

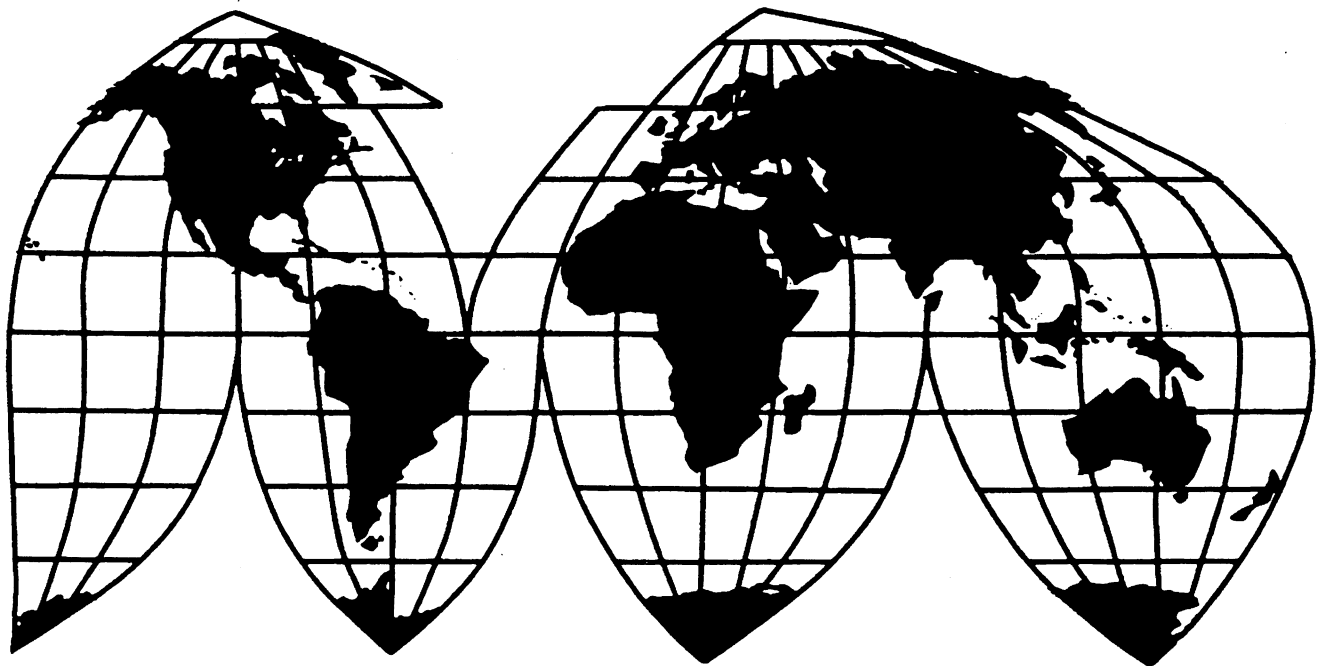
Fresh Garlic From China

Investigation No. 731-TA-683 (Review)

Publication 3393

February 2001

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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Note.—Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-683 (Review)

FRESH GARLIC FROM CHINA

DETERMINATION

On the basis of the record¹ developed in the subject five-year review, the United States International Trade Commission determines,² pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act), that revocation of the antidumping duty order on fresh garlic from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

BACKGROUND

The Commission instituted this review on December 1, 1999 (64 FR 67315) and determined on March 3, 2000, that it would conduct a full review (65 FR 13989, March 15, 2000). Notice of the scheduling of the Commission's review and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* on August 30, 2000 (65 FR 52784). The hearing was held in Washington, DC, on December 19, 2000, and all persons who requested the opportunity were permitted to appear in person or by counsel.

¹ The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

² Commissioner Dennis M. Devaney not participating.

VIEWS OF THE COMMISSION

Based on the record in this five-year review, we determine¹ under section 751(c) of the Tariff Act of 1930, as amended (“the Act”), that revocation of the antidumping duty order covering fresh garlic from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

I. BACKGROUND

The original investigation of fresh garlic from China was instituted based on a petition filed by the Fresh Garlic Producers Association (“FGPA”)² on January 31, 1994. On November 7, 1994, the Commission determined that the domestic fresh garlic industry in the United States was materially injured by reason of imports of fresh garlic from China, that were being sold at less than fair value (“LTFV”).³ The Commission also determined that the domestic dehydrated (“dehy”) garlic and domestic seed garlic industries were neither materially injured nor threatened with material injury by reason of the LTFV imports.⁴ On November 16, 1994, Commerce issued its antidumping duty order on fresh garlic from China.⁵

On December 1, 1999, the Commission instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (“the Act”) to determine whether revocation of the antidumping duty order on fresh garlic from China would likely lead to continuation or recurrence of material injury.⁶

In five-year reviews, the Commission determines whether to conduct a full review (which would include a public hearing, the issuance of questionnaires, and other procedures) or an expedited review, as follows. First, the Commission determines whether individual responses of interested parties to the notice of institution are adequate. Second, based on those responses deemed individually adequate, the Commission determines whether the collective responses submitted by each of two groups of interested parties -- domestic interested parties (producers, unions, trade associations, or worker groups) and respondent interested parties (importers, exporters, foreign producers, trade associations, or subject country governments) -- demonstrate a sufficient willingness among each group to participate and provide information requested in a full review.⁷ If the Commission finds the responses from both groups of interested parties to be adequate, or if other circumstances warrant, it will determine to conduct a full review.

In the instant review, the Commission received a response to the Notice of Institution from the FGPA,⁸ whose members are producers of the domestic like product and who collectively account for the

¹ Commissioner Dennis M. Devaney did not participate in this determination.

² The FGPA consisted of the following seven firms: A&D Christopher Ranch, Gilroy, CA; Belridge Packing Co., Wasco, CA; Colusa Produce Corp., Colusa, CA; Denice & Felice Packing Co., Hollister, CA; El Camino Packing, Gilroy, CA; The Garlic Co., Shafter, CA; and Vessey and Company, Inc., El Centro, CA.

³ Garlic from China, Inv. No. 731-TA-683 (Final), USITC Pub. 2825 (November 1994) (“Original Determination”).

⁴ Original Determination at I-54.

⁵ 59 Fed. Reg. 59209 (November 16, 1994).

⁶ 64 Fed. Reg. 67315 (December 1, 1999).

⁷ See 19 C.F.R. § 207.62(a); 63 Fed. Reg. 30599, 30602-05 (June 5, 1998).

⁸ The FGPA currently consists of the following ten members: A&D Christopher Ranch, Gilroy, CA; Colusa

(continued...)

majority of domestic fresh garlic production. The Commission also received a joint response from five Chinese exporters⁹ of fresh garlic.

On March 3, 2000, the Commission determined that the domestic and respondent¹⁰ interested party group responses to its notice of institution were adequate. The Commission then voted unanimously to proceed with a full review with respect to fresh garlic from China pursuant to section 751(c)(5) of the Act.¹¹

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Product

In making determinations under section 751(c), the Commission defines “the domestic like product” and the “industry.”¹² The Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.”¹³

Commerce has defined the subject merchandise in this review as follows:

all grades of garlic, whole or separated into constituent cloves, whether or not peeled, fresh, chilled, frozen, provisionally prepared, 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 0703.20.0000, 0710.80.7060, 0710.80.9750, 0711.90.6000 and 2005.90.9500 of the Harmonized Tariff Schedule of the United States (HTSUS).¹⁴

⁸ (...continued)

Produce Corp., Colusa, CA; Crinklaw Farms, King City, CA; Dalena Farms, Madera, CA; Denice & Felice Packing Co., Hollister, CA; Frank Pitts Farms, Five Points, CA; The Garlic Co., Shafter, CA; Spice World (Jenner Fresh), Orlando, FL; Thomson International, Inc., Bakersfield, CA; and Vessey and Company, Inc., El Centro, CA.

