

the argument (1) a statement of the issue, (2) a brief summary of the argument and (3) a table of authorities. Further, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on diskette. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results.

Pursuant to 19 CFR 351.212(b), the Department calculated an assessment rate on all appropriate entries. Eicosal, Linao, Mainstream, Mares Australes, Pacific Star, and Tecmar reported the entered value of each of their sales. Cultivos Marinos and Pacifico reported the entered value of some, but not all, of their sales. For those sales for which the entered value was not reported, we calculated entered value by subtracting international freight from the gross unit price of the U.S. sale. We calculated importer-specific duty assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the examined sales. These rates will be assessed uniformly on all of the entries made during the POR. The Department will issue appraisal instructions directly to the U.S. Customs Service upon completion of the final results of this administrative review.

Furthermore, the following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of fresh Atlantic salmon from Chile entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for companies listed above will be the rate established in the final results of this review, except if the rate is less than 0.5 percent, and therefore, *de minimis*, the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 4.57

percent, the All Others rate established in the LTFV investigation.

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.<sup>4</sup>

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entities during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 31, 2000.

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-831]

#### **Fresh Garlic from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, and Partial Rescission of Administrative Review**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of preliminary results of antidumping duty administrative review.

**SUMMARY:** In response to a request from the petitioners, the Fresh Garlic Producers Association and its individual members, the Department of Commerce is conducting an administrative review of the antidumping duty order on fresh garlic from the People's Republic of China. The period of review is November 1, 1998, through October 31, 1999. The petitioners requested a review of four exporters. One company reported that it

<sup>4</sup> We note that shortly after the end of the period of the first review, the parent company of Mares Australes purchased Marine Harvest, another producer of fresh Atlantic salmon from Chile, and subsequently merged the operations of the two companies. More recently, the two companies merged formally under the name of Marine Harvest. This issue may require consideration in a future segment of this proceeding.

had no shipments of subject merchandise to the United States during the period of review, and we have confirmed that claim with the U.S. Customs Service. Accordingly, we are rescinding the review with respect to this firm. Because the remaining three exporters have not responded to our questionnaire, we have preliminarily determined to use facts otherwise available for cash-deposit and assessment purposes for all producers/exporters of the subject merchandise.

We invite interested parties to comment on these preliminary results. Parties who submit comments are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

**EFFECTIVE DATE:** August 8, 2000.

**FOR FURTHER INFORMATION CONTACT:** Edythe Artman or Richard Rimlinger, Office of Antidumping/Countervailing Duty Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-3931 or (202) 482-4477, respectively.

#### **SUPPLEMENTARY INFORMATION:**

#### **The Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to at 19 CFR Part 351 (1999).

#### **Background**

On November 30, 1999, the petitioners requested an administrative review of Wo Hing (H.K.) Trading Co. (Wo Hing), Rizhao Hanxi Fisheries & Comprehensive Development Co., Ltd. (Rizhao), Fook Huat Tong Kee PTE. Ltd. (Fook Huat), and Zhejiang Materials Industry (Zhejiang). In response to the petitioners' request, the Department published a notice of initiation of an administrative review on December 28, 1999 (64 FR 72644), in accordance with 19 CFR 351.213(b). On December 27, 1999, we issued questionnaires to the Embassy of the People's Republic of China (PRC), the Ministry of Foreign Trade and Economic Cooperation (MOFTEC), Wo Hing, Rizhao, and Fook Huat. We sent a questionnaire to Zhejiang in care of MOFTEC, since we were unable to obtain an address or phone number for that company. We

did not receive a response to the questionnaire from either the PRC embassy or MOFTEC.

### Scope of Review

The products subject to this antidumping duty administrative review 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 this 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 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 0703.20.0010, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, and 2005.90.9700 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 this proceeding is dispositive. In order to be excluded from the antidumping duty 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 the Customs Service to that effect.

