

Dated: June 21, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

## Appendix

### List of Comments and Issues in the Decision Memorandum

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[FR Doc. E6-10219 Filed 6-28-08; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

(C-507-501)

### Certain In-shell Pistachios from the Islamic Republic of Iran: Final Results of Countervailing Duty Administrative Review

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

**SUMMARY:** On February 22, 2006, the Department of Commerce (the Department) published in the **Federal Register** its preliminary results in the countervailing duty (CVD) administrative review of certain in-shell pistachios from Iran. See *Certain In-shell Pistachios from the Islamic*

*Republic of Iran: Preliminary Results of Countervailing Duty Administrative Review*, 71 FR 9091 (*Preliminary Results*). The Department has now completed this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Based on information received since the *Preliminary Results* and our analysis of the comments received, the Department has not revised the net subsidy rate for Tehran Negah Nima Trading Company, Inc., trading as Nima Trading Company (Nima), the respondent company in this proceeding. For further discussion of our positions, see the "Issues and Decision Memorandum" from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, concerning the "Final Results of Countervailing Duty Administrative Review: Certain In-shell Pistachios from the Islamic Republic of Iran" (Decision Memorandum) dated June 22, 2006. The final net subsidy rate for the reviewed company is listed below in the section entitled "Final Results of Review."

**EFFECTIVE DATE:** June 29, 2006.

#### 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 November 7, 2005, the Department published in the **Federal Register** its *Preliminary Results*. We invited interested parties to comment on these results. Since the preliminary results, we received case briefs from petitioners<sup>1</sup> on March 24, 2006. Neither Nima nor the Government of Iran (GOI) submitted a brief.

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 for the period of review (POR) January 1, 2004, through December 31, 2004.

#### Scope of the Order

For purposes of this order, the product covered is in-shell pistachio nuts from which the hulls have been removed, leaving the inner hard shells and edible meat, as currently

<sup>1</sup> Petitioners include the California Pistachio Commission (CPC) and its members and a domestic interested party, Cal Pure Pistachios, Inc. (Cal Pure).

classifiable in the Harmonized Tariff Schedules of the United States (HTSUS) under item number 0802.50.20.00. The HTSUS subheading is provided for convenience and customs purposes. The written description of the scope is dispositive.

#### Analysis of Comments Received

For a discussion of the programs and the issues raised in the briefs by parties to this review, see the Decision Memorandum, which is hereby adopted by this notice. A listing of the issues which parties raised and to which we have responded, which are in the Decision Memorandum, is attached to this notice as Appendix I. Parties can find a complete discussion of the issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit (CRU), room B-099 of the main Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the World Wide Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the Decision Memorandum are identical in content.

#### Use of Facts Available

The Department has concluded that the GOI and Nima did not act to the best of their abilities in providing responses to the Department, in accordance with sections 776(a) and 776(b) of the Act. Specifically, neither the GOI nor Nima submitted questionnaire responses to the Department. By failing to respond to our questionnaire, Nima and the GOI have failed to provide information regarding subsidy programs in Iran, as well as Nima's sales, in the manner explicitly requested by the Department. Therefore, we must resort to the facts otherwise available pursuant to section 776(a) of the Act. Furthermore, in selecting from among the facts available, the Department has determined that an adverse inference is warranted, pursuant to section 776(b) of the Act because, despite the Department's efforts, Nima and the GOI did not respond to our questionnaires.

In the instant case, the Department is relying on information from *Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: In-shell Pistachios from Iran*, 51 FR 8344 (March 11, 1986) (*In-shell Pistachios*); *Certain In-Shell Pistachios and Certain Roasted In-Shell Pistachios from the Islamic Republic of Iran: Final Results of New Shipper Countervailing Duty Reviews*, 68 FR 4997 (January 31, 2003) (*Pistachios New Shipper Reviews*); and *Certain In-shell Pistachios from the Islamic Republic of Iran: Final Results*

of *Countervailing Duty Administrative Review*, 70 FR 54027 (September 13, 2005) (*2003 In-shell Pistachios*).

