

Dated: March 4, 2002.

Y. Robert Iwamoto,

Acting Forest Supervisor.

[FR Doc. 02-5926 Filed 3-12-02; 8:45 am]

BILLING CODE 3410-11-M

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-831]

#### **Fresh Garlic From the People's Republic of China: Final Results of Antidumping Administrative Review and Rescission of New Shipper Review**

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

**ACTION:** Notice of final results of antidumping administrative review and rescission of new shipper review.

**SUMMARY:** On August 24, 2001, the Department of Commerce published the preliminary results of the new shipper review and the administrative review of the antidumping duty order on fresh garlic from the People's Republic of China. The periods of review are June 1, 2000, through November 30, 2000, and November 1, 1999, through October 31, 2000, respectively. The two reviews have been aligned at the request of the petitioner and the agreement of the new shipper. The new shipper review concerns one new shipper and the administrative review covers four producers/exporters of subject merchandise.

We invited interested parties to comment on our preliminary results. Based on our analysis of the comments received, we have made changes to our analysis for the new shipper review. We have made no changes to the margin determined for the administrative review. The final dumping margins for the administrative review are listed in the section entitled "Final Results of the Review."

**EFFECTIVE DATE:** March 13, 2002.

#### **FOR FURTHER INFORMATION CONTACT:**

Hermes Pinilla or Mark Ross, Office of Antidumping/Countervailing Duty Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-3477 or (202) 482-4794, respectively, for information concerning the new shipper review. For information concerning the administrative review, please contact Edythe Artman or Mark Ross at the same address; telephone (202) 482-3931 for Edythe Artman.

#### **SUPPLEMENTARY INFORMATION:**

#### **The Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are at 19 CFR Part 351 (2001).

#### **Background**

On August 24, 2001, the Department published the preliminary results of the new shipper and administrative review of the antidumping duty order on fresh garlic from the People's Republic of China (the PRC). See *Fresh Garlic from the People's Republic of China; Preliminary Results of Antidumping New Shipper Review, Preliminary Results of Antidumping Duty Administrative Review, and Partial Rescission of Administrative Review*, 66 FR 44596 (August 24, 2001) (*Preliminary Results*). We invited parties to comment on our preliminary results. With respect to the new shipper review, we received comments from the petitioner and the new shipper, Clipper Manufacturing Ltd. (Clipper). We received comments from the petitioner and one of the respondents, Fook Huat Tong Kee Pte., Ltd., and Taian Fook Huat Tong Kee Foods Co., Ltd. (collectively FHTK), that pertained to the administrative review.

We have conducted these reviews in accordance with section 751 of the Act and 19 CFR 351.213 and 351.214.

#### **Scope of the Order**

The products covered by this antidumping duty order are all grades of garlic, whole or separated into constituent cloves, whether or not peeled, fresh, chilled, frozen, provisionally preserved, or packed in water or other neutral substance, but not prepared or preserved by the addition of other ingredients or heat processing. The differences between grades are based on color, size, sheathing, and level of decay.

The scope of this order does not include the following: (a) Garlic that has been mechanically harvested and that is primarily, but not exclusively, destined for non-fresh use; or (b) garlic that has been specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed.

The subject merchandise is used principally as a food product and for seasoning. The subject garlic is

currently classifiable under subheadings 0703.20.0010, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, and 2005.90.9700 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive. In order to be excluded from the antidumping duty order, garlic entered under the HTSUS subheadings listed above that is (1) mechanically harvested and primarily, but not exclusively, destined for non-fresh use or (2) specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed must be accompanied by declarations to the Customs Service to that effect.

#### **Analysis of Comments Received**

All issues raised in the case and rebuttal briefs by parties to the administrative review are addressed in the "Issues and Decision Memorandum for the Administrative Review of Fresh Garlic from the People's Republic of China" (Decision Memo) from Richard W. Moreland, Deputy Assistant Secretary, to Faryar Shirzad, Assistant Secretary, dated March 6, 2002, which is hereby adopted by this notice. All issues raised by parties concerning the *bona fides* of Clipper's sale and the Department's decision to rescind the new shipper review are addressed in the "Issues and Decision Memorandum: New Shipper Review of Clipper Manufacturing Ltd." (Clipper Decision Memo) from Richard W. Moreland, Deputy Assistant Secretary, to Faryar Shirzad, Assistant Secretary, dated March 6, 2002, which is hereby adopted by this notice. A list of the issues which parties raised and to which we responded in the Decision Memo and Clipper Decision Memo is attached to this notice as an Appendix. The Decision Memo and Clipper Decision Memo are public documents and are on file in the Central Records Unit (CRU), Main Commerce Building, Room B-099, and are accessible on the Web at [ia.ita.doc.gov](http://ia.ita.doc.gov). The paper copies and electronic versions of both memoranda are identical in content.

