*, \$4.71 per-kilogram (kg)) is not subject to change. Aside from the no-shipment companies discussed above, Commerce considers all other companies for which a review was requested, and which did not qualify for a separate rate, to be part of the China-wide entity. A list of the companies determined to be part of the China-wide entity is provided in Appendix III to this notice.

Separate Rates

In the *Preliminary Results*, in accordance with section 777A(c)(2)(B) of the Act, Commerce employed a limited examination methodology, as we determined that it would not be practicable to examine individually all companies for which a review request was made.¹⁵ There were six exporters of subject merchandise from China that demonstrated their eligibility for a separate rate but were not selected for individual examination in this review. These six exporters are listed in Appendix II.

Neither the Act nor Commerce's regulations address the establishment of the rate applied to individual companies not selected for examination where Commerce limited its examination

Qingdao Beixing Trading Co., Ltd. (QBT); Hebei Golden Bird Trading Co., Ltd.; and Huamei Consulting. See Memorandum, "23rd Administrative Review of the Antidumping Duty Order on Fresh Garlic from the People's Republic of China: Status of the QTF-Entity," dated October 22, 2018, at Attachment.

¹³ See *Preliminary Results*, 83 FR at 63480-82.

¹⁴ 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).

¹⁵ See Memorandum, "Selection of Respondents for Individual Examination," dated February 28, 2018.

in an administrative review pursuant to section 777A(c)(2) of the Act. Commerce’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 Commerce to base an all-others rate on the 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 these final results of review, we calculated a weighted-average dumping margin for Zhengyang, but based Sea-line’s margin on facts available. As Zhengyang’s margin is the only margin that is not either *de minimis* or based entirely on adverse facts available, we have assigned Zhengyang’s margin to the separate rate respondents.

Final Results of Review

Commerce finds that the following weighted-average dumping margins exist for the period November 1, 2016 through October 31, 2017:

Exporter	Weighted-Average Dumping Margin (dollars per-kg)
Shandong Jinxiang Zhengyang Import & Export Co., Ltd.	2.87
Qingdao Sea-line International Trading Co., Ltd.	4.71
Chengwu County Yuanxiang Industry & Commerce Co., Ltd.	2.87
Jining Alpha Food Co., Ltd.	2.87
Qingdao Maycarrier Import & Export Co., Ltd.	2.87
Shandong Chenhe International Trading Co., Ltd.	2.87
Shandong Happy Foods Co., Ltd.	2.87
Weifang Hongqiao International Logistics Co., Ltd.	2.87

Assessment Rates

Pursuant to section 751(a)(2)(A) and (C) of the Act, and 19 CFR 351.212(b), Commerce has determined, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Commerce intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

Pursuant to Commerce's assessment practice in non-market economy (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), Commerce will instruct CBP to liquidate such entries at the NME-wide rate. In addition, if Commerce 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 NME-wide rate.¹⁶

Cash Deposit Requirements

Commerce intends to instruct CBP to require a cash deposit for antidumping duties equal to the weighted-average margin by which normal value exceeds U.S. price. The following cash deposit requirements will be effective upon publication of these final results of this administrative review for shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice, as provided by section 751(a)(2)(C) of the Act: (1) for the exporters listed above, the cash deposit rate will be equal to the weighted-average dumping margin established in the final results of this review; (2) for previously investigated or reviewed Chinese and non-Chinese exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed segment of this proceeding; (3) for all Chinese exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for the China-wide entity (*i.e.*, 4.71 dollars per-kg); and (4) for all non-Chinese exporters of subject merchandise that have not received their own rate, the cash

¹⁶ For a full discussion of this practice, see *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure

We intend to disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties has occurred, and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213.

Dated: July 18, 2019.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Final Determination of No Shipments
- V. Use of Facts Available and Adverse Facts Available (AFA)
- VI. Discussion of the Issues:
 - Comment 1: Whether Sea-line Provided Reliable Sales Information to Calculate a Dumping Margin
 - Comment 2: Whether Romania is the Appropriate Surrogate Country
 - Comment 3: Whether Commerce Double-Counted Chemicals in Sea-line's Calculation
- VII. Recommendation

Appendix II

List of Companies Receiving a Separate Rate

1. Chengwu County Yuanxiang Industry & Commerce Co., Ltd.
2. Jining Alpha Food Co., Ltd.
3. Qingdao Maycarrier Import & Export Co., Ltd.
4. Shandong Chenhe International Trading Co., Ltd.
5. Shandong Happy Foods Co., Ltd.
6. Weifang Hongqiao International Logistics Co., Ltd.

Appendix III

List of Companies Not Receiving Separate Rate Status

1. Bestway Logistics Inc.
2. Chengwu Yuanxiang Industry and Commerce Co., Ltd.
3. China Union Agri. (Qingdao) Co., Ltd.
4. Dongying Richmond International
5. Jiangyoung Gunagafa Vegetable Professional Corporation
6. Jinan Farmlady Trading Co., Ltd.
7. Jining City Billion Garlic Products Co., Ltd.
8. Jining New Silk Road Food Co., Ltd.
9. Jining Rich Farmer International
10. Jining Yifa Garlic Produce Co., Ltd.
11. Jining Yongjia Trade Co., Ltd.
12. Jinxiang County Jinji Trade Co., Ltd.
13. Jinxiang Hongyu Freezing & Storing Co., Ltd.
14. Jinxiang Richfar Fruits & Vegetables Co., Ltd.
15. Juxian Huateng Organic Ginger Co., Ltd.
16. Laiwu Ever Green Food Co., Ltd.
17. Lanling Xinxinyuan Food Co., Ltd.
18. Pinnacle Sourcing & Marketing, Ltd.
19. Qingdao Gabsan Trading Co., Ltd.
20. Qingdao Jiashan Trading Co., Ltd.
21. Qingdao Justop Industries and Trading Co., Ltd.
22. Qingdao Ritai Food Co., Ltd.
23. Shandong Galaxy International
24. Shandong Helu International Trade Co., Ltd.
25. Shandong Lejianda Food Co., Ltd.
26. Victoria Foods Co., Ltd.
27. Weifang Huashun Import & Export Co., Ltd.
28. Weifang Wangyuan Food Co., Ltd.

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