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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-831]

Fresh Garlic from the People's Republic of China: Final Rescission of the Semiannual Antidumping Duty New Shipper Review of Jinxiang Kaihua Imp & Exp Co., Ltd.

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

SUMMARY:

The Department of Commerce (“the Department”) is conducting a new shipper review (“NSR”) of Jinxiang Kaihua Imp & Exp Co., Ltd. (Kaihua) regarding the antidumping duty order on fresh garlic from the People’s Republic of China (“the PRC”). On June 5, 2015, the Department published the preliminary results in which it found that Kaihua’s new shipper sale is not *bona fide*. As a result, we preliminarily rescinded the NSR of Kaihua¹ and we invited interested parties to comment. Based on our analysis of the comments received, we continue to find Kaihua’s new shipper sale is not *bona fide*. Consequently, the Department is rescinding this NSR.

EFFECTIVE DATE: (INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*.)

FOR FURTHER INFORMATION CONTACT Milton Koch, AD/CVD Operations, Office VII,

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482-2584.

¹ See *Fresh Garlic From the People’s Republic of China: Preliminary Intent To Rescind the New Shipper Review of Jinxiang Kaihua Imp & Exp Co., Ltd.*, 70 FR 32092 (June 5, 2015) (*Preliminary Results*) and accompanying Issues and Decision Memorandum (PDM).

Background

On June 5, 2015, the Department published the preliminary results of this new shipper review.² The review covers the new shipper Kaihua. The period of review (POR) is November 1, 2013, through April 30, 2014. A summary of the events that occurred since the Department published the *Preliminary Results*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum, dated concurrently with, and hereby adopted by, this notice.³

The Issues and Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://iaaccess.trade.gov>, and is available to all parties in the Department's Central Records Unit, located in room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be found at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Issues and Decision Memorandum are identical in content.

Scope of the Order

The merchandise covered by this order is all grades of garlic, whether whole or separated into constituent cloves. The subject merchandise is currently classifiable 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,

² *Id.*

³ See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, regarding "Issues and Decision Memorandum for the Final Results of Antidumping Duty Semiannual New Shipper Review on Fresh Garlic from the People's Republic of China: Jinxiang Kaihua Imp & Exp Co., Ltd." issued concurrently with this notice (Issues and Decision Memorandum).

0711.90.6000, 0711.90.6500, 2005.90.9500, 2005.90.9700, and 2005.99.9700. A full description of the scope of the order is contained in the Issues and Decision Memorandum.⁴ Although the HTSUS subheadings are provided for convenience and customs purposes, the written product description is dispositive.

Final Rescission of New Shipper Review

As we explain in the Issues and Decision Memorandum and in the proprietary Kaihua Bona Fides Memorandum⁵ issued with the *Preliminary Results*, due to the totality of circumstances, including the price, discrepancies relating to expenses arising from the transaction, lack of definitive proof of payment, and pattern of inconsistencies in Kaihua's submissions, we continue to find that Kaihua's sale is not *bona fide*. As a result, we are rescinding the new shipper review of Kaihua.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of the issues that are raised in the briefs and addressed in the Issues and Decision Memorandum is in the appendix of this notice.

Cash Deposit Requirements

Effective upon publication of the final rescission of the NSR of Kaihua, the Department will instruct CBP to discontinue the option of posting a bond or security in lieu of a cash deposit for entries of subject merchandise by Kaihua. Cash deposits will be required for exports of subject merchandise by Kaihua entered, or withdrawn from warehouse, for consumption on or after the publication date, at the PRC-wide rate.

⁴ See the Issues and Decision Memorandum.

⁵ See Memorandum to Edward Yang, Office Director, AD/CVD Operations Office VII, "Bona Fide Nature of the Sales in the Antidumping Duty New Shipper Review of Fresh Garlic from the People's Republic of China (PRC): Jinxiang Kaihua Imp & Exp Co., Ltd." dated June 3, 2015.

Assessment Instructions

As the result of this rescission of the NSR of Kaihua, the entries of Kaihua covered by this NSR will be assessed at the PRC-wide rate.

Notification to Importers

This notice serves as final 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 POR. Failure to comply with this requirement could result in the Secretary of Commerce'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 administrative protective order (APO) of their responsibility concerning the disposition of business proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3). We request timely written notification of return or destruction of APO materials or conversion to judicial protective order. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

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

Dated: October 1, 2015.

Ronald K. Lorentzen,
Acting Assistant Secretary
for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

1. Summary
2. Background
3. Scope of the Order
4. Discussion of the Issues
 - Comment 1: Whether The Price Of Kaihua's Garlic Was *Bona Fide*
 - Comment 2: Whether The Comparison Of Single-Clove Garlic With Multi-Clove Garlic Comports With Recent Decisions
 - Comment 3: Whether CBP Data Contains Errors
 - Comment 4: Whether Kaihua Reported Accurate And Actual Expense And Accounting Data
 - Comment 5: Whether Kaihua Provided Proof Of Payment
 - Comment 6: Whether There Is A Pattern Of Inconsistencies With Kaihua's Submissions
5. Recommendation

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