#### **Separate Rates**

In our preliminary results, we found that Clipper and FHTK met the criteria for the application of separate antidumping duty rates. Because we are rescinding the new shipper review, we are not making a final determination as to whether Clipper is entitled to a separate rate at this time. With respect to FHTK, we have not received any

other information since our preliminary results that warrants reconsideration of our separate-rate determination (see the *Preliminary Results*, 66 FR at 44597). Therefore, we find that FHTK should be assigned an individual dumping margin.

#### Use of Facts Otherwise Available

In our preliminary results of the new shipper review, we applied adverse facts available to Clipper and assigned it a rate of 376.67 percent for shipments during the period of review. Because we are rescinding the review covering Clipper, the use of facts otherwise available for Clipper is no longer an issue. For a detailed description of our analysis, see the Clipper Decision Memo.

In our preliminary results of the administrative review, we assigned a rate of 376.67 percent, based on the use of adverse facts available, to FHTK, Rizhao Hanxi Fisheries and Comprehensive Development Co., Ltd., Zhejiang Materials Industry, and Wo Hing (H.K.) Trading Co. For a detailed discussion of our application of the facts otherwise available, see the *Preliminary Results*, 66 FR at 44599–600, and the “Memorandum from Edythe Artman to Laurie Parkhill” regarding the use of facts otherwise available and the corroboration of secondary information (August 14, 2001), on file in the CRU.

#### Changes Since the Preliminary Results

Based on our analysis of comments received, we have made changes concerning Clipper in the new shipper review. See “Rescission of New Shipper Review” below. We have not made revisions that changed our analysis for the administrative review.

#### Final Results of the Administrative Review

We determine that a margin of 376.67 percent exists for all shipments of subject merchandise produced or exported by FHTK for the period November 1, 1999, through October 31, 2000. For Rizhao Hanxi Fisheries and Comprehensive Development Co., Ltd., Zhejiang Materials Industry, Wo Hing (H.K.) Trading Co., and all other Chinese producers and exporters of the subject merchandise for the period November 1, 1999, through October 31, 2000, we determine that a PRC-wide margin of 376.67 percent exists. The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisal instructions directly to the Customs Service.

#### Rescission of New Shipper Review

For the reasons detailed in the Clipper Decision Memo, we determine that Clipper’s sale was not a *bona fide* sale as required by 19 CFR 351.214(b)(2)(iv)(C), although there was indeed an “entry” of the merchandise, as referenced in 19 CFR 315.214(b)(2)(iv)(A) of the regulations. Because we have no *bona fide* sale upon which to base a margin calculation, we are hereby rescinding the new shipper review with respect to Clipper. With this rescission, the PRC-wide margin of 376.67 percent applies to Clipper’s entries during the period of review.

In response to the preliminary results, we received comments from Clipper objecting to the use of facts otherwise available in the calculation of its rate for the preliminary results. Clipper argued that the Department should issue it a supplemental questionnaire to resolve the remaining issues regarding garlic growing costs.

Because we are rescinding the new shipper review, we have not addressed Clipper’s comments concerning the use of facts otherwise available. Comments by the petitioner and Clipper concerning the *bona fides* of Clipper’s transaction are addressed in the Clipper Decision Memo.

#### Cash-Deposit Requirements

The following deposit rates will be effective upon publication of this notice of final results of administrative review for all shipments of fresh garlic from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For FHTK, the cash-deposit rate will be 376.67 percent; (2) for PRC exporters, including Clipper, which have not been found to be entitled to a separate rate, the cash-deposit rate will be 376.67 percent; and (3) for all non-PRC exporters of subject merchandise from the PRC, the cash-deposit rate will be the rate applicable to the PRC supplier of that exporter. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final 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 these review periods. Failure to comply with this requirement, pursuant to 19 CFR 351.402(f)(3), could result in the Department’s presumption that reimbursement of antidumping duties

occurred and the subsequent assessment of doubled antidumping duties.

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. Timely written notification of the 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.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Dated: March 6, 2002.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

#### Appendix

##### Decision Memo

1. Use of Facts Available for FHTK.
2. Miscellaneous.

##### Clipper Decision Memo

*Bona Fides of the Sale.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Overseas Trade Mission

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

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce invites U.S. companies to participate in the below listed overseas trade mission. For a more complete description of the trade mission, obtain a copy of the mission statement from the Project Officer indicated for the mission below. Recruitment and selection of private sector participants for the mission will be conducted according to the Statement of Policy Governing Department of Commerce Overseas Trade Missions dated March 3, 1997.

#### Assistant Secretarial Business Development Mission: Italy and Spain

*Rome and Milan, Barcelona and Madrid*

July 6–15, 2002

Assistant Secretary of Commerce and Director General of the U.S. and Foreign Commercial Service Maria Cino will lead a senior-level business