

Comment 18: Zeroing Methodology
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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-831]

Fresh Garlic from the People's Republic of China: Initiation of Antidumping Duty New Shipper Reviews

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

EFFECTIVE DATE: January 2, 2008.

SUMMARY: The Department of Commerce ("Department") has determined that three requests for new shipper reviews ("NSRs") of the antidumping duty order on fresh garlic from the People's Republic of China ("PRC"), received on November 20 and November 30, 2007, respectively, meet the statutory and regulatory requirements for initiation. The period of review ("POR") for the three NSRs which the Department is initiating is November 1, 2006, through October 31, 2007.

FOR FURTHER INFORMATION CONTACT: Irene Gorelik, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-6905.

SUPPLEMENTARY INFORMATION:

Background

The notice announcing the antidumping duty order on fresh garlic from the PRC was published in the *Federal Register* on November 16, 1994. See *Notice of Antidumping Duty Order: Fresh Garlic from the People's Republic of China*, 59 FR 59209 (November 16, 1994) ("Order").¹ On November 20 and November 30, 2007, pursuant to section 751(a)(2)(B)(i) of the Tariff Act of 1930, as amended ("the Act"), and 19 CFR 351.214(c), the Department received three new shipper review ("NSR") requests from Anqiu Haoshun Trade Co., Ltd., ("Haoshun"), Ningjin Ruifeng Foodstuff Co., Ltd. ("Ningjin"), and Zhengzhou Yuanli Trading Co., Ltd. ("Yuanli"), respectively. All three companies certified that they are both the producer and exporter of the subject

merchandise upon which the requests for NSRs were based.

On December 4, 2007, the Department documented a phone call to Haoshun's consultant regarding the erroneous POR identified in the caption of Haoshun's NSR request. On December 5, 2007, the Department issued a letter to Haoshun requesting further information that was not contained within its NSR request. On December 10, 2007, Haoshun submitted certifications, pursuant to 19 CFR 351.214(b)(2)(ii)(B) and a correction to the POR indicated in the caption of its request.

Pursuant to section 751(a)(2)(B)(i)(I) of the Act and 19 CFR 351.214(b)(2)(i), Haoshun, Ningjin, and Yuanli certified that they did not export fresh garlic to the United States during the period of investigation ("POI"). In addition, pursuant to section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(b)(2)(iii)(A), Haoshun, Ningjin, and Yuanli certified that, since the initiation of the investigation, they have never been affiliated with any PRC exporter or producer who exported fresh garlic to the United States during the POI, including those not individually examined during the investigation. As required by 19 CFR 351.214(b)(2)(iii)(B), Haoshun, Ningjin, and Yuanli also certified that their export activities were not controlled by the central government of the PRC.

In addition to the certifications described above, pursuant to 19 CFR 351.214(b)(2)(iv), Haoshun, Ningjin, and Yuanli submitted documentation establishing the following: (1) the date on which Haoshun, Ningjin, and Yuanli first shipped fresh garlic for export to the United States and the date on which the fresh garlic was first entered, or withdrawn from warehouse, for consumption; (2) the volume of their first shipment;² and (3) the date of their first sale to an unaffiliated customer in the United States.

The Department conducted CBP database queries in an attempt to confirm that Haoshun, Ningjin, and Yuanli's shipments of subject merchandise had entered the United States for consumption and that liquidation of such entries had been properly suspended for antidumping duties. The Department also examined whether the CBP data confirmed that such entries were made during the NSR POR.

Initiation of New Shipper Reviews

Pursuant to section 751(a)(2)(B) of the Act and 19 CFR 351.214(d)(1), the

Department finds that Haoshun, Ningjin, and Yuanli meet the threshold requirements for initiation of a NSR for the shipment of fresh garlic from the PRC they produced and exported. See *Memorandum to File from Irene Gorelik, Senior Analyst, through Alex Villanueva, Program Manager, Office 9, Initiation of AD New Shipper Review: Fresh Garlic from the People's Republic of China (A-570-831)*, (December xx, 2007) ("NSR Initiation Memo").

The POR for the three NSRs is November 1, 2006, through October 31, 2007. See 19 CFR 351.214(g)(1)(i)(A). The Department intends to issue the preliminary results of these reviews no later than 180 days from the date of initiation, and final results of these reviews no later than 270 days from the date of initiation. See section 751(a)(2)(B)(iv) of the Act.

On August 17, 2006, the Pension Protection Act of 2006 ("H.R. 4") was signed into law. Section 1632 of H.R. 4 temporarily suspends the authority of the Department to instruct CBP to collect a bond or other security in lieu of a cash deposit in new shipper reviews. Therefore, the posting of a bond under section 751(a)(B)(iii) of the Act in lieu of a cash deposit is not available in this case. Importers of fresh garlic from the PRC manufactured and/or exported by Haoshun, Ningjin, and Yuanli must continue to post cash deposits of estimated antidumping duties on each entry of subject merchandise at the current PRC-wide rate of 376.67 percent.

Interested parties requiring access to proprietary information in this NSR should submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306. This initiation and notice are published in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214 and 351.221(c)(1)(i).

December 21, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XE26

Endangered and Threatened Species; Recovery Plans

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

¹ Therefore, a request for a NSR based on the annual anniversary month, November, was due to the Department by the final day of November 2007. See 19 CFR 351.214(d)(1).

² Haoshun, Ningjin, and Yuanli made no subsequent shipments to the United States.