

### Extension of Time Limit for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (“the Act”), requires the Department to issue the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested and a final determination within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend these deadlines to a maximum of 365 days and 180 days, respectively.

We are currently analyzing complicated sales and cost information that has required numerous supplemental questionnaire responses. In particular, our analysis of input costs, general and administrative expenses, and interest expenses requires additional time and makes it impracticable to complete the preliminary results of this review within the originally anticipated time limit (i.e., April 4, 2005). Therefore, the Department is extending the time limit for completion of the preliminary results to no later than May 4, 2005, in accordance with section 751(a)(3)(A) of the Act.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: February 8, 2005.

**Barbara E. Tillman,**

*Acting Deputy Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-507-502]

#### Final Results of Antidumping Duty Administrative Review: Certain In-Shell Raw Pistachios From Iran

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

**SUMMARY:** On August 9, 2004, the U.S. Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping order covering certain in-shell raw pistachios from Iran. See *Preliminary Results of Antidumping Duty Administrative Review: Certain In-Shell Raw Pistachios from Iran*, 69 FR 48197 (August 9, 2004) (*Preliminary*

*Results*). The product covered by this order is certain in-shell raw pistachios (pistachios) from Iran as described in the “Scope of the Review” section of the **Federal Register** notice. The period of review (POR) is July 1, 2002, through June 30, 2003. We invited parties to comment on our *Preliminary Results*. Based on our analysis of the comments received, we have made changes to the margin calculation. Therefore, the final results differ from the *Preliminary Results*. The final weighted-average dumping margin for the reviewed firm and the producer of the merchandise is listed below in the section entitled “Final Results of Review.”

**EFFECTIVE DATE:** February 14, 2005.

**FOR FURTHER INFORMATION CONTACT:** Angelica Mendoza at (202) 482-3019, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

##### Background

This review covers sales of pistachios to the United States made by Tehran Negah Nima Trading Company, Inc., trading as Nima Trading Company (Nima).

In response to our request for written comments and any additional documentary evidence regarding whether or not, Nima’s supplier of pistachios, Razi Domghan Agricultural and Animal Husbandry Company (Razi) did or did not have knowledge that the goods in question were destined for the United States at the time of the sale, on August 23, 2004, we received comments from only one party, Nima. On September 3, 2004, in a memorandum to the file, the Department discussed several inadvertent calculation errors in its preliminary margin calculation that it intended to correct for purposes of these final results. See Memorandum to the File through Richard O. Weible, Director, Intended Correction to the Preliminary Margin Calculation, dated September 3, 2004 (Prelim Correction Memo).

On September 8, 2004, the California Pistachio Commission (CPC or petitioner) and Cal Pure Pistachios, Inc. (Cal Pure), an interested party to the instant proceeding, requested a public hearing. On September 16, 2004, in response to our *Preliminary Results*, we received case briefs from Nima, CPC, and Cal Pure. All parties submitted rebuttal briefs on September 22, 2004. We held a public hearing on October 1, 2004. See Hearing Transcript, Pistachios from Iran, dated October 1, 2004.

On November 26, 2004, the Department extended fully the time limit, from December 7, 2004, until no later than February 7, 2005, for the final results of the instant administrative review. See *Certain In-Shell Raw Pistachios from Iran: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review*, 69 FR 70123 (December 2, 2004).

#### Scope of the Review

The product covered by the antidumping duty order is raw, in-shell pistachio nuts from which the hulls have been removed, leaving the inner hard shells, and edible meats from Iran. This merchandise is currently provided for in subheading 0802.50.20.00 of the *Harmonized Tariff Schedule of the United States (HTSUS)*. Although the HTSUS subheading is provided for convenience and customs purposes, the Department’s written description of the merchandise under order is dispositive.

#### Analysis of Comments Received

All issues raised in case and rebuttal briefs submitted by parties to this administrative review are addressed in the “Issues and Decision Memorandum” (Decision Memo) from Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration, dated February 7, 2005, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memo, is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in room B-099 of the main Department building. In addition, a complete version of the Decision Memo can be accessed directly on the Internet at <http://www.ia.ita.doc.gov>. The paper copy and electronic version of the Decision Memo are identical in content.

#### Changes Since the Preliminary Results

Based on our analysis of comments received, we have made changes to Nima’s margin calculation. The changes are listed below:

1. We applied a profit rate to the producer’s, Razi’s, cost of production based on Razi’s actual profit rate for home market sales during the POR. For purposes of calculating a profit margin for Nima, we used the profit rate from an Iranian pistachio trader, i.e., Fallah, which resold pistachios in Iran during a prior proceeding (i.e., Nima’s new shipper review). See Memorandum from

Gina K. Lee through Michael P. Martin to Neal M. Halper, Constructed Value Adjustments for Final Results, dated February 7, 2005 (CV Final Memo).

2. For purposes of calculating constructed value, we used Nima's adjusted U.S. indirect selling expenses as a proxy for home market indirect selling expenses. See Nima's December 4, 2003, supplemental section A and C questionnaire response (Nima's SQR). See also Memorandum to the File, through Abdelali Elouaradia, Program Manager, Analysis Memorandum for the Final Results of Administrative Review of the Antidumping Duty Order on Certain In-Shell Raw Pistachios from Iran: Tehran Negah Nima Trading Company, Inc., dated February 7, 2005 (Final Analysis Memo), at Attachments 1 and 2.

3. We corrected certain ministerial errors alleged by petitioner and Cal Pure (*i.e.*, calculation of Nima's U.S. imputed credit expenses and foreign unit price in U.S. dollars). See Final Analysis Memo at Attachment 1.

4. We treated Nima's warehousing expenses (*i.e.*, 60,000 Rials) as direct expenses and, as such, have included these expenses in our calculation of Nima's foreign movement expenses. Upon further review of Nima's questionnaire responses, we find that Nima did incur and pay for warehousing expenses. See Nima's SQR at Exhibit 4.1. See also Final Analysis Memo at Attachment 1.

#### Final Results of Review

As a result of our review, we determine that the following weighted-average dumping margin for the exporter/producer combination named below exists for the POR:<sup>1</sup>

Exporter/producer	Weighted-average margin (percent)
Tehran Negah Nima Trading Company, Inc./Razi Domghan Agricultural and Animal Husbandry Company.	18.74

#### Assessment

The Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated exporter/importer-specific assessment rates. To calculate these

<sup>1</sup> For purposes of these final results, the Department has determined to apply the weighted-average dumping cash deposit rates to subject merchandise exported by Nima and produced by Razi. See accompanying Decision Memo at Comment 2.

rates, we divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales for each importer. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of these final results of review. We will direct CBP to assess the appropriate assessment rate against the entered CBP values for the subject merchandise on each of the importer's entries under the relevant order during the POR.

#### Cash Deposit Requirements

As Nima is the exporter but not the producer of subject merchandise, the Department's final results of review will apply to subject merchandise exported by Nima and produced by Razi. See 19 CFR 351.107(b). See also accompanying Decision Memo at Comment 2. Therefore, the following deposit requirements will be effective upon publication of this notice of final results of review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication: (1) For the merchandise exported by Nima and produced by Razi, the cash deposit rate will be 18.74 percent; (2) for the merchandise exported by Nima and produced by Maghsoudi Farms, the cash deposit rate will be 144.05 percent; (3) for subject merchandise exported by Nima but not produced by Razi or Maghsoudi Farms, the cash deposit rate will be the "all others" rate established in the original less than fair value (LTFV) investigation (*see* 51 FR 25922 (July 17, 1986)); (4) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the producer is, the cash deposit rate will be the rate established for the most recent period for the producer of the merchandise; and (5) if neither the exporter nor producer is a firm covered in this review or the original investigation, the cash deposit rate for all other producers or exporters of the subject merchandise will continue to be 184.28 percent. This rate is the "All Others" rate from the final determination in the LTFV investigations, which reflects the amount of export subsidies found in the final countervailing duty determination in the investigation subtracted from the dumping margin found in the LTFV determination. See *Certain In-Shell Raw Pistachios: Final Determination of Sales at Less Than Fair Value*, 51 FR 18919 (May 23, 1986); and *Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; In-Shell Raw Pistachios from Iran*, 51 FR 8344 (March 11, 1986). These deposit requirements

shall remain in effect until publication of the final results of the next administrative review.

#### Notification to Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping or countervailing 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 or countervailing duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

These final results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: February 7, 2005.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

#### APPENDIX

##### List of Issues

1. Razi Domghan Agricultural and Animal Husbandry Company's Knowledge of the U.S. Sale of Pistachios
2. Application of Combination Rate for Tehran Negah Nima Trading Company, Inc.'s U.S. Sales of Pistachios Produced by Razi Domghan Agricultural and Animal Husbandry Company
3. *Bona Fides* of Tehran Negah Nima Trading Company, Inc.'s U.S. Sale
4. Calculation and Application of Constructed Value Profit
5. Application of Total Adverse Facts Available
6. Ministerial Error Allegations Relating to the Calculation of Nima's Indirect Selling and Credit Expenses, and Foreign Unit Price in U.S. Dollars

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