

the axes/adzes and bars/wedges orders, and SMC's withdrawal requests for reviews of the bars/wedges and hammers/sledges orders were submitted after the 90 day deadline provided by 19 CFR 351.213(d)(1). We note, however, section 351.213(d)(1) permits the Department to extend the deadline if "it is reasonable to do so." The Department has determined that a deadline extension is reasonable in the instant review. See Memorandum from Holly Kuga to Bernard T. Carreau, dated December 24, 2002, on file in the Central Records Unit (CRU) located in B-099 of the main Department of Commerce building. Therefore, the Department is rescinding the current administrative reviews of the orders on heavy forged hand tools with respect to TMC, SMC and LMC covering the period, February 1, 2001, through January 31, 2002.

This notice is in accordance with section 777(i)(1) of the Act and 19 CFR 351.213(d)(4).

Dated: December 24, 2002.

**Holly A. Kuga,**

*Acting Deputy Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-507-502]

#### Notice of Final Results of Antidumping Duty New Shipper Review: Certain In-Shell Raw Pistachios from Iran

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

**ACTION:** Notice of final results in the antidumping duty new shipper review of certain in-shell raw pistachios from Iran.

**SUMMARY:** On August 6, 2002, the Department of Commerce (Department) published the preliminary results of this new shipper review of the antidumping duty order on certain in-shell raw pistachios from Iran. See *Certain In-Shell Raw Pistachios from Iran: Preliminary Results of Antidumping Duty New Shipper Review*, 67 FR 50863 (August 6, 2002) (*Preliminary Results*). This review covers one exporter, Tehran Negah Nima Trading Company, Inc. (Nima). The period of review (POR) is July 1, 2000, through June 30, 2001. Comments were submitted by the parties and we have made changes to the margin calculation. The final weighted average dumping margin for

the reviewed firm is listed below in the section entitled "Final Results of the Review."

**EFFECTIVE DATE:** January 3, 2003.

**FOR FURTHER INFORMATION CONTACT:** Phyllis Hall or Donna Kinsella at (202) 482-1398, or (202) 482-0194, respectively; Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

#### SUPPLEMENTARY INFORMATION:

##### Background

Since the publication of the *Preliminary Results*, the following events have occurred. On October 17, 2002, the Department postponed the final results of the review until no later than 150 days from the date of issuance of the preliminary results. See *Administrative Review of Certain In-Shell Raw Pistachios From Iran: Extension of Time Limit for Final Results of New Shipper Review*, 67 FR 65337 (October 24, 2002). A request for a public hearing was received by the Department from petitioner (California Pistachio Commission) on August 13, 2002. On August 14, 2002, respondent submitted information in response to a supplemental cost of production questionnaire. On September 5, 2002, respondent filed its case brief. On September 6, 2002, petitioner and Western Pistachio Association (WPA), an interested party, filed case briefs. On September 12, 2002, the Department rejected both petitioner's and WPA's case briefs. On September 13, 2002, the Department received comments from petitioner regarding respondent's August 14, 2002 submission. On September 18, 2002, petitioner and WPA resubmitted their case briefs. On September 30, 2002, respondent submitted a supplemental case and rebuttal brief. On October 9, 2002, the Department rejected respondents' supplemental and rebuttal case brief. Respondent resubmitted a supplemental case brief and a rebuttal case brief on October 15, 2002. On October 17, 2002, the Department rejected respondents' October 15, 2002, supplemental case brief. On October 21, 2002, respondent submitted a revised supplemental case brief. On October 28, 2002, petitioner and Cal Pure Pistachios, Inc. (Cal Pure), an interested party, submitted rebuttal briefs. On October 31, 2002, the Department rejected petitioners' rebuttal brief. On November 1, 2002, petitioner submitted a revised rebuttal brief. On December 9, 2002, petitioner, Cal Pure

and respondent submitted comments on the Department's December 4, 2002, verification reports in the new shipper reviews, C-507-501 and C-507-601, copies of which were placed on the record of this proceeding. The public hearing in this proceeding was held on December 12, 2002.

##### Scope of Review

Imports covered by this review are raw, in-shell pistachio nuts from which the hulls have been removed, leaving the inner hard shells and edible meats, from Iran. The merchandise under review is currently classifiable under item 0802.50.20.00 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.

##### Facts Available

Section 776(a) of the Tariff Act of 1930 (the Act) provides that "if any interested party or any other person— (A) withholds information that has been requested by the administering authority, (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782, (C) significantly impedes a proceeding under this title, or (D) provides such information but the information cannot be verified subject to sections 782(d), and (e) facts otherwise available in reaching the applicable determination. In this review, respondent failed to provide requested information (*i.e.*, cost information for all production facilities). In failing to disclose the existence of a production facility, respondent did not provide information that had been requested, leaving the Department unable to perform a proper analysis of the cost of producing the subject merchandise. Because the failure to provide the cost information was revealed five weeks prior to the final results, time constraints do not permit the Department to request the necessary information. Finally, as the absence from the record of complete cost information renders the reported per-unit costs unreliable, we conclude that, pursuant to section 776(a) of the Act, use of partial use of facts otherwise available is appropriate.