⁹ Anhui Cereals, Oils & Foodstuffs Import and Export Corporation; China Fruits, Vegetables & Aquatic Products Import and Export Company; Henan Cereals, Oils & Foodstuffs Import and Export Corporation; Jiangsu Cereals, Oils & Foodstuffs Import; and Export Corporation and Shandong Foodstuffs Import and Export Corporation.

¹⁰ Commissioner Hillman found the respondent interested party response inadequate, but exercised her discretion to proceed to a full review.

¹¹ Explanation of Commission Determination on Adequacy in Fresh Garlic from the People's Republic of China, Inv. No. 731-TA-683 (Review).

¹² 19 U.S.C. § 1677(4)(A).

¹³ 19 U.S.C. § 1677(10). See NEC Corp. v. Department of Commerce, 36 F. Supp. 2d 380, 383 (CIT 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (CIT 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991). See also S. Rep. No. 96-249, at 90-91 (1979).

¹⁴ 65 Fed. Reg. 41432 (July 5, 2000).

U.S. standards treat fresh garlic as either USDA Grade No. 1 or unclassified. In recent years, 80-85 percent of fresh garlic was USDA Grade No. 1, the remainder is believed to have been sold for processing.¹⁵ In normal industry practice, fresh garlic bulbs are sorted and packaged according to size, in .25 inch increments, ranging from 1.5 inches in diameter to 2.75 inches or more. Most fresh garlic imported into the United States from China is considered USDA Grade No. 1 and ranges in diameter from 1.5 inches to 2.5 inches.¹⁶

There are three market segments in the fresh garlic industry: (1) wholesalers, distributors, and retailers; (2) food service; and (3) industrial. According to one major U.S. producer, eighty percent of domestic fresh garlic bulbs end up in homes, while the majority of peeled garlic ends up in the food service industry. The industrial segment of the market is quite small and consists mostly of producers of dehy garlic. In the United States, the dehy producers are separate and distinct from the fresh garlic producers. This is generally not true in other countries.¹⁷

In the original investigation, the Commission found three separate like products consisting of fresh garlic, dehy garlic, and seed garlic corresponding with the broader scope of the original investigation.¹⁸ The Commission found that there were pronounced differences in the actual uses for the three types of garlic;¹⁹ actual practice indicated that the products were not interchangeable;²⁰ the three types of garlic did not share channels of distribution;²¹ customer and producer perceptions were different for the three different types of garlic;²² there was virtually no overlap between fresh and dehy producers and therefore no overlap in production facilities or employees;²³ and fresh garlic prices were considerably higher than prices for either dehy or seed garlic.²⁴

In the instant review, the domestic industry argues that the Commission should continue to find all fresh garlic to be a single like product co-extensive with the current scope.²⁵ Respondents disagreed for the first time with the like product definition at the hearing on December 19, 2000, and indicated that dehy garlic should be included in the definition of the like product.²⁶ Respondents also argued for the first time in their posthearing brief that seed garlic should be included in any definition of the like

¹⁵ Confidential Report ("CR") at I-11; Public Report ("PR") at I-9.

¹⁶ CR at I-11-12; PR at I-9.

¹⁷ Id.

¹⁸ USITC Pub. 2825 at I-5. The Commission found that the domestic industries producing dehy garlic and seed garlic were neither materially injured nor threatened with material injury by reason of the subject imports from China. Id. at I-54. Commission Crawford found one like product corresponding to the scope of the original investigation, and found that the domestic industry producing that product was materially injured by reason of the LTFV imports. Id. at I-1.

¹⁹ Original Determination at I-10.

²⁰ Id. at I-13.

²¹ Id.

²² Id. at I-14.

²³ Id. at I-17-18.

²⁴ Id.

²⁵ Petitioners' Prehearing Brief at 2-3.

²⁶ Hearing transcript, ("Tr.") pp. 124-128.

product that includes fresh and dehydrated garlic.^{27 28} We find no information in the record of this review to suggest that a different like product definition is appropriate, and note that, as in the original determination, there is only extremely limited, if any, overlap among fresh garlic, dehy garlic, and seed garlic.²⁹ We therefore define the domestic like product in this review as all fresh garlic.

B. Domestic Industry

Section 771(4)(A) of the Act defines the relevant industry as the domestic “producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”³⁰ In defining the domestic industry, the Commission’s general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market, provided that adequate production-related activity is conducted in the United States.³¹ The Commission bases its analysis on a firm’s production-related activities in the United States.³²

As discussed above, in the original investigation, the Commission found three domestic industries consisting of the domestic producers of fresh garlic, the domestic producers of dehy garlic, and the domestic producers of seed garlic to coincide with the three like products.³³ The Commission also found that crop tenders were not members of the domestic industry based on the limited involvement of the crop tenders in the actual production of fresh garlic and the lack of coincidence of economic interest with producers of fresh garlic.³⁴ Consistent with our definition of the like product, we define a single domestic industry in this review as all producers of fresh garlic.³⁵

²⁷ Respondents’ Posthearing Brief, Exhibit 1 at 5-6.

²⁸ Petitioners argued that respondents raised the issue so late in the proceedings that the Commission, its staff, and petitioners were denied the opportunity to adequately consider and evaluate the issue. Petitioners’ Posthearing Brief at 2-3.

²⁹ Original Determination at I-11; See CR at II-6, PR at II-4 for a discussion of substitute products.

³⁰ 19 U.S.C. § 1677(4)(A).

³¹ See, e.g., Uranium from Kazakhstan, Inv. No. 731-TA-539-A (Final), USITC Pub. 3213 at 8-9 (July 1999); Manganese Sulfate from the People’s Republic of China, Inv. No. 731-TA-725 (Final), USITC Pub. 2932, at 5 & n.19 (November 1995) (“the Commission has generally included toll producers that engage in sufficient production-related activity to be part of the domestic industry”). See, e.g., United States Steel Group v. United States, 873 F. Supp. 673, 682-83 (CIT 1994), aff’d, 96 F.3d 1352 (Fed. Cir. 1996).

³² The Commission typically considers six factors: (1) the extent and source of a firm’s capital investment; (2) the technical expertise involved in U.S. production activity; (3) the value added to the product in the United States; (4) employment levels; (5) the quantities and types of parts sourced in the United States; and (6) any other costs and activities in the United States leading to production of the like product. See Certain Cut-to-Length Steel Plate from France, India, Indonesia, Italy, Japan, and Korea, Inv. Nos. 701-TA-387-391 (Final) and 731-TA-816-821 (Final), USITC Pub. 3273 at 8-9 (January 2000).

³³ Original Determination at I-23.

³⁴ Original Determination at I-25. The record in the original investigation indicated that crop tenders lease their land to a garlic producer and perform only minor “custodial” services on the producer’s behalf. Therefore, the crop tenders’ involvement in the production of garlic is minimal.

³⁵ There are no related party issues in this review.

III. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY IF THE ANTIDUMPING DUTY ORDER IS REVOKED

A. Legal Standard In A Five-Year Review

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke a countervailing or antidumping duty order unless: (1) it makes a determination that dumping or subsidization is likely to continue or recur, and (2) the Commission makes a determination that revocation of an order “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”³⁶ The SAA states that “under the likelihood standard, the Commission will engage in a counter-factual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports.”³⁷ Thus, the likelihood standard is prospective in nature.³⁸ The statute states that “the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.”³⁹ According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ time frame applicable in a threat of injury analysis [in antidumping and countervailing duty investigations].”^{40 41}

Although the standard in five-year reviews is not the same as the standard applied in original antidumping or countervailing duty investigations, it contains some of the same fundamental elements. The statute provides that the Commission is to “consider the likely volume, price effect, and impact of

³⁶ 19 U.S.C. § 1675a(a).

³⁷ SAA at 883-84. The SAA states that “[t]he likelihood of injury standard applies regardless of the nature of the Commission’s original determination (material injury, threat of material injury, or material retardation of an industry).

³⁸ While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued [*sic*] prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

³⁹ 19 U.S.C. § 1675a(a)(5).

⁴⁰ SAA at 887. Among the factors that the Commission should consider in this regard are “the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities.” *Id.*

⁴¹ In analyzing what constitutes a reasonably foreseeable time, Chairman Koplan examines all the current and likely conditions of competition in the relevant industry. He defines “reasonably foreseeable time” as the length of time it is likely to take for the market to adjust to a revocation or termination. In making this assessment, he considers all factors that may accelerate or delay the market adjustment process including any lags in response by foreign producers, importers, consumers, domestic producers, or others due to: lead times; methods of contracting; the need to establish channels of distribution; product differentiation; and any other factors that may only manifest themselves in the longer term. In other words, this analysis seeks to define “reasonably foreseeable time” by reference to current and likely conditions of competition, but also seeks to avoid unwarranted speculation that may occur in predicting events into the more distant future.

imports of the subject merchandise on the industry if the order is revoked.”⁴² It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, and whether the industry is vulnerable to material injury if the order is revoked or the suspension agreement is terminated.^{43 44}

We note that the statute authorizes the Commission to take adverse inferences in five-year reviews, but such authorization does not relieve the Commission of its obligation to consider the record evidence as a whole in making its determination.⁴⁵ We generally give credence to the facts supplied by the participating parties and certified by them as true, but base our decision on the evidence as a whole, and do not automatically accept the participating parties’ suggested interpretation of the record evidence. Regardless of the level of participation and the interpretations urged by participating parties, the Commission is obligated to consider all evidence relating to each of the statutory factors, and may not draw adverse inferences that render such analysis superfluous. “In general, the Commission makes determinations by weighing all of the available evidence regarding a multiplicity of factors relating to the domestic industry as a whole and by drawing reasonable inferences from the evidence it finds most persuasive.”⁴⁶ No respondent interested parties that produce the subject merchandise in China provided questionnaire responses or participated in this review. Accordingly, we have relied on the facts available in this review, which consist primarily of the evidence in the record from the Commission’s original investigation, the information collected by the Commission since the institution of this review, and information submitted by interested parties in this review.

In evaluating the likely volume of imports of subject merchandise if the order under review is revoked, the Commission is directed to consider whether the likely volume of subject imports would be significant either in absolute terms or relative to the production or consumption in the United States.⁴⁷ In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.⁴⁸

In evaluating the likely price effects of subject imports if the order is revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared with the domestic like product and whether the subject imports are likely to enter the United

⁴² 19 U.S.C. § 1675a(a)(1).

⁴³ 19 U.S.C. § 1675a(a)(1). The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission’s determination. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

⁴⁴ Section 752(a)(1)(D) of the Act directs the Commission to take into account in five-year reviews involving antidumping proceedings “the findings of the administrative authority regarding duty absorption.” 19 U.S.C. § 1675a(a)(1)(D). Commerce has not issued any duty absorption findings with respect to this review.

⁴⁵ 19 U.S.C. § 1675(e).

⁴⁶ SAA at 869.

⁴⁷ 19 U.S.C. § 1675a(a)(2).

⁴⁸ 19 U.S.C. § 1675(a)(2)(A)-(D).

States at prices that would have a significant depressing or suppressing effect on the price of domestic like products.⁴⁹

In evaluating the likely impact of imports of subject merchandise if the order is revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.⁵⁰ All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry.⁵¹ As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the antidumping duty order at issue and whether the industry is vulnerable to material injury if the order is revoked.⁵²

For the reasons stated below, we determine that revocation of the antidumping duty order on fresh garlic from China would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

B. Conditions of Competition

In evaluating the likely impact of the subject imports on the domestic industry, the statute directs the Commission to consider all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”⁵³

Fresh garlic is a perishable crop which is subject to adverse weather conditions and disease. In the Western Hemisphere, garlic is grown in the relatively dry areas of California, Mexico, Argentina, and Chile. The lower the latitude of the growing area, the earlier the planting and harvesting. Garlic has traditionally been available from the various sources in the Western Hemisphere throughout the year and the various sources have not seriously affected one another in the U.S. market.⁵⁴ In California, garlic is planted in the fall and harvested the following summer; in Mexico garlic is planted during the summer

⁴⁹ 19 U.S.C. § 1675a(a)(3). The SAA states that “[c]onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices.” SAA at 886.

⁵⁰ 19 U.S.C. § 1675a(a)(4).

⁵¹ 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that “the Commission may consider the magnitude of the margin of dumping” in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the “magnitude of the margin of dumping” to be used by the Commission in five-year reviews as “the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title.” 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887. In the final results of its five year review of fresh garlic from China, Commerce published a rate of 376.67 percent. 65 Fed. Reg. 52784 (July 5, 2000).

⁵² The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission “considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.” SAA at 885.

⁵³ 19 U.S.C. § 1675a(a)(4).

⁵⁴ CR at I-9, PR at I-8. See also Tr. at 13, 28.

and harvested the following spring. In Argentina and Chile, where the seasons are reversed from those of North America, garlic is planted March-May and harvested the following December-February.⁵⁵ The difference in growing seasons allows domestic producers to supplement their own harvests with nonsubject imports, primarily from Mexico, Argentina, and Chile, as the crop year progresses, thereby ensuring a constant supply to their customers. In contrast, the crop year in China coincides with that of California, except that garlic is harvested somewhat earlier in China, allowing it to enter the U.S. market in direct competition with the domestic industry at the time of the U.S. harvest.⁵⁶ Chinese garlic is highly substitutable for domestic garlic.⁵⁷

In crop year 2000, the domestic industry accounted for 75.5 percent of the consumption value in the United States, compared to 58.4 percent in crop year 1994.⁵⁸ Non-subject imports have grown since 1994 and have paralleled the growth in the domestic industry.⁵⁹

Grower-packers and importers have increasingly invested in the use of cold storage and controlled atmosphere storage to extend the shelf life of fresh garlic, thus moderating somewhat the seasonal nature of domestic supply.⁶⁰ Fresh garlic in dry storage will remain of marketable quality for 3 months. Cold storage extends shelf life to 6 months while controlled atmosphere extends shelf life to 11 months, but these storage methods involve additional costs.⁶¹ Domestic producers store about one third of their crop by each of the storage methods.⁶² The record indicates that cold storage is also increasingly common in China.⁶³

Demand for garlic is increasing in the United States.⁶⁴ The largest area of growth has been in the food service sector, which primarily uses peeled garlic. Thirty-five percent of the garlic consumed in 2000 was peeled, compared to 10 percent in 1995.⁶⁵

We find that the foregoing conditions of competition are likely to prevail for the reasonably foreseeable future and thus provide an adequate basis by which to assess the likely effects of revocation within a reasonably foreseeable time.

