

The period of review (POR) is November 1, 2012, through April 30, 2013.

**DATES:** Effective July 5, 2013.

**FOR FURTHER INFORMATION CONTACT:** 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) 482-2316.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Department published the antidumping duty order on fresh garlic from the PRC in the **Federal Register** on November 16, 1994.<sup>1</sup> On May 8 and 24, 2013, the Department received timely requests for NSRs from Cangshan Qingshui Vegetable Foods Co., Ltd. (Qingshui) and *Jinxiang Merry Vegetable Co., Ltd.* (Merry), in accordance with section 751(a)(2)(B)(i) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214(c).

Qingshui and Merry each certified that each is both the exporter and producer of the fresh garlic upon which their requests for NSRs are based. Pursuant to section 751(a)(2)(B)(i)(I) of the Act and 19 CFR 351.214(b)(2)(i), Qingshui and Merry each certified that they did not export fresh garlic for sale to the United States during the period of investigation (POI).<sup>2</sup> Moreover, pursuant to section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(b)(2)(iii)(A), Qingshui and Merry each certified that, since the investigation was initiated, they have never been affiliated with any exporter or producer who exported the subject merchandise to the United States during the POI, including those not individually examined during the investigation.<sup>3</sup> Further, as required by 19 CFR 351.214(b)(2)(iii)(B), they each certified that their export activities are not controlled by the central government of the PRC.<sup>4</sup> Also, Qingshui and Merry each certified they had no subsequent shipments.<sup>5</sup>

In addition to the certifications described above, pursuant to 19 CFR

351.214(b)(2)(iv), Qingshui and Merry each submitted documentation establishing the following: (1) The dates on which the fresh garlic was first entered; (2) the volumes of those shipments; and (3) the dates of their first sales to unaffiliated customers in the United States.<sup>6</sup>

The Department queried the database of U.S. Customs and Border Protection (CBP) in an attempt to confirm that shipments reported by Qingshui and Merry had entered the United States for consumption and that liquidation had been properly suspended for antidumping duties. The information which the Department examined was consistent with that provided by Qingshui and Merry in their requests.<sup>7</sup>

**Period of Review**

Pursuant to 19 CFR 351.214(c), an exporter or producer may request an NSR within one year of the date on which its subject merchandise was first entered. Moreover, 19 CFR 351.214(d)(1) states that if the request for the review is made during the six-month period ending with the end of the semiannual anniversary month, the Secretary will initiate an NSR in the calendar month immediately following the semiannual anniversary month. Further, 19 CFR 351.214(g)(1)(i)(B) states that if the NSR was initiated in the month immediately following the semiannual anniversary month, the POR will be the six-month period immediately preceding the semiannual anniversary month. Within one year of the dates on which their fresh garlic was first entered, Qingshui and Merry made the requests for NSRs in May, which is the semiannual anniversary month of the order. Therefore, the Secretary must initiate these reviews in June and the POR is November 1, 2012, through April 30, 2013.<sup>8</sup>

**Initiation of New Shipper Review**

Pursuant to section 751(a)(2)(B) of the Act and 19 CFR 351.214(b), and the information on the record, the Department finds that Qingshui's and Merry's requests meet the threshold requirements for initiation of an NSR. The Department intends to issue the preliminary results within 180 days after the date on which these review are initiated and the final results within 90 days after the date on which we issue the preliminary results.<sup>9</sup>

It is the Department's usual practice, in cases involving non-market

economies, to require that a company seeking to establish eligibility for an antidumping duty rate separate from the country-wide rate (*i.e.*, a separate rate) provide evidence of *de jure* and *de facto* absence of government control over the company's export activities.<sup>10</sup> Accordingly, the Department will issue questionnaires to Qingshui and Merry that include a separate rate section. These reviews will proceed if the responses provide sufficient indication that the exporter and producer are not subject to either *de jure* or *de facto* government control with respect to their exports of fresh garlic.

The Department will instruct CBP to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for certain entries of the subject merchandise from Qingshui and Merry in accordance with section 751(a)(2)(B)(iii) of the Act and 19 CFR 351.214(e). Specifically, the bonding privilege will only apply to entries of subject merchandise exported and produced by Qingshui, and exported and produced by Merry, the sales of which are the basis for these NSR requests.

Interested parties requiring access to proprietary information in these NSRs should submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214 and 351.221(c)(1)(i).

Dated: June 28, 2013.

**Christian Marsh,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

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**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[C-533-821]

**Certain Hot-Rolled Carbon Steel Flat Products From India: Rescission of Countervailing Duty Administrative Review; 2012**

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

**SUMMARY:** The Department of Commerce ("the Department") is rescinding the administrative review of the

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

<sup>2</sup> See Qingshui's request for an NSR dated May 8, 2013 at Exhibit 1 and Merry's request for an NSR dated May 24, 2013 at Exhibit 1.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> See Memoranda to the File regarding "Initiation of Antidumping Duty New Shipper Review of Fresh Garlic from the People's Republic of China: Cangshan Qingshui Vegetable Foods Co., Ltd." and "Initiation of Antidumping Duty New Shipper Review of Fresh Garlic from the People's Republic of China: Jinxiang Merry Vegetable Co., Ltd.," both dated concurrently with this notice.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> The initiation notice will be published in the **Federal Register** in July 2013.

