DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Administrative Review, and Intent to Rescind Administrative Review in Part

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

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Administrative Review, and Intent to Rescind Administrative Review in Part.

SUMMARY: In response to requests from interested parties, the Department of Commerce is conducting an administrative review of the antidumping duty order on fresh garlic from the People's Republic of China. The period of review is November 1, 2000, through October 31, 2001. Five companies named in the initiation of this review had no exports or sales of the subject merchandise during the period of review and, consequently, we are rescinding the review of these companies. In addition, we are rescinding our review of two companies which are not located within the People's Republic of China and which we have not been able to contact for information, because available evidence indicates no sales or exports subject to this review. Therefore, this review covers fourteen exporters of the subject merchandise. We intend to rescind the review of one company because we have determined that the company is not the appropriate respondent for the sales of which the review was requested. We preliminarily determine that eight of the companies are not entitled to a separate rate and will be assigned the PRC-entity rate. We preliminarily determine that three respondent companies, not located within a non-market economy, have failed to cooperate by not acting to the best of their ability to comply with our requests for information and, as a result, should be assigned a rate based on adverse facts available. Finally, we have preliminarily determined that one respondent did not make sales to the United States at prices below normal value.

We invite interested parties to comment on these preliminary results. Parties that submit comments are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: August 9, 2002.

FOR FURTHER INFORMATION CONTACT: Edythe Artman or Catherine Cartsos, Office of AD/CVD Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C., 20230; telephone: (202) 482–3931 and (202) 482–1757, respectively.

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's regulations are to 19 CFR Part 351 (April 2001).

Background

On October 30, 2001, 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*, 66 FR 54750 (October 30, 2001). We received three requests for administrative review on November 30, 2001. Clipper Manufacturing Ltd. (Clipper) and Taian Fook Huat Tong Kee Foods Co. (FHTK) each requested a review of its own sales of subject merchandise to the United States during the period of review (POR). The petitioner, the Fresh Garlic Producers Association and its individual members, requested reviews of the sales of sixteen companies with addresses in the PRC or Hong Kong, including Clipper and FHTK. In addition, it requested reviews of sales of subject merchandise of two companies with addresses in Thailand and two companies with addresses in the Philippines.

We published a notice of initiation of antidumping administrative reviews on December 19, 2001. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 66 FR 65470 (December 19, 2001).

On January 8, 2002, we issued a letter requesting quantity and value information to all of the companies listed in our notice of initiation. In the case of Rizhao Hanxi Fisheries& Comprehensive Development Co., Ltd. (Rizhao), we issued the letter to the Embassy of the PRC and the China Chamber of Commerce for Import and Export of Foodstuffs, Native Produce, and Animal By-Products (China Chamber of Commerce) and requested that they forward the letter to the appropriate address. Details of our mailings and the responses that we received are set forth in a ''Memorandum to Richard W. Moreland'' regarding responses to quantity-and-value letters (May 16, 2002) (Q&V Response Memorandum). (All cited memoranda and decision memoranda are on file in the Central Records Unit (CRU), Main Commerce Building, Room B–099.) As a result of the responses to our letter, we issued complete questionnaires to Clipper and FHTK on February 28, 2002.

During the period April through July 2002, the Department received responses to sections A, C, and D of the original and supplemental questionnaires from FHTK and Clipper. On May 17, 2002, we requested that these companies and the petitioner provide comments on the surrogate-country selection and publicly available information for valuing the factors of production. We received comments and information from FHTK on June 13, 2002, and from the petitioner on June 14, 2002. Clipper did not provide comments or information. With respect to FHTK, we intend to verify its factors-of-production and sales information prior to issuing the final results of review.

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, 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.

Separate Rates

The Department has treated the PRC as a non-market-economy (NME) country in all past antidumping investigations (see, *e.g., Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People's Republic of China*, 64 FR 71104 (December 20, 1999), and *Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 72255 (December 31, 1998)) and in prior segments of this proceeding. A designation as an NME remains in effect until it is revoked by the Department. See section 771(18)(C) of the Act. Accordingly, there is a rebuttable presumption that all companies within the PRC are subject to government control and, thus, should be assessed a single antidumping duty rate.