The statute also requires that certain conditions be met before the Department may resort to the facts otherwise available. Where the Department determines that a response to a request for information does not comply with the request, section 782(d)

of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department may, subject to section 782(e) of the Act, disregard all or part of the original and subsequent responses, as appropriate. In this case, the Department requested that the producer provide the weighted-average cost of all facilities producing the product, and to report all affiliated producers. In responding to our requests for information, contrary to these instructions, respondent failed to disclose the additional production facility. Because disclosure of the existence of the additional production facility did not occur until verification in the concurrent CVD proceeding, approximately five weeks prior to the deadline for these final results and fourteen months after this review began, we had no opportunity to inform respondent of any deficiency in its responses or to request additional information. Prior to the disclosure at verification, the Department appropriately relied upon respondent's assertions that it had disclosed all relevant cost information.

Section 782(e) of the Act provides that the Department "shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the administering authority" if the information is timely, can be verified, is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, and the Department can use the information without undue difficulties, the statute requires it to do so. In this proceeding, the proper, complete cost data was not provided, which renders the costs as reported so incomplete and unreliable as to be unusable.

Therefore, in these final results, the Department will resort to the partial use of facts available as the respondent's reported costs cannot be relied upon, in accordance with section 776(a)(2)(A) of the Act. In doing so, the Department must then determine whether the use of an adverse inference in applying facts available is warranted under section 776(b) of the Act. In the instant review, we find that an adverse inference is warranted given that the respondent withheld critical information with

respect to the existence of the additional production facility. This omission renders the reported cost data so incomplete as to prevent the Department from determining the proper basis for constructed value (CV). Moreover, the significance of this omission is seriously compounded by the fact that normal value in this review is based entirely on CV. For further discussion of application of adverse facts available see comment 1 of the "Issues and Decision Memorandum" (Issues and Decision Memorandum) from Joseph A. Spetrini, Deputy Assistant Secretary, Import Administration, to Susan H. Kuhbach, Acting Assistant Secretary for Import Administration, dated December 26, 2002 and the Memorandum to Neal M. Halper from Gina K. Lee, RE: Constructed Value Adjustments for Final Results, dated December 26, 2002.

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this new shipper review are addressed in the Issues and Decision Memorandum from Joseph A. Spetrini, Deputy Assistant Secretary, Import Administration, to Susan H. Kuhbach, Acting Assistant Secretary for Import Administration, dated December 26, 2002, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Issues and Decision Memorandum, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in B-099.

In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at <http://ia.ita.doc.gov/frn/summary/list.htm>. The paper copy and electronic version of the Issues and Decision Memorandum are identical in content.

#### Changes since the Preliminary Determination

To determine whether sales of certain in-shell raw pistachios from Iran to the United States were made at less than normal value, we compared export price to normal value. Based on our analysis of comments received, we have made certain changes in the margin calculation. See Analysis Memorandum dated December 26, 2002.

#### Final Results of Review

We determine that the following percentage weighted-average margin exists for the period July 1, 2000, through June 30, 2001:

Exporter/Manufacturer	Weighted-Average Margin
Tehran Negah Nima Trading Company, Inc. (Nima) .....	144.05 percent

#### Assessment

The Department shall determine, and U.S. Customs shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b) (2002), we have calculated exporter/importer-specific assessment rates. We calculated importer-specific duty assessment rates on a unit value per kilogram basis and then divided this sum by the entered value for that sale. Based on our determination in this review, we will instruct Customs to assess antidumping duties on the merchandise subject to review. The Department is currently conducting a new shipper review of the countervailing duty order on raw in-shell pistachios from Iran involving Nima. The Department will adjust both the antidumping duty assessment rate and cash deposit rate for Nima/Maghsoudi Farms to offset any export subsidies found at the conclusion of the countervailing new shipper review.

#### Cash Deposit Requirements

Bonding is no longer permitted to fulfill security requirements for shipments from Nima of certain in-shell raw pistachios from Iran entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of new shipper review. As Nima is the exporter but not the producer of subject merchandise, the Department's final results will apply to subject merchandise exported by Nima and produced by Maghsoudi Farms. See 19 CFR 351.107(b). Therefore, the following deposit requirements will be effective upon publication of this notice of final results of this new shipper review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(B) of the Act: (1) For the merchandise exported by Tehran Negah Nima Trading Company, Inc. (Nima) and produced by Maghsoudi Farms, the cash deposit rate will be 144.05 percent; (2) for subject merchandise exported by Nima but not produced by Maghsoudi Farms, moreover, the cash deposit rate will be the "all others" rate established in the original less than fair value (LTFV) investigation. See 51 FR 25922 (July 17, 1986); (3) if the exporter is not a firm covered in this review, a prior review, or the original 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 manufacturer is a firm covered in this review or the original investigation, the cash deposit rate will continue to be the "all others" rate of 184.28 percent established in the LTFV investigation. This "all others" rate reflects the amount of export subsidies found in the final countervailing duty determination in the investigation subtracted from the dumping margin found in the less than fair value determination. See 51 FR 8344 (March 11, 1986). The Department will adjust the cash deposit rate for Nima/Maghsoudi Farms to offset any export subsidies found at the conclusion of the countervailing new shipper review. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final 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 doubled antidumping duties.

