

AVISMA II, and under respectful protest, the Department reexamined its calculation methodology to take VSMPO–AVISMA’s entire production process into account, including the stages of production encompassing and following ilmenite catalyzation, and, based on that examination, the Department recalculated the weighted-average dumping margin for VSMPO–AVISMA. See Results of Redetermination Pursuant to Remand, dated November 22, 2010 (*Second Remand*) (available at <http://ia.ita.doc.gov/remands>). As a result of the Department’s recalculations, the weighted-average dumping margin for the period April 1, 2006, through March 31, 2007, for magnesium metal from the Russian Federation became 8.51 percent for VSMPO–AVISMA. See *Second Remand*. The CIT sustained the Department’s *Second Remand* on March 1, 2011. See *PSC VSMPO–AVISMA Corp. v. United States*, Consol. Court No 08–00321, Slip Op. 11–22 (Ct. Int’l Trade March 1, 2011) (*AVISMA III*).

On March 11, 2011, consistent with *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), as clarified by *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010), and pursuant to section 516A(c) of the Act, the Department notified the public that the final CIT judgment in *AVISMA III* was not in harmony with the Department’s final determination and amended the final results of the administrative review with respect to VSMPO–AVISMA to reflect the final CIT judgment in *AVISMA III*. See *Magnesium Metal from the Russian Federation: Notice of Court Decision Not in Harmony With Final Results of Administrative Review and Notice of Amended Final Results of Administrative Review Pursuant to Court Decision*, 76 FR 13355 (March 11, 2011).

On July 27, 2012, the CAFC reversed and remanded the decision of the CIT and ordered it to reinstate the final results of the administrative review as applied to VSMPO–AVISMA. See *AVISMA IV*, 688 F.3d at 765. In *AVISMA IV*, the CAFC found that the CIT infringed upon the Department’s authority to implement and enforce proper procedures for constructing an agency record in its proceedings by requiring the Department to consider the untimely submitted Foster Affidavit. See *id.* at 761–62. Further, in *AVISMA IV*, the CAFC found that the CIT erred in its interpretation of section 773(e)(1) of the Act by mandating the Department to adopt the facility-wise cost allocation methodology and that the Department’s choice of accounting methodology in

the *Final Results* was supported by substantial record evidence and in accordance with law. See *id.* at 762–65. On November 20, 2012, the CIT issued final judgment implementing the CAFC’s remand order in *AVISMA IV* and ordering reinstatement of the *Final Results*. See *AVISMA V*.

Reinstatement of Final Results

Because *AVISMA V* is a final court decision with respect to VSMPO–AVISMA, the Department is amending the final results of administrative review by reinstating the weighted-average dumping margin established in the *Final Results* for VSMPO–AVISMA. Accordingly, the weighted-average dumping margin for the period April 1, 2006, through March 31, 2007, for magnesium metal from the Russian Federation is 15.77 percent for VSMPO–AVISMA. See *Final Results*, 73 FR at 52643. The Department will instruct U.S. Customs and Border Protection to assess antidumping duties on entries of the subject merchandise manufactured and exported during the POR by VSMPO–AVISMA using the assessment rates calculated by the Department in the *Final Results*. See *id.*

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: December 5, 2012.

Paul Piquado,
Assistant Secretary for Import
Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic From the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2010–2011

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

SUMMARY: The Department of Commerce (Department) is conducting the administrative review (AR) of the antidumping duty order on fresh garlic from the People’s Republic of China (PRC), covering the period of review (POR) November 1, 2010, through October 31, 2011. The mandatory respondents in this AR are: Hebei Golden Bird Trading Co., Ltd. (Golden Bird) and Shenzhen Xinboda Industrial Co., Ltd. (Xinboda). The Department has preliminarily determined that during

the POR the respondents in this proceeding have made sales of subject merchandise at less than normal value (NV). The Department is also preliminarily determining that five companies made no shipments.¹

DATES: *Effective Date:* December 12, 2012.

FOR FURTHER INFORMATION CONTACT:

David Lindgren or Lingjun Wang, 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) 482–3870 or (202) 482–2316, respectively.

Scope of the Order

The merchandise covered by the order includes all grades of garlic, whole or separated into constituent cloves. Fresh garlic that are subject to the order are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) 0703.20.0010, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, and 2005.90.9700. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description, available in *Antidumping Duty Order: Fresh Garlic from the People’s Republic of China*, 59 FR 59209 (November 16, 1994), remains dispositive.