⁵⁵ CR at I-9, PR at I-8.

⁵⁶ Id.

⁵⁷ CR at II-8, PR at II-5.

⁵⁸ CR and PR at Table I-1. The crop year runs from June of one calendar year through May of the following calendar year and is numerically labeled by the year in which the crop year ends. The original antidumping duty order of November 16, 1994, was implemented six months into crop year 1995.

⁵⁹ Garlic from China, Inv. No. 731-TA-683 (Final), USITC Pub. 2825 (November 1994) ("Original Determination").

⁶⁰ CR at I-11, PR at I-8-9. See also Original Determination at I-33-34.

⁶¹ Id.; Tr. at 49.

⁶² Tr. at 51.

⁶³ Tr. at 38.

⁶⁴ CR at I-17, PR at I-12. See also Tr. at 13, 92; Petitioners' Posthearing brief at 10; Respondents' Prehearing brief at 2.

⁶⁵ CR and PR at II-1; Tr. at 27.

C. Likely Volume of Subject Imports

The Commission's volume analysis in the original investigation focused on the subject imports' ability to increase their U.S. market presence rapidly in terms of both volume and market share.⁶⁶ Imports of fresh garlic from China into the United States increased from 9.4 million pounds in crop year 1993 to 63.5 million pounds in crop year 1994, the year the order was implemented. The order resulted in an immediate and massive reduction in the volume of imports from China, from 63.5 million pounds in 1994 to 3.7 million pounds in 1995.⁶⁷ The order clearly continues to have a restraining effect on subject import volumes as virtually no imports of fresh garlic from China entered the United States during the period of review.⁶⁸

The record information on the Chinese industry is limited. Nonetheless, the available data, which all parties agree are reliable, indicate that garlic production in China has risen from 10.7 billion pounds in 1994 to about 13.7 billion pounds in 2000.⁶⁹ The 63.5 million pounds of fresh garlic imported into the United States from China in crop year 1994, the crop year before the antidumping duty order was implemented, would be only 0.5 percent of current Chinese production.⁷⁰

The Chinese garlic industry is known to be highly export-oriented.⁷¹ Total Chinese exports to the world in 1999 were 642 million pounds.⁷² There are also substantial barriers to imports from China in other markets that would make the U.S. market attractive to Chinese exporters, if the antidumping duty order is revoked.⁷³ Importantly, the markets that currently restrict imports of garlic from China (the EU, Canada, Mexico, and South Africa)⁷⁴ account for more than 25 percent of fresh garlic consumption world-wide.⁷⁵

Overall, we conclude that the likely volume of subject imports would be significant both in absolute terms and relative to consumption in the United States if the order is revoked.⁷⁶ We base this conclusion on a number of factors, including: the demonstrated ability of producers in China to increase

⁶⁶ Original Determination at I-43-44.

⁶⁷ Petitioners' Prehearing Brief at 20.

⁶⁸ CR at II-5 and IV-3, PR at II-3 and IV-1.

⁶⁹ CR and PR at Table IV-4; Tr. at 69 (Love), 146 (Fisher).

⁷⁰ Petitioners' Posthearing Brief at 8.

⁷¹ Tr. at 30-33.

⁷² Id. at 43.

⁷³ The Mexican government imposed a phytosanitary ban on garlic from China in 1993. Chinese exports of garlic have been subject to quotas in the European Union since 1994 and antidumping duties were imposed by Canada in 1997 and in South Africa in 2000. The Korean government imposed a temporary increase in import duties on garlic from China but significantly reduced the duty in the face of retaliatory import bans by China on mobile phones and polyethylene. CR at IV-4-5, PR at IV-3-4.

⁷⁴ CR at IV-4, PR at IV-3-4.

⁷⁵ Petitioners' Prehearing Brief at 13-18; Petitioners' Final Comments (February 1, 2001) at 10.

⁷⁶ We note that Respondents submitted a letter from the Ministry of Foreign Trade and Economic Cooperation ("MOFTEC") indicating that the Chinese government would consider increasing the export license fee for fresh garlic if there were a threat of material injury to U.S. producers of fresh garlic. (Respondents' Prehearing Brief at 4-5 and Exhibit 1; Respondents' Posthearing Brief at 7). However, the letter is non-binding in nature and the prices of fresh garlic from China have continued to decline notwithstanding the existing export license fees already imposed by the Chinese government.

their U.S. market penetration rapidly;⁷⁷ the existence of China's very large capacity to produce fresh garlic; the demonstrated export-orientation of the Chinese industry; the existence of third country restrictions which limit market access for exports from China; the restraining effect that the order has had on subject import volumes; and the attractiveness of the growing U.S. market as an outlet for Chinese production.

D. Likely Price Effects of the Subject Imports

In the original investigation, the Commission found that the pervasive underselling by the subject imports from China was significant, with margins of underselling reaching as high as 70.0 percent.⁷⁸ As noted above, the U.S. market for fresh garlic remains one in which sales are made principally on the basis of price.⁷⁹ In the absence of the order, the significantly higher prices in the United States (\$0.51-\$0.58/lb. for non-subject imports during the period of review),⁸⁰ compared to China's export market price (\$0.16/lb.),⁸¹ would give Chinese exporters considerable incentive to divert product to the U.S. market at lower prices in order to regain market share.

The record contains limited price information for fresh garlic from China. The average unit value of U.S. producers' domestic shipments of fresh garlic increased from \$0.87 per pound in 1998 to \$1.07 per pound in 1999 and decreased to \$0.70 per pound in 2000.⁸² Weighted average prices for domestic fresh garlic from the first quarter of 1998 through the third quarter of 2000 also declined, except during most quarters of crop year 1999, when production was reduced by a garlic fungus.⁸³

As discussed above, we have found that the volume of cumulated subject imports is likely to increase significantly if the order is revoked. In light of the priced-based competition in the U.S. market and given the comparable quality of Chinese garlic and the domestic product, it is likely that subject imports from China would undersell the domestic like product in order to increase exports to the United States at prices that would likely have a significant depressing or suppressing effect on prices for the domestic like product.

E. Likely Impact of the Subject Imports

In the original investigation, the Commission found that, due to falling prices, the domestic industry was unable to operate profitably despite rising apparent consumption and sales revenues.⁸⁴ The industry's condition has improved somewhat since the original investigation, but recent data indicate that the industry is currently in a weakened condition. Production capacity increased overall, although production and capacity utilization declined in crop year 1999 because of a fungus that damaged the U.S.

⁷⁷ Commissioner Bragg infers that, upon revocation, subject producers would revert to their historical emphasis on exporting to the United States, as evidenced in the Commission's original determination. Based upon the record in this review, Commissioner Bragg finds that the historical emphasis will likely result in significant volumes of subject imports into the United States if the order is revoked.

⁷⁸ Original Determination at I-45.

⁷⁹ CR at II-7-8, PR at II-4; Tr. at 27.

⁸⁰ CR and PR at Table I-1.

⁸¹ Tr. at 117.

