

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 notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h).

Dated: December 1, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. List of Issues
- III. Background
- IV. Scope of the Order
- V. Discussion of the Issues
 - Comment 1: Classification of EP Sales as CEP Sales
 - Comment 2: Using Lower of Cost Method or Market Rule for Overrun Production Costs
 - Comment 3: The Department Should Correct Certain Clerical Errors in its Preliminary Results
- VI. Recommendation

[FR Doc. 2017-26380 Filed 12-6-17; 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: Notice of Court Decision Not in Harmony With Final Results of Administrative Review and Notice of Amended Final Results

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

SUMMARY: On September 19, 2017, the United States Court of International Trade (the CIT) entered final judgment sustaining the Department of Commerce's (the Department) remand results pertaining to 19th antidumping duty administrative review of the antidumping duty order on fresh garlic from the People's Republic of China (PRC) for Hebei Golden Trading Co., Ltd. (Golden Bird) and Shenzhen Xinboda Industrial Co., Ltd. (Xinboda), and certain non-examined separate rate companies. The Department is notifying the public that the final judgment in this case is not in harmony with the final results and partial rescission of the 19th

antidumping duty administrative review, and that the Department has assigned Xinboda and other non-examined separate rate companies Jinxiang Richfar Fruits & Vegetables Co., Ltd. (Jinxiang Richfar); Qingdao Lianghe International Trade Co., Ltd. (Qingdao Lianghe); Shandong Chenhe International Trading Co., Ltd. (Shandong Chenhe); and Weifang Hongqiao International Logistics Co., Ltd. (Weifang Hongqiao) a dumping margin of \$2.19 per kilogram.

DATES: Applicable September 29, 2017.

FOR FURTHER INFORMATION CONTACT: Chien-Min Yang, 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) 482-5484.

SUPPLEMENTARY INFORMATION:

Background

On June 15, 2015, the Department published the *Final Results* pertaining to mandatory respondents Golden Bird and Jinxiang Hejia Co., Ltd. (Hejia), along with other exporters, including non-examined separate rate companies Xinboda, Jinxiang Richfar, Qingdao Lianghe, Shandong Chenhe, and Weifang Hongqiao.¹ The period of review (POR) is November 1, 2012, through October 31, 2013. In the *Final Results*, the Department relied on total adverse facts available (AFA) with respect to Golden Bird and Hejia, and found Golden Bird and Hejia to be part of the PRC-wide entity.² The Department assigned a rate of \$1.82 per kilogram for Xinboda and the other non-examined separate rate companies.³

On July 27, 2016, the CIT remanded for the Department to consider evidence on the record concerning Golden Bird's independence from government control to determine whether the company is entitled to separate rate status.⁴ The Court ordered the Department to select a separate rate for the non-examined companies "by either employing a different reasonable method to calculate the separate rate, such as reopening the record to examine new mandatory respondents, reopening the record to

collect information from which to calculate a reliable separate rate, or if it results in a non-punitive rate for separate respondents, adjusting the separate rate assigned based on the results of remand pursuant to *{Fresh Garlic Producers Association v. United States}*, 180 F. Supp. 3d 1233 (CIT 2016), arising out of the eighteenth administrative review of the AD order on fresh garlic from the PRC (*FGPA II*)."⁵

On April 28, 2017, the Department filed the *Final Remand Results*, continuing to find Golden Bird ineligible for a separate rate.⁶ For non-examined separate companies, the Department determined that it would establish their rate by applying the updated separate rate determined in the remand of the 18th administrative review, pursuant to *FGPA II*.⁷

On July 17, 2017, the CIT sustained the Department's *Final Remand Results* as to Golden Bird.⁸ On September 19, 2017, the CIT sustained the Department's *Final Remand Results* as to the separate rate applied to non-examined companies.⁹ Thus, the calculations performed with the new surrogate values resulted in a weighted-average dumping margin of \$2.19 per kilogram and was assigned to Xinboda, Jinxiang Richfar, Qingdao Lianghe, Shandong Chenhe, and Weifang Hongqiao.

Timken Notice

In its decision in *Timken*,¹⁰ as clarified by *Diamond Sawblades*,¹¹ the Court of Appeals for the Federal Circuit held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), the Department must publish a notice of a court decision that is not "in harmony" with a Department determination and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's September 19, 2017, final judgment sustaining the *Final Remand Results*

⁵ *Id.* at 30-31.

⁶ See Memorandum to The File, "Final Results of Redetermination Pursuant to Remand: Fresh Garlic from the People's Republic of China, Shenzhen Xinboda Industrial Co., Ltd., et al. v. United States, U.S. Court of International Trade, Consol. Ct. No. 15-00179, Slip Op. 16-74" (April 28, 2016).

⁷ *Id.*

⁸ See *Hebei Golden Bird Trading Co., Ltd., et al., v. United States*, CIT Slip Op. 17-86, Ct. No. 15-00182 (July 17, 2017).

⁹ See *Fresh Garlic Producers Association, et al., v. United States*, CIT Slip Op. 17-127, Consol. Ct. No. 14-00180 (September 19, 2017) (Slip Op. 17-127).

¹⁰ See *Timken Co. v. United States*, 893 F.2d 337, 341 (Fed. Cir. 1990) (*Timken*).

