entries during the period of review. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties. See 19 CFR 351.422(f)(3).

Notification Regarding APO
This notice also serves as a reminder to parties subject to the administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO as explained in the APO itself. See also 19 CFR 351.305(a)(3). Timely written notification of the destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are publishing these final results of administrative review and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5). Dated: September 27, 2010.
Ronald K. Lorentzen,
Deputy Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE
International Trade Administration
[1A–570–831]
Fresh Garlic From the People’s Republic of China: Final Results of New Shipper Review

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

SUMMARY: The Department of Commerce (Department) is conducting a new shipper review (NSR) of Qingdao Sea-line Trading Co. Ltd. (Qingdao Sea-line) under the antidumping duty order on fresh garlic from the People’s Republic of China (PRC) covering the period of review (POR) of November 1, 2008 through April 30, 2009. As discussed below, we determine that a sale has been made in the United States at a price below normal value (NV) with respect to Qingdao Sea-line, an exporter who participated fully and demonstrated its eligibility for separate rate. See Fresh Garlic From the People’s Republic of China: Preliminary Results of New Shipper Review, 75 FR 24578 (May 5, 2010) (Preliminary Results). We are continuing to find Qingdao Sea-line’s sale to be bona fide for the final results of this review. We intend to instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on entries of subject merchandise during the POR for which importer-specific assessment rates are above de minimis.

DATES: Effective Date: October 4, 2010.
FOR FURTHER INFORMATION CONTACT: Scott Lindsay, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0780.

SUPPLEMENTARY INFORMATION:

Background
On May 5, 2010, the Department published in the Federal Register the preliminary results of the NSR of the antidumping duty order on fresh garlic from the PRC. See Preliminary Results. Since the Preliminary Results, the following events have occurred.

On May 21, 2010, the Department extended the deadline for filing case briefs. See Letter from the Department to All Interested Parties (May 21, 2010). On July 19, 2010, Qingdao Sea-line submitted a document on the record of this review that contained new factual information within the meaning of 19 CFR 351.301(b)(4) and 19 CFR 351.301(c)(1). As a result, on July 23, 2010, the Department issued a letter to Qingdao Sea-line rejecting its July 19, 2010 submission. Also on July 23, 2010, the Department notified the parties of the briefing schedule for the final results. See Memorandum to the File, Antidumping Duty New Shipper Review of Fresh Garlic From the People’s Republic of China: Briefing Schedule (July 23, 2010). On August 6, 2010, Qingdao Sea-line timely submitted its case brief and requested a hearing. On August 16, 2010, Petitioners1 timely submitted their rebuttal brief.

On August 27, 2010, the Department placed on the record a memorandum indicating that, pursuant to a telephone discussion, Qingdao Sea-line was withdrawing its request for a hearing. See Memorandum to the File, Antidumping Duty New Shipper Review of Fresh Garlic From the People’s Republic of China:Canceled Hearing Request (August 27, 2010).

Scope of the Order
The products covered by this 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 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, 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 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 CBP to that effect.

Analysis of Comments Received
Issues raised in the case and rebuttal briefs by parties to this proceeding and to which we have responded are listed in the Appendix to the Memorandum and addressed in the Memorandum from Susan Kuhbach, Acting Deputy

1The Fresh Garlic Producers Association: Christopher Ranch L.L.C., the Garlic Company, Valley Garlic, and Vessey and Company, Inc. (collectively, Petitioners).
Assistant Secretary for Import Administration, To Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, Fresh Garlic from the People’s Republic of China: Issues and Decision Memorandum of Qingdao Sea-line Trading Co. Ltd. (September 24, 2010) (Issues and Decision Memorandum), which is hereby adopted by this notice. Parties can find a complete discussion of the issues raised in this NSR and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, Room 1117 of the main Department building. In addition, a copy of the Issues and Decision Memorandum can be accessed directly on our Web site at http://www.trade.gov/a4/. The paper copy and electronic version of the Issues and Decision Memorandum are identical in content.

Bona Fides Analysis

While conducting a review, particularly a review where a company’s margin would be based on a single sale, the Department examines price, quantity, and other circumstances associated with the sale under review, to determine if the sale was based on normal commercial considerations and presents an accurate representation of the company’s normal business practices. If the Department determines that the price was not based on normal commercial considerations or is atypical of the respondent’s normal business practices, including other sales of comparable merchandise, the sale may be considered non-bona fide.

In the Preliminary Results, the Department preliminarily found that Qingdao Sea-line’s single POR sale was made on a bona fide basis. Based on our analysis of additional information placed on the record by Petitioners that we did not examine for the Preliminary Results, as well as comments made by interested parties, the Department continues to find that Qingdao Sea-line’s sale was a bona fide sale. For more detailed discussion of this analysis, please see the Department’s accompanying Issues and Decision Memorandum.

