DEPARTMENT OF COMMERCE

International Trade Administration

C–507–601

Certain In–shell Roasted Pistachios from the Islamic Republic of Iran: Preliminary Results of Countervailing Duty Administrative Review

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty (CVD) order on certain in–shell roasted pistachios from the Islamic Republic of Iran (Iran) for the period January 1, 2003, through December 31, 2003. For information on the net subsidy rate for the reviewed company, please see the ''Preliminary Results of Review'' section of this notice. Interested parties are invited to comment on these preliminary results. (*See* the ''Public Comment'' section of this notice.)

EFFECTIVE DATE: November 7, 2005.

FOR FURTHER INFORMATION CONTACT: Darla Brown, AD/CVD Operations, Office 3, Import Administration, U.S. Department of Commerce, Room 4014, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On October 7, 1986, the Department published in the **Federal Register** the countervailing duty order on certain in–shell roasted pistachios from Iran. *See Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: Roasted In–Shell Pistachios from Iran*, 51 FR 35679 (October 7, 1986) (*Roasted Pistachios*). On October 1, 2004, the Department published a notice of opportunity to request an administrative review of this CVD order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 69 FR 58889 (October 1, 2004). On October 27, 2004, we received a timely request for an administrative review from Tehran Negah Nima Trading Company, Inc., trading as Nima Trading Company (Nima), the respondent company in this proceeding. On November 19, 2004, we initiated an administrative review of the CVD order on in–shell roasted pistachios from Iran covering the period of review (POR) January 1, 2003, through December 31, 2003. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 69 FR 67701 (November 19, 2004).

On November 30, 2004, petitioners[1] filed an entry of appearance and request for verification. On December 20, 2004, we issued our initial questionnaire to the Government of Iran (GOI) and Nima. On December 21, 2004, Cal Pure Pistachios, Inc. (Cal Pure), a domestic interested party, submitted an entry of appearance.

On January 25, 2005, and January 26, 2005, the GOI and Nima, respectively, submitted questionnaire responses. On March 3, 2005, we issued a supplemental questionnaire to Nima. On March 31, 2005, Nima submitted its response to our supplemental questionnaire.

On April 25, 2005, we extended the period for the completion of the preliminary results pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act). *See Certain In–shell Roasted Pistachios from the Islamic Republic of Iran: Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Review*, 70 FR 22299 (April 29, 2005).

On May 2, 2005, we issued a supplemental questionnaire to the GOI. On May 31, 2005, the GOI submitted its supplemental questionnaire response. On September 7, 2005, we issued a second supplemental questionnaire to Nima. On September 30, 2005, Nima submitted its supplemental questionnaire response. On September 15, 2005, we issued a second supplemental questionnaire to the GOI. On October 4, 2005, the GOI submitted its supplemental questionnaire response. On October 6, 2005, we extended the time limit for Nima to respond to the Department's second supplemental questionnaire. On October 12, 2005, Nima submitted its complete supplemental questionnaire response.

In accordance with 19 CFR 351.213(b), this administrative review covers only those producers or exporters for which a review was specifically requested. Accordingly, this administrative review covers Nima and its grower, Razi Domghan Agricultural and Animal Husbandry Company (Razi), and ten programs for the POR January 1, 2003, through December 31, 2003.

Scope of Order

The product covered by this order is all roasted in–shell pistachio nuts, whether roasted in Iran or elsewhere, from which the hull has been removed, leaving the inner hard shells and the edible meat, as currently classifiable in the HTSUS under item number 0802.50.20.00. The written description of the scope of this proceeding is dispositive.

Use of Facts Available

During the course of this proceeding, we have repeatedly sought information pertaining to Nima and Razi's use of the subsidy programs under review, including information on any and all loans that the companies received from the GOI. *See* pages III–3, III–7 through 8, and III–10 of the Department's December 20, 2004, initial questionnaire, pages 3–4 of the Department's March 3, 2005, supplemental questionnaire to Nima, and pages 1–2 of the Department's September 7, 2005, second supplemental questionnaire to Nima. In addition, we have repeatedly requested information from the GOI regarding loans made to Nima and Razi. *See* pages II–4 through II–5 and II–7 through II–8 of the Department's December 20, 2004, initial questionnaire, pages 3 and 5–6 of the Department's May 2, 2005, supplemental questionnaire to the GOI, and page 2 of the Department's September 15, 2005, second supplemental questionnaire to the GOI.

In response to these inquiries relating to the Provision of Credit program, the GOI and Nima repeatedly stated that neither Nima nor Razi obtained any loans during or prior to the POR. *See, e.g.*, page 21 of Nima's January 26, 2005, questionnaire response and pages 10–13 of Nima's March 31, 2005, supplemental questionnaire response. However, in its October 12, 2005, response to the Department's second supplemental questionnaire, Nima revealed for the first time that on December 13, 2003, Razi obtained a short–term loan from the Bank of Agriculture (Bank Keshavarzi), a GOI–owned bank.

