

duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders. See also the Import Administration Web site at <http://www.ia.ita.doc.gov>.

Six copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Enforcement, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(1)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of "Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation" for requests received by the last day of August 2004. If the Department does not receive, by the last day of August 2004, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the U.S. Customs and Border Protection to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: July 26, 2004.

**Holly A. Kuga**

Senior Office Director, Office 4 for Import Administration.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-831]

#### Fresh Garlic From the People's Republic of China: Final Results of Antidumping Duty New Shipper Reviews

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

**SUMMARY:** On May 3, 2004, the Department of Commerce published the preliminary results of new shipper reviews of the antidumping duty order on fresh garlic from the People's Republic of China. The period of review is November 1, 2002, through April 30, 2003. The reviews cover five manufacturers/exporters.

We invited interested parties to comment on our preliminary results. Based on our analysis of the comments received, we have made certain changes to our calculations. The final dumping margins for these reviews are listed in the "Final Results of the Reviews" section below.

**DATES:** Effective August 3, 2004.

#### FOR FURTHER INFORMATION CONTACT:

Minoo Hatten or Mark Ross, Office of Antidumping/Countervailing Duty Enforcement 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-1690 or (202) 482-4794, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On July 7, 2003, we published in the **Federal Register** the *Notice of Initiation of New Shipper Antidumping Duty Reviews* (68 FR 40242) in which we initiated new shipper reviews of the antidumping duty order on fresh garlic from the People's Republic of China (PRC) for Jinxiang Dong Yun Freezing Storage Co., Ltd. (Dong Yun), Shanghai Ever Rich Trade Company (Ever Rich), Linshu Dading Private Agricultural Products Co., Ltd. (Linshu Dading), Linyi Sanshan Import & Export Trading Co., Ltd. (Linyi Sanshan), Sunny Import & Export Limited (Sunny), Tancheng County Dexing Foods Co., Ltd. (Tancheng), and Taian Ziyang Food Co., Ltd. (Ziyang).

On April 28, 2004, we published a notice rescinding Tancheng's new shipper review of the antidumping duty order on fresh garlic from the PRC. See *Notice of Rescission of Antidumping New Shipper Review of Fresh Garlic*

*from the People's Republic of China*, 69 FR 23171 (April 28, 2004).

On May 3, 2004, the Department of Commerce (the Department) published the preliminary results of the new shipper reviews of the antidumping duty order on fresh garlic from the PRC. See *Fresh Garlic from the People's Republic of China: Preliminary Results of Antidumping Duty New Shipper Reviews*, 69 FR 24123 (May 3, 2004) (Preliminary Results). We invited parties to comment on our preliminary results. We received comments from three respondents, Sunny, Linshu Dading, and Dong Yun. We did not receive comments from the petitioners (the Fresh Garlic Producers Association and its individual members).

On June 28, 2004, we published the final results of the antidumping new shipper review for Linyi Sanshan. See *Fresh Garlic from the People's Republic of China: Final Results of Antidumping Duty New Shipper Review for Linyi Sanshan Import Export Trading Co., Ltd.*, 69 FR 36059 (June 28, 2004).

We have conducted these reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.214 (2003).

#### 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 U.S. Customs and Border Protection (CBP) to that effect.

#### Analysis of Comments Received

All issues raised in the case briefs by parties in these reviews are addressed in the Issues and Decision Memorandum, dated July 26, 2004, which is hereby adopted by this notice (*Decision Memo*). A list of the issues which parties raised and to which we respond in the *Decision Memo* is attached to this notice as an Appendix. The *Decision Memo* is a public document on file in the Central Records Unit (CRU), Main Commerce Building, Room B-099, and is accessible on the Web at <http://www.ia.ita.doc.gov/frn>. The paper copy and electronic version of the memorandum are identical in content.

#### Separate Rates

In our preliminary results, we determined that Sunny, Linshu Dading, Dong Yun, Ever Rich, and Ziyang met the criteria for the application of a separate rate. See *Preliminary Results*, 69 FR at 24124. We have not received any information since the issuance of the *Preliminary Results* that provides a basis for reconsideration of these determinations.

#### Changes Since the Preliminary Results

Based on comments certain respondents submitted on the *Preliminary Results* and our analysis of information on the record, we have made certain changes to the margin calculations for all respondents. In addition, based on changes due to verification, we have made additional revisions to the margin calculations for Sunny for the final results. These changes are discussed below.