It is the Department's standard policy to assign all exporters of the merchandise subject to review in NME countries a single rate, unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in the *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 amplified by the *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994).

Several companies located within the PRC did not respond to our letter requesting quantity and value information. These companies are Foshan Foodstuffs Import & Export Company, Jinan Import & Export Corporation, Jinxiang Foreign Trade Corporation, Jinxiang Hong Chong Fruits & Vegetable Products Company, Ltd., Quingdao Rui Sheng Food Company, Ltd., Rizhao, Shandong Commercial Group Corporation, and Zhejiang Materials Industry International Co., Ltd. We have confirmed that all of these companies received our letter except for Rizhao, which, as noted above, we attempted to contact through the Embassy of the PRC and the China Chamber of Commerce. Because none of the eight companies responded to our request for information regarding separate rates, we preliminarily determine that these respondent-companies do not merit separate rates. See, *e.g., Natural Bristle Paint Brushes and Brush Heads from the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review*, 61 FR 57389 (November 6, 1996). Consequently, consistent with the statement in our notice of initiation, we find that, because these companies do not qualify for separate rates, they are deemed to be covered by the PRC-entity rate.

Hong Kong companies are treated as market-economy companies (see *Application of U.S. Antidumping and Countervailing Duty Laws to Hong Kong*, 62 FR 42965 (August 11, 1997)). Wo Hing (H.K.) Trading Co. (Wo Hing) has an address in Hong Kong and did not respond to our January 8, 2002, request for information. Without any information concerning its corporate ownership, we presume that it is a Hong Kong entity. Thus, we determine that it qualifies for a company-specific rate.

Similarly, two other non-responding companies have addresses outside the PRC. Golden Light Trading Company, Ltd. (Golden Light), has an address in Thailand and Phil-Sino International Trading Inc. (Phil-Sino) has an address located in the Philippines. We presume that these are market-economy companies. Thus, we determine that they both qualify for a company-specific rate.

FHTK's submissions establish that Taian Fook Huat Tong Kee Foods Co., Ltd., is a PRC-company that is wholly owned by Fook Huat Tong Kee Pte., Ltd., a Singaporean company. Fook Huat Tong Kee Pte., Ltd., is wholly owned by a Singaporean holding company that is publicly traded. Because there is no PRC ownership of Taian Fook Huat Tong Kee Foods Co., Ltd., we determine that a separate-rate analysis is not required for this company because its parent company is beyond the jurisdiction of the PRC government. See *Certain Cut-to-Length Carbon Steel Plate from Romania: Preliminary Results of Antidumping Duty Administrative Review*, 64 FR 48581, 48582 (September 7, 1999) (unchanged in final). Consequently, FHTK qualifies for a company-specific rate.

Partial Rescission of Administrative Review

In response to our January 8, 2002, letter requesting quantity and value information, five companies responded that they were neither producers nor exporters of the subject merchandise. These companies were Zen Continental Co., Inc., Rich Shipping Co., Ltd., United Shipping Agency Co., Ltd., Asia Pacific Express Company, Ltd., and C.I.F. Transportation (HK) Co., Ltd. Their individual responses are discussed in and attached to the Q&V Response Memorandum. Each of the companies responded that they are involved in the shipping or freight industry and that they are not producers or exporters of the subject merchandise. We confirmed with the Customs Service that none of them were listed as manufacturers or exporters of the subject merchandise during the POR. In addition, there is no information on the record to indicate that the companies had sales or exports of subject merchandise.

Thus, we find that Zen Continental Co., Inc., Rich Shipping Co., Ltd., United Shipping Agency Co., Ltd., Asia Pacific Express Company, Ltd., and C.I.F. Transportation (HK) Co., Ltd., made no entries, exports, or sales of the subject merchandise during the POR that are subject to the administrative review. Consequently, we are rescinding the review with respect to each of them pursuant to 19 CFR 351.213(d)(3).