Section 776(a) of the Act requires the use of facts available when an interested party withholds information that has been requested by the Department, or when an interested party fails to provide the information requested in a timely manner and in the form required. As described above, Nima and the GOI failed to provide information regarding the Provision of Credit program in a timely manner, as requested by the Department. The Department works within a limited time frame, as provided in section 751(a) of the Act. Because Nima only disclosed its loan to the Department on October 12, 2005, the Department is unable to ask clarifying questions concerning the loan in question prior to its issuance of the preliminary results. Thus, due to the

[1] Petitioners are comprised of members of the California Pistachio Commission (CPC).

untimely response of Nima and the GOI concerning the Provision of Credit program, we preliminarily determine that their answers on this matter are inadequate. Therefore, we must resort to the use of facts otherwise available.

Furthermore, section 776(b) of the Act provides that in selecting from among the facts available, the Department may use an inference that is adverse to the interests of a party if it determines that a party has failed to cooperate to the best of its ability. The Department finds that, by not providing necessary information specifically requested by the Department in a timely fashion, despite numerous opportunities, the GOI and Nima have failed to cooperate to the best of their abilities. Therefore, in selecting from among the facts available, the Department determines that an adverse inference is warranted.

When employing an adverse inference in an administrative review, the Act indicates that the Department may rely upon information derived from a variety of sources. *See* 19 CFR 351.308(c). In applying adverse facts available in the instant review, we have used information on the record of this administrative review. As discussed in the ''Analysis of Programs'' section below, as adverse facts available, we have relied upon a benchmark interest rate of 24 percent, which the GOI reported in its questionnaire responses was the highest lending rate a commercial bank in Iran would charge pistachio producers.

As discussed above, we learned of Razi's receipt of a government loan in Nima's October 12, 2005, supplemental questionnaire response. Razi's admission of receipt of the government loan at this stage of the proceeding raises the concern of whether Razi and Nima have fully reported all subsidies that they may have received during the POR under the GOI programs subject to this administrative review. Therefore, subsequent to these preliminary results we will continue to examine whether the GOI, Nima and Razi have properly identified any and all subsidies that the companies may have received during the POR. Furthermore, we will continue to examine the appropriateness of the rate we are assigning as adverse facts available in this administrative review.

Analysis of Programs

I. *Programs Preliminarily Determined to Confer Subsidies*

A. *Provision of Credit*

As noted above, although Nima and Razi repeatedly stated that they did not receive any loans from the GOI during the POR of the instant review, in Nima's October 12, 2005, second supplemental questionnaire response, Nima revealed for the first time that on December 13, 2003, Razi obtained a short–term loan from the Bank of Agriculture (Bank Keshavarzi), a GOI–owned bank.

We find that Nima failed to provide us with the information we requested in a timely manner. Therefore, as discussed above in the ''Use of Facts Available'' section of this notice, we preliminarily determine that an adverse inference is warranted.

In the original investigation, we found that, under this program, the GOI provides loans at below market interest rates to members of the agricultural sector. *See Roasted Pistachios.* Although the original determination was made on the basis of best information available (BIA), no new information or evidence of changed circumstances has been presented to cause us to revisit this determination. The Department preliminarily finds this program to be specific under section 771(5A)(D)(iii)(I) of the Act because the preferential credit was made available to a limited number of customers. Moreover, we preliminarily determine that this program provides a financial contribution within the meaning of section 771(5)(D)(i) of the Act in the form of a loan. To determine the benefit conferred on Nima/Razi by this program, we compared the actual interest paid on the loan during the POR with the amount of interest that would have been paid at the applicable benchmark interest rate. As adverse facts available, we applied a benchmark interest rate of 24 percent, which the GOI reported in its questionnaire responses was the highest lending rate a commercial bank in Iran would charge pistachio producers. We then divided the benefit derived by the value of Razi's total sales. On this basis, we preliminarily calculated a net countervailable subsidy of less than 0.005 percent ad valorem for Nima/Razi.

II. *Programs Preliminarily Determined to Be Not Used*

Based on the information supplied by Nima on behalf of itself and its grower, Razi, we preliminarily determine that the programs listed below were not used during the POR.

A. *Provision of Fertilizer and Machinery*
B. *Tax Exemptions*
C. *Provision of Water and Irrigation Equipment*
D. *Technical Support*
E. *Duty Refunds on Imported Raw or Intermediate Materials Used in the Production of Export Goods*
F. *Program to Improve Quality of Exports of Dried Fruit*
G. *Iranian Export Guarantee Fund*
H. *GOI Grants and Loans to Pistachio Farmers*
I. *Crop Insurance for Pistachios*

Preliminary Results of Review

In accordance with sections 751(a)(1) and 751(a)(3)(A) of the Act and 19 CFR 351.221(b)(4)(i), we have calculated an individual subsidy rate for Nima, the only exporter subject to this administrative review, for the POR, *i.e.*, calendar year 2003. We preliminarily determine that the total estimated net countervailable subsidy rate is 0.00 percent *ad valorem*.