##### A. Application of Surrogate Financial Ratios

For the final results of these reviews, in calculating the amount of overhead, selling, general and administrative expenses (SG&A), and profit included in normal value, we have determined not to apply the surrogate financial ratios to production costs that include packing expenses. As in the *Preliminary Results*, however, we have calculated separate surrogate values for materials and labor associated directly with packing fresh garlic from the PRC and added these packing expenses to the calculation of normal value. For a more detailed

discussion of this issue see *Decision Memo* at Comment 1.

##### B. Valuation of Garlic Seed

As we discuss in response to Comment 2 of the *Decision Memo*, for the final results of these reviews we have limited the pricing information upon which we have relied for valuation of garlic seed to the National Horticultural Research and Development Foundation prices for the Agrifound Parvati and Yamuna Safed-3 varieties. We selected the pricing information for these varieties because, of all the varieties for which information was submitted, these two match most closely the subject merchandise in terms of bulb diameter and number of cloves per bulb. This limiting of price selection did not change the surrogate value of seed for the final results, since all of the selected prices for the *Preliminary Results* were identical.

##### C. Valuation of Leased Land

The respondents in these reviews leased the farmland on which the subject merchandise was grown. The need to capture the cost of leasing land in the calculation of normal value for the subject merchandise was brought to our attention by the petitioners in their June 4, 2004, submission in another segment of this proceeding. Consistent with recent PRC case practice, we determined that the cost of leasing land in this proceeding is an important component in the cost build-up of normal value. The cost of leasing land was not included in our calculation of normal value for the *Preliminary Results* and is not reflected in the financial ratios calculated from Parry Agro's income statements (see *Notice of Preliminary Determination of Sales at Less Than Fair Value, Partial Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp from the People's Republic of China*, 69 FR 42654 (July 16, 2004)). Accordingly, for purposes of the final results of these reviews, we applied a land-lease cost to our calculation of normal value using a methodology similar to that applied in the recently-completed preliminary results of a new shipper review covering the period November 1, 2002, through October 31, 2003. See *Fresh Garlic from the People's Republic of China: Preliminary Results of Antidumping Duty New Shipper Review*, 69 FR 40607 (July 6, 2004) (*July New Shipper Review Prelim*).

In the *July New Shipper Review Prelim*, the Department applied a surrogate value for land based on a 1996

policy notification issued by the State of Rajasthan, in which the state government set an annual lease rent for cultivable wasteland. In exploring additional publicly-available information concerning the cost of leasing land in India, we located the 2001 Punjab State Development Report administered by the Planning Commission of the government of India ("Punjab Report"). See Memorandum from Susan Lehman to The File titled "Factors Valuations for the Final Results of the New Shipper Reviews," dated July 26, 2004. We find that the "Punjab Report" contains more relevant and contemporaneous information pertaining to the Indian land-lease market for farmland. The subject of the "Punjab Report" is clearly more similar to the type of land leased by the respondents during the period of review (POR). Further, the data contained within the "Punjab Report" is based on actual experience, whereas that contained within the 1996 policy notification we used in the *July New Shipper Review Prelim* was based on parameters that may not have been implemented or that may have since been amended.

Upon review of the record of these new shipper reviews, we find no information undermining the figure contained within the "Punjab Report." As such, based on all available information, we have determined that the figure contained within the "Punjab Report" serves as the most reliable basis for determining a surrogate value for calculating a cost of the farmland used to grow the subject merchandise.

According to the "Punjab Report," the most frequent annual rent for farmland in the State of Punjab was found to be 17,500 rupees per hectare. As this rate was based on information gathered in 2001, we have inflated the annual cost of land and have converted the values to calculate an annual land-lease cost of \$25.75/mu (15 mu = 1 hectare).

In order to determine a per-kilogram cost of land, we first determined each companies' production quantity in kilograms per mu by dividing the verified total production quantity by the total amount of farmland leased by each company during the POR, as provided in the land leases. The information used in our calculation was extracted directly from the company-specific responses to our questionnaires. We then divided the annual land-lease cost of \$25.75/mu by the company-specific per-mu production quantity, and derived a per-kilogram cost of land. The result of this calculation was applied to the build-up of normal value as an addition to fixed overhead. For the company-specific

calculations, see the July 26, 2004, Final Results Analysis Memorandum for each company.

*D. Sunny*

For the preliminary results of these reviews, we valued cold storage at the production facility using an electricity surrogate value and added it to normal value. When the subject merchandise was put in cold storage before it was processed (or when it was semi-processed) at a facility away from the production/processing facility prior to shipment, we valued cold storage using a surrogate value for cold storage, which includes electricity expenses, and added it to normal value. When the garlic was fully processed and packed, and placed into a cold-storage facility not located at the production/processing facility prior to the date of shipment from the PRC, we valued it using a cold-storage surrogate value and treated it as a

movement expense which we deducted from the U.S. price.

