DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-831]

Fresh Garlic from the People’s Republic of China: Final Results and Partial Rescission, 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) published the Preliminary Results of the 24th administrative review of the antidumping duty order on fresh garlic from the People’s Republic of China (China) on January 15, 2020. The period of review (POR) is November 1, 2017 through October 31, 2018. The mandatory respondent in this review is Shijiazhuang Goodman Trading Co., Ltd. (Goodman). Commerce is also rescinding its review of nineteen companies including the other selected mandatory respondent Zhengzhou Harmoni Spice Co., Ltd. (Harmoni). Based upon our analysis of the comments and information received, we made no changes to the margin calculated for mandatory respondent Goodman.

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


SUPPLEMENTARY INFORMATION:

Background

Commerce published the preliminary results of this administrative review of fresh garlic from China on January 15, 2020.¹ We preliminarily found that the mandatory respondent Goodman sold subject merchandise to the United States at less than normal value. We rescinded

the review with respect to eight companies for which their sole requests for review had been timely withdrawn. Furthermore, we preliminarily determined that the review requests submitted by the Coalition for Fair Trade in Garlic (CFTG) and Roots Farm Inc. (Roots Farm) were invalid and preliminarily rescinded the review with respect to the 19 companies solely requested by the CFTG and Roots Farm. Additionally, we found that three companies qualified for separate rate status.

On April 24, 2020, Commerce tolled all deadlines in administrative reviews by 50 days. On June 30, 2020, Commerce extended the deadline for these final results. On July 21, 2020, Commerce tolled all deadlines in administrative reviews by an additional 60 days. The deadline for the final results of this review is now November 2, 2020.

The CFTG and Roots Farm each timely submitted case briefs. Harmoni and the petitioners each timely filed rebuttal briefs.

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, provisionally preserved, or packed in 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

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2 Those companies are: Chengwu County Yuanxiang Industries; Jiang Hua Yao Autonomous County Nikko Biotechnology Co., Ltd.; Jiangsu Lhui Food Co., Ltd.; Jiangyong Foreign Trade Corp.; Lianyungang Xiangjiang Food Co., Ltd.; Qingdao Ritai Food Co., Ltd.; Tianjin Calgary Import Export; and Weifang Naike Food Co., Ltd.
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, and 2005.99.9700, of the Harmonized Tariff Schedule of the United States (HTSUS).  

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 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 comments raised in the case and rebuttal briefs are addressed in the accompanying Issues and Decision Memorandum. The comments 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](http://access.trade.gov). In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at [http://trade.gov/enforcement/frn/index.html](http://trade.gov/enforcement/frn/index.html). The signed Issues and Decision Memorandum and electronic versions of the Issues and Decision Memorandum are identical in content.

**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

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practicable to examine individually all companies for which a review request was made.\textsuperscript{10} There were 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 the \textit{Final Results of Review} section below.

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 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, \textit{de minimis}, or based entirely on facts available in investigations. In these final results of review, Goodman is the only reviewed respondent that received a weighted-average dumping margin. Goodman’s margin is the only margin that is not either \textit{de minimis} or based entirely on adverse facts available. Therefore, we have assigned Goodman’s margin to the non-selected separate rate respondents.

\textit{Final Results of Review}

Commerce finds that the following weighted-average dumping margins exist for the POR:

<table>
<thead>
<tr>
<th>Exporter</th>
<th>Weighted-Average Dumping Margin (dollars per kilogram)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shijiazhuang Goodman Trading Co., Ltd.</td>
<td>4.37</td>
</tr>
<tr>
<td>Jinxiang Feiteng Import &amp; Export Co., Ltd.</td>
<td>4.37</td>
</tr>
<tr>
<td>Chengwu Yuanxiang Industry &amp; Commerce Co., Ltd.</td>
<td>4.37</td>
</tr>
<tr>
<td>Qingdao Sea-Line International Trading Co., Ltd.</td>
<td>4.37</td>
</tr>
<tr>
<td>China-Wide Entity</td>
<td>4.71</td>
</tr>
</tbody>
</table>

\textit{Assessment Rates}

Pursuant to section 751(a)(2)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.212(b), Commerce has determined, and U.S. Customs and Border Protection (CBP)

shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance
with the final results of this review. Commerce intends to 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. Commerce also intends to issue assessment instructions to CBP 15 days after the
publication date of the final results of review.

Pursuant to Commerce’s assessment practice in NME cases, for merchandise that was not
reported in the U.S. sales databases submitted by the 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 intends to 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 China-wide rate.11

Cash Deposit Requirements

Commerce intends to instruct CBP to require a cash deposit for antidumping duties equal
to the weighted-average amount by which NV 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 in the Federal
Register, as provided by section 751(a)(2)(C) of the Act: (1) for the exporters listed above, the
cash deposit rate will be 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 received a separate rate in a prior segment of this proceeding, 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 kilogram); and (4) for all non-Chinese exporters of subject

11 For a full discussion of this practice, see Non-Market Economy Antidumping Proceedings: Assessment of
Antidumping Duties, 76 FR 65694 (October 24, 2011).
merchandise that 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 deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also 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 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.

Notifications to Interested Parties

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

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: November 2, 2020.

Jeffrey I. Kessler,
Assistant Secretary for Enforcement and Compliance.
Appendix 1

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Final Rescission of Administrative Review
V. Discussion of the Issues:
   Issue 1: Whether the CFTG has Standing to Request a Review
   Issue 2: Whether 26 U.S.C. 6103 Is Applicable
   Issue 3: Whether Sections 782(d) and 782(e) of the Act Are Applicable
   Issue 4: Whether Section 751 of the Act Requires Country-Wide Reviews
   Issue 5: Whether Commerce May Rescind a Review for a Company that Has Not Demonstrated the Absence of *De Jure* and *De Facto* Government Control
   Issue 6: Whether Commerce Exceeded its Authority to Combine Reviews
   Issue 7: Whether the Petitioners and Harmoni’s Relationship Reveals Fraudulent Activity
   Issue 8: Whether Commerce Should Pursue an 18 U.S.C.1001 Case Against Ms. Medina
   Issue 9: Whether Harmoni and the FGPA Conspired to Defraud the United States
   Issue 10: Whether Roots Farm has Standing to Request an Administrative Review
   Issue 11: Whether Commerce Should Calculate a Margin for Harmoni

VI. Recommendation
Appendix 2

List of Companies for Which Administrative Reviews Have Been 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.
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-Products Co., Ltd.
15. Weifang Hongqiao International Logistics Co., Ltd.
16. Xinjiang Longping Hong'an Xiwannian Chili Products Co., Ltd.
17. Yantai Jinyan Trading, Inc.
18. Zhengzhou Harmoni Spice Co., Ltd.
19. Zhengzhou Yudishengjin Farm Products Co., Ltd.

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