Preliminary Determination of No Shipments

Of the remaining 20 companies subject to the review, five companies listed in Appendix I timely filed “no shipment” certifications stating that they had no entries of subject merchandise during the POR. The Department subsequently confirmed with the U.S. Customs and Border Protection (CBP) the “no shipment” claim made by these companies. Based on the certifications by these companies and our analysis of CBP information, we preliminarily determine that the companies listed in Appendix I did not have any reviewable transactions during the POR. In addition, the Department finds that consistent with its recently announced refinement to its assessment practice in non-market economy (NME) cases, further discussed below, it is appropriate not to rescind the review in part in these circumstances but, rather,

¹ On June 11, 2012, the Department issued a partial rescission, rescinding the AR for 100 companies for whom requests for review were withdrawn. See *Fresh Garlic From the People’s Republic of China: Partial Rescission of the 2010–2011 Antidumping Duty Administrative Review*, 77 FR 36480 (June 19, 2012).

to complete the review with respect to these companies and issue appropriate instructions to CBP based on the final results of the review.²

PRC-Wide Entity

Of the remaining 15 companies subject to these preliminary results, ten are not eligible for separate rate status or rescission, as they did not submit separate rate applications or certifications.³ As a result, these ten companies are under review as part of the PRC-wide entity. For our determination with respect to the PRC-wide entity, see the Preliminary Decision Memorandum.⁴

Methodology

The Department has conducted this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). Export prices have been calculated in accordance with section 772 of the Act. Because the PRC is an NME within the meaning of section 771(18) of the Act, NV has been calculated in accordance with section 773(c) of the Act.

The Preliminary Decision Memorandum provides a full description of the methodology underlying our conclusions. The Preliminary Decision Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at <http://iaaccess.trade.gov> and in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at <http://www.trade.gov/ia/>. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of Review

The Department has determined that the following preliminary dumping

margins exist for the period November 1, 2010 through October 31, 2011:

Companies	Weighted-average margin (dollars per kilogram)
Hebei Golden Bird Trading Co., Ltd.	1.65
Shenzhen Xinboda Industrial Co., Ltd.	1.96
Qingdao Xintianfeng Foods Co., Ltd.*	1.81
Shandong Jinxiang Zhengyang Import & Export Co., Ltd.*	1.81
Weifang Hongqiao International Logistics Co., Ltd.*	1.81
PRC-Wide Rate	4.71

*These companies which applied for or demonstrated eligibility for a separate rate in this administrative review. The rate for these companies is the simple average of the calculated antidumping duty rates for Golden Bird and Xinboda.

Disclosure and Public Comment

The Department will disclose calculations performed for these preliminary results to the parties within ten days of the date of publication of this notice.⁵ Unless otherwise notified by the Department, interested parties may submit written comments (case briefs) no later than 30 days after the date of publication of these preliminary results of review and rebuttal comments (rebuttal briefs) within five days after the time limit for filing case briefs.⁶ Pursuant to 19 CFR 351.309(d)(2), rebuttal briefs must be limited to issues raised in the case briefs. Parties who submit arguments are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and, (3) a table of authorities.

Interested parties who wish to request a hearing, or participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, filed electronically using IA ACCESS. An electronically filed document must be received successfully in its entirety by the Department's IA ACCESS by 5 p.m. Eastern Standard Time within 30 days after the date of publication of this notice.⁷ Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, we will inform parties of the scheduled date, time and

location of the hearing.⁸ Parties should confirm by telephone or electronic mail the date, time and location.

Unless the deadline is extended pursuant section 751(a)(2)(B)(iv) of the Act, the Department will issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days after issuance of these preliminary results.

Deadline for Submission of Publicly Available Surrogate Value Information

In accordance with 19 CFR 351.301(c)(3), the deadline for submission of publicly available information to value the FOPs under 19 CFR 351.408(c) is 20 days after the date of publication of these preliminary results. In accordance with 19 CFR 351.301(c)(1), if an interested party submits factual information less than ten days before, on, or after (if the Department has extended the deadline), the applicable deadline for submission of such factual information, an interested party may submit factual information to rebut, clarify, or correct the factual information no later than ten days after such factual information is served on the interested party. However, the Department notes that 19 CFR 351.301(c)(1), permits new information only insofar as it rebuts, clarifies, or corrects information recently placed on the record.⁹ Furthermore, the Department generally will not accept business proprietary information in either the surrogate value submissions or the rebuttals thereto, as the regulation regarding the submission of surrogate values allows only for the submission of publicly available information.

Assessment Rates

If these preliminary results of review are adopted in the final results, then Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by the review. The Department 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. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final rescission of and final results of the review. In accordance with 19 CFR 351.212(b)(1), we calculated exporter/

⁸ See 19 CFR 351.310.

⁹ See, e.g., *Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission*, in Part, 72 FR 58809 (October 17, 2007) and accompanying Issues and Decision Memorandum at Comment 2.

² See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011); see also "Assessment Rates" section below.

³ See Appendix II for the list of these companies.

