

establishment or reorganization of general-purpose zones;

Whereas, the Triangle J Council of Governments, grantee of Foreign-Trade Zone 93, submitted an application to the Board (FTZ Docket 13, 2012, filed 03/07/2012) for authority to reorganize under the ASF with a service area of Chatham, Durham, Franklin, Granville, Harnett, Johnston, Lee, Moore, Orange, Person, Vance, Wake and Warren Counties, North Carolina, within and adjacent to the Raleigh-Durham Customs and Border Protection port of entry. Sites 1 and 1A would be renumbered as Sites 4 and 1, respectively. FTZ 93's Sites 1, 3, and 4 would be categorized as magnet sites, and FTZ 93's existing Site 2 would be categorized as a usage-driven site.

Whereas, notice inviting public comment was given in the **Federal Register** (77 FR 16536–16537, 03/21/12) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to reorganize FTZ 93 under the alternative site framework is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, to the Board's standard 2,000-acre activation limit for the zone, to a five-year ASF sunset provision for magnet sites that would terminate authority for Site 3 and 4 if not activated by November 30, 2017, and to a three-year sunset provision for usage-driven sites that would terminate authority for Site 2 if no foreign-status merchandise is admitted for a *bona fide* customs purpose by November 30, 2015.

Signed at Washington, DC, this 30th day of November 2012.

**Ronald K. Lorentzen,**

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

**Andrew McGilvray,**

Executive Secretary.

[FR Doc. 2012–29883 Filed 12–11–12; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–821–819]

#### Magnesium Metal From the Russian Federation: Notice of Reinstated Final Results of Administrative Review Pursuant to Court Decision

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

**SUMMARY:** On July 27, 2012, the United States Court of Appeals for the Federal Circuit (CAFC) reversed and remanded a decision of the United States Court of International Trade (CIT) and ordered it to reinstate the final results of the administrative review of the antidumping duty order on magnesium metal from the Russian Federation covering the period April 1, 2006, through March 31, 2007, as applied to PSC VSMPO–AVISMA Corporation (VSMPO–AVISMA). See *PSC VSMPO–AVISMA Corp. v. United States*, 688 F.3d 751 (Fed. Cir. 2012) (*AVISMA IV*); see also *Magnesium Metal from the Russian Federation: Final Results of Antidumping Duty Administrative Review*, 73 FR 52642 (September 10, 2008) (*Final Results*). On November 20, 2012, the CIT issued final judgment pursuant to the CAFC's remand order in *AVISMA IV* reinstating the final results of administrative review with respect to VSMPO–AVISMA. See *PSC VSMPO–AVISMA Corp. v. United States*, Consol. Court No 08–00321, Slip Op. 12–142 (Ct. Int'l Trade November 20, 2012) (*AVISMA V*). Having previously amended the final results of administrative review pursuant to the earlier CIT decision, the Department of Commerce (the Department) is, in accordance with *AVISMA V*, once again amending the final results of the administrative review with respect to VSMPO–AVISMA to reinstate its original determination. See *Final Results*.

**DATES:** *Effective Date:* March 11, 2011.

**FOR FURTHER INFORMATION CONTACT:** Dmitry Vladimirov or Mino Hatten, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0665 or (202) 482–1690, respectively.

**SUPPLEMENTARY INFORMATION:**

#### Background

On September 10, 2008, the Department published the final results of the administrative review of the

antidumping duty order on magnesium metal from the Russian Federation for the period of review April 1, 2006, through March 31, 2007. See *Final Results*. In the *Final Results* the Department determined that it was appropriate to treat raw magnesium and chlorine gas manufactured by VSMPO–AVISMA as co-products and to employ a net-realizable-value (NRV) analysis to allocate joint costs incurred up to the split-off point where raw magnesium and chlorine gas become separately identifiable products. The Department calculated a weighted-average dumping margin for AVISMA of 15.77 percent for the period April 1, 2006, through March 31, 2007. See *Final Results*, 73 FR at 52643.

The CIT remanded the *Final Results* to the Department to take into account an affidavit from Dr. George Foster, an accounting professor (the Foster Affidavit), when considering the best methodology for calculating the NRV for the chlorine gas.<sup>1</sup> See *PSC VSMPO–AVISMA Corp. v. United States*, Consol. Court No 08–00321, Slip Op. 09–120 (Ct. Int'l Trade October 20, 2009) (*AVISMA I*). In accordance with the CIT's order in *AVISMA I*, the Department admitted the Foster Affidavit into the record, considered the arguments of Dr. Foster upon remand, and, as a result of that consideration, determined not to recalculate the dumping margin for VSMPO–AVISMA upon concluding that Dr. Foster's proposed methodology was not appropriate to use in this case. See *Results of Redetermination Pursuant to Remand*, dated March 30, 2010 (*First Remand*) (available at <http://ia.ita.doc.gov/remands>). As a result, in the *First Remand* the Department used the same allocation methodology it used in the *Final Results*.

In *PSC VSMPO–AVISMA Corp. v. United States*, 724 F. Supp. 2d 1308 (Ct. Int'l Trade 2010) (*AVISMA II*), the CIT remanded the *Final Results* again, instructing the Department to consider VSMPO–AVISMA's entire production process, including titanium production, in allocating joint costs to the subject merchandise. The CIT found the Department's cost-allocation methodology in the *Final Results* to be unsupported by substantial record evidence and not in accordance with section 773(e)(1) of the Tariff Act of 1930, as amended (the Act). See *AVISMA II*, 724 F. Supp. 2d at 1313–16. In accordance with the CIT's order in

<sup>1</sup> VSMPO–AVISMA submitted the Foster Affidavit as part of its administrative case brief, dated June 11, 2008, which the Department rejected as untimely new factual information.

*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.

[FR Doc. 2012–29990 Filed 12–11–12; 8:45 am]

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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.<sup>1</sup>

**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,

<sup>1</sup> 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).