⁸² CR and PR at Table III-2.

⁸³ CR and PR at Tables V-1-V-4 and figures V-2-V-3.

⁸⁴ Original Determination at I-47.

fresh garlic crop, reducing both bulb size and crop yield.⁸⁵ The domestic industry has increased its market share from 45.5 percent in 1994 to 68.9 percent in 2000, although its market share was only 43.8 percent in 1999⁸⁶ because of the aforementioned garlic fungus.⁸⁷ Per-pound sales values for the domestic like product increased from crop years 1998 to 1999, while unit cost of goods sold also increased for that period.⁸⁸ Operating income per pound declined from 1998 to 1999 and declined further in 2000.⁸⁹ Net sales values, operating income, and per-unit profitability decreased for the entire period of review. Per-pound sales values declined from \$1.12 in 1999 to \$0.71 in 2000, a decline of almost 37 percent. One of the six domestic producers had an operating loss in 1998, another producer had an operating loss in 1999, and four had operating losses in 2000.⁹⁰ Based on the above information, we find the domestic industry to be vulnerable to material injury if the order is revoked.

Given the highly substitutable nature of the subject and domestic products, we find that the significant volume of low-priced subject imports, when combined with the expected negative price effects of those imports, would likely have a significant adverse impact on the production, shipments, sales, and revenues of the domestic industry. This reduction in the industry's production, sales, and revenues would have a direct adverse impact on the industry's profitability and employment levels, as well as its ability to raise capital and make and maintain necessary capital investments. Accordingly, we conclude that, if the antidumping duty order is revoked, the subject imports would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

CONCLUSION

For the foregoing reasons, we determine that revocation of the antidumping duty order on fresh garlic from China would be likely to lead to continuation or recurrence of material injury to the domestic industry producing fresh garlic within a reasonably foreseeable time.

⁸⁵ CR and PR at Table I-1.

⁸⁶ CR and PR at Table I-1.

⁸⁷ CR and PR at III-1-2.

⁸⁸ CR at III-6; PR at III-4.

⁸⁹ CR and PR at Table III-5.

⁹⁰ The four firms reporting losses in crop year 2000 represented *** percent of total domestic production that year. CR and PR at Table I-4. With respect to the two domestic firms that did not experience losses at any point during the period reviewed, the record nonetheless indicates that the operating margins for these two firms declined sharply over the period (***). CR and PR at Table III-6.

PART I: INTRODUCTION AND OVERVIEW

BACKGROUND

On December 1, 1999, the Commission gave notice, pursuant to section 751(c) of the Tariff Act of 1930 (the Act), that it had instituted a review to determine whether revocation of the antidumping duty order on fresh garlic from China would likely lead to the continuation or recurrence of material injury to a domestic industry. Effective March 3, 2000, the Commission determined that it would conduct a full review pursuant to section 751(c)(5) of the Act. Information relating to the background and schedule of the review is provided in the following tabulation.¹

Effective date	Action
November 16, 1994	Commerce's antidumping duty order (59 FR 59209)
December 1, 1999	Commission's institution of review (64 FR 67315)
March 3, 2000	Commission's decision to conduct a full review (65 FR 13989, March 15, 2000)
July 5, 2000	Commerce's final results of expedited review (65 FR 41432)
August 22, 2000	Commission's scheduling of the review (65 FR 52784, August 30, 2000)
December 19, 2000	Commission's hearing ¹
February 8, 2001	Commission's vote
February 21, 2001	Commission's determination transmitted to Commerce
¹ App. B contains a list of witnesses who appeared at the hearing.	

The Original Investigation

On January 31, 1994, a petition was filed with Commerce and the Commission alleging that an industry in the United States was materially injured by reason of dumped imports of fresh garlic from China.² On September 19, 1994, Commerce made a final affirmative dumping determination, with a margin of 376.67 percent for all manufacturers/exporters in China. The Commission made its final affirmative injury determination on November 7, 1994 and Commerce issued an antidumping duty order on November 16, 1994.

Table I-1 presents a summary of data from the original investigation and from this review.

¹ The Commission's notice of institution, notice to conduct a full review, scheduling notice, and statement on adequacy appear in app. A and may also be found at the Commission's web site (internet address www.usitc.gov). Commissioners' votes on whether to conduct an expedited or full review may also be found at the web site.

² The petition was filed by the Fresh Garlic Producers Association (FGPA), consisting of the following firms: A&D Christopher Ranch, Gilroy, CA; Belridge Packing Co., Wasco, CA; Colusa Produce Corp., Colusa, CA; Denice & Filice Packing Co., Hollister, CA; El Camino Packing Co., Gilroy, CA; The Garlic Co., Shafter, CA; and Vessey and Company, Inc., El Centro, CA.

Table I-1

Fresh garlic: Summary data from the original investigation and current review, crop years 1991-94 and 1998-2000^{1 2}

(Quantity in 1,000 pounds; value in 1,000 dollars; unit values are per pound)

Item	1991	1992	1993	1994	1998	1999	2000
U.S. consumption quantity: Amount	85,620	96,151	117,442	180,311	160,822	190,524	186,417
Producers' share ³	49.4	60.5	63.5	45.5	68.0	43.8	68.9
Importer's share: China ³	7.1	3.7	8.0	35.2	0.3	0.5	0.6
All other countries ³	43.5	35.8	28.5	19.3	31.6	55.7	30.6
Total imports ³	50.6	39.5	36.5	54.5	32.0	56.2	31.1
U.S. consumption value: Amount	55,790	61,439	74,825	90,677	124,809	149,902	118,647
Producers' share ³	58.3	64.7	71.1	58.4	76.5	59.5	75.5
Importer's share: China ³	4.4	2.4	5.0	22.1	0.1	0.2	0.2
All other countries ³	37.3	32.9	23.9	19.5	23.5	40.3	24.3
Total imports ³	41.7	35.3	28.9	41.6	23.5	40.5	24.5
U.S. imports from-- China:							
Quantity	6,055	3,540	9,395	63,532	497	876	1,030
Value	2,474	1,446	3,719	20,014	92	261	182
Unit value	\$0.41	\$0.41	\$0.40	\$0.32	\$0.18	\$0.30	\$0.18
All other countries:							
Quantity	37,279	34,474	33,527	34,677	50,888	106,137	56,972
Value	20,778	20,227	17,915	17,697	29,285	60,445	28,848
Unit value	\$0.56	\$0.59	\$0.53	\$0.51	\$0.58	\$0.57	\$0.51
All countries:							
Quantity	43,334	38,014	42,922	98,209	51,385	107,013	58,002
Value	23,252	21,673	21,634	37,711	29,377	60,706	29,031
Unit value	\$0.54	\$0.57	\$0.50	\$0.38	\$0.57	\$0.57	\$0.50

Continued on next page.

