



BILLING CODE: 3510-DS-P

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

Fresh Garlic from the People's Republic of China: Final Rescission of Antidumping Duty New Shipper Reviews; 2010-2011

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

SUMMARY: On October 25, 2012, the Department of Commerce (Department) published its preliminary rescission for the new shipper reviews (NSRs) of the antidumping duty order on fresh garlic from the People's Republic of China (PRC)<sup>1</sup> covering the period of review (POR) November 1, 2010, through October 31, 2011, for Foshan Fuyi Food Co., Ltd. (Fuyi) and Qingdao May Carrier Import & Export Co., Ltd. (Maycarrier). For these final results, the Department continues to find that Fuyi's new shipper sales were not bona fide. Additionally, the Department continues to find that Maycarrier does not qualify as a new shipper. Therefore, the Department is rescinding the NSRs of both Fuyi and Maycarrier.

EFFECTIVE DATE: [Insert date of publication in the Federal Register.]

FOR FURTHER INFORMATION CONTACT: Lingjun Wang or David Lindgren, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-2316 or (202) 482-3870, respectively.

SUPPLEMENTARY INFORMATION:

#### Background

On October 25, 2012, the Department published the Preliminary Rescission. Between November 2012 and January 2013, the Department issued, and Fuyi and Maycarrier responded

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<sup>1</sup> See Fresh Garlic From the People's Republic of China: Preliminary Rescission of Antidumping Duty New Shipper Reviews; 2010-2011, 77 FR 65171 (October 25, 2012) (Preliminary Rescission).

to, supplemental questionnaires. Additionally, on January 25, 2013, Maycarrier filed comments on factual information on the record. In February 2013, Fuyi and Maycarrier filed case briefs and Petitioners<sup>2</sup> filed rebuttal briefs.

The Department placed factual information regarding Fuyi's NSR on the record on January 9, 2013, and, based on a request from Maycarrier, on January 30, 2013, the Department placed on the record the surrogate country selection and surrogate value memorandum, intermediate input methodology memorandum, and surrogate value data used in the concurrent administrative review on fresh garlic from the PRC. Finally, Maycarrier submitted comments on February 20, 2013, requesting that, if the Department were to conduct a bona fides analysis of the price and quantity of Maycarrier's sales, it should have an opportunity to submit comments on such analysis. As discussed in more detail below, the Department has not conducted a bona fides analysis of Maycarrier's sales.

#### Scope of the Order

The products subject to the antidumping duty order are all grades of garlic, whole or separated into constituent cloves. Fresh garlic that is subject to the order is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) 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. A full description of the scope of the order is contained in the Final Decision Memorandum.<sup>3</sup> The written description is dispositive.

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<sup>2</sup> Petitioners are the Fresh Garlic Producers Association and its individual members: Christopher Ranch L.L.C., The Garlic Company, Valley Garlic, and Vessey and Company, Inc.

<sup>3</sup> See Memorandum to Paul Piquado, Assistant Secretary for Import Administration from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, Issues and Decision Memorandum for the

## Final Rescission of Fuyi and Maycarrier

Due to the totality of circumstances, including price, quantity and inconsistencies about the reported producer, as detailed in the Fuyi final analysis memorandum,<sup>4</sup> the Department finds that Fuyi's sales are not bona fide. The Department has explained in the Maycarrier final analysis memorandum<sup>5</sup> that Maycarrier does not meet the minimum requirements set forth in 19 CFR 351.214(b)(2)(iv)(C) to qualify as a new shipper. As a result, the Department is rescinding the NSRs of both Fuyi and Maycarrier.

## Analysis of Comments Received

All issues raised in the case and rebuttal briefs are addressed in the Final Decision Memorandum, dated concurrently with this notice and hereby adopted by this notice. A list of the issues raised in the briefs and addressed in the Final Decision Memorandum is appended to this notice. The Final Decision Memorandum is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at <http://iaaccess.trade.gov>, and is available to all parties in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building. In addition, a complete version of the Final Decision Memorandum can be accessed directly on the Internet at <http://www.trade.gov/ia/>. The signed Final Decision Memorandum and the electronic versions of the Final Decision Memorandum are identical in content.

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Final Rescission of the Antidumping Duty New Shipper Reviews of Fresh Garlic from the People's Republic of China," dated concurrently with this notice (Final Decision Memorandum).

<sup>4</sup> See Memorandum to Barbara E. Tillman, Director, AD/CVD Operations, Office 6, Import Administration regarding "New Shipper Review of the Antidumping Duty Order on Fresh Garlic from the People's Republic of China: Analysis of Foshan Fuyi Food Co., Ltd.," dated March 19, 2013.

<sup>5</sup> See Memorandum to Barbara E. Tillman, Director, AD/CVD Operations, Office 6, Import Administration regarding "Antidumping Duty New Shipper Review of Fresh Garlic from the People's Republic of China: Analysis of Qingdao May Carrier Import & Export Co., Ltd.," dated March 19, 2013.

### Cash Deposit Requirements

Effective upon publication of the final rescission of the NSRs of Fuyi and Maycarrier, the Department will instruct U.S. Customs and Border Protection (CBP) to discontinue the option of posting a bond or security in lieu of a cash deposit for entries of subject merchandise by Fuyi and Maycarrier. Cash deposits will be required for exports of subject merchandise by Fuyi and Maycarrier entered, or withdrawn from warehouse, for consumption on or after the publication date at the per-unit PRC-wide rate, \$4.71 per kilogram.

### Assessment Instructions

As a result of the rescission of the NSRs of Fuyi and Maycarrier, the entries of subject merchandise made by Fuyi and Maycarrier covered by these NSRs will be assessed at the PRC-wide rate. Because the PRC entity is under review in the 2010-2011 administrative review currently being conducted,<sup>6</sup> and because the POR of the administrative review coincides with the POR of these NSRs, we will issue liquidation instructions for Fuyi's and Maycarrier's entries upon completion of the administrative review. Upon completion of the administrative review, the Department will instruct CBP to assess antidumping duties on entries for Fuyi and Maycarrier at the PRC-wide rate pursuant to the final results of the 2010-2011 administrative review.

### Notification to Importers

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this

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<sup>6</sup> See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 76 FR 82268.

requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Return or Destruction of Proprietary Information

This notice serves as a reminder to parties subject to the administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3). 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.

This notice is issued and published in accordance with sections 751(a)(2)(B) and 777(i) of the Tariff Act of 1930, as amended, and 19 CFR 351.214.

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Paul Piquado  
Assistant Secretary  
for Import Administration

Date  
March 19, 2013

LIST OF ISSUES ADDRESSED IN THE FINAL DECISION MEMORANDUM

**Comment 1: Whether Maycarrier is a New Shipper**

**Comment 2: Whether Maycarrier's Sales are Bona Fide**

**Comment 3: Whether the Department Should Deduct the VAT from the Surrogate Value for Raw Garlic Bulb**

**Comment 4: Whether the Department's Policies on Handling Import Statistics Distort Surrogate Values**

**Comment 5: Whether Maycarrier is Entitled to a Separate Rate**

**Comment 6: Whether Fuyi's Sales Were Bona Fide**

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