



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*].

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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 We rescinded

¹ See *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*, 85 FR 2400 (January 15, 2020) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum (PDM).

the review with respect to eight companies for which their sole requests for review had been timely withdrawn.² Furthermore, we preliminarily determined that the review requests submitted by the Coalition for Fair Trade in Garlic (CFTG) and Roots Farm Inc. (Roots Farm) were invalid and preliminarily rescinded the review with respect to the 19 companies solely requested by the CFTG and Roots Farm.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.³ On June 30, 2020, Commerce extended the deadline for these final results.⁴ On July 21, 2020, Commerce tolled all deadlines in administrative reviews by an additional 60 days.⁵ The deadline for the final results of this review is now November 2, 2020.

The CFTG and Roots Farm each timely submitted case briefs.⁶ Harmoni and the petitioners each timely filed rebuttal briefs.⁷

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

² Those companies are: Chengwu County Yuanxiang Industries; Jiang Hua Yao Autonomous County Nikko Biotechnology Co., Ltd.; Jiangsu Lvhui Food Co., Ltd.; Jiangyong Foreign Trade Corp.; Lianyungang Xiangjiang Food Co., Ltd.; Qingdao Ritai Food Co., Ltd.; Tianjin Calgry Import Export; and Weifang Naiké Food Co., Ltd.

³ See Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID-19,” dated April 24, 2020.

⁴ See Memorandum, “Fresh Garlic from the People’s Republic of China – 24th Administrative Review: Extension of Deadline for the Final Results of the Review,” dated June 30, 2020.

⁵ See Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews,” dated July 21, 2020.

⁶ See CFTG’s Letter, “Case Brief,” dated April 10, 2020; see also Roots Farm’s Letter, “Fresh Garlic From the People’s Republic of China Antidumping Administrative Review: Case Brief of Roots Farm,” dated April 13, 2020.

⁷ See Harmoni’s Letter, “Harmoni Administrative Reply Briefs: 24th Administrative Review of the Antidumping Duty Order on Fresh Garlic from the People’s Republic of China (A-570-831),” dated April 24, 2020 at Attachment 1 and Attachment 2; see also Petitioners’ Letter, “Fresh Garlic from the People’s Republic of China: Petitioners’ Case Rebuttal Brief,” dated April 24, 2020.

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).⁸

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.⁹ 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>. 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>. 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

⁸ See *Antidumping Duty Order: Fresh Garlic from the People's Republic of China*, 59 FR 59209 (November 16, 1994).

⁹ See Memorandum, "Issues and Decision Memorandum for the Final Results and Final Rescission, in Part, of the 2017-2018 Antidumping Duty Administrative Review: Fresh Garlic from the People's Republic of China," dated November 2, 2020, and hereby adopted by this notice.

practicable to examine individually all companies for which a review request was made.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 *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, *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 *de minimis* or based entirely on adverse facts available. Therefore, we have assigned Goodman’s margin to the non-selected separate rate respondents.

Final Results of Review

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

Exporter	Weighted-Average Dumping Margin (dollars per kilogram)
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

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)

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.

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.
 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-Products 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.
- [FR Doc. 2020-24701 Filed: 11/5/2020 8:45 am; Publication Date: 11/6/2020]