Item	1991	1992	1993	1994	1998	1999	2000
U.S. producers'-- Capacity quantity	97,932	104,456	141,274	141,274	183,684	192,302	198,995
Production quantity	49,102	70,087	93,416	100,307	122,722	100,062	152,571
Capacity utilization ³	50.1	66.3	62.5	66.7	66.8	52.0	76.7
U.S. shipments: Quantity	42,286	58,137	74,520	82,102	109,437	83,511	128,415
Value	32,538	39,766	53,191	52,966	95,432	89,196	89,616
Unit value	\$0.77	\$0.68	\$0.71	\$0.65	\$0.87	\$1.07	\$0.70
Export shipments: Quantity	3,482	5,885	7,883	12,042	3,884	2,401	5,364
Value	3,078	4,329	***	7,588	3,338	2,242	2,911
Unit value	\$0.88	\$0.74	***	\$0.63	\$0.86	\$0.93	\$0.54
Ending inventory quantity	0	0	***	***	***	***	***
Inventories/total shipments ³	0	0	***	***	***	***	***
Production workers ⁴	599	710	1,021	1,087	931	875	988
Hours worked ⁴ (1,000 hours)	1,007	1,247	1,475	1,584	1,503	1,409	1,673
Wages paid ⁴ (1,000 dollars)	6,380	8,519	10,008	10,463	10,262	10,192	12,195
Hourly wages ⁴	\$6.34	\$6.83	\$6.79	\$6.61	\$6.83	\$7.23	\$7.29
Productivity (pounds per hour)	55.7	55.6	59.9	59.5	71.6	67.7	82.1
Net sales: Quantity	45,768	64,022	82,402	94,144	113,137	84,890	133,071
Value	35,615	44,093	59,046	60,554	102,011	94,905	94,902
Unit value	\$0.78	\$0.69	\$0.72	\$0.64	\$0.90	\$1.12	\$0.71
Cost of goods sold	27,890	37,464	51,426	54,757	68,573	72,616	75,595
Gross profit or (loss)	7,725	6,629	7,620	5,797	33,438	22,289	19,307
Operating income or (loss)	3,994	2,091	1,600	(960)	15,732	7,207	3,278
Unit cost of goods sold	\$0.61	\$0.59	\$0.62	\$0.58	\$0.61	\$0.86	\$0.57
Unit operating income or (loss)	\$0.09	\$0.03	\$0.02	\$(0.01)	\$0.14	\$0.08	\$0.02
Cost of goods sold/sales ³	78.3	85.0	87.1	90.4	67.2	76.5	79.7
Operating income or (loss)/sales ³	11.2	4.7	2.7	(1.6)	15.4	7.6	3.5

¹ Crop years begin in June and end in May of the year shown.

² Crop years 1998-2000 include the data of 7 of 10 known domestic producers of fresh garlic.

³ In percent.

⁴ For crop years 1998-2000, 5 of 7 firms reported data.

Note.—Because of rounding, figures may not add to the totals shown.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.

Statutory Criteria and Organization of the Report

Section 751(c) of the Act requires Commerce and the Commission to conduct a review no later than five years after the issuance of an antidumping or countervailing duty order or the suspension of an investigation to determine whether revocation of the order or termination of the suspended investigation “would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.”³

Section 752(a) of the Act provides that in making its determination of likelihood of continuation or recurrence of material injury--

(1) IN GENERAL.-- . . . the Commission shall determine whether revocation of an order, or termination of a suspended investigation, would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission shall consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated. The Commission shall take into account--

(A) its prior injury determinations, including the volume, price effect, and impact of imports of the subject merchandise on the industry before the order was issued or the suspension agreement was accepted,

(B) whether any improvement in the state of the industry is related to the order or the suspension agreement,

(C) whether the industry is vulnerable to material injury if the order is revoked or the suspension agreement is terminated, and

(D) in an antidumping proceeding . . . , (Commerce’s findings) regarding duty absorption . . .

(2) VOLUME.--In evaluating the likely volume of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether the likely volume of imports of the subject merchandise would be significant if the order is revoked or the suspended investigation is terminated, either in absolute terms or relative to production or consumption in the United States. In so doing, the Commission shall consider all relevant economic factors, including--

(A) any likely increase in production capacity or existing unused production capacity in the exporting country,

(B) existing inventories of the subject merchandise, or likely increases in inventories,

(C) the existence of barriers to the importation of such merchandise into countries other than the United States, and

(D) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.

³ Certain transition rules apply to the scheduling of reviews (such as this) involving antidumping and countervailing duty orders and suspensions of investigations that were in effect prior to January 1, 1995 (the date the WTO Agreement entered into force with respect to the United States). Reviews of these transition orders will be conducted over a three-year transition period running from July 1, 1998, through June 30, 2001. Transition reviews must be completed not later than 18 months after institution.

(3) *PRICE.--In evaluating the likely price effects of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether--*

(A) there is likely to be significant price underselling by imports of the subject merchandise as compared to domestic like products, and

(B) imports of the subject merchandise are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of domestic like products.

(4) *IMPACT ON THE INDUSTRY.--In evaluating the likely impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated, the Commission shall consider all relevant economic factors which are likely to have a bearing on the state of the industry in the United States, including, but not limited to--*

(A) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,

(B) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and

(C) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.

The Commission shall evaluate all such relevant economic factors . . . within the context of the business cycle and the conditions of competition that are distinctive to the affected industry.

Section 752(a)(6) of the Act states further that in making its determination, “the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy. If a countervailable subsidy is involved, the Commission shall consider information regarding the nature of the countervailable subsidy and whether the subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement.”

Information obtained during the course of the review that relates to the above factors is presented throughout this report. A summary of data collected in the review is presented in appendix C. U.S. industry data are based on questionnaire responses of seven firms that accounted for the vast majority of U.S. production of fresh garlic in crop year 2000.⁴ U.S. import data are based on official Commerce

⁴ Petitioner’s response to the Notice of Institution, p. 6. The U.S. Department of Agriculture (USDA) reports U.S. garlic production to be 660 million pounds in 2000, which includes fresh, dehydrated, and seed garlic. The USDA estimates that about 20 percent of U.S. garlic production is grown for the fresh market, while 65 percent and 15 percent are grown for dehydration and for seed, respectively. See “Garlic: An Economic Assessment of the Feasibility of Providing Multiple-Peril Crop Insurance,” Economic Research Service, U.S. Department of Agriculture, seen at www.rma.usda.gov/pilots/feasible/pdf/garlic.pdf on January 9, 2001. The petitioner reported that approximately two-thirds to three-fourths of total U.S. garlic production is destined for dehydration. See hearing transcript, p. 61.

statistics.⁵ Responses by U.S. producers, importers, and purchasers of fresh garlic and producers of fresh garlic in China to a series of questions concerning the significance of the existing antidumping duty order and the likely effects of revocation are presented in appendix D.

COMMERCE'S RESULTS OF EXPEDITED REVIEW

On July 5, 2000, Commerce found that revocation of the antidumping duty order on fresh garlic from China would likely lead to continuation or recurrence of dumping at a margin of 376.67 percent for all manufacturers/exporters in China.⁶ Commerce has not issued a duty absorption determination with respect to this order.

COMMERCE'S ADMINISTRATIVE REVIEWS

Commerce has conducted five administrative reviews of the antidumping duty order on fresh garlic from China as shown in the following tabulation:

Period of review	Date results published	Margin (percent)
11/1/98-10/31/99	December 7, 2000 (65 FR 76608)	376.67 ¹
11/1/97-10/31/98	May 23, 2000 (65 FR 33295)	376.67
11/1/96-10/31/97	(²)	(²)
11/1/95-10/31/96	September 30, 1997 (62 FR 51082)	376.67
7/11/94-10/31/95	May 1, 1997 (62 FR 23758)	376.67 ³

¹ This review was partially rescinded with respect to the exporter Wo Hing, which was found to have made no shipments during the period of review (August 8, 2000 - 65 FR 48465).