At verification, we examined Sunny's cold-storage activities and found that it rented a cold storage facility away from the production/processing facility for its semi-processed garlic. See Memorandum from Brian Ellman to The File titled "Verification of the Responses of Sunny Import and Export Limited in the Antidumping Duty New Shipper Review of Fresh Garlic from the People's Republic of China," dated May 17, 2004, at pages 10 and 20.

For the *Preliminary Results*, we incorrectly valued the cold storage expenses incurred by Sunny using a surrogate value for electricity. Because Sunny used a rented cold storage facility located away from the production/processing facility to store its semi-processed garlic prior to shipment, we should have valued its cold storage expenses using a surrogate

value for cold storage. For the final results, we have corrected this error and have valued Sunny's reported cold storage using a surrogate value for cold storage, which includes electricity expenses, and added it to normal value.

*E. Dong Yun*

While reviewing Dong Yun's margin-calculation program for the preliminary results, we found that we used the incorrect consumption amounts for direct labor and packing labor. We have corrected this error for these final results. See the Final Results Analysis Memorandum for Dong Yun, dated July 26, 2004, at page 3.

**Final Results of the Reviews**

We determine that the following dumping margins exist for the period November 1, 2002, through April 30, 2003:

Exporter	Weighted-average percentage margin
Grown by Pizhou Guangda Import and Export Co., Ltd. and Exported by Shanghai Ever Rich Trade Company .....	0.00
Grown by Jinxing Jinda Agriculture Industrial & Trading Company Ltd. and Exported by Linshu Dading Private Agricultural Products Co., Ltd .....	0.00
Grown and Exported by Sunny Import and Export Ltd .....	33.66
Grown and Exported by Taian Ziyang Food Company, Ltd .....	0.00
Grown and Exported by Jinxiang Dong Yun Freezing Storage Co., Ltd .....	19.18

**Duty Assessment and Cash-Deposit Requirements**

The Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of the final results of these reviews. Further, the following cash-deposit requirements will be effective upon publication of the final results of these new shipper reviews for shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results, as provided by section 751(a)(2)(C) of the Act: (1) For subject merchandise grown by Pizhou Guangda Import and Export Co., Ltd., and exported by Shanghai Ever Rich Trade Company; grown by Jinxing Jinda Agriculture Industrial & Trading Company Ltd., and exported by Linshu Dading Private Agricultural Products Co., Ltd.; or grown and exported by Sunny Import and Export, Ltd., Taian Ziyang Food Company, Ltd., or Jinxiang Dong Yun Freezing Storage Co., Ltd., the cash-deposit rate will be the rate listed above; (2) for all other subject merchandise exported by Shanghai Ever Rich Trade Company, Linshu Dading Private Agricultural

Products Co., Ltd., Sunny Import and Export, Ltd., Taian Ziyang Food Company, Ltd., and Jinxiang Dong Yun Freezing Storage Co., Ltd., the cash-deposit rate will be the PRC-wide rate, which is 376.67 percent; (3) for all other PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash-deposit rate will be the PRC-wide rate of 376.67 percent; (4) for all non-PRC exporters of subject merchandise, the cash-deposit rate will be the rate applicable to the PRC exporter that supplied that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

**Notification to Interested Parties**

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 antidumping duties prior to liquidation of the relevant entries during the review period. Pursuant to 19 CFR 351.402(f)(3) failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties

occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO as explained in the administrative protective order itself. 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 the terms of an APO is a sanctionable violation.

Bonding is no longer permitted to fulfill security requirements for shipments from Ever Rich, Linshu Dading, Sunny, Ziyang, and Dong Yun of fresh garlic from the PRC entered, or withdrawn from warehouse, for consumption in the United States on or after the publication of this notice in the **Federal Register**.

These final results of new shipper reviews and notice are issued and published in accordance with sections 751(a)(2)(B) and 777(i) of the Act.

Dated: July 26, 2004.

**Jeffrey A. May,**

Acting Assistant Secretary for Import Administration.

## Appendix

### Decision Memo

1. Application of Surrogate Financial Ratios
2. Valuation of Garlic Seed
3. Valuation of Ocean Freight
4. Fixed Overhead Calculation
5. Selling, General and Administrative Expenses and Profit Calculation

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-427-818]

#### Notice of Final Results of Antidumping Duty Administrative Review: Low Enriched Uranium From France

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

**ACTION:** Notice of final results of antidumping duty administrative review.

**SUMMARY:** On January 27, 2004, the Department of Commerce (the Department) published the preliminary results of its first administrative review of the antidumping duty order on low enriched uranium (LEU) from France. The review covers one producer of the subject merchandise. The period of review (POR) is July 13, 2001, through January 31, 2003. Based on our analysis of comments received, these final results differ from the preliminary results. The final results are listed below in the Final Results of Review section.

