



## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-831]

Fresh Garlic from the People's Republic of China: Preliminary Results, Preliminary Rescission, and Final Rescission, In Part, of the 26th Antidumping Duty Administrative Review; 2019-2020

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is conducting the 26th administrative review of the antidumping duty order on fresh garlic from the People's Republic of China (China). The period of review (POR) for the administrative review is November 1, 2019, through October 31, 2020. Commerce preliminarily determines that the only mandatory respondent for which a request for review remains, Jining Shunchang Import & Export Co., Ltd. (Shunchang), failed to establish its eligibility for a separate rate and therefore is part of the China-wide entity. We also preliminarily find that the review request made by The Roots Farm Inc. (Roots Farm) was not valid, and accordingly, because it was the sole remaining request for the other mandatory respondent, Zhengzhou Harmoni Spice Co., Ltd. (Harmoni), we have preliminarily rescinded the review with respect to Harmoni. We invite interested parties to comment on these preliminary results.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Leo Ayala or Charles DeFilippo, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3945 or (202) 482-3979.

### SUPPLEMENTARY INFORMATION

#### Background

On January 6, 2021, Commerce initiated the twenty-sixth administrative review of

antidumping duty order on fresh garlic from China<sup>1</sup> with respect to eighteen companies.<sup>2</sup>

Commerce initially selected Harmoni for individual examination.<sup>3</sup> After issuing a standing questionnaire to Roots Farm, and Roots Farm's failure to timely respond, Commerce indicated its intent to preliminarily rescind review of Harmoni, and selected Shunchang as the only respondent subject to individual examination.<sup>4</sup>

### Scope of the Order

The products subject to the *Order* are 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) 0703.20.0000, 0703.20.0005, 0703.20.0010, 0703.20.0015, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, 0711.90.6500, 2005.90.9500, 2005.90.9700, and 2005.99.9700. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive. For a full description of the scope of this *Order*, please see the "Scope of the Order" section in the accompanying Preliminary Decision Memorandum, hereby adopted by this notice.<sup>5</sup>

### Partial Rescission of Administrative Review

On March 23, 2021, all review requests were timely withdrawn for fifteen companies.<sup>6</sup> Commerce is, therefore, partially rescinding this administrative review with respect to the companies listed in Appendix I, in accordance with 19 CFR 351.213(d)(1).

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<sup>1</sup> See *Antidumping Duty Order: Fresh Garlic from the People's Republic of China*, 59 FR 59209 (November 16, 1994) (*Order*).

<sup>2</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 86 FR 511, 515 (January 6, 2021) (*Initiation Notice*).

<sup>3</sup> See Memorandum, "Selection of Respondents for Individual Examination," dated April 12, 2021.

<sup>4</sup> See Memorandum, "Intent to Preliminarily Rescind, in Part," dated July 6, 2021.

<sup>5</sup> See Memorandum, "Decision Memorandum for the Preliminary Results, Preliminary Rescission, and Final Rescission, In Part, of the 2019-2020 Antidumping Duty Administrative Review: Fresh Garlic from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

<sup>6</sup> See Best Buy Letter, "Fresh Garlic from the People's Republic of China – Withdrawal of Request for Administrative Review," dated February 17, 2021; see also Petitioners' Letter, "26<sup>th</sup> Administrative Review of the Antidumping Duty Order on Fresh Garlic from the People's Republic of China – Petitioners' Partial Withdrawal of Review Request," dated March 23, 2021; and Harmoni's Letter, "Harmoni Withdrawal of Review Request: Twenty-Sixth Administrative Review of the Antidumping Duty Order on Fresh Garlic from the People's Republic of China (A-570-831)," dated March 26, 2021.

## Preliminary Rescission of Administrative Review

As discussed in the accompanying Preliminary Decision Memorandum, Commerce has preliminarily determined that the review request from Roots Farm was invalid *ab initio*, and is preliminarily rescinding the administrative review with respect to one mandatory respondent, Harmoni.

## Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) and 751(a)(2)(B) of the Tariff Act of 1930, as amended, (the Act) and 19 CFR 351.214.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>. A list of the topics discussed in the Preliminary Decision Memorandum is attached as Appendix II to this notice.