² This review was rescinded as a result of the absence of reviewable entries and sales into the United States of subject merchandise during the period of review (July 13, 1998 - 63 FR 37520).

³ This review was partially terminated with respect to the firm Top Pearl, which was determined not to be the appropriate respondent in the review (December 27, 1996 - 61 FR 68229).

ANTIDUMPING DUTIES COLLECTED

Table I-2 presents the actual amount of customs duties collected in the form of cash deposits and bonds under the antidumping duty order from 1994 to 1999.

⁵ Twenty-one importer questionnaires were sent to importers identified by U.S. Customs as having imported fresh garlic from China under Harmonized Tariff Schedule (HTS) statistical reporting numbers 0703.20.0010, 0703.20.0020, and 0703.20.0090 between January 1998 and June 2000, as well as those firms identified by petitioners as possible importers of Chinese fresh garlic. Two questionnaires were returned by firms reporting imports of fresh garlic since 1994; however, in both instances the garlic was imported outside the reporting period (crop year 1998-crop year 2000). Eight questionnaires were returned by firms reporting no imports of garlic since 1994. Follow-up conversations by Commission staff with the 13 firms identified by U.S. Customs as having imported fresh garlic from China revealed 8 importers who reported importing only Chinese garlic that is outside the scope (i.e., dehydrated, pickled, or preserved or packed in oil). These imports appear to have been misclassified and, as a result, official Commerce import statistics may overstate the quantity of subject garlic that has been imported during the period of review.

⁶ Commerce's notice is presented in app. A.

Table I-2

Fresh garlic: Actual duties collected and imports from China, fiscal years 1994-99¹

(In dollars)						
Item	1994	1995	1996	1997	1998	1999
Total duties collected	969,282	988,243	482,845	***	35,218	(2)
Total imports	267,892	262,363	128,188	***	9,350	(2)
¹ The federal fiscal year is October 1-September 30. ² Business proprietary information not divulged by Customs. Source: U.S. Customs Service Annual Report, Part A.						

THE PRODUCT⁷

The imported product subject to the antidumping duty order under review, as defined by Commerce, is:

“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 0703.20.0000, 0710.80.7060, 0710.80.9750, 0711.90.6000, and 2005.90.9500 of the Harmonized Tariff Schedule of the United States (HTSUS).”⁸

In the Western Hemisphere, fresh garlic is grown primarily in sunny, relatively dry areas of California, Mexico, Argentina, and Chile. Moreover, the production of fresh garlic largely depends on the latitude of the growing area; the lower the latitude, the earlier the planting and harvesting. Whereas in California garlic is planted in the fall and harvested the following summer, in Mexico garlic is planted during the summer and harvested the following spring. By contrast, in Argentina and Chile, where the seasons are reversed from those of North America, planting takes place in March-May for harvest in the following December-February. The result of such staggered crop years is that garlic traditionally has been available from one source or another in the Western Hemisphere throughout the entire year, and no two countries have seriously affected one another in the U.S. market. The crop year in China, however, basically coincides with that in California, except that Chinese garlic is harvested somewhat earlier, allowing it to enter the U.S. market coincident with the harvesting of the U.S.-produced product.

⁷ Much of the material in this section was taken from *Fresh Garlic from China*, Investigation No. 731-TA-683 (Final), USITC Pub. 2825, November 1994, pp. II-4-II-8.

⁸ 65 FR 41432, July 5, 2000. The correct HTS statistical reporting numbers are 0703.20.0010, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, and 2005.90.9700, as noted in Commerce’s notice of August 8, 2000 (65 FR 48464). Duty rates are provided later in this section.

The garlic crop year begins with the acquisition of seed stock. Once seed supplies have been acquired, grower-packers (fresh market producers) contract with California farmers for raising their crop. Following the selection and allocation of desired acreage, field preparation and planting are performed by the grower-packers, which provide farmers with seed and all other necessary inputs for raising the crop. They also provide for harvesting of the finished garlic when the crop is ready. Under the direction of a grower-packer, the farmer is responsible for fertilizing, weeding, and irrigating the crop. Most farmers raising garlic also raise a number of other crops, using garlic in their crop rotation programs. One crop is grown per season, and the same land cannot be used again in garlic production for at least 4 years.

In California, fresh garlic is usually planted in September through November and harvested in June through August, expanding from individual cloves (seeds) to mature compound bulbs in about 9 months. The planting stage for garlic production is critical in that the intended end use of garlic determines the density of planting. Fresh garlic is planted at 130,000 to 200,000 seeds per acre (10-13 cloves per bed foot). The low density facilitates hand harvesting, which is used to minimize bulb damage. All garlic cultivation involves irrigation; weed, insect, and disease control; fertilization; harvesting; and windrowing.

The next critical stage in garlic production is the determination of when to make the last application of water prior to harvesting, commonly referred to as “water shut-off.” Water shut-off usually occurs 2 to 3 weeks before harvest, in order to encourage the formation of extra skins, which enhances the appearance of the bulb. The grower-packer evaluates the soil moisture content of each field in order to determine whether a final watering is needed and, if so, when it should be applied.

The timing of the final application of water determines the number of bulb skins. At maturity, garlic bulbs for the fresh market are compact and firm, usually with 7 or 8 skins. The number of skins is critical since, during undercutting, windrowing, harvesting, cleaning, grading, sorting, and packing, the bulbs often lose 3 or 4 of those skins.

Specialized machinery is used to undercut the bulb and loosen the soil, but the actual harvesting is done by hand. After undercutting and hand-lifting out of the ground, the bulbs are carefully placed in windrows. The bulbs are then left to dry in the field for between 10 and 20 days. At that point, the garlic is hand-topped, clipped, and placed in large bins, which remain in the field for 2 to 3 weeks before being transported to special facilities where the garlic is cleaned, graded, sorted, and packed.

Fresh garlic held in dry storage normally will remain of marketable quality for up to 3 months after harvesting. However, grower-packers and importers have increasingly invested in the use of cold storage and controlled-atmospheric storage facilities to extend the shelf life of fresh garlic in a marketable state up to approximately 6 and 11 months, respectively, or well into the next crop year.⁹ Special storage allows grower-packers and importers to spread sales over a longer period, albeit at substantial additional cost.¹⁰

U.S. standards treat fresh garlic as either USDA Grade No. 1 or unclassified. Fresh garlic that is not USDA Grade No. 1 is designated as unclassified, which is not a grade within the meaning of these standards. In recent years, an estimated 80 to 85 percent of fresh garlic was USDA Grade No. 1; the remainder was believed to have been sold for processing. In normal industry practice, fresh garlic is sorted and packed according to size, ranging from 1-1/2 inches in diameter, in 1/4-inch increments, to 2-3/4 inches or more. Such practices also include the sale of USDA Grade No. 1-quality fresh garlic not labeled as such. Large-diameter garlic, known as elephant garlic, is not recognized as a separate grade

⁹ Staff field trip, Gilroy, CA, October 11, 2000. Hearing transcript, pp. 27-28.

¹⁰ Storage costs (per pound and per 5-month season), as reported during the Commission’s hearing, are \$0.02 for dry storage, \$0.04 for cold storage, and \$0.06 for controlled-atmosphere storage. See hearing transcript, p. 103.

and, indeed, is a separate species. Most imported fresh garlic from China is considered USDA Grade No. 1 and generally ranges in size from 1-1/2 inches to 2-1/2 inches in diameter.