Surrogate Country

Since the Preliminary Results, no interested party has commented on the selection of India as the surrogate country. Therefore, we continue to determine that India is the appropriate surrogate country for the final results of this NSR.

Separate Rates

The Department found in the Preliminary Results that Qingdao Sea-line demonstrated a lack of de jure and de facto government control with respect to its export activities, and preliminarily determined that it was eligible for a separate rate. No information has been placed on the record of this proceeding since the Preliminary Results to contradict our preliminary separate-rate determination. Therefore, for the final results, we continue to determine that Qingdao Sea-line is eligible for a separate rate.

Changes Since the Preliminary Results

Based on our analysis of information on the record of this review, and comments received from the interested parties, we have made changes to the surrogate values for garlic bulbs. In the Preliminary Results, the Department stated that it would subtract seven percent from the value of the average of Super-A grade garlic, in accordance with the fees noted by the Azapdur APMC price data used by the Department. See Preliminary Results of the 2008–2009 New Shipper Review of Fresh Garlic from the People’s Republic of China: Surrogate Values (April 27, 2010) at 3. However, the Department instead used the average value inclusive of the seven percent. Therefore, for these final results, the Department is using the value for Super-A grade garlic, minus the seven percent in fees, as the surrogate value for garlic bulbs. See Issues and Decision Memorandum at Issue 2.

In addition, the Department has changed its wage rate calculation methodology for these final results. As a consequence of the CAFC ruling in Dorbest, the Department is no longer relying on the regression-based wage rate described in 19 CFR 351.408(c)(3). The Department is continuing to evaluate options for determining labor values in light of the recent CAFC decision for these final results, we have calculated an hourly wage rate to use in valuing Qingdao Sea-line’s reported labor input by averaging earnings and/or wages in countries that are economically comparable to the PRC and that are significant producers of comparable merchandise. The Issues and Decision Memorandum contains a more detailed explanation of this new methodology. See Issues and Decision Memorandum at Issue 5.

Final Results of New Shipper Review

As a result of our review, we determine that the following margin exists for the period November 1, 2008 through April 30, 2009:

<table>
<thead>
<tr>
<th>Exporter/manufacturer</th>
<th>Weighted-Average Margin (dollars per kilogram)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exported by Qingdao Sea-line Trade Co. Ltd. and Produced by Jinxiang County Juxingyuan Trading Co., Ltd</td>
<td>$1.28/kg.</td>
</tr>
</tbody>
</table>

Disclosure

We will disclose the calculations used in our analysis to parties to these proceedings within five days of the date of publication of this notice. See 19 CFR 351.224(b).

Assessment Rates

Consistent with the final results of the 14th administrative review (AR), we will direct CBP to assess an importer-specific assessment rate based on the resulting per-unit (i.e., per kilogram) amount on each entry of the subject merchandise during the POR. See Fresh Garlic from the People’s Republic of China: Final Results and Partial Rescission of the 14th Antidumping Duty Administrative, 75 FR 34976, [June 21, 2010] (14th AR). Therefore, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1). The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this review. For assessment purposes, we calculated importer-specific assessment rates for fresh garlic from the PRC. Specifically, we divided the total dumping margins for each importer by...
the total quantity of subject merchandise sold to that importer during the POR to calculate a per-unit assessment amount. We will direct CBP to assess importer-specific assessment rates based on the resulting per-unit (i.e., per kilogram) amount on each entry of the subject merchandise during the POR if any importer-specific assessment rate calculated in the final results of this review is above de minimis.

**Cash Deposit Requirements**

Consistent with the final results of the 14th AR, we will collect a per kilogram cash-deposit amount. The following cash deposit requirements will be effective upon publication of the final results of this review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results, as provided by section 751(a)(1) of the Act: (1) For subject merchandise produced by Juxingyuan Co., Ltd. (Juxingyuan) and exported by Qingdao Sea-line, the cash deposit rate will be the per-unit rate determined in the final results of this new shipper review; (2) for subject merchandise exported by Qingdao Sea-line but not produced by Juxingyuan, the cash deposit rate continues to be the per-unit PRC-wide rate. These requirements, when imposed, shall remain in effect until further notice.

**Notification to Importers**

This notice 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 double antidumping duties.

**Administrative Protective Orders**

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction. This new shipper review and notice are issued and published in accordance with sections 751(a)(2)(B) and 777(i) of the Act and 19 CFR and 351.214.


Ronald K. Lorentzen,
Deputy Assistant Secretary for Import Administration.

**Appendix I**

Issue 1: The Bona Fides of Qingdao Sea-line’s Sale
Issue 2: Surrogate Valuation of Garlic Bulbs
Issue 3: Use of India Wholesale Price Index as Inflator for Surrogate Values
Issue 4: Financial Ratios
Issue 5: Wage Rates
Issue 6: Cold Storage

[FR Doc. 2010–24833 Filed 10–1–10; 8:45 am]

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