We were unable to contact two companies, Top Pearl Ltd. and Good Fate International that had addresses in Hong Kong and the Philippines, respectively. Despite our repeated attempts to contact these companies, the letters we sent to these companies were returned to us as not deliverable. For details of our attempts to contact the companies, see Q&V Response Memorandum. We confirmed through data from the Customs Service that neither Top Pearl nor Good Fate were listed as manufacturers or exporters of the subject merchandise during the POR. Thus, because we have been unable to locate these companies and because there is no evidence on the record that these companies had exports or sales of the subject merchandise subject to this review, we are rescinding the review with respect to each of them pursuant to 19 CFR 351.213(d). In the event there are any entries during the POR of subject merchandise exported by these companies during the POR, we will instruct the Customs Service to

assess antidumping duties at the rate equal to the cash deposit of estimated duties required on that merchandise at the time of entry, or withdrawal from warehouse, for consumption. See 19 CFR 351.212(c). For future entries of subject merchandise from these companies, the cash deposit rate will be the rate applicable to the PRC supplier of the merchandise.

Intent to Rescind in Part

Pursuant to section 772(a) of the Act, the Department reviews the sales of the subject merchandise by the seller who first had knowledge that the merchandise was destined for export to the United States. Clipper, a trading company located in Hong Kong, requested a review of its sales of fresh garlic to a reported U.S. customer. Clipper identified Chengwu Hechang Vegetable Co., Ltd. (Chengwu), and Anhui Weifu Foods Co., Ltd. (Anhui), as its suppliers in its questionnaire responses. Both companies are PRC-based processors of fresh garlic. Because Chengwu and Anhui did not have export licenses and were unable to maintain U.S.-dollar bank accounts, they used the services of PRC-based export agents to sell subject merchandise during the POR. The export agents shipped the subject merchandise directly from the PRC to the United States. Clipper paid the export agents in U.S. dollars. The export agents paid Chengwu and Anhui in Chinese renminbi.

Clipper acknowledges in its April 6, 2002, questionnaire response and June 13, 2002, supplemental questionnaire response that Chengwu and Anhui had knowledge of the U.S. destination of the subject merchandise at the time of sale. See the response to section A of the questionnaire, dated April 6, 2002, p. 16, and response to the supplemental questionnaire, dated June 13, 2002, p. 9. Furthermore, all of the shipping and export documentation that Clipper submitted to the Department established the U.S. destination of the merchandise. Thus, the export agents had knowledge of the U.S. destination of the subject merchandise. See response to section A of the questionnaire, dated April 6, 2002, exhibit A–11, and response to the supplemental questionnaire, dated June 13, 2002, exhibit SA–8.

Clipper asserts that the export agents never took title to the subject merchandise. The invoices and wire transfers between Clipper and the export agents establish, however, that sales transactions did occur between the two parties. By contrast, Clipper provided no documentation of a transaction between Clipper and Anhui or between Clipper and Chengwu despite repeated requests for such documentation. See response to section A of the questionnaire, dated April 6, 2002, exhibit A–11, and response to the supplemental questionnaire, dated June 13, 2002, exhibit SA–9.

Section 772(a) of the Act states in part:

> The term ''export price'' means the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States...

Accordingly, we have interpreted section 772(a) of the Act to mean that we are to use the price at which the first party in the chain of distribution who has knowledge of the U.S. destination of the merchandise sells the subject merchandise, either directly to a U.S. purchaser or to an intermediary such as a trading company. The party making such a sale, with knowledge of destination, is the appropriate party to be reviewed. Our focus is on the first party in the chain of distribution with knowledge of the U.S. destination rather than on the first chronological sale of the merchandise. One restriction to this rule is that, in NME cases, we do not base export price on internal transactions between two companies located in the NME. *See Fresh Garlic from the People's Republic of China; Final Results of Antidumping Duty Administrative Review and Partial Termination of Administrative Review,* 62 FR 23758, 23759 (May 1, 1997).