### Partial Rescission of Administrative Review

One respondent-company replied to our questionnaire. Wo Hing reported that it made no shipments of subject merchandise to the United States during the period of review (POR). We have confirmed with the U.S. Customs Service that Wo Hing made no shipments during the POR. Accordingly, we are rescinding the administrative review with respect to Wo Hing pursuant to 19 CFR 351.213(d)(3).

### Use of Facts Otherwise Available

Section 776(a) of the Act provides that, if an interested party withholds information that has been requested by the Department and thereby precludes the Department from conducting an analysis of its sales made during the instant POR, the Department may, subject to section 782(d) of the Act, make its determination on the basis of the facts available. Since we received no responses other than from Wo Hing, it was not necessary to provide the respondents with an opportunity to remedy deficiencies in their responses pursuant to section 782(d) of the Act. Hence, we preliminarily determine to use the facts available in determining the dumping margin for Rizhao, Fook Huat, and Zhejiang.

We preliminarily determine that Rizhao, Fook Huat, and Zhejiang do not merit separate rates because these respondents did not provide any response to the Department's request for information regarding separate rates. See, e.g., *Natural Bristle Paint Brushes and Brush Heads from the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review*, 61 FR 57390 (November 6, 1996). Consequently, consistent with the statement in our notice of initiation, because these companies do not qualify for separate rates, they, along with all other exporters of subject merchandise, are deemed to be covered by the PRC-entity rate discussed below.

Section 776(b) of the Act permits us to draw an adverse inference where a party has not cooperated to the best of its ability in a proceeding. This section of the Act deems a respondent uncooperative where the party “\* \* \* has not acted to the best of its ability to comply with requests for necessary information.” See the Statement of Administrative Action accompanying the URAA, H.R. Doc. 316, Vol. 1, 103d Cong. (1994) (SAA) at 870. We find that, in not responding to our requests for information, the three respondents failed to cooperate to the best of their ability and, consequently, we have used an inference that is adverse to the interests of the respondents in selecting from among the facts otherwise available.

The statute provides that an adverse inference may include reliance on information derived from 1) the petition, 2) the final determination in the investigation segment of the proceeding, 3) a previous review under section 751 of the Act or a determination under section 753 of the Act, or 4) any other information placed on the record. See section 776(b) of the

Act. In addition, the SAA establishes that the Department may employ an adverse inference “to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.” SAA at 870. In employing adverse inferences, the Department is instructed to consider “the extent to which a party may benefit from its own lack of cooperation.” *Id.*

The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse “as to effectuate the purpose of the facts available role to induce respondents to provide the Department with complete and accurate information in a timely manner.” See *Static Random Access Memory Semiconductors from Taiwan; Final Determination of Sales at Less than Fair Value*, 63 FR 8909, 8932 (February 23, 1998). The Department also considers the extent to which a party may benefit from its own lack of cooperation in selecting a rate. See *Roller Chain, Other than Bicycle, from Japan; Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 62 FR 60472, 60477 (November 10, 1997). In this case, we have used a rate of 376.67 percent, which is the rate currently applicable to all exporters of garlic from the PRC and the rate determined in the investigation and every administrative review of the order conducted to date.

Section 776(c) of the Act provides that, where the Department selects from among the facts otherwise available and relies on “secondary information,” the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. Secondary information is described in the SAA as “[i]nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.” See SAA at 870. The SAA states that “corroborate” means to determine that the information used has probative value. See *id.* To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. A respondent's own current rate has probative value. In this case, the respondents are currently subject to a PRC-wide cash-deposit rate of 376.67 percent. It is reasonable to assume that, if they could have demonstrated that their actual dumping margins are lower, they would have participated in this review and attempted to do so. See *Sparklers from*

the People's Republic of China; *Preliminary Results of Antidumping Duty Administrative Review*, 65 FR 18059, 18061 (April 6, 2000). In addition, the rate selected was corroborated, to the extent practicable, in an earlier review (see *Fresh Garlic from the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review and Partial Termination of Administrative Review*, 61 FR 68229 (December 27, 1996)). We have no new information that would lead us to reconsider the reliability of that rate. Further, with respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin may not be relevant, the Department will attempt to find a more appropriate basis for facts available. See, e.g., *Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (February 22, 1996) (where the Department disregarded the highest margin as best information available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin).