If the Department relies on secondary information (e.g., data from a petition) as facts available, section 776(c) of the Act provides that the Department shall, "to the extent practicable," corroborate such information using independent sources reasonably at its disposal.<sup>2</sup> The SAA further provides that to corroborate secondary information means that the Department will satisfy itself that the secondary information to be used has probative value. See also 19 CFR 351.308(d) (describing the corroboration of secondary information).

Thus, in those instances in which it determines to apply adverse facts available, the Department, in order to satisfy itself that such information has probative value, will examine, to the extent practicable, the reliability and relevance of the information used. However, unlike other types of information, such as publicly available data on the national inflation rate of a given country or national average interest rates, there typically are no independent sources for data on company-specific benefits resulting from countervailable subsidy programs. The only source for such information normally is administrative determinations. In the instant case, no evidence has been presented or obtained which contradicts the reliability of the evidence relied upon in previous segments of this proceeding.

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 benefit data not relevant. Where circumstances indicate that the information is not appropriate as adverse facts available, the Department will not use it. See *Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996). In the instant case, no evidence has been presented or obtained which contradicts the relevance of the benefit data relied upon in previous segments of this proceeding. Thus, in the instant case, the Department finds that the information used has been corroborated to the extent practicable.

For further discussion, see the "Use of Facts Available" section of the Decision Memorandum.

<sup>2</sup> The Statement of Administrative Action accompanying the URAA clarifies that information from the petition is "secondary information." See Statement of Administrative Action, URAA, H. Doc. No. 316, Vol. 1, 103d Cong. (1994) (SAA) at 870.

**Final Results of Review**

In accordance with section 777A(e)(1) of the Act and 19 CFR 351.221(b)(5), we calculated an *ad valorem* subsidy rate for Nima, the only producer/exporter subject to this review, for the POR, calendar year 2004.

Producer/Exporter	Net Subsidy Rate
Tehran Negah Nima Trading Company, Inc., trading as Nima Trading Company (Nima) .....	71.10 percent <i>ad valorem</i>

As Nima is the exporter but not the producer of subject merchandise, the Department's final results of review apply only to subject merchandise exported by Nima and produced by any company which produces the subject merchandise. See 19 CFR 351.107(b) (providing that the Department may establish a combination rate for each combination of exporter and its supplying producer).

Therefore, we will issue the following cash deposit requirements, within 15 days of publication of the final results of the instant 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, the cash deposit rate will be 71.10 percent *ad valorem*, i.e., the rate calculated in the final results of the instant administrative review; (2) 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 (3) if neither the exporter nor producer is a firm covered in this review, a prior review, or the original investigation, the cash deposit rate will continue to be 99.52 percent *ad valorem*, the "All Others" rate from the final determination in the original investigation.

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

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)(5).

Dated: June 22, 2006.

**David M. Spooner,**  
Assistant Secretary for Import Administration.

**Appendix I - Issues and Decision Memorandum**

*I. Methodology and Background Information*

*Use of Facts Available*

*II. Analysis of Programs*

Programs Determined to Be Countervailable

1. Provision of Fertilizer and Machinery
2. Provision of Credit
3. Tax Exemptions
4. Provision of Water and Irrigation Equipment
5. Technical Support
6. Duty Refunds on Imported Raw or Intermediate Materials Used in the Production of Export Goods
7. Program to Improve Quality of Exports of Dried Fruit
8. Iranian Export Guarantee Fund
9. GOI Grants and Loans to Pistachio Farmers
10. Crop Insurance for Pistachios

*III. Total Ad Valorem Rate*

*IV. Analysis of Comments*

Comment 1: Combination Rate

Comment 2: Additional Subsidy Programs

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**Evaluation of State Coastal Management Programs and National Estuarine Research Reserves**

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Office of Ocean and Coastal Resource Management, National Ocean Service, Commerce.

**ACTION:** Notice of Intent to Evaluate and Notice of Availability of Final Findings.

**SUMMARY:** The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performances of the Old Woman Creek (Ohio) National Estuarine Research Reserve, the Connecticut Coastal Management Program, and the New Hampshire Coastal Management Program.

The Coastal Zone Management Program evaluations will be conducted