

Although the HTSUS subheadings are provided for convenience and customs purposes, the 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.

### Background

On November 1, 2002, the Department of Commerce (the Department) published a notice of opportunity to request an administrative review of the antidumping duty order on fresh garlic from the People's Republic of China (PRC). See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 67 FR 66612. With the exception of Huaiyang Hongda Dehydrated Vegetable Company (Hongda), the period of review (POR) is November 1, 2001, through October 31, 2002. For Hongda, the POR is May 1, 2002, through October 31, 2002, because on June 19, 2003, we issued the final results for the new shipper review of Hongda covering the period from November 1, 2001, through April 30, 2002. See *Fresh Garlic From the People's Republic of China: Final Results of Antidumping Duty New Shipper Review*, 68 FR 36767 (June 19, 2003). We received three requests for an administrative review. For two companies, Jinan Yipin Corporation, Ltd. (Jinan Yipin), and Shandong Heze International Trade and Developing Company (Shandong Heze), the petitioners (the Fresh Garlic Producers Association and its individual members) and the respondents requested a review of sales of subject merchandise to the United States during the POR. In addition to these two respondents, the petitioners requested a review of the sales of eleven other companies. Two of the companies for which an administrative review was requested also requested that the Department initiate new shipper reviews. Based upon our initial examination of their new shipper review requests, we conditionally determined that they were new shippers of subject merchandise and subsequently initiated new shipper reviews.

On December 26, 2002, we published in the **Federal Register** the *Notice of Initiation of Antidumping and Countervailing Duty Administrative*

*Reviews* (67 FR 78772) in which we initiated the administrative review of the antidumping duty order on fresh garlic from the PRC.

On January 17, 2003, the petitioners withdrew their request for review for Clipper Manufacturing, Ltd (Clipper). As this withdrawal was made before the 90-day deadline established by 19 CFR 351.213(d)(1), we found it to be submitted in a timely manner and subsequently informed Clipper that it need not respond to our antidumping questionnaire. See letter from Laurie Parkhill to Clipper, dated January 31, 2003.

On February 3, 2003, the Department received a letter from Fook Huat Tong Kee Pte., Ltd. (FHTK), certifying that it had no entries, exports, or sales of the subject merchandise during the POR. Our review of import data from the Bureau of Customs and Border Protection supports the claim that there were no entries of subject merchandise produced by FHTK during the POR. We issued a memorandum notifying the parties of our intent to rescind the administrative review of FHTK. See Memorandum from Analyst to the File, dated July 21, 2003. On July 23, 2003, the petitioners responded, indicating that they had no comments on the preliminary rescission with respect to FHTK. See Memorandum from Analyst to the File, date July 23, 2003.

On April 28, 2003, the petitioners submitted a letter withdrawing their review request for Hongda and on June 10, 2003, the petitioners submitted a letter withdrawing their request for a review of four other companies Golden Light Trading Company, Ltd. (Golden Light), Good Fate International (Good Fate), Phil-Sino International Trading Inc. (Phil-Sino), and Mai Xuan Fruitex Co., Ltd. (Mai Xuan).

On July 29, 2003, Hongda and several importers of subject merchandise submitted comments in opposition to the potential rescission of the administrative review of Hongda. Hongda argues that it was the victim of identity theft and concomitant fraud during the POR. Accordingly, Hongda asserts, the Department should continue with the review to determine which imports under Hongda's name were legitimate. Similarly, the importers argue that fraudulent import schemes in recent years have been used to avoid antidumping duties, threatening to shut down completely the U.S. market for Chinese agricultural products, and that these schemes have been used against Hongda on entries during the POR. Thus, as a matter of policy, the importers contend that the Department should continue its review of Hongda to

learn more about these alleged schemes and develop effective administrative techniques to counter such schemes.

### Partial Rescission of Administrative Review

Because FHTK had no entries, exports, or sales of the subject merchandise, pursuant to 19 CFR 351.213(d)(3) we are rescinding the review with respect to FHTK.

With respect to the petitioners' withdrawal of their review request for Clipper, as stated above, we find the petitioners' withdrawal was submitted in a timely manner, pursuant to 19 CFR 351.213(d)(1), and we are rescinding the review of Clipper.

With respect to the petitioners' withdrawal of their review request for Hongda, Golden Light, Good Fate, Phil-Sino, and Mai Xuan, although the petitioners withdrew their review request for these five companies after the 90-day deadline, the Department's regulations at 19 CFR 351.213(d)(1) permit an extension of the deadline if "it is reasonable to do so." We have not committed significant resources to date to the review of Hongda, Golden Light, Good Fate, Phil-Sino, and Mai Xuan. Furthermore, the petitioners were the only party to request an administrative review of these companies.

We have received no submissions opposing the withdrawal of the petitioners' requests as they pertain to Golden Light, Good Fate, Phil-Sino, and Mai Xuan. Although Hongda and several importers expressed concerns pertaining to the rescission of the administrative review of Hongda, the arguments they presented pertain to allegations involving fraud. The investigation of alleged fraudulent activities is within the statutory purview of the Bureau of Immigration and Customs Enforcement (ICE). See 19 USC 1592. Thus, we will refer Hongda's and the importers' allegations of inappropriate conduct to ICE.

For the above reasons, we determine that it is reasonable to extend the deadline for withdrawal of the requests for review of Hongda, Golden Light, Good Fate, Phil-Sino, and Mai Xuan, and we are rescinding the review of the antidumping duty order on fresh garlic from the PRC with respect to these companies. This administrative review will continue with respect to Jinan Yipin, Shandong Heze, Top Pearl Ltd., and Wo Hing (H.K.) Trading Co.

This notice is published in accordance with section 751 of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).