In the less-than-fair-value investigation, we received no responses to requests for information on behalf of the respondent-companies. We therefore assigned a best-information-available margin of 376.67 percent for all manufacturers and producers of the subject merchandise. See *Antidumping Duty Order: Fresh Garlic from the People's Republic of China*, 59 FR 59209 (November 16, 1994). We selected the rate of 376.67 from the petition because it was the highest rate provided in that document. We assigned this margin in all subsequent reviews, where the respondents likewise did not respond to our requests for information. See *Fresh Garlic from the People's Republic of China; Final Results of Antidumping Duty Administrative Review and Partial Termination of Administrative Review*, 62 FR 23758 (May 1, 1997); *Fresh Garlic from the People's Republic of China; Final Results of Antidumping Duty Administrative Review and Partial Termination of Administrative Review*, 62 FR 51082 (September 30, 1997); *Fresh Garlic from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 65 FR 33295 (May 23, 2000). There is no other information reasonably at our disposal that would render the rate not relevant.

In the current review, we are assigning the PRC-wide rate of 376.67

percent since the respondents did not respond to our requests for information. We find that this rate is of probative value. Therefore, we find that the rate is an appropriate basis for adverse facts otherwise available.

#### Preliminary Results of the Review

As a result of our review, we preliminarily determine that a margin of 376.67 percent exists for all producers/exporters of the subject merchandise as the PRC-entity for the period November 1, 1998, through October 31, 1999.

Interested parties may request a hearing not later than 30 days after publication of this notice. Interested parties may also submit written arguments in case briefs on these preliminary results within 30 days of the date of publication of this notice. Rebuttal briefs, limited to issues raised in case briefs, may be filed no later than five days after the time limit for filing case briefs. Parties who submit arguments are requested to submit with each argument a statement of the issue and a brief summary of the argument. Any hearing, if requested, will be held three days after the scheduled date for submission of rebuttal briefs.

The Department will publish the final results of this administrative review, including a discussion of its analysis of issues raised in any case or rebuttal brief or at a hearing. The Department will issue final results of this review within 120 days of publication of these preliminary results.

Upon completion of the final results in this review, the Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries.

Furthermore, the following deposit rate will be effective upon publication of the final results of this administrative review for all shipments of fresh garlic from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(c) of the Act: for all PRC exporters and for all non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the PRC-wide rate established in the final results of this review.

This deposit rate, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also 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 the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing this determination and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 1, 2000.

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 00-20027 Filed 8-7-00; 8:45 am]

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## DEPARTMENT OF COMMERCE

[A-570-848]

### International Trade Administration

#### **Freshwater Crawfish Tail Meat From the People's Republic of China: Postponement of Time Limits for Preliminary Results of New Shipper Antidumping Reviews**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of Postponement of Time Limits for Preliminary Results of New Shipper Antidumping Duty Reviews.

**EFFECTIVE DATE:** August 8, 2000.

#### **FOR FURTHER INFORMATION CONTACT:**

Thomas Gilgunn or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 482-0648 and (202) 482-3020, respectively.

#### **The Applicable Statute**

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (1999).

#### **Background**

On September 19, 1999 and September 30, 1999 the Department of Commerce (the Department) received timely requests from Yixing Ban Chang Foods Co., Ltd. (Yixing), Fujian Pelagic Fishery Group Company (Fujian Pelagic), Yangzhou Lakebest Foods Co., Ltd. (Yangzhou Lakebest), Suqian Foreign Trade Co., Ltd. (Suqian), Qingdao Zhengri Seafood Co., Ltd. (Qingdao Zhengri), and Shantou SEZ