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

Dated: December 26, 2002.

**Susan H. Kuhbach,**

*Acting Assistant Secretary for Import Administration.*

#### Appendix I—Issues in Decision Memo Comments and Responses

1. Adverse Facts Available
2. Bona Fide Sale
3. Verification
4. Exchange Rate
5. Home Market Selling Expenses
6. Disclosure at CVD Verification of Additional Farm
7. Fallah Sales/Expense Data
8. Other Cost Issues
9. Preferential Treatment
10. Combination Rate

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[Docket No. 020325069-2311-02]

#### Request for Proposals for FY 2003— NOAA Educational Partnership Program With Minority Serving Institutions: Environmental Entrepreneurship Program

**AGENCY:** Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of request for preliminary proposals and subsequent full proposals.

**SUMMARY:** The Office of Oceanic and Atmospheric Research (OAR) of the National Oceanic and Atmospheric Administration (NOAA), United States Department of Commerce is soliciting preliminary proposals and subsequent full proposals for the NOAA Educational Partnership Program with Minority Serving Institutions (EPP/MSI): Environmental Entrepreneurship Program: For the purposes of this program, Environmental Entrepreneurship is defined as an education and training mechanism to engage students in applying the necessary skills, tools, methods and technologies is sciences directly related to NOAA's mission. This includes fostering educational opportunities in coastal, oceanic, atmospheric, environmental, and remote sensing sciences coupled with training in economics, marketing, product development, and services to create jobs, businesses and economic development opportunities. The Environmental Entrepreneurship Program promotes partnerships with MSIs, NOAA and the public-private sector. The goal of the program is to strengthen the capacity of Minority Serving Institutions to foster student careers, entrepreneurship opportunities and advanced academic study in the sciences directly related to NOAA.

In Fiscal Year 2003, NOAA expects to make available a total of \$3,300,000 (subject to congressional appropriations) to support the EPP/MSI Environmental Entrepreneurship Program. The program will provide funds, on a competitive basis, to support programs and projects at eligible Minority Serving Institutions, for a minimum of one year and a maximum of three years duration, in the following two categories:

(1) Program Development and Enhancement—approximately six grants or cooperative agreement awards, each

up to a total of \$250,000 for a period of one, two or three years to support the capacity of MSIs in the development and enhancement of entrepreneurship training and educational opportunities for students directly related to the NOAA sciences.

(2) Environmental Demonstration Projects—approximately six grants or cooperative agreement awards, each up to a total of \$300,000 for a period of one, two or three years to support MSI students and faculty in hands-on demonstration projects focused on applying environmentally sound methods and technologies to address real world environmental issues in local communities directly related to the NOAA sciences.

**DATES:** Preliminary Proposals must be received by 5 p.m. (Eastern Standard Time) on February 17, 2003. After evaluation by the National Oceanic and Atmospheric Administration, acceptable proposals will be recommended to prepare full proposals, which must be received by 5 p.m. (Eastern Daylight Savings Time) on April 17, 2003. (See Section VI. Instructions for Application: Timetable). Facsimile transmissions and electronic mail submission of proposals will not be accepted.

**ADDRESSES:** Preliminary proposals and full proposals must be submitted to: Jewel G. Linzey, Program Manager, Environmental Entrepreneurship Program, National Oceanic and Atmospheric Administration, Educational Partnership Program with Minority Serving Institutions, Room 10725, SSMC III, 1315 East-West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Jewel G. Linzey, NOAA. *EPP/MSI:* Environmental Entrepreneurship Program, National Oceanic and Atmospheric Administration, Room 10725, SSMC III, 1315 East-West Highway, Silver Spring, MD 20910. Tel. (301) 713-9437 x 118; e-mail: [jewel.griffin-linzey@noaa.gov](mailto:jewel.griffin-linzey@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Program Authority:

**Authority:** 15 U.S.C. 1540. Catalog of Federal Assistance Number: 11.481—Educational Partnership Program with Minority Serving Institutions:

##### II. Program Description

###### *Background*

NOAA provides science, technology and services to describe and predict changes in the Earth's environment, and conserve and manage wisely the Nation's coastal and marine resources to ensure sustainable economic