Applying these principles, we do not intend to review Clipper's sales to its U.S. customer because the PRC export agents had knowledge of the U.S. destination when they made the sales to Clipper. Further, we know Chengwu and Anhui had knowledge of the ultimate destination of this merchandise. We also believe that the PRC export agents had knowledge, accordingly, of the destination of the goods as well. Because of their knowledge and the fact that the sales from the agents to Clipper were the first non-intra-NME sales in the chain of distribution, these sales are the appropriate basis for determining the export price. We therefore intend to rescind this review as it applies to Clipper.

The Department did not receive a request for review of the PRC export agents during the anniversary month of the publication of the antidumping duty order. See 19 CFR 351.213(b). Therefore, it is not appropriate to conduct a review of the sales at issue. Furthermore, because Clipper is not an appropriate respondent for review of the sales, it is our intent to rescind the administrative review with respect to this company.

Non-Responding Companies

A. Use of the PRC-Wide Rate

For the eight companies located within the PRC which received our request for information but did not respond to that request, we find that they do not qualify for a separate rate for reasons discussed in the ''Separate Rates'' section above. Therefore, we preliminarily determine that they will be assigned the PRC-wide rate as part of the PRC-entity for the results of this review.

B. Use of Adverse Facts Available

Section 776(a)(2) of the Act provides that if an interested party or any other person: (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the Department shall, subject to section 782(d) of the Act, use the facts otherwise available in reaching the applicable determination under this title.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits, the Department may, subject to section 782(e) of the Act, disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department ''shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the administering authority'' if the information is timely, can be verified, and is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information.

Where all of these conditions are met, the statute requires the Department to use the information, if it can do so without undue difficulty.

According to section 776(b) of the Act, if the Department finds that an interested party ''has failed to cooperate by not acting to the best of its ability to comply with a request for information,'' the Department may use information that is adverse to the interests of the party as facts otherwise available. Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' See Statement of Administrative Action (SAA) accompanying the URAA, H. Doc. No. 316, 103d Cong., 2d Session at 870 (1994). Furthermore, ''an affirmative finding of bad faith on the part of the respondent is not required before the Department may make an adverse inference.'' *Antidumping Duties; Countervailing Duties: Final Rule*, 62 FR 27296, 27340 (May 19, 1997).

An adverse inference may include reliance on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record. See section 776(b) of the Act. However, section 776(c) provides that, when the Department relies on secondary information rather than on information obtained in the course of a review, the Department shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. The SAA states that the independent sources may include published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation or review. See SAA at 870. The SAA clarifies that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. *Id.* As noted in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996) (*TRBs*), to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used. However, because there are no independent sources from which the Department can derive calculated dumping margins, unlike other types of information such as input costs or selling expenses, the only source for margins is previous administrative determinations.

Three companies that are not located within an NME country, Golden Light, Phil-Sino, and Wo Hing, did not respond to our request for information. We have confirmed that they received our letter but opted not to respond. For details of our mailing, see the Q&V Response Memorandum. Moreover, as discussed in the ''Separate Rates'' section above, we have determined that each of the companies qualify for a company-specific rate. Because the companies did not respond to our request for information, we find it necessary, under section 776(a)(2) of the Act, to use facts otherwise available as the basis for the preliminary results of review for these three companies.

In addition, we find that Golden Light, Phil-Sino, and Wo Hing each failed to cooperate by not acting to the best of its ability to comply with a request for information. Thus, we find it appropriate to use an inference that is adverse to the interests of each of these companies in selecting from among the facts otherwise available. By doing so, we ensure that the companies will not obtain a more favorable result by failing to cooperate than had they cooperated fully in the review.

Further, we find it necessary to use facts otherwise available as the basis for the rate for the PRC-entity, including the eight PRC companies who opted not to respond to our request for information, and that it is appropriate to use an inference that is adverse in the selection of these facts. In this way, we ensure that these exporters will not obtain a more favorable result by failing to cooperate than had they cooperated fully in the review.

