

We received no comments.

We have conducted this review in accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214 (2001).

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 U.S. Bureau of Customs and Border Protection (Customs) to that effect.

Separate Rate

In the preliminary results, the Department found that Huaiyang Hongda Dehydrated Vegetable Company (Hongda) had submitted documentation and responses that established an absence of both *de jure* and *de facto* control by the Chinese government. We preliminarily determined that Hongda had met the criteria for the application of a separate rate. See Preliminary Results, 68 FR at 22677.

Since the preliminary results, we have not received any information that provides a basis for reconsideration of this determination. Therefore, we find

that Hongda is entitled to a separate rate for purposes of this review.

Use of Adverse Facts Available

In the preliminary results, we recounted the numerous opportunities that we gave Hongda and its supplier to provide the Department with the information necessary to calculate dumping margins for sales of its merchandise and that of its supplier. We issued an original and three supplemental questionnaires to Hongda and requested factors-of-production information from the supplier, Jin Xiang Jin Ma Fruit and Vegetable Products Company, Ltd. (Kima), indirectly through Hongda and in a direct mailing to Kima. Nevertheless, we did not receive detailed information regarding the sales transactions that took place between Kima and Hongda, information regarding the production process of the garlic Hongda purchased from Kima, or factors-of-production information from Kima.

In response to the second supplemental questionnaire, Hongda merely identified Kima as a company that “grows and sells garlic” and stated that it “simply purchased the garlic” from Kima. In response to the third supplemental questionnaire, Hongda claimed, in contradiction to an earlier response, that it had taken possession of the garlic purchased from Kima and processed it before exporting it to the United States. Hongda also stated that Kima was unwilling to provide details on its production process or its factors of production. In support of its response, Hongda submitted a certification from Kima to the effect that it was “unable” to provide the requested information. Hongda provided no reason for this “inability” to respond.

Following the response to the third supplemental questionnaire, we issued a questionnaire directly to Kima in which we requested that it respond to the factors-of-production questionnaire. The company did not respond to our request.

Because Hongda did not provide the Department with the information necessary to calculate a margin on the overwhelming majority of its sales—those involving garlic purchased from Kima, because it did not explain why it could not provide the information for those sales, and because Kima, an “interested party” with respect to these transactions, did not provide the requested information, we preliminarily determined that the use of facts otherwise available was warranted to calculate a margin for all of Hongda’s sales pursuant to section 776(a)(2) of the Act. See Preliminary Results, 68 FR

22678. Furthermore, we found that, by not providing the factors-of-production information for the Kima/Hongda transactions, that neither Hongda nor Kima acted to the best of its ability in providing the Department with the necessary information to calculate a margin. Therefore, pursuant to sections 782(e)(3), (4), and (5) of the Act, the Department did not use the information reported by Hongda and instead applied total adverse facts available to Hongda pursuant to section 776(b) of the Act. See Preliminary Results, 68 FR 22679. Furthermore, we corroborated the adverse facts-available rate, the rate that is currently applicable to all exporters subject to the PRC-wide rate, pursuant to section 776(c) of the Act. See Preliminary Results, 68 FR at 22680.

Since the preliminary results, Hongda has provided no comments on our preliminary results and no additional information concerning the sales under review. We have received no comments or information from other interested parties.

Therefore, we have no basis to reconsider our preliminary determination. According, we are applying adverse facts available to the sales of merchandise produced by Hongda or Kima and exported by Hongda during the period of review.

Final Result of Review

As a result of the application of adverse facts available, we find that a dumping margin of 376.67 percent exists for the period November 1, 2001, through April 30, 2002, on Hongda’s shipments of fresh garlic from the PRC.

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. We will issue appropriate assessment instructions directly to Customs within 15 days of publication of these final results of review.

Cash-Deposit Requirements

The following cash-deposit requirements will be effective upon publication of the final results of this new shipper review for all shipments of the subject merchandise 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 subject merchandise grown by Hongda or Jin Xiang Jin Ma Fruit and Vegetable Products Co. Ltd. (Kima) and exported by Hongda, the cash-deposit rate will be 376.67 percent; (2) for all other subject merchandise exported by Hongda, the cash-deposit rate will be the PRC countrywide rate, which is 376.67 percent; (3) for all other PRC exporters