As Nima is the exporter, but not the producer, of subject merchandise, the Department's final results of review will apply to subject merchandise exported by Nima and produced by Nima's supplier of pistachios, Razi. *See* 19 CFR 351.107(b). Therefore, we intend to issue the following cash deposit requirements, effective upon publication of the notice of final results of review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication: (1) for merchandise exported by Nima and produced by Razi, the cash deposit rate will be the *ad valorem* rate calculated in the final results of the instant administrative review; (2) for merchandise exported by Nima and produced by Maghsoudi Farms, the cash deposit rate will be 23.18 percent, the rate calculated for Nima and Maghsoudi Farms in the new shipper reviews (*see Certain In–Shell Pistachios (C–507–501) and Certain Roasted In–Shell Pistachios (C–507–601) from the Islamic Republic of Iran: Final Results of New Shipper Countervailing Duty Reviews*, 68 FR 4997 (January 31, 2003) (*New Shipper Reviews*); (3) for merchandise exported by Nima but not produced by Razi or Maghsoudi Farms, the cash deposit rate will be the ''all others'' rate established in the original CVD investigation (*see* 51 FR 8344 (March 11, 1986)); (4) if the exporter is not a firm covered in this review, a prior review, or the original CVD investigation, but the producer is, the cash deposit rate will be the rate established for the most recent period for the producer of the merchandise; and (5) if neither the exporter nor producer is a firm covered in this review or the original investigation, the cash deposit rate for all other producers or exporters of the subject merchandise will continue to be 99.52 percent *ad valorem*. This rate is the ''all others'' rate from the final determination in the original investigation.

If the final results of this review remain the same as these preliminary results, the Department intends to instruct U.S. Customs and Border Protection (CBP), within 15 days of publication of the final results of this review, to liquidate without regard to countervailing duties all shipments of subject merchandise exported by Nima and produced by Razi, entered, or withdrawn from warehouse, for consumption during the POR. Should the final results of this review remain the same as these preliminary results, the Department will also instruct CBP not to collect cash deposits of estimated countervailing duties on all shipments of the subject merchandise exported by Nima and produced by Razi, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

Because the Uruguay Round Agreements Act (URAA) replaced the general rule in favor of a country–wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non–reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2)(B) of the Act. The requested review will normally cover only those companies specifically named. *See* 19 CFR 351.213(b). Pursuant to 19 CFR 351.212(c), for all companies for which a review was not requested, duties must be assessed and cash deposits must continue to be collected at the cash deposit rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a request for a review of that company. *See Federal–Mogul Corporation and The Torrington Company v. United States*, 822 F. Supp. 782 (CIT 1993), and *Floral Trade Council v. United States*, 822 F. Supp. 766 (CIT 1993) (interpreting 19 CFR 353.22(e), the old antidumping regulation on automatic assessment, which is identical to the current regulation, 19 CFR 351.212(c)(1)(ii)). Therefore, the cash deposit rates for all companies except those covered by this review will be unchanged by the results of this review.

We will instruct CBP to continue to collect cash deposits for non–reviewed companies at the most recent company–specific or country–wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non–reviewed companies covered by this order will be the rate for that company established in the most recently completed administrative proceeding. *See Certain In–Shell Pistachios from the Islamic Republic of Iran: Final Results of Countervailing Duty Administrative Review*, 68 FR 41310 (July 11, 2003). These cash deposit rates shall apply to all non–reviewed companies until a review of a company assigned these rates is requested.

Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days after the date of the public announcement of this notice. Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Unless otherwise indicated by the Department, case briefs must be submitted within 30 days after the publication of these preliminary results. Rebuttal briefs, which are limited to arguments raised in case briefs, must be submitted no later than five days after the time limit for filing case briefs, unless otherwise specified by the Department. Parties who submit argument in this proceeding are requested to submit with the argument: (1) a statement of the issue, and (2) a brief summary of the argument. Parties submitting case and/or rebuttal briefs are requested to provide the Department copies of the public version on disk. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f). Also, pursuant to 19 CFR 351.310, within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs.

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 351.309(c)(ii), are due. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review and notice are issued and published in accordance with sections 751(a)(1), 751(a)(3) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: October 31, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 05–22145 Filed 11–4–05; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

(C–489–502)

Certain Welded Carbon Steel Standard Pipe from Turkey: Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Review

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

EFFECTIVE DATE: November 7, 2005.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4793.

SUPPLEMENTARY INFORMATION:

Background Information

On April 22, 2005, the U.S. Department of Commerce (''the Department'') published a notice of initiation of the administrative review of the countervailing duty order on certain welded carbon steel standard pipe from Turkey covering the period of review January 1, 2004, through December 31, 2004. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 70 FR 20862 (April 22, 2005). The preliminary results are currently due no later than December 1, 2005.

Extension of Time Limit for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order or finding for which a review is requested. Section 751(a)(3)(A) of the Act further states that if it is not practicable to complete the review within the time period specified, the administering authority may extend the 245-day period to issue its preliminary results by up to 120 days.