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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 24th Antidumping Duty Administrative Review; 2017-2018

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

SUMMARY: The Department of Commerce (Commerce) is conducting the 24th administrative review of the antidumping duty (AD) order on fresh garlic from the People's Republic of China (China). The period of review (POR) for this administrative review is November 1, 2017 through October 31, 2018. Commerce preliminarily determines that mandatory respondent, Shijiazhuang Goodman Trading Co., Ltd. (Goodman), sold subject merchandise to the United States at less than normal value (NV). We also preliminarily find that the review requests made by the Coalition for Fair Trade in Garlic, and its individual members (collectively, the CFTG), and Roots Farm Inc. (Roots Farm) were not valid, and accordingly have preliminarily rescinded the review with respect to nineteen companies, including the other mandatory respondent, Zhengzhou Harmoni Spice Co., Ltd. (Harmoni). 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 Alex 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

On February 6, 2019, Commerce initiated the 24th administrative review of the AD order on fresh garlic from China with respect to 23 companies and invited interested parties to comment.¹ On March 14, 2019, Commerce initiated this review with respect to ten companies that were inadvertently omitted from the *Initiation Notice*.² 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, 2019.³ 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 preliminary results, after tolling, was September 11, 2019. On August 23, 2019, Commerce extended the deadline for the preliminary results of this review.⁴ The revised deadline for the preliminary results is now January 9, 2020.

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) 0703.30.0005, 0703.20.0000, 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, and 2005.99.9700. Although the HTSUS numbers are provided for convenience and customs purposes, the written product

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 2159 (February 6, 2019) (*Initiation Notice*).

² See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 9297 (March 14, 2019) (*Second Initiation*).

³ See Memorandum, "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.

⁴ See Memorandum, "Fresh Garlic from the People's Republic of China – 24th Administrative Review (2017-2018): Extension of Deadline for the Preliminary Results of the Review," dated August 23, 2019.

description remains dispositive. For a full description of the scope of this order, *see* “Scope of the Order” in the accompanying Preliminary Decision Memorandum.⁵

Partial Rescission of Administrative Review

On February 6 and March 14, 2019, Commerce initiated the 24th administrative review of the AD order on fresh garlic from China with respect to 33 companies.⁶ On June 11, 2019, the petitioners⁷ timely withdrew their sole requests for review of eight companies.⁸ Therefore, in accordance with 19 CFR 351.213(d)(1), Commerce is partially rescinding this administrative review with respect to the companies listed in Appendix II.

Preliminary Rescission of Administrative Review

In addition, as discussed at “Partial Rescission of Administrative Review” in the accompanying Preliminary Decision Memorandum, Commerce has preliminarily determined that the review requests submitted by the CFTG and Roots Farm were invalid, and is preliminarily rescinding the administrative review with respect to the 19 companies solely requested by the CFTG and Roots Farm. These companies are listed in Appendix III.

Methodology

Commerce is conducting this review in accordance with sections 751(a)(1)(B) and (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. Because China is a non-market

⁵ *See* Memorandum, “Decision Memorandum for the Preliminary Results, Preliminary Rescission, and Final Rescission, In Part, of the 2017-2018 Antidumping Duty Administrative Review: Fresh Garlic from the People’s Republic of China,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁶ *See Initiation Notice*; and *Second Initiation*.

⁷ The petitioners are the Fresh Garlic Producers Association (FGPA) and its individual members: Christopher Ranch L.L.C., The Garlic Company, and Valley Garlic.

⁸ *See* Petitioners’ Letter, “24th Administrative Review of the Antidumping Duty Order on Fresh Garlic from the People’s Republic of China – Petitioners’ Partial Withdrawal of Review Request,” dated June 11, 2019.

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. A list of topics discussed in the Preliminary Decision Memorandum is provided in Appendix I. 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 to all parties in the Central Records Unit, room B8024, of the main Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

China-Wide Entity

Commerce's policy regarding conditional review of the China-wide entity applies to this administrative review.⁹ Under this policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the China-wide entity in this review, 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 shipments companies discussed below, and the companies for which the review is being rescinded, Commerce 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 China-wide entity. For additional information, *see* the Preliminary Decision Memorandum.

⁹ *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).

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 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 Regarding the "No Shipments" Company

As discussed at "Preliminary Determination Regarding the 'No Shipments' Company" in the accompanying Preliminary Decision Memorandum, one company, Jinxiang Infang Fruit & Vegetable Co., Ltd. (Infang), timely filed a "no shipment" certification stating that it had no entries into the United States of subject merchandise during the POR. However, the only review request for this company was found to be invalid *ab initio*, therefore, we are rescinding the review with respect to Infang.