The only rate that has ever been assigned in this proceeding is 376.67 percent, a rate that is currently the PRC-wide rate and that was calculated based on information contained in the petition. The rate was corroborated for the preliminary results of the first administrative review. See *Fresh Garlic from the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review and Partial Termination of Administrative Review*, 61 FR 68229, 68230 (December 27, 1996). We corroborated the information in subsequent reviews to the extent that we noted the history of corroboration and found that we had not received any information that warranted revisiting the issue. See *Fresh Garlic from the People's Republic of China; Preliminary Results of Antidumping Duty New Shipper Review, Preliminary Results of Antidumping Duty Administrative Review, and Partial Rescission of Administrative Review*, 66 FR 44596 (August 24, 2001). Similarly, no information has been presented in the current review that calls into question the reliability of this rate. Thus, we find that the information is reliable.

With respect to the relevance aspect of corroboration, the Department stated in *TRBs* that it will ''consider information reasonably at its disposal as to whether there are circumstances that would render a margin irrelevant. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin.'' See *TRBs* at 61 FR 57392. See also *Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (February 22, 1996) (disregarding the highest margin in the case as best information available because the margin was based on another company's uncharacteristic business expense resulting in an extremely high margin). There is no information on the record that the application of this rate would be inappropriate in the administrative review or that the margin is not relevant; therefore, we have applied, as adverse facts available, the 376.67 percent margin from a prior administrative review of this order and have satisfied the corroboration requirements under section 776(c) of the Act. See *Persulfates from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 66 FR 18439, 18441 (April 9, 2001) (employing a petition rate used as adverse facts available in a previous segment as the adverse facts available in the current review).

Therefore, we preliminarily determine that the rate of 376.67 percent should be used as the adverse facts available for the preliminary results of review for Golden Light, Phil-Sino, and Wo Hing. We also preliminarily determine that the rate of 376.67 percent should be used as the adverse facts available for the preliminary results of review for the PRC-entity and, accordingly, applies to Foshan Foodstuffs Import & Export Company, Jinan Import & Export Corporation, Jinxiang Foreign Trade Corporation, Jinxiang Hong Chong Fruits & Vegetable Products Company, Ltd., Quingdao Rui Sheng Food Company, Ltd., Rizhao, Shandong Commercial Group Corporation, and Zhejiang Materials Industry International Co., Ltd.

Fair Value Comparisons

To determine whether sales of fresh garlic to the United States by FHTK were made at less than fair value, we compared the export price of the subject merchandise to normal value, as described in the ''Export Price'' and ''Normal Value'' sections below.

Export Price

In accordance with section 772(a) of the Act, we used export-price methodology because the first sale to an unaffiliated purchaser was made outside the United States before importation of the merchandise into the United States. We calculated the export price based on prices from FHTK to the unaffiliated U.S. customers. We made deductions, where appropriate, from the gross unit price to account for foreign inland freight, international freight, customs duties, and brokerage and handling. Because certain domestic charges, such as those for foreign inland freight, were provided by NME companies, we valued those charges based on surrogate rates from India. See ''Memorandum to the File'' regarding the factors valuation for the preliminary results of the administrative review (August 2, 2002) (FOP Memorandum).

Normal Value

1. Surrogate Country

When investigating imports from a NME country, section 773(c)(1) of the Act directs the Department to base normal value, in most circumstances, on the NME producer's factors of production valued in a surrogate market-economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the factors of production, the Department shall use, to the extent practicable, the prices or costs of factors of production in one or more market-economy countries that are at a level of economic development comparable to the NME country and are significant producers of comparable merchandise. The sources of the surrogate factor values are discussed under the ''Factor Valuations'' section below.

