



DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-831]

Fresh Garlic from the People's Republic of China: Preliminary Affirmative Determination of Circumvention

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that imports of small and large garlic chunks from the People's Republic of China (China) are circumventing the antidumping (AD) order on fresh garlic from China.

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

FOR FURTHER INFORMATION CONTACT: Charles DeFilippo or Jacob Saude, 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) 482-3797 or 202-482-0981, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 16, 1994, Commerce published the AD order on imports of fresh garlic from China.¹ On February 16, 2023, the Fresh Garlic Producers Association and its individual members (collectively, the petitioners) requested that Commerce initiate a circumvention inquiry with regard to small and large garlic chunks that are exported to the United States from China.² In the Circumvention Request, the petitioners alleged that small and large garlic chunks

¹ See *Antidumping Duty Order: Fresh Garlic from the People's Republic of China*, 59 FR 59209 (November 16, 1994) (*Order*).

² See Petitioners Letter, "Petitioners' Request for Circumvention Ruling Pursuant to Section 781(c) of the Tariff Act of 1930, As Amended," dated February 16, 2023 (Circumvention Request).

constitute merchandise altered in form or appearance in such minor respects that it should be included within the scope of the *Order*, pursuant to section 781(c) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 251.226(j).³

On June 8, 2023, Commerce published in the *Federal Register* the notice of initiation of this circumvention inquiry.⁴ In the *Initiation Notice*, Commerce initiated the circumvention inquiry on the basis of the minor alterations allegation, pursuant to section 781(c) of the Act and 19 CFR 351.226(j).⁵ Commerce initiated the inquiry on a country-wide basis.⁶ For a complete description of events that followed the initiation of this inquiry, *see* the Preliminary Decision Memorandum.⁷

Scope of the *Order*

The merchandise covered by the *Order* is fresh garlic from China. The subject garlic is currently classifiable under subheadings: 0703.20.0005, 0703.20.0010, 0703.20.0015, 0703.20.0020, 0703.20.0000, 0703.20.0090, 0710.80.7060, 0710.80.97500, 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. For a complete description of the scope of the *Order*, *see* the Preliminary Decision Memorandum.

Merchandise Subject to the Circumvention Inquiry

This circumvention inquiry covers small and large garlic chunks produced in China and exported to the United States. A complete description of the merchandise subject to the circumvention inquiry is contained in the Preliminary Decision Memorandum.

³ *See* Circumvention Request.

⁴ *See Fresh Garlic From the People's Republic of China: Initiation of Circumvention Inquiry on the Antidumping Duty Order*, 88 FR 37510 (June 8, 2023) (*Initiation Notice*), and accompanying Initiation Checklist.

⁵ *See Initiation Notice*.

⁶ *Id.*

⁷ *See* Memorandum, “Fresh Garlic from the People’s Republic of China: Preliminary Affirmative Determination of Circumvention for Small and Large Garlic Chunks,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

Methodology

Commerce is conducting this circumvention inquiry pursuant to section 781(c) of the Act and 19 CFR 351.226(j). For a complete description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum. A list of topics discussed in the Preliminary Decision Memorandum is attached as an appendix to this notice. 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 <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Preliminary Affirmative Determination of Circumvention

As detailed in the Preliminary Decision Memorandum, we preliminarily determine that small and large garlic chunks produced in China and exported to the United States constitute merchandise altered in form or appearance in such minor respects that they should be included within the scope of the *Order*, pursuant to section 781(c) of the Act and 19 CFR 351.226(j). We also preliminarily determine that this affirmative circumvention finding should be applied on a country-wide basis.

Suspension of Liquidation

In accordance with 19 CFR 351.226(l)(2), we will direct U.S. Customs and Border Protection (CBP) to continue the suspension of liquidation of previously suspended entries and to suspend liquidation of all entries of small and large garlic chunks produced in and exported from China that are entered, or withdrawn from warehouse, for consumption on or after June 8, 2023, (*i.e.*, the date of the publication of the *Initiation Notice*).⁸ Pursuant to 19 CFR 351.226(l)(2), we will also instruct CBP to require AD cash deposit rates in effect for fresh garlic for each unliquidated entry of small and large garlic chunks produced in and exported from

⁸ *See Initiation Notice.*

China that have been entered, or withdrawn from warehouse, for consumption on or after June 8, 2023.⁹ These suspension of liquidation instructions and cash deposit requirements will remain in effect until further notice.

Public Comment

Pursuant to 19 CFR 351.226(f)(4), interested parties may submit case briefs or other written comments within 14 days of the date of publication of this notice; seven days thereafter, interested parties may submit rebuttal comments. In accordance with 19 CFR 351.226(f)(4), no new factual information will be accepted in the comments or rebuttal comments.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; (3) whether any participant is a foreign national; and (4) a list of the issues to be discussed. If a request for a hearing is made, parties will be notified of the date and time for the hearing at a later date. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date of the hearing.

All submissions must be filed electronically and received successfully in their entirety via ACCESS by 5:00 p.m. Eastern Time on the date that they are due. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹⁰

⁹ See *Order*.

¹⁰ See *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings; Final Rule*, 88 FR 67069 (September 29, 2023).

Notification to Interested Parties

This determination is issued and published in accordance with sections section 781(c) of the Act and 19 CFR 351.226(g)(1).

Dated: November 6, 2023.

Abdelali Elouaradia,
Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. Merchandise Subject to the Circumvention Inquiry
- V. Statutory and Regulatory Framework: Minor Alterations
- VI. Circumvention Analysis
- VII. Preliminary Affirmative Determination of Circumvention
- VIII. Country-Wide Determination
- IX. Recommendation

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