Preliminary Determination of Separate Rates for Non-Selected Companies

In accordance with section 777A(c)(2)(B) of the Act, Commerce employed a limited examination methodology, as it determined that it would not be practicable to individually examine all companies for which a review request was made.¹⁰ There are three exporters of subject merchandise from China that have demonstrated their eligibility for a separate rate but were not selected for individual examination in this review. These three exporters are listed in Appendix IV.

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

¹⁰ See Memorandum, "Administrative Review of the Antidumping Duty Order on Fresh Garlic from the People's Republic of China: 2017-2018: Selection of Respondents for Individual Examination," dated May 30, 2019.

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 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 this administrative review, Goodman is the only reviewed respondent that received a weighted-average margin. Therefore, for the preliminary results, Commerce has preliminarily determined to assign Goodman’s rate to the non-selected separate-rate companies.

Preliminary Results of Administrative Review

Commerce preliminarily determines that the following weighted-average dumping margins exist for the administrative review covering the period November 1, 2017 through October 31, 2018:

Exporter	Weighted-Average Margin (dollars per kg)
Shijiazhuang Goodman Trading Co., Ltd.	4.37
Jinxiang Feiteng Import & Export Co., Ltd.	4.37
Chengwu Yuanxiang Industry & Commerce Co., Ltd.	4.37
Qingdao Sea-Line International Trading Co., Ltd.	4.37
China-Wide Entity	4.71

Disclosure, Public Comment, and Opportunity to Request a Hearing

Commerce 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 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.¹¹ 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.¹² All electronically filed documents must be received successfully in their entirety via Commerce'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 issues to be discussed. Oral presentations will be limited to issues raised in the case and rebuttal briefs. If a party requests a hearing, Commerce 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.

Commerce intends to issue the final results of this review, 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, Commerce will determine, and Customs and Border Protection (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

¹¹ See 19 CFR 351.309; see also 19 CFR 351.303 (for general filing requirements).

¹² See 19 CFR 351.309(c)(2).

antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce will direct CBP to assess rates based on the per-unit (*i.e.*, per kg) amount on each entry of the subject merchandise during the POR. Commerce intends to issue assessment instructions to CBP 15 days after the publication date of the final results of review.

Commerce announced a refinement to its assessment practice in NME cases. Pursuant to this refinement in practice, 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 China-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 China-wide rate.¹³

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 China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 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 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 recent period; (3) for all

¹³ For a full discussion of this practice, see *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

Chinese exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the China-wide rate of \$4.71 per kg; and (4) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese 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 prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

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: January 8, 2020

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. Partial Rescission of Administrative Review
- V. Preliminary Determination Regarding the “No Shipments” Company
- VI. Discussion of the Methodology
- VII. Normal Value
- VIII. Currency Conversion
- IX. Recommendation

Appendix II

Companies for Which Administrative Reviews Have Been Rescinded

1. Chengwu County Yuanxiang Industries
2. Jiang Hua Yao Autonomous County Nikko Biotechnology Co., Ltd.
3. Jiangsu Lvhui Food Co., Ltd.
4. Jiangyong Foreign Trade Corp.
5. Lianyungang Xiangjiang Food Co., Ltd.
6. Qingdao Ritai Food Co., Ltd.
7. Tianjin Calgry Import Export
8. Weifang Naiké Food Co., Ltd.

Appendix III

Companies for Which Administrative Reviews Have Been Preliminarily Rescinded

1. Hebei Golden Bird Trading Co., Ltd.
2. Jining Yongjia Trade Co., Ltd.
3. Jinxiang Changwei Agricultural Products Co., Ltd.
4. Jinxiang Dingyu Agricultural Products Co., Ltd.
5. Jinxiang Fitow Trading Co., Ltd.
6. Jinxiang Guihua Food Co., Ltd.
7. Jinxiang Hejia Co., Ltd.
8. Jinxiang Honghua Foodstuff Co., Ltd.
9. Jinxiang Infang Fruit & Vegetable Co., Ltd.
10. Jinxiang Kingkey Trade Co., Ltd.
11. Jinxiang Wanxing Garlic Products Co. Ltd.
12. Qingdao Doo Won Foods Co., Ltd.
13. Qingdao Joinseafoods Co. Ltd.
14. Shandong Chengwu Longxing Farm Produce & By-Product Co., Ltd.
15. Weifang Hongqiao International Logistics Co., Ltd.
16. Xinjiang Longping Hongan Xiwannian Chili Products Co., Ltd.
17. Yantai Jinyan Trading, Inc.
18. Zhengzhou Harmoni Spice Co., Ltd.
19. Zhengzhou Yudishengjin Farm Products Co., Ltd.

Appendix IV

Non-Selected Separate Rate Companies

1. Jinxiang Feiteng Import & Export Co., Ltd.
2. Qingdao Sea-Line International Trading Co., Ltd.
3. Chengwu Yuanxiang Industry & Commerce Co., Ltd.

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