<sup>9</sup> See section 751(a)(2)(B)(iv) of the Act.

<sup>10</sup> See Import Administration Policy Bulletin, Number: 05.1. (<http://ia.ita.doc.gov/policy/bull05-1.pdf>).

countervailing duty order on certain hot-rolled carbon steel flat products ("hot-rolled steel") from India for the period January 1, 2012, through December 31, 2012.

**DATES:** *Effective Date:* July 5, 2013.

**FOR FURTHER INFORMATION CONTACT:** Robert Copyak, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-2209.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Department initiated an administrative review of the countervailing duty order on hot-rolled steel from India covering the period January 1, 2012, through December 31, 2012, based on requests by United States Steel Corporation ("U.S. Steel") and Nucor Corporation ("Nucor").<sup>1</sup>

U.S. Steel and Nucor withdrew their requests for an administrative review in their entirety on April 12, 2013, and April 25, 2013, respectively.

**Rescission of Review**

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the party that requested the review withdraws its request within 90 days of the publication of the notice of initiation of the requested review. In this case, U.S. Steel and Nucor withdrew their requests within the 90-day deadline and no other parties requested an administrative review of the countervailing duty order. Therefore, we are rescinding the administrative review of hot-rolled steel from India covering the period January 1, 2012, through December 31, 2012, in its entirety.

**Assessment**

The Department will instruct U.S. Customs and Border Protection ("CBP") to assess countervailing duties on all entries of hot-rolled steel from India during the period of review at rates equal to the cash deposit of estimated countervailing duties required at the time of entry or withdrawal from warehouse for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment

instructions to CBP 15 days after publication of this notice.

**Notifications**

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 countervailing duties prior to liquidation of the relevant entries during this review period.

This notice also serves as a final reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). 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 terms of an APO is a violation that is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: June 27, 2013.

**Christian Marsh,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

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**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[Docket No. 130612543-3543-01]

**RIN 0625-XC007**

***De Facto* Criteria for Establishing a Separate Rate in Antidumping Proceedings Involving Non-Market Economy Countries**

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

**ACTION:** Determination to Address Certain Criteria on a Case-by-Case Basis.

**SUMMARY:** On December 16, 2010, the Department of Commerce ("the Department") published a **Federal Register** notice announcing that it was considering revising its current practice with respect to the *de facto* criteria<sup>1</sup> examined for purposes of determining whether to grant separate rate status to individual exporters in antidumping proceedings involving non-market

economy ("NME") countries. Through that notice, the Department invited the public to comment on the current test.<sup>2</sup> Numerous parties filed comments in response, addressing the Department's current practice and proposing additional criteria for the Department to consider in its analysis. The Department has determined that several of these comments warrant consideration on a case-by-case basis, as discussed below, when assessing whether a foreign producer/exporter in an NME country is sufficiently free of government control of its export activities to warrant separate rate status.<sup>3</sup>

**DATES:** *Effective Date:* Date of publication in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Eugene Degnan, Program Manager, Office 8, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-0414.

**SUPPLEMENTARY INFORMATION:**

**Background**

In proceedings involving NME countries, the Department has had a rebuttable presumption that the export activities of all companies within the country are subject to government control and, thus, should be assessed a single antidumping duty rate, *i.e.*, the NME-Entity rate.<sup>4</sup> It has been the Department's practice to assign all exporters of merchandise subject to an antidumping investigation or review from an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent of the government in its export activities, on both a *de jure* and *de facto* basis, so as to be entitled to a separate rate. The Department has analyzed each entity exporting the subject merchandise that applies for a separate rate under a test that was first articulated in *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("*Sparklers*"), as further developed in *Final Determination of Sales at Less Than Fair Value: Silicon*

<sup>2</sup> See *De Facto Criteria for Establishing a Separate Rate in Antidumping Proceedings Involving Non-Market Economy Countries*, 75 FR 78676 (December 16, 2010).

<sup>3</sup> The Department currently considers the following countries to be NME countries—Armenia, Belarus, Georgia, the Kyrgyz Republic, Moldova, the People's Republic of China, the Republic of Azerbaijan, the Socialist Republic of Vietnam, Tajikistan, Turkmenistan and Uzbekistan.

<sup>4</sup> See 19 CFR 107(d) (providing that "in an antidumping proceeding involving imports from a nonmarket economy country, 'rates' may consist of a single dumping margin applicable to all exporters and producers").

<sup>1</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 78 FR 6291 (January 30, 2013) ("*Initiation Notice*"), as corrected in *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 78 FR 25418, 25422 (May 1, 2013).

<sup>1</sup> The Department did not make a request for comments on the *de jure* criteria currently examined for purposes of establishing a company's separate rate.