The Department has determined that India, Pakistan, Indonesia, Sri Lanka, and the Philippines are countries comparable to the PRC in terms of economic development. See ''Memorandum to Laurie Parkhill'' regarding 2000–2001 administrative review and new shipper reviews of the antidumping duty order on fresh garlic from the People's Republic of China (February 28, 2002). In addition to being among the countries comparable to the PRC in economic development, India is a significant producer of the subject merchandise. We used India as the surrogate country and, accordingly, we have calculated normal value using Indian prices to value the PRC producer's factors of production, when available and appropriate. We have obtained and relied upon publicly available information wherever possible. See ''Memorandum to the File'' regarding the selection of a surrogate country (August 2, 2002).

In accordance with 19 CFR 351.301(c)(3)(ii), for the final results of an administrative review, interested parties may submit publicly available information to value the factors of production until 20 days following the date of publication of these preliminary results.

2. Factors of Production

Section 773(c)(1) of the Act provides that the Department shall determine the normal value using a factors-of-production methodology if (1) the merchandise is exported from an NME country and (2) the information does not permit the calculation of normal value using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. Factors of production include the following elements: (1) hours of labor required, (2) quantities of raw materials employed, (3) amounts of energy and other utilities consumed, and (4) representative capital costs. We used factors of production reported by FHTK for materials, energy, labor, and packing. We valued all the input factors using publicly available, published information, as discussed in the ''Surrogate Country'' and ''Factor Valuations'' sections of this notice. In accordance with 19 CFR 351.408(c)(1), where a producer sources an input from a market economy and pays for it in market-economy currency, the Department employs the actual price paid for the input to calculate the factors-based normal value. See also *Lasko Metal Products v. United States*, 437 F.3d 1442, 1445–1446 (CAFC 1994). Therefore, where FHTK had market-economy inputs and paid for these inputs in a market-economy currency, we used the actual prices paid for those inputs in our calculations.

3. Factor Valuations

In accordance with section 773(c) of the Act, we calculated normal value based on factors of production reported by FHTK for the POR. To calculate normal value, we multiplied the reported per-unit factor quantities by publicly available Indian surrogate values. In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. For a detailed description of all the surrogate values used, see the FOP Memorandum.

We added a surrogate freight cost, using the shortest reported distance from the domestic supplier to the factory, to Indian import surrogate values. This adjustment is in accordance with the decision in *Sigma Corporation v. United States*, 117 F. 3d 1401, 1407–08 (CAFC 1997).

For those Indian rupee values not contemporaneous with the POR, we adjusted for inflation using wholesale price indices for India published in the International Monetary Fund's *International Financial Statistics*. For those U.S. dollar-denominated values not contemporaneous with the POR, we adjusted for inflation using producer price indices published on the Federal Reserve Bank website (www.dallasfed.org/htm/data/data/wsop03sa.tab.htm).

Except as noted below, we valued raw material inputs using the weighted-average unit import values derived from the *Monthly Trade Statistics of Foreign Trade of India Volume II Imports*(Indian Import Statistics) for the time period April 2001 through September 2001. Where POR-specific Indian import statistics were not available, we used Indian import statistics from an earlier period (*i.e.*, April 2001 through June 2001). Surrogate-value data or sources to obtain such data were obtained from FHTK, the petitioner, and Department research.

We valued water based on data from the Asian Development Bank's *Second Water Utilities Data Book: Asian and Pacific Region* (October 1997). We valued electricity based on data from the International Energy Agency's *Energy Prices& Taxes: Quarterly Statistics*(First Quarter, 2000). We relied on the same source for data used to value gasoline.

FHTK reported packing inputs consisting of mesh bags, cartons, packing belts, wood and nails. The wood and nails were used to construct pallets on which to transport the packed cartons of garlic. We used Indian Import Statistics data for the period April 2001 through September 2001 to value all of these inputs.

We valued the truck rate based on average truck rates that were published in the Indian daily, *The Financial Express*(February 14, 2000). We valued brokerage and handling charges based on a value calculated for the less-than-

fair-value investigation of stainless steel wire rod from India.