¹¹ See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

¹ See *Fresh Garlic from the People's Republic of China: Final Results and Partial Rescission of the 19th Antidumping Duty Administrative Review; 2012-2013*, 80 FR 34141 (June 15, 2015) (*Final Results*), and accompanying Issues and Decision Memorandum (IDM).

² See IDM.

³ *Id.*

⁴ See *Shenzhen Xinboda Industrial Co., Ltd., et al., v. United States*, CIT Slip Op. 16-74, Consol. Ct. No. 15-00179 (July 27, 2016) (*Garlic 19 Remand*) at 30.

constitutes a final decision of the Court that is not in harmony with the Department's *Final Results*.¹² This notice is published in fulfillment of the *Timken* publication requirements.

Amended Final Results

Because there is now a final court decision, we are amending the *Final Results* with respect to the dumping margin calculated for Xinboda. Based on the *Final Remand Results*, as affirmed by the CIT, the revised dumping margin for Xinboda, from November 1, 2011, through October 31, 2012, is \$2.19 per kilogram. The \$2.19 per kilogram dumping margin also applies to the following separate rate companies: Jinxiang Richfar, Qingdao Lianghe, Shandong Chenhe, and Weifang Hongqiao.

Because the CIT's ruling was not appealed, it represents a final and conclusive court decision, and the Department will instruct Customs and Border Protection (CBP) to assess antidumping duties on unliquidated entries of subject merchandise based on the revised dumping margins summarized above.

Cash Deposit Requirements

The Department will issue revised cash deposit instructions to CBP, adjusting the cash deposit rate for Jinxiang Richfar and Shandong Chenhe to \$2.19/kg, effective September 29, 2017. The Department will not update the cash deposit requirements for Xinboda, Qingdao Lianghe, and Weifang Hongqiao as they each have later-determined rates from *Fresh Garlic From the People's Republic of China: Final Results and Partial Rescission of the 21st Antidumping Duty Administrative Review; 2014–2015*, 82 FR 27230 (June 14, 2017).

Notification to Interested Parties

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 4, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

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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 22nd Antidumping Duty Administrative Review and Preliminary Results of the New Shipper Reviews; 2015–2016

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

SUMMARY: The Department of Commerce (the Department) is conducting the 22nd administrative review of the antidumping duty order on fresh garlic from the People's Republic of China (PRC) and two concurrent new shipper reviews. The period of review (POR) for the administrative and new shipper reviews is November 1, 2015, through October 31, 2016. The Department preliminarily determines that mandatory respondent, Shandong Jinxiang Zhengyang Import & Export Co., Ltd. (Zhengyang) sold subject merchandise to the United States at less than normal value (NV). We also preliminarily find that the review request made by the Coalition for Fair Trade in Garlic (the CFTG) was not valid, and accordingly have preliminarily rescinded the review with respect to seven companies, including the other mandatory respondent, Zhengzhou Harmoni Spice Co., Ltd. (Harmoni). The Department also preliminarily determines that the new shipper reviews respondents, Qingdao Joinseafoods Co., Ltd. and Join Food Ingredient Inc. (collectively, Join) and Zhengzhou Yudi Shengjin Agricultural Trade Co., Ltd. (Yudi), each made sales of subject merchandise at less than normal value. We invite interested parties to comment on these preliminary results.

DATES: Applicable December 7, 2017.

FOR FURTHER INFORMATION CONTACT: Kathryn Wallace or Alexander Cipolla, 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) 482–6251 or (202) 482–4956.

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, and 0703.20.0090. 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 “Scope of the Order” in the accompanying Preliminary Decision Memorandum.¹

Partial Rescission of Administrative Review

On January 13, 2017, the Department initiated a review of 35 companies in this administrative review.² On April 13, 2017, review requests were timely withdrawn for six companies.³ In addition, as discussed in the accompanying Issues and Decision Memorandum, one of the companies for which the review request was timely rescinded is a part of the QTF-Entity, which submitted a separate rate application. Accordingly, this company remains subject to review. Moreover, the Department inadvertently initiated a review of one company without a request. The Department 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).

Preliminary Rescission of Administrative Review

In addition, as discussed in depth at “Preliminary Rescission of Administrative Review” in the accompanying Preliminary Decision Memorandum, the Department has preliminarily determined that the review request from the CFTG was invalid, and is preliminarily rescinding the administrative review with respect to the companies listed in Appendix II.

Methodology

The Department is conducting these reviews 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. Export prices were

¹ See Memorandum, “Decision Memorandum for the Preliminary Results, Preliminary Rescission, and Final Rescission, In Part, of the 2015–2016 Antidumping Duty Administrative Review and Preliminary Results of the New Shipper Reviews: Fresh Garlic from the People's Republic of China” (November 30, 2017) (Preliminary Decision Memorandum).

² See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 4294 (January 13, 2017) (*Initiation Notice*). For a list of the 35 companies, see 82 FR 4296–4297.

³ See Petitioners' Letter, “22nd Administrative Review of the Antidumping Duty Order on Fresh Garlic from the People's Republic of China—Petitioners' Withdrawal of Certain Requests for Administrative Review,” (April 13, 2017).

¹² See *Final Results*.