Fresh garlic imported under HTS statistical reporting numbers 0703.20.0010 (fresh whole bulbs), 0703.20.0020 (fresh whole peeled cloves), and 0703.20.0090 (other fresh garlic)¹¹ is subject to a normal trade relations duty rate of 0.43 cent per kilogram. The remaining HTS provisions cited in Commerce's scope language are residual or "basket" categories that provide for frozen garlic (heading 0710), reduced or not reduced in size, subject to rates of 11.3 percent and 14.9 percent, respectively; provisionally preserved vegetables (heading 0711), with mixtures of garlic and other vegetables (0711.90.6000) accorded a duty rate of 7.7 percent; and other prepared or preserved vegetables (heading 2005) with garlic dutiable at 11.2 percent ad valorem.

DOMESTIC LIKE PRODUCT ISSUES

In its original determination, the Commission found three separate like products consisting of fresh garlic, dehydrated garlic, and seed garlic.¹² In response to a question soliciting comments regarding the appropriate domestic like product in the Commission's notice of institution of this review, respondents stated that they agree with the Commission's determination in the original investigation with regard to domestic like products and domestic industries. The petitioner declined to comment on the like product definition in its response to the Commission's notice of institution. Subsequently, however, in its prehearing brief, the petitioner explained that based on its agreement with the Commission's like product determination in the original investigation, it did not believe comment was necessary at that time. The petitioner then reiterated its position, stating that the Commission should continue to find all fresh garlic to be a single domestic like product in this review.¹³

At the Commission's hearing, respondents disagreed for the first time with the Commission's definition of the like product, indicating that garlic grown for dehydration should be included in the definition of the like product.¹⁴ Respondents argued in an exhibit to their posthearing brief that while dehydrated garlic and fresh garlic differ in appearance and water content, they "share the same essential physical characteristic, that is, they are both garlic,"¹⁵ and that fresh and dehydrated garlic are interchangeable in that some garlic grown for the fresh market turns out to be inferior and is then sold to dehydrators for processing.¹⁶ Respondents also argued in their posthearing brief, using a semifinished product analysis, that seed garlic should be included in any definition of the like product that includes both fresh garlic and dehydrated garlic.¹⁷

¹¹ Fresh garlic is specifically provided for under these three statistical reporting numbers. In the original investigation, data presented were limited to imports under these same three categories because the quantity of fresh garlic entered under the other provisions listed by Commerce is unknown, but believed to be minuscule.

¹² *Fresh Garlic from China*, Investigation No. 731-TA-683 (Final), USITC Pub. 2825, November 1994, p. I-5. The Commission found that the domestic industries producing garlic for dehydration and seed garlic are neither materially injured nor threatened with material injury by reason of the subject imports from China.

¹³ Petitioner's prehearing brief, p. 2.

¹⁴ Hearing transcript, pp. 124-128.

¹⁵ Respondent's posthearing brief, Exhibit 1, p. 3.

¹⁶ *Ibid.*, Exhibit 1, p. 4.

¹⁷ *Ibid.*, Exhibit 1, pp. 5-6.

CHANNELS OF DISTRIBUTION

The channels of distribution for fresh garlic are presented in table I-3. U.S. fresh garlic producers sell the majority of their domestically produced garlic to wholesalers/distributors, including food processors and terminal markets. Fresh garlic is also sold directly to supermarket chains, bulk discount grocers, and restaurants. No U.S. importer reported imports of fresh garlic from China during the period of review; the channels of distribution for U.S. importers' shipments reported in the table are of fresh garlic from all other sources. The share of U.S. producers' U.S. shipments to wholesalers/distributors increased slightly between crop years 1998 and 1999 and then fell to a somewhat greater degree in crop year 2000. The share of U.S. importers' U.S. shipments to wholesalers/distributors fluctuated upward during the period, dipping in crop year 1999 to 59.3 percent before rising to 67.6 percent in crop year 2000.

Table I-3

Channels of distribution for fresh garlic: Shares (in percent) of U.S. producers' and U.S. importers' U.S. shipments, crop years 1998-2000

Item	Crop year 1998	Crop year 1999	Crop year 2000
U.S. producers			
Wholesalers/distributors	66.9	73.8	63.8
Retailers	33.1	26.2	36.2
Total	100.0	100.0	100.0
U.S. importers of nonsubject product			
Wholesalers/distributors	62.9	59.3	67.6
Retailers	37.1	40.7	32.4
Total	100.0	100.0	100.0
Source: Compiled from data submitted in response to Commission questionnaires.			

U.S. MARKET PARTICIPANTS

U.S. Producers

Producers in the current review are limited to those firms engaged in the production of fresh garlic. The original petitioner, the FGPA, currently consists of the following members: A&D Christopher Ranch (Christopher Ranch); Colusa Produce Corporation (Colusa); Crinklaw Farms (Crinklaw); Dalena Farms (Dalena); Denice & Filice Packing Company (Denice & Filice); Frank Pitts Farms (Frank Pitts); The Garlic Company; Spice World (Jenard Fresh); Thomson International, Inc. (Thomson); and Vessey and Company, Inc. (Vessey). These 10 firms, according to the petitioner, account for "the vast majority of all U.S. production of fresh garlic."¹⁸

Two domestic fresh garlic producers that participated in the original investigation, Belridge Packing Company and El Camino Packing Company, are not participating in this proceeding ***.¹⁹ Five

¹⁸ Petitioner's response to Notice of Institution, p. 6.

¹⁹ Ibid., p. 2, fn. 4.

of the current members of the FGPA, Crinklaw, Dalena, Frank Pitts, Spice World (Jenard Fresh), and Thomson, did not participate in the Commission's original investigation. Current U.S. producers of fresh garlic, their primary plant locations, positions on revocation of the order, and shares of reported U.S. production in crop year 2000 are listed in table I-4.

Table I-4

Fresh garlic: U.S. producers, primary plant locations, positions on revocation of the order, and shares of reported U.S. production in crop year 2000

Firm	Location	Position on revocation of the order	Share of production (percent)
Christopher Ranch	Gilroy, CA	Opposes revocation	***
Dalena	Madera, CA	Opposes revocation	***
Denice & Filice	Hollister, CA	Opposes revocation	***
The Garlic Company	Bakersfield, CA	Opposes revocation	***
Spice World (Jenard Fresh)	Orlando, FL	Opposes revocation	***
Thomson	Bakersfield, CA	Opposes revocation	***
Vessey	El Centro, CA	Opposes revocation	***
Source: Compiled from data submitted in response to Commission questionnaires.			

Christopher Ranch is the largest producer of fresh garlic in the United States, accounting for *** percent of reported U.S. production in crop year 2000. Approximately *** percent of the company's income is from fresh garlic sales, with the remainder from sales of peeled and processed garlic, and of shallots, bell peppers, ginger, sweet corn, onions, and cherries.²⁰ Almost *** percent of its fresh garlic is further processed into whole peeled garlic cloves, chopped and crushed garlic, pesto sauce, pickled garlic, garlic salsa, and roasted garlic cloves, or packaged into garlic braids.²¹ Christopher Ranch also grows its own seed garlic, which it does not sell commercially. Its fresh garlic fields are located in the Santa Clara, Salinas, and San Joaquin valleys of California, while its seed garlic is grown in Nevada, Oregon, and Washington.

Christopher Ranch has *** its garlic acreage since the original investigation in 1994, when it planted approximately *** acