



A-570-831
Sunset Review
Public Document
Operations VII: JA

August 1, 2017

MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

FROM: James Maeder
Senior Director
performing the duties of the Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum: Final Results of Expedited
Fourth Sunset Review of the Antidumping Duty Order on Fresh
Garlic from People's Republic for China

Summary

We have analyzed the substantive responses of the interested parties in the fourth sunset review of the antidumping duty (AD) Order covering fresh garlic from the People's Republic for China (PRC). We recommend that you approve the positions as set forth in the "Discussion of Issues" section of this memorandum. Below is the complete list of the issues in this sunset review for which the Department of Commerce (the Department) received a substantive response:

1. Likelihood of Continuation or Recurrence of Dumping
2. Magnitude of the Margins Likely to Prevail

Background

On May 3, 2017, we received a complete substantive response¹ to the notice of initiation from the domestic interested parties² within the specified time in accordance with 19 CFR 351.218(d)(3)(i). We received no response from respondent interested parties to these proceedings. As a result, pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended,

¹ See Domestic Interested Party May 3, 2017 Substantive Response (Substantive Response May 3, 2017).

² The Fresh Garlic Producers Association consists of the following members: Christopher Ranch LLC; The Garlic Company; Valley Garlic, Inc.; and Vessey and Company, Inc. (collectively, the domestic interested parties).



(the Act) and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited sunset review of this *AD Order*.^{3 4}

History of the Order

On November 16, 1994, the Department published an *AD Order* on imports of fresh garlic, applying a country-wide rate of 376.67 percent.

The Department published its initiation of the first sunset review on December 1, 1999, pursuant to section 751(c) of the Act.⁵ In this first sunset review the Department found that revocation of the *AD Order* would be likely to lead to a continuation or recurrence of dumping by the PRC-wide entity at a rate of 376.67 percent, the same rate as the investigation.⁶ On February 28, 2001, the ITC determined, pursuant to section 751(c) of the Act, that revocation of the *AD Order* would be likely to lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.⁷ On March 13, 2001, the Department published the notice of continuation of the *AD Order*.⁸

The Department published its notice of initiation of the second sunset review on February 1, 2006, pursuant to section 751(c) of the Act.⁹ In this second sunset review the Department found that revocation of the *AD Order* would be likely to lead to continuation or recurrence of dumping by the PRC-wide entity at a rate of 376.67 percent, the same rate as found in the investigation.¹⁰ On September 28, 2006, the ITC determined, pursuant to section 751(c) of the Act, that revocation of the *AD Order* would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.¹¹ On October 19, 2006, the Department published the notice of continuation of the *AD Order*.¹²

³ Pursuant to section 351.218(e)(1)(ii)(C)(1) of the Department's regulations, the Department notified the International Trade Commission (ITC) that respondent interested companies provided an inadequate response to the Notice of Initiation of the AD duty orders on fresh garlic from the People's Republic of China. See Department letter to the ITC, Re: "Sunset Reviews initiated on April 3, 2017," dated May 18, 2017 (this letter serves to notify the ITC about respondent participation or lack thereof).

⁴ See *Antidumping Duty Order: Fresh Garlic from the People's Republic of China*, 59 FR 59209 (November 16, 1994) (*AD Order*).

⁵ See *Notice of Initiation of Five-Year ("Sunset") Reviews*, 64 FR 67247 (December 1, 1999).

⁶ See *Fresh Garlic from the People's Republic of China: Final Results of Expedited Sunset Review of Antidumping Duty Order*, 65 FR 41432 (July 5, 2000) (*First Sunset Review*).

⁷ See *Fresh Garlic from China*, 66 FR 12810 (February 28, 2001) and USITC Pub. 3393, Inv. No. 731-TA-683 (Review) (February 2001).

⁸ See *Continuation of Antidumping Duty Order on Fresh Garlic from the People's Republic of China*, 66 FR 14544 (March 13, 2001) (*First Continuation of the AD Order*).

⁹ See *Initiation of Five-Year ("Sunset") Reviews*, 71 FR 5243 (February 1, 2006).

¹⁰ See *Fresh Garlic from the People's Republic of China; Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 71 FR 33279 (June 8, 2006) (*Second Sunset Review*).

¹¹ See *Fresh Garlic from China*, 71 FR 58630 (October 4, 2006) and USITC Pub. 3886, Inv. No. 731-TA-683 (*Second Sunset Review*) (September 2006).

¹² See *Continuation of Antidumping Duty Order: Fresh Garlic from the People's Republic of China*, 71 FR 61708 (October 19, 2006) (*Second Continuation of the AD Order*).

The Department published its initiation of the third sunset review on September 1, 2011.¹³ In this third sunset review, the Department found that revocation of the *AD Order* would be likely to lead to continuation or recurrence of dumping by the PRC-wide entity at a rate of 376.67 percent, the same rate as found in the investigation.¹⁴ On April 27, 2012, the ITC determined, pursuant to section 751(c) of the Act, that revocation of the *AD Order* would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.¹⁵ On May 14, 2012, the Department published the notice of continuation of the *AD Order*.¹⁶

On April 3, 2017, pursuant to section 751(c) of the Act, the Department initiated the fourth sunset review of the *AD Order*.¹⁷

The Department has completed six administrative reviews,¹⁸ five of which are still in litigation, since the publication of the Third Continuation of the *AD Order*.

The Department has also conducted new shipper reviews for three companies since the publication of the continuation of the *AD Order* in the *Third Sunset Review* and new shipper reviews for four additional companies are ongoing.¹⁹ The Department also initiated new shipper reviews for four other companies, but those companies (Foshan Fuyi Food Co., Ltd.; Qingdao May Carrier Import & Export Co., Ltd.; Jinxiang Kaihua Imp. & Exp. Co., Ltd.; and, Jinxiang

¹³ See *Initiation of Five-Year ("Sunset") Reviews*, 76 FR 54430 (September 1, 2011).

¹⁴ See *Fresh Garlic from the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 77 FR 777 (January 6, 2012) (*Third Sunset Review*).

¹⁵ See *Fresh Garlic from China*, 71 FR 58630 (May 4, 2012) and USITC Pub. 3886, Inv. No. 731-TA-683 Third Review) (April 2012).

¹⁶ See *Fresh Garlic from the People's Republic of China: Continuation of Antidumping Duty Order*, 77 FR 28355 (May 14, 2012) (*Third Continuation of the AD Order*).

¹⁷ See *Initiation of Five-Year ("Sunset") Reviews*, 82 FR 16159 (April 3, 2017).

¹⁸ See *Fresh Garlic from the People's Republic of China: Final Results of the 2009-2010 Administrative Review of the Antidumping Duty Order*, 77 FR 34346 (June 11, 2012); *Fresh Garlic From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011*, 78 FR 36168 (June 17, 2013); *Fresh Garlic From the People's Republic of China: Final Results and Partial Rescission of the 18th Antidumping Duty Administrative Review; 2011-2012*, 79 FR 36721 (June 30, 2014); *Fresh Garlic From the People's Republic of China: Final Results and Partial Rescission of the 19th Antidumping Duty Administrative Review; 2012-2013* 80 FR 34141 (June 15, 2015); *Fresh Garlic From the People's Republic of China: Final Results and Final Rescission of the 20th Antidumping Duty Administrative Review; 2013-2014*, 81 FR 39897 (June 20, 2016); *Fresh Garlic From the People's Republic of China: Final Results and Partial Rescission of the 21st Antidumping Duty Administrative Review; 2014-2015*, 82 FR 27230 (June 14, 2017).

¹⁹ See *Fresh Garlic from the People's Republic of China: Final Rescission of Antidumping Duty New Shipper Review of Shijiazhuang Goodman Trading Co., Ltd.*, 79 FR 22098 (April 21, 2014); *Shijiazhuang Goodman Trading Co. v. United States*, Slip Op. 2017-63 (Ct. Int'l Trade May 26, 2017). See also *Fresh Garlic from the People's Republic of China: Final Results of the Semiannual Antidumping Duty New Shipper Review of Jinxiang Merry Vegetable Co., Ltd. and Cangshan Qingshui Vegetable Foods Co., Ltd.; 2012-2013*, 79 FR 62103 (October 16, 2014) (*New Shipper Reviews Jinxiang Merry Vegetable and Cangshan Qingshui*). See also *Fresh Garlic from the People's Republic of China: Initiation of Antidumping Duty New Shipper Review 2015-2016*, 81 FR 95961 (December 29, 2016) (covering Qingdao Joinseafoods Co. Ltd. and Join Food Ingredient Inc.). See also *Fresh Garlic from the People's Republic of China: Initiation of Antidumping Duty New Shipper Review 2015-2016*, 82 FR 82 (January 3, 2017) (covering Zhengzhou Yudi Shenglin Agricultural Trade Co., Ltd.). See also *Fresh Garlic from the People's Republic of China: Initiation of Semiannual Antidumping Duty New Shipper Review; 2016-2017*, 82 FR 31756 (July 10, 2017) (covering Qingdao Doo Won).

Huameng Imp. & Exp. Co.) were found not to have *bona fide* sales and the reviews were rescinded.²⁰

The Department has completed two successor-in-interest reviews since the publication of the continuation of the *AD Order* in the *Third Sunset Review*; we determined that Langling Qingshui Vegetable Foods Co., Ltd. was the successor-in-interest to Cangshan Qingshui Vegetable Foods Co., Ltd.²¹ For more details *see* Fresh Garlic Company Margins for AR and NSRs Completed since the Third Continuation of the *AD Order* at Attachment 1; *see also Third Sunset Review, Second Sunset Review, and First Sunset Review* for rate history prior to this review.

The Department has not conducted any scope determinations or duty absorption reviews since the publication of the continuation of the *AD Order* in the *Third Sunset Review*. *See Third Sunset Review, Second Sunset Review, and First Sunset Review* for procedural history prior to this review. Thus, the *AD Order* remains in effect for all manufacturers and exporters of the subject merchandise from the PRC.

Scope of the Order

The products covered by the *AD 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 *AD 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: 0703.20.0005, 0703.20.0010, 0703.20.0015, 0703.20.0020, 0703.20.0000, 0703.20.0090, 0710.80.7060, 0710.80.97500, 0711.90.6000, 0711.90.6500, 2005.90.9500, 2005.90.9700, and 2005.99.9700 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 the *AD Order* is dispositive. To be excluded from the *AD 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 to that effect.

²⁰ *See Fresh Garlic from the People's Republic of China: Final Rescission of Antidumping Duty New Shipper Reviews; 2010-2011*, 78 FR 18316 (March 26, 2013) (covering Foshan Fuyi Food Co., Ltd.; Qingdao May Carrier Import & Export Co., Ltd.); *Fresh Garlic From the People's Republic of China: Final Rescission of the Semiannual Antidumping Duty New Shipper Review of Jinxiang Kaihua Imp & Exp Co., Ltd.*, 80 FR 60881 (October 8, 2015); *Fresh Garlic From the People's Republic of China: Final Rescission of the Semiannual Antidumping Duty New Shipper Review of Jinxiang Huameng Imp & Exp Co., Ltd.*, 81 FR 73378 (October 25, 2016).

²¹ *See Fresh Garlic from the People's Republic of China: Final Results of the Changed Circumstances Review*, 80 FR 57579 (September 24, 2015).

Discussion of Issues

Legal Framework

In accordance with section 751(c)(1) of the Act, the Department has conducted this sunset review to determine whether revocation of the *AD Order* would be likely to lead to continuation or recurrence of dumping.

Section 752(c)(1)(A) and (B) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the *AD Order*.

As explained in the Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act, the Department normally determines that revocation of an AD order is likely to lead to continuation or recurrence of dumping when: (a) dumping continued at any level above *de minimis* after issuance of the AD order; (b) imports of the subject merchandise ceased after issuance of the AD order; or (c) dumping was eliminated after the issuance of the AD order and import volumes for the subject merchandise declined significantly.²²

Alternatively, the Department normally will determine that revocation of an AD order is not likely to lead to continuation or recurrence of dumping where dumping was eliminated after issuance of the AD order and import volumes remained steady or increased.²³ In addition, as a base period of import volume comparison, it is the Department's practice to use the one-year period immediately preceding the initiation of the investigation, rather than the level of pre-order import volumes, as the initiation of an investigation may dampen import volumes and, thus, skew comparison.²⁴

Further, section 752(c)(3) of the Act states that the Department shall provide to the ITC the magnitude of the margin of dumping likely to prevail if the AD order were revoked. Generally, the Department selects the margin(s) from the final determination in the original investigation, as this is the only calculated rate that reflects the behavior of exporters without the discipline of an AD order in place.²⁵ However, the Department may use a rate from a more recent review, if this rate may be more representative of a company's behavior in the absence of an AD order (*e.g.*, where a company increases dumping to maintain or increase market share with an AD order in place).²⁶

²² See SAA, H.R. Rep. No. 103-316, Vol. 1 (1994), at 889-890; *see also*, *Folding Gift Boxes from the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 72 FR 16765 (April 5, 2007), and accompanying Issues and Decision Memorandum at Comment 1.

²³ See *Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) ("*Sunset Policy Bulletin*").

²⁴ See, *e.g.*, *Stainless Steel Bar from Germany; Final Results of the Sunset Review of the Antidumping Duty Order*, 72 FR 56985 (October 5, 2007), and accompanying Issues and Decision Memorandum at Comment 1.

²⁵ See SAA at 890 and *Sunset Policy Bulletin* at section II.B.1. See, *e.g.*, *Persulfates from the People's Republic of China: Notice of Final Results of Expedited Second Sunset Review of Antidumping Duty Order*, 73 FR 11868 (March 5, 2008), and accompanying Issues and Decision Memorandum at Comment 2.

²⁶ See SAA at 890-91; *Sunset Policy Bulletin* at section II.B.2.

Finally, pursuant to section 752(c)(4)(A) of the Act, a dumping margin of “zero or *de minimis* shall not by itself require” the Department to determine that revocation of an AD order would not be likely to lead to a continuation or recurrence of sales at LTFV. Our analysis of the comments submitted by the domestic interested parties follow.

1. **Likelihood of Continuation or Recurrence of Dumping**

The domestic interested parties provided an in-depth history of this *AD Order*²⁷ which included details on the investigation, the twenty completed and two ongoing administrative reviews, as well as twenty-four new shipper reviews as of the filing date of the Substantive Response on May 3, 2017. The domestic interested parties noted that five reviews are the subject of an appeal before the Court of International Trade and, therefore, margins calculated in those reviews are not final.²⁸

The domestic interested parties maintain that during the course of this *AD Order*, “no Chinese respondent has succeeded in having its shipments revoked from coverage under the antidumping duty order.” However, the domestic interested parties argue that when respondents have obtained a zero margin in the course of an AD administrative review, in the next review, these parties then receive a sizeable margin.²⁹ The domestic interested parties continue that while 13 new shippers (out of the 62 which have been completed or rescinded) have initially obtained zero rates in their NSRs, 11 of those 13 companies have received sizeable rates in subsequent administrative reviews.³⁰ The domestic interested parties conclude:

Rather, the continued existence of sales at less than fair value by the majority of Chinese respondents during one or more of the Department’s completed administrative reviews suggests that most respondents are unable to sell in commercial quantities in the United States without dumping, and that revocation of the Order would lead to renewed and even increased dumping,³¹

The domestic interested parties cite to the significant decline in subject imports following the publication of the *AD Order* and the inability of Chinese producers/exporters to sell subject merchandise in the U.S. market without dumping since 2000.³² The domestic interested parties argue that the imports during the three years prior to the filing of the petition (1991-1993) averaged 21.335 million pounds annually.³³

The domestic interested parties maintain that from the imposition of the *AD Order* in November 1994 through 2000, all Chinese exporters of fresh garlic to the United States were subject to the

²⁷ See Substantive Response May 3, 2017.

²⁸ *Id.* at 7.

²⁹ *Id.* at 71.

³⁰ *Id.*

³¹ *Id.* at 72.

³² *Id.* at 72.

³³ *Id.* at Exhibit 4 (Table on U.S. Imports of Fresh Garlic from China). Note that 21.335 million pounds is equivalent to 9.7 million kilograms. For the year 1993, Exhibit 4 indicates the import quantity was 53,728,000 pounds, equivalent to 24.4 million kilograms.

PRC-wide rate of 376.67 percent *ad valorem*.³⁴ Beginning in 2000, the domestic interested parties contend that dishonest Chinese exporters and U.S. importers engaged in “four fraudulent evasion schemes”³⁵ to ship massive volumes of subject imports to the U.S. market. Per the domestic parties, this demonstrates the continued interest of Chinese exporters in shipping fresh garlic to the United States. The domestic interested parties also state that this indicates that imports would likely surge to new levels if the *AD Order* were revoked. Given these facts, the domestic interested parties contend there is a continued need for the *AD Order* and effective enforcement of this *AD Order*.

The domestic interested parties also contend that the administrative and new shipper reviews conducted by the Department reflect that the Chinese producers and exporters have continued to sell the subject merchandise at less than normal value.³⁶

The domestic interested parties cite to the Department’s Policy Bulletin, which notes that continued dumping after the publication of an *AD Order* provides a strong indication that dumping is likely to continue or recur if the order were revoked. In addition, citing the Statement of Administrative Action,³⁷ the domestic interested parties cite to the *Third Sunset Review* “{i}f companies continue to dump with the discipline of the Order in place, it is reasonable to assume that dumping would continue if the discipline of the Order were removed.”³⁸ The domestic interested parties continue that revocation of an AD order is inappropriate where “dumping continued at any level above *de minimis* after the issuance of *AD Order*.”³⁹

The domestic interested parties argue that the *AD Order* on fresh garlic from the PRC should be extended for an additional five years.

The Department’s Position

In the instant review, for the reasons stated below, we find that revocation of the *AD Order* on fresh garlic from the PRC would likely result in the continuation or recurrence of dumping in the United States.

Consistent with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (URAA), specifically the SAA,⁴⁰ the Department’s determination of likelihood will be made on an order-wide basis. In addition, the Department normally will determine that revocation of an order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b)

³⁴ See *Fresh Garlic from the People’s Republic of China: Final Results and Partial Rescission of the 14th Antidumping Duty Administrative Review*, 75 FR 34976 (June 21, 2010) (reflecting weighted-average margins ranging from \$1.03 to \$4.71 per kilogram).

³⁵ *Id.*, at 73-86.

³⁶ *Id.*, at 86.

³⁷ See the SAA at 890.

³⁸ *Id.*

³⁹ *Id.*, 87.

⁴⁰ H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H. Rep. No. 103-826, pt. 1 (1994) (House Report), and the Senate Report, S. Rep. No. 103-412 (1994) (Senate Report)

imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.

During the original investigation, the Department determined rates above *de minimis* for all PRC manufacturers and exporters.⁴¹ Since the Department completed the *Third Sunset Review* and published the most recent continuation of the *AD Order*, the Department has found that three companies are entitled to separate rates.⁴² However, during this period, the Department has found that all of these companies have been dumping subject merchandise.⁴³ Further, with respect to the PRC-wide entity and most PRC manufacturers and exporters, the Department has continued to find dumping margins above *de minimis* in all administrative reviews, and most new shipper reviews, conducted in the last five years. Because dumping has continued at levels above *de minimis* during the period of this fourth sunset review, the Department has determined that revocation of the *AD Order* is likely to lead to the continuation or recurrence of dumping.

Pursuant to section 752(c)(1)(A) and (B) of the Act, the Department will consider “the weighted average dumping margins determined in the investigation and subsequent reviews,” as well as “the volume of imports of the subject merchandise for the period before and the period after the issuance of the *AD Order*” In 1993, the year before the imposition of the *AD Order*, the import volume was 26.2 million kilograms.⁴⁴ Whereas during this sunset review period, imports of fresh garlic from the PRC have fluctuated from a low of 54,539, 826 kilograms (in 2016) to a high of 65,058,421 kilograms (in 2014). Thus, the Department has determined that imports of fresh garlic from the PRC have increased in volume during the period of this sunset review and that imports are significantly higher in volume than before the *AD Order* was put in place. See U.S. Imports of Fresh Garlic at Attachment 2 for more detail.

The Department normally will determine that revocation of an order is not likely to lead to continuation of dumping where dumping has declined accompanied by steady or increasing imports.⁴⁵ However, if companies continue to dump with the discipline of the order in place, it is reasonable to assume that dumping would continue if the order were removed.⁴⁶ During the period of this sunset review, the Department has continued to find significant margins of dumping in the administrative and new shippers referenced above. Therefore, we find that revocation of the *AD Order* would likely lead to the continuation or recurrence of dumping.

2. Magnitude of the Dumping Margin Likely to Prevail

The domestic interested parties also note that the Department’s *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain*

⁴¹ See Order, 59 FR at 25692.

⁴² See *Shijiazhuang Goodman Trading Co. v. United States*, 227 F. Supp. 3d 1343 (CIT 2017) (sustaining Commerce’s determination on remand that Goodman’s rate is \$0.08/kg). See also *New Shipper Reviews Jinxiang Merry Vegetable and Canghan Qingshui*.

⁴³ The AD margins have ranged from \$0.08 per kilogram for Goodman to \$3.06 for Qingshui and \$3.33 for Merry Vegetable.

⁴⁴ See *Third Sunset Review*.

⁴⁵ See the SAA at 889-90.

⁴⁶ *Id.*

Antidumping Duty Proceedings; Final Modification has no effect on this conclusion.⁴⁷ In the Final Modification, the Department stated that it will continue to rely on dumping margins that are not WTO-inconsistent, such as margins that were based on the use of adverse facts available and margins where no offsets were denied. The domestic interested parties conclude that because the 367.67 percent margin was based on adverse facts available and was not affected by the denial of offsets, the Department should continue to rely on the 376.67 percent margin from the original investigation.

The Department's Position

The Department will normally provide to the ITC the company-specific margins from the investigation for each company. In a non-market economy case, where companies that were not investigated specifically or did not begin shipping until after the *AD Order* was issued, the Department normally will provide a margin based on the “country-wide” rate from the investigation. The Department’s preference for selecting a margin from the investigation is based on the fact that it is the only calculated rate that reflects the behavior of exporters without the discipline of an order or suspension agreement in place. Under certain circumstances, however, the Department may select a more recently calculated margin to report to the ITC.⁴⁸ In this case, the domestic interested parties, citing to the *Third Sunset Review*, request that the Department report to the ITC the margin of 376.67 percent (the PRC-wide rate) found in the investigation.⁴⁹

The Department finds no basis for it to consider a more recently calculated margin. Accordingly, the Department determines that it is appropriate to report to the ITC the margin from the investigation, also reported to the ITC in the three past sunset reviews, because this margin, which reflects actions absent the discipline of an order, is most probative of the behavior of PRC producers and exporters if the *AD Order* were revoked.⁵⁰

Final Results of Review

We determine that revocation of the *AD Order* on fresh garlic from the PRC would be likely to lead to continuation or recurrence of dumping at a margin of dumping up to 376.67 percent.

⁴⁷ *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012).

⁴⁸ See *Potassium Permanganate from The People's Republic of China; Five-year (“Sunset”) Review of Antidumping Duty Order; Final Results*, 70 FR 24520 (May 10, 2005); see also *Final Results of Expedited Sunset Review: Potassium Permanganate from the People's Republic of China*, 64 FR 16907 (April 7, 1999).

⁴⁹ See Substantive Response May 3, 2017 at 87-89.

⁵⁰ See the *First Sunset Review*; see also the *Second Sunset Review*; see also the *Third Sunset Review*.

RECOMMENDATION

Based on our analysis of the substantive comments received, we recommend adopting all of the above positions. If accepted, we will publish the final results of this sunset review in the *Federal Register*.

AGREE

DISAGREE

8/1/2017

X 

Signed by: GARY TAVERMAN

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

Attachment 1

Fresh Garlic Company Margins
for ARs and NSRs Completed
Since the Third Continuation of the *AD Order*

Attachment 1 - Fresh Garlic Company Margins

for ARs and NSRs Completed since the Third Continuation of the *AD Order*

77 FR 28355 (05/14/2012)

Aliases and Former Names	2009-2010 Admin. Reviews	2010-2011 NSRs	2010-2011 Admin. Reviews	2011-2012 NSR Rescinded	2011-2012 AR	2012-2013 NSR	2012-2013 AR	2013-2014 NSR	2013-2014 AR	2014-2015 NSR	2014-2015 AR
	6/11/2012	3/26/2013	6/17/2013	4/21/2014	6/30/2014	10/16/2014	6/15/2015	10/8/2015	6/20/2016	10/25/2016	6/14/2017
	77 FR 34346	78 FR 18316	78 FR 36168	79 FR 22098	36721	62103	34143	80 FR 60881	81 FR 39897	81 FR 73378	82 FR 27230
	Garlic 16		Garlic 17	Rate below based on litigation.	Garlic 18		Garlic 19		Garlic 20		Garlic 21

American Pioneer Shipping					\$4.71		\$4.71				
Anhui Dongqian Foods Co., Ltd.					\$4.71		\$4.71				
Anqiu Friend Food, Ltd .					\$4.71		\$4.71		\$4.71		
Anqiu Haoshun Trade Co., Ltd.					\$4.71		\$4.71				
APM Global Logistics (Shanghai) Co., Ltd.					\$4.71		\$4.71				
APS Qingdao					\$4.71		\$4.71				
Cangshan Qingshui Vegetable Foods Co., Ltd.					\$1.82	\$3.33	\$3.33				
Chengwu County Yuangixang Industry & Commerce Co., Ltd.	\$0.41		\$0.41		\$1.82		\$1.82				
Chiping Shengkang Foodstuff Co., Ltd.					\$4.71		\$4.71				

CMEC Engineering Machinery Import & Export Co., Ltd.						\$4.71		\$4.71				
Dalian New Century Food Col, Ltd.								\$4.71		\$4.71		
Dongying Shungyifa Chemical Co., Ltd.						\$4.71		\$4.71				
Dynalink Systems Logistics (Qingdao) Inc.						\$4.71		\$4.71				
Eimskip Logistics Inc.						\$4.71		\$4.71				
Feicheng Acid Chemicals Co., Ltd.						\$4.71		\$4.71				
Foshan Fuyi Food Co., Ltd.			RESCINDED	\$4.71		\$4.71		\$4.71		\$4.71		
Frog World Co., Ltd.						\$4.71		\$4.71				
Golden Bridge International Inc.						\$4.71		\$4.71				
Goodwave Technology Development Ltd.								\$4.71		\$4.71		
Guangxi Lin Si Fu Bang Trade Co., Ltd.						\$4.71		\$4.71		\$4.71		
Hangzhou Guanyu Foods Co., Ltd						\$4.71		\$4.71				
Hebei Golden Bird Trading Co., Ltd.		\$0.14		\$0.00		\$4.71		\$4.71		\$4.71		\$4.71
Heijianhuan (Zhongshan) Electrical AP								\$4.71		\$4.71		
Henan Weite Industrial Co., Ltd.		\$0.41		\$4.71		\$4.71		\$4.71		\$4.71		

Heze Ever-Best International Trade Co., Ltd.	f/k/a Shandong Heze International Trade and Developing Company							\$4.71		\$4.71		
Hongkong Golden Eagle Group Ltd.								\$4.71				
Hongqiao International Logistics Co.						\$4.71		\$4.71				
Intecs Logistics Service Co., Ltd.						\$4.71		\$4.71				
IT Logistics Qingdao Branch						\$4.71		\$4.71				
Jinan Farmlady Trading Co., Ltd.		\$0.41		\$0.41		\$1.82				\$2.75		\$2.27
Jinan Solar Summit International Co., Ltd.						\$4.71		\$4.71				
Jinan Yipin Corporation Ltd.						\$4.71		\$4.71				
Jining Alpha Food Co., Ltd.												\$2.27
Jining De-Rain Trading Co., Ltd.						\$4.71		\$4.71				
Jining Highton Trading Co., Ltd.						\$4.71		\$4.71				
Jining Jiulong International Trading Co., Ltd.						\$4.71		\$4.71				
Jining Maycarrier Import & Export Co., Ltd.										\$2.75		
Jining Shengtai Vegetables & Fruits Co., Ltd.										\$2.75		

Jining Shungchang Import & Export Co., Ltd.											\$2.75	
Jining Tiankuang Trade Co., Ltd.						\$4.71		\$4.71				
Jining Trans-High Trading Co., Ltd.						\$4.71		\$4.71		\$4.71		
Jining Yifa Garlic Produce Co., Ltd.						\$1.82						
Jining Yongjia Trade Co., Ltd.										\$2.75		\$4.71
Jinxiang County Huaguang Food Import & Export Co., Ltd.						\$4.71		\$4.71				
Jinxiang Merry Vegetable Co., Ltd.						\$1.82	\$3.33					
Jinxiang Dacheng Food Co., Ltd.						\$4.71		\$4.71				
Jinxiang Dongyun Freezing Storage Co., Ltd.	a/k/a Jinxiang Eastward Shipping Import and Export Limited Company					\$4.71		\$4.71		\$4.71		
Jinxiang Dongyun Import & Export Co, Ltd.						\$4.71		\$4.71		\$4.71		
Jinxiang Feiteng Import & Export Co., Ltd.										\$2.75		
Jinxiang Fengsheng Import & Export Co., Ltd.						\$4.71		\$4.71				
Jinxiang Grand Agricultural Co., Ltd.						\$4.71		\$4.71		\$4.71		
Jinxiang Guihua Food Co., Ltd.										\$2.75		

Jinxiang Heijia Co, Ltd.								\$4.71		\$2.75		\$4.71
Jinxiang Huameng Imp & Exp Co., Ltd.											RESCINDED	
Jinxiang Infarm Fruits & Vegetables Co., Ltd.						\$4.71		\$4.71		\$4.71		
Jinxiang Kaihua Imp & Exp Co., Ltd.									RESCINDED			
Jinxiang Meihua Garlic Produce Co., Ltd.						\$4.71		\$4.71		\$4.71		
Jinxiang Richfar Fruits & Vegetables Co., Ltd.								\$1.82				
Jinxiang Shanyang Freezing Storage Co., Ltd.						\$4.71		\$4.71		\$4.71		
Jinxiang Shenglong Trade Co., Ltd.						\$4.71		\$4.71				
Jinxiang Tianheng Trade Co., Ltd.						\$4.71		\$4.71				
Jinxiang Tianma Freezing Storage Co., Ltd.						\$4.71		\$4.71		\$4.71		
Jinxiang Xian Baishite Trade Co., Ltd. (a/k/a Jinxiang Best Trade Co., Ltd.)						\$4.71		\$4.71		\$4.71		
Juye Homestead Fruits and Vegetables Co., Ltd.						\$4.71		\$4.71		\$4.71		
Kingwin Industrial Co., Ltd.						\$4.71		\$4.71				
Laiwu Fukai Foodstuff Co., Ltd.						\$4.71		\$4.71				

Laiwu Jiahe Fruit and Vegetable Co., Ltd.								\$4.71		\$4.71		
Laizhou Xubin Fruits and Vegetables						\$4.71		\$4.71				
Linshu Dading Private Agricultural Products Co., Ltd.						\$4.71		\$4.71				
Linyi City Hedong District Jiuli Foodstuff Co.						\$4.71		\$4.71				
Linyi City Kangfa Foodstuffs Co., Ltd.						\$4.71		\$4.71				
Linyi Katayama Foodstuffs Co., Ltd.						\$4.71		\$4.71				
Linyi Tianquin Foodstuff Co., Ltd.						\$4.71		\$4.71				
Ningjin Ruifeng Foodstuff Co., Ltd.						\$4.71		\$4.71				
Qingdao Apex Shipping Co., Ltd.						\$4.71		\$4.71				
Qingdao BNP Co., Ltd.						\$4.71		\$4.71				
Qingdao Cherry Leather Garment Co., Ltd.						\$4.71		\$4.71				
Qingdao Chongzi International Transportation Co., Ltd.						\$4.71		\$4.71				
Qingdao Everfresh Trading Co., Ltd.						\$4.71		\$4.71		\$4.71		
Qingdao Lianghe International Trade Col, Ltd.						\$4.71		\$1.82				\$4.71
Qingda Liang He International Trade Co., Ltd.						\$4.71						

Qingdao Maycarrier Import & Export Co., Ltd.			RESCINDED									
Qingdao Saturn International Trade Co., Ltd.						\$4.71		\$4.71				
Qingdao Sino-World International Trading Co., Ltd.						\$4.71		\$4.71				
Qingdao Tiantaixing Foods Co., Ltd.									\$4.71			\$4.71
Qingdao Xintianfeng Foods Co., Ltd.		\$0.41		\$0.00		\$1.82						\$4.71
Qingdao Xin Tian Feng Food Co., Ltd.						\$4.71		\$4.71				
Qingdao Yuankang International						\$4.71		\$4.71				
Qingdao Winner Foods Co., Ltd.						\$4.71		\$4.71				
Qufu Dongbao Import & Export Trade Co., Ltd.						\$4.71		\$4.71				
Rizhao Huassai Foodstuff Co., Ltd.						\$4.71		\$4.71				
Samyoung America (Shanghai) Inc.						\$4.71		\$4.71				
Shandong Chengshun Farm Produce Trading Co., Ltd.						\$4.71		\$4.71				
Shandong Chenhe Intl. Trading Co., Ltd.				\$4.71		\$4.71		\$1.82				
Shandong China Bridge Imports						\$4.71		\$4.71				
Shandong Dongsheng Eastsun Foods Co., Ltd.						\$4.71		\$4.71				

Shandong Garlic Company						\$4.71		\$4.71				
Shandong Jinxiang Zhengyang Import & Export Co., Ltd.				\$0.00								\$2.27
Shandong Longtai Fruits and Vegetables Co., Ltd.						\$4.71		\$4.71		\$4.71		
Shandong Sanxing Food Co., Ltd.						\$4.71		\$4.71				
Shandong Wonderland Organic Food Co., Ltd.						\$4.71		\$4.71				
Shandong Xingda Foods Group Co., Ltd.						\$4.71		\$4.71				
Shandong Yinping Agro (Group) Co., Ltd.						\$4.71		\$4.71				
Shandong Zhileng Foodstuffs Co., Ltd.												\$4.71
Shanghai Ever Rich Trade Company				\$4.71		\$4.71		\$4.71		\$4.71		
Shanghai Goldenbridge International Co., Ltd.						\$4.71		\$4.71				
Shanghai Great Harvest International Co., Ltd.						\$4.71		\$4.71				
Shanghai LJ International Trading Co., Ltd.				\$4.71		\$4.71		\$4.71		\$4.71		
Shanghai Medicines & Health Products Import/Export Co., Ltd.						\$4.71		\$4.71				

Shanghai Yija International Co., Ltd.						\$4.71		\$4.71				
Shenzhen Bainong Co., Ltd.						\$1.82				\$2.75		\$2.27
Shenzhen Fanhui Import & Export Co., Ltd.						\$4.71		\$4.71				
Shenzhen Greening Trading Co., Ltd.						\$4.71		\$4.71				
Shenzhen Xinboda Industrial Co. Ltd.		\$0.68		\$0.00		\$1.82		\$1.82		\$2.75		\$2.27
Shenzhen Xunong Trade Co., Ltd.						\$4.71		\$4.71		\$4.71		
Shenzhen Yuting Foodstuff Co., Ltd.										\$2.75		
Shinjazhuang Goodman Trading Co., Ltd.					\$0.08	\$4.71						
Sunny Import & Export Limited				\$4.71		\$4.71		\$4.71		\$4.71		
Taian Eastsun Foods Co., Ltd.						\$4.71		\$4.71				
Taian Fook Huat Tong Kee Pte. Ltd.						\$4.71		\$4.71				
Taian Solar Summit Food Co., Ltd.						\$4.71		\$4.71				
Taiyan Ziyang Food Co., Ltd.						\$4.71		\$4.71				
Tangerine International Trading Co.								\$4.71		\$4.71		
T&S International, LLC.						\$4.71		\$4.71				
U.S. United Logistics (Ningbo) Inc.						\$4.71		\$4.71				

V.T. Impex (Shandong) Limited						\$4.71		\$4.71				
Weifang Chenglong Import & Export Co., Ltd.						\$4.71		\$4.71		\$4.71		
Weifang He Lu Food Import & Export Co., Ltd.						\$4.71		\$4.71		\$4.71		
Weifang Hongqiao International Logistics Co., Ltd.				\$0.00		\$1.82		\$1.82		\$2.75		\$2.27
Weifang Hong Qiao International						\$4.71		\$4.71				
Weifang Jinbao Agricultural Equipment Co., Ltd.						\$4.71		\$4.71				
Weifang Naike Foodstuffs Co., Ltd.						\$4.71		\$4.71		\$4.71		
Weifang Shennong Foodstuffs Co., Ltd.						\$4.71		\$4.71		\$4.71		
Weihai Textile Group Import & Export Co., Ltd.						\$4.71		\$4.71				
WSSF Corporation (Weifang)						\$4.71		\$4.71				
Xiamen Huamin Import Export Company						\$4.71		\$4.71				
Xiamen Keep Top Imp. And Exp. Co.						\$4.71		\$4.71				
Xinjiang Top Agricultural Products Co., Ltd.						\$4.71		\$4.71				
XuZhou Heiners Agricultural Co., Ltd.						\$4.71		\$4.71		\$4.71		

Attachment 2

U.S. Imports of Fresh Garlic

U.S. Imports for Consumption

Annual Data

Country	Quantity Description	2012	2013	2014	2015	2016
		<i>In Actual Units of Quantity</i>				
PRC	kilograms	62,729,621	63,367,760	65,058,421	59,644,087	54,539,826

Sources: Data on this site have been compiled from tariff and trade data from the U.S. Department of Commerce and the U.S. International Trade Commission.