⁴ See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations to Ronald K. Lorentzen, Acting Assistant Secretary for Import Administration regarding "Decision Memorandum for the Preliminary Results of the 2010–2011 Antidumping Duty Administrative Review: Fresh Garlic from the People's Republic of China," dated concurrently with these results and hereby adopted by this notice (Preliminary Decision Memorandum).

⁵ See 19 CFR 351.224(b).

⁶ See 19 CFR 351.309(c)(1)(ii) and (d)(1).

⁷ See 19 CFR 351.310(c).

importer-specific assessment rates for the merchandise subject to the review.

Also, the Department recently announced a refinement to its assessment practice in NME cases. Pursuant to this refinement in practice, for merchandise that was not reported in the U.S. sales databases submitted by an exporter individually examined during this review, but that entered under the case number of that exporter (*i.e.*, at the individually-examined exporter's cash deposit rate), the Department will instruct CBP to liquidate such entries at the NME-wide rate. In addition, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.*, at that exporter's rate) will be liquidated at the PRC-wide rate.¹⁰

Cash Deposit Requirements

The following cash deposit requirements, when imposed, will apply to all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be the rate established in these final results of review (except, if the rate is zero or *de minimis*, a zero cash deposit rate will be required for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates (*i.e.*, those companies with no shipments listed in Appendix I), the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of \$4.71 per kilogram; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary 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 Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these preliminary results in accordance with sections 751(a)(2)(B) and 777(i) of the Act, and 19 CFR 351.214(h) and 351.221(b)(4).

Dated: December 3, 2012.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

Appendix I

Companies That Have Certified No Shipments

1. Chengwu County Yuanxiang Industry & Commerce Co., Ltd.
2. Jinan Farmlady Trading Co., Ltd.
3. Jinxiang Chengda Import & Export Co., Ltd.
4. Jinxiang Hejia Co., Ltd.
5. Qingdao Sea-line International Trading Co.

Appendix II

List of Companies Subject to the PRC-Wide Rate

1. Foshan Fuyi Food Co., Ltd.
2. Henan Weite Industrial Co., Ltd.
3. Jining Yongjia Trade Co., Ltd.
4. Qingdao Tiantaixing Foods Co., Ltd.
5. Shandong Chenhe Intl Trading Co., Ltd.
6. Shanghai LJ International Trading Co., Ltd.
7. Sunny Import & Export Limited
8. Yantai Jinyan Trading Co., Ltd.
9. Zhengzhou Huachao Industrial Co., Ltd.
10. Zhengzhou Yuanli Trading Co., Ltd.

Appendix III

List of Topics Discussed in the Preliminary Decision Memorandum

Preliminary Determination of No Shipments
Separate Rates
Separate Rate for Non-Selected Companies
PRC-Wide Entity
Surrogate Country
Date of Sale
Fair-Value Comparisons
Export Price
Normal Value
Raw Garlic Bulb Input Valuation
Labor
Financial Ratios
Other Surrogate Values
Currency Conversion

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-988]

Silica Bricks and Shapes From the People's Republic of China: Initiation of Antidumping Duty Investigation

DATES: *Effective Date:* December 12, 2012.

FOR FURTHER INFORMATION CONTACT: Jeffrey Pedersen or Rebecca Pandolph, AD/CVD Operations, Office 4, (202) 482-2769 or (202) 482-3627, respectively; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: On November 15, 2012, the Department of Commerce ("Department") received a petition concerning imports of silica bricks and shapes ("silica bricks") from the People's Republic of China ("PRC") filed in proper form by Utah Refractories Corporation ("Petitioner").¹ On November 16, 2012, Petitioner re-filed the petition to correct the bracketing of business proprietary information in certain exhibits. On November 19, 2012, the Department issued a supplemental questionnaire requesting information and clarification of certain areas of the Petition. Petitioner timely filed additional information on November 21, 2012 ("Lost Sales and Revenue Supplement") and November 26, 2012 ("First Supplement to the Petition"). At the Department's request, Petitioner filed additional information on November 28, 2012 ("Second Supplement to the Petition"). At the Department's request, Petitioner filed further information on December 4, 2012.

Period of Investigation

The period of investigation ("POI") is April 1, 2012, through September 30, 2012.²

The Petition

In accordance with section 732(b) of the Tariff Act of 1930, as amended ("the Act"), Petitioner alleges that imports of silica bricks from the PRC are being, or are likely to be, sold in the United States at less than fair value, within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury

¹ See Petition for the Imposition of Antidumping Duties: Silica Bricks and Shapes from the People's Republic of China dated November 15, 2012 ("Petition").

² See 19 CFR 351.204(b)(1).

¹⁰ For a full discussion of this practice, see *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).