**DATES:** *Effective Date:* August 3, 2004.

**FOR FURTHER INFORMATION CONTACT:** Carol Henninger or Constance Handley, at (202) 482-3003 or (202) 482-0631, respectively; AD/CVD Enforcement, Office 1, Group I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

#### Background

On January 27, 2004, the Department published in the **Federal Register** the preliminary results of the first administrative review of the antidumping duty order on LEU from France. See *Notice of Preliminary Results of Antidumping Duty Administrative Review: Low Enriched*

*Uranium from France*, 69 FR 3883 (January 27, 2004) (*Preliminary Results*).

We invited parties to comment on the *Preliminary Results*. On February 27, 2004, we received case briefs from the sole respondent, Eurodif S.A., Compagnie Générale Des Matières Nucleaires, S.A. and COGEMA, Inc. (collectively, COGEMA/Eurodif), and the petitioners, the United States Enrichment Corporation and USEC Inc. (collectively, USEC). COGEMA/Eurodif submitted its rebuttal brief on March 5, 2004, and USEC submitted its rebuttal brief on March 16, 2004. Upon request from the Department, USEC and COGEMA/Eurodif submitted additional comments regarding the treatment of countervailing duties on March 2, 2004, and March 9, 2004, respectively. A public hearing was held on March 17, 2004.

#### Scope of the Order

The product covered by this order is all low enriched uranium (LEU). LEU is enriched uranium hexafluoride (UF<sub>6</sub>) with a U<sup>235</sup> product assay of less than 20 percent that has not been converted into another chemical form, such as UO<sub>2</sub>, or fabricated into nuclear fuel assemblies, regardless of the means by which the LEU is produced (including LEU produced through the down-blending of highly enriched uranium).

Certain merchandise is outside the scope of this order. Specifically, this order does not cover enriched uranium hexafluoride with a U<sup>235</sup> assay of 20 percent or greater, also known as highly enriched uranium. In addition, fabricated LEU is not covered by the scope of this order. For purposes of this order, fabricated uranium is defined as enriched uranium dioxide (UO<sub>2</sub>), whether or not contained in nuclear fuel rods or assemblies. Natural uranium concentrates (U<sub>3</sub>O<sub>8</sub>) with a U<sup>235</sup> concentration of no greater than 0.711 percent and natural uranium concentrates converted into uranium hexafluoride with a U<sup>235</sup> concentration of no greater than 0.711 percent are not covered by the scope of this order.

Also excluded from this order is LEU owned by a foreign utility end-user and imported into the United States by or for such end-user solely for purposes of conversion by a U.S. fabricator into uranium dioxide (UO<sub>2</sub>) and/or fabrication into fuel assemblies so long as the uranium dioxide and/or fuel assemblies deemed to incorporate such imported LEU (i) remain in the possession and control of the U.S. fabricator, the foreign end-user, or their designed transporter(s) while in U.S. customs territory, and (ii) are re-exported within eighteen (18) months of

entry of the LEU for consumption by the end-user in a nuclear reactor outside the United States. Such entries must be accompanied by the certifications of the importer and end-user.

The merchandise subject to this order is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2844.20.0020. Subject merchandise may also enter under 2844.20.0030, 2844.20.0050, and 2844.40.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

#### Analysis of Comments Received

The issues raised in the case briefs by parties to this administrative review are addressed in the *Issues and Decision Memorandum* to James J. Jochum, Assistant Secretary for Import Administration, from Gary Taverman, Acting Deputy Assistant Secretary for Import Administration (*Decision Memorandum*), which is hereby adopted by this notice. A list of the issues addressed in the *Decision Memorandum* is appended to this notice. The *Decision Memorandum* is on file in Room B-099 of the main Commerce building, and a public version of it can also be accessed directly on the Web at [www.ia.ita.doc.gov](http://www.ia.ita.doc.gov). The paper copy and electronic version of the *Decision Memorandum* are identical in content.

#### Changes Since the Preliminary Results

Based on our analysis of comments received, we have made adjustments to the methodology used in calculating the final dumping margin in this proceeding. The adjustments are discussed in detail in the *Decision Memorandum*.

#### Final Results of Review

As a result of our review, we determine that the following weighted-average margin exists for the period of July 13, 2001, through January 31, 2003: *Producer*—COGEMA/Eurodif *Weighted-Average Margin (Percentage)*—5.43

#### Assessment

The Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries, pursuant to 19 CFR 351.212(b). The Department calculated importer-specific duty assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the examined sales for that importer. Where