## China-Wide Entity

Commerce's policy regarding conditional review of the China-wide entity applies to this administrative review.<sup>7</sup> Under this policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the China-wide entity in this review, the entity is not under review and the entity's rate (*i.e.*, \$4.71/kg) is not subject to change. Aside from the companies for which the review is being rescinded or preliminarily rescinded, Commerce considers all other companies<sup>8</sup>

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<sup>7</sup> *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013).

<sup>8</sup> The companies that are part of the China-wide entity are Jining Shunchang Import & Export Co., Ltd. and Jining Shunchang Food Co., Ltd.

for which a review was requested, and which did not preliminarily qualify for a separate rate, to be part of the China-wide entity. For additional information, *see* the Preliminary Decision Memorandum.

#### Preliminary Results of Administrative Review

Commerce preliminarily determines that the following weighted-average dumping margins exist for the administrative review covering the period November 1, 2019, through October 31, 2020:

<b>Exporter</b>	<b>Weighted-Average Margin (dollars per kilogram)</b>
China-Wide Entity <sup>9</sup>	4.71

#### Public Comment and Opportunity to Request a Hearing

Pursuant to 19 CFR 351.309(c)(1)(ii), case briefs or other written comments may be submitted within thirty days after the date on which this notice is published in the *Federal Register*, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.<sup>10</sup> Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.<sup>11</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. All electronically filed documents must be received successfully and timely in their entirety by Commerce's electronic records system, ACCESS.

Pursuant to 19 CFR 351.310, any interested party may request a hearing within 30 days of publication of this notice. Hearing requests should contain the following information: (1) the

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<sup>9</sup> *Id.*

<sup>10</sup> *See* 19 CFR 351.309(d); *see also* 19 CFR 351.303 (for general filing requirements).

<sup>11</sup> *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 17006 (March 26, 2020) (*Temporary Rule*); and *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the case and rebuttal briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing.

Commerce intends to issue the final results of this review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

#### Assessment Rates

Upon issuance of the final results, Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review, in accordance with 19 CFR 351.212(b). For the companies for which this review is rescinded, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce will direct CBP to assess rates based on the per-unit (*i.e.*, per kilogram) amount on each entry of the subject merchandise during the POR. Commerce intends to issue assessment instructions to CBP 35 days after the publication date of the final results of review.

Commerce 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), Commerce will instruct CBP to liquidate such entries at the NME-wide rate. In addition, if Commerce 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 China-wide rate.<sup>12</sup>

### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this review for shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2) of the Act: (1) for the companies 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*, then zero cash deposit will be required for that company); (2) for previously investigated or reviewed Chinese and non-Chinese exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all Chinese exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the China-wide rate of 4.71 U.S. dollars per kilogram; and (4) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese 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 Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

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<sup>12</sup> For a full discussion of this practice, see *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

Notification to Interested Parties

We are issuing and publishing these preliminary results in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.213(h) and 351.221(b)(4).

Dated: November 23, 2021.

James Maeder,  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations.

## **Appendix I**

### **Companies for Which Administrative Reviews Have Been Rescinded**

1. Hengshui Chaoran International Trade
2. Jining Greenstream Fruits & Vegetables Co., Ltd.
3. Jinxiang Wanxing Garlic Co., Ltd.
4. Laiwu Manhing Vegetables Fruits Corp.
5. Linyi Mingda Food Co., Ltd.
6. China Jiangsu International Economic Technical Cooperation Corporation
7. Hebei Holy Flame International
8. Jining Alpha Food Co. Ltd.
9. Jinxiang Qingtian Garlic Industries
10. Qingdao Maycarrier Import & Export Co., Ltd.
11. Qingdao Ritai Food Co., Ltd.
12. Shandong Happy Foods Co., Ltd.
13. Shijiazhuang Goodman Trading Co., Ltd.
14. Weifang Hongqiao International Logistics Co., Ltd.
15. Yingxin (Wuqiang) International Trade

## **Appendix II**

### **List of Topics Discussed in the Preliminary Decision Memorandum**

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Partial Rescission of Administrative Review
- V. Discussion of Methodology
- VI. Recommendation

[FR Doc. 2021-26022 Filed: 11/29/2021 8:45 am; Publication Date: 11/30/2021]