As we explained in our FOP memorandum, we have not been able to locate financial information of a publicly-traded Indian fresh garlic producer or an Indian producer of other fresh vegetables. Of the publicly available financial information currently on the record, the financial information of three Indian producers of preserved mushrooms constitutes the information from the industry most comparable to the fresh garlic industry. Thus, to value factory overhead, selling, general and administrative expenses, and profit, we used rates based on data taken from the financial information of the mushroom producers. Specifically, we calculated the rates based on the 1999/2000 financial statements of Himalaya International Ltd., Flex Foods Ltd., and Agro Dutch Foods Ltd.

For labor, consistent with 19 CFR 351.408(c)(3), we used the PRC regression-based wage rate that appears on the website for Import Administration (http://ia.ita.doc.gov/wages) under the listing of wage rates for NME countries revised in May 2000. The source of the wage-rate data for the Import Administration's website is the International Labor Organization's *1999 Year Book of Labour Statistics* (Geneva, 1999), ch.5B.

Preliminary Results of the Review

We preliminarily determine that the following dumping margins exist for the period November 1, 2000, through October 31, 2001:

Exporter	Weighted-average percentage margin
Golden Light Trading Company, Ltd.	376.67
Phil-Sino International Trading Inc.	376.67
Wo Hing (H.K.) Trading Co.	376.67
Taian Fook Huat Tong Kee Foods Co.[1]	0.00
PRC-wide rate	376.67

[1] For duty assessment purposes, the results of this review apply only to subject merchandise that was produced and exported to the United States by this company.

The Department will disclose calculations performed in connection with these preliminary results of review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Case briefs must be submitted within 30 days of the date of publication of this notice; case briefs regarding FHTK must be submitted no later than seven days after the issuance of the Department's verification report. Rebuttal briefs, limited to issues raised in the case briefs, must be filed within five days after the deadline for submission of case briefs. Parties who submit argument in these proceedings are requested to submit with the argument a statement of the issue, a brief summary of the argument with an electronic version included, and a table of authorities.

Pursuant to 19 CFR 351.310, any interested party may request a hearing within 30 days of the date of publication of this notice. Any hearing, if requested, will be held three days after the deadline for submission of the rebuttal briefs or the first workday thereafter. In accordance with 19 CFR 351.309(c)(ii), issues raised in hearings will be limited to those raised in the case and rebuttal briefs.

The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief, not later than 120 days after the date of publication of this notice.

Assessment Rates

Upon completion of this administrative review, the Department will determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated an exporter/importer (or customer)-specific assessment value for merchandise subject to this review. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of this review. If these preliminary results are adopted in our final results of review, we will direct the Customs Service to assess the resulting assessment rates against the entered customs values for the subject merchandise on each of the importer's/customer's entries during the review period.

Cash-Deposit Requirements

The following cash-deposit requirements will be effective upon publication of the final results of this administrative 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)(1) of the Act: (1) for merchandise exported by FHTK, the cash-deposit rate will be that established in the final results of this review, except if the rate is less than .50 percent and therefore *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash-deposit rate will be zero; (2) for all other PRC exporters, the rate will continue to be the PRC-wide rate of 376.67 percent; (3) for Golden Light, Phil-Sino, and Wo Hing, the cash-deposit rate will be that established in the final results of this review; and (4) for all other non-PRC exporters of subject merchandise from the PRC, including Clipper, Top Pearl Ltd., and Good Fate International, the cash-deposit rate will be the rate applicable to the PRC supplier of that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these preliminary results of review in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

DATED: August 2, 2002.

Faryar Shirzad,

Assistant Secretary forImport Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–818]

Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review and Intent Not To Revoke in Part: Certain Pasta From Italy

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

ACTION: Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review and Intent Not to Revoke in Part.

SUMMARY: In response to requests by interested parties, the Department of Commerce (''the Department'') is conducting an administrative review of the antidumping duty order on certain pasta (''pasta'') from Italy for the period of review (''POR'') July 1, 2000 through June 30, 2001.

We preliminarily determine that during the POR, (1) Pastificio Garofalo S.p.A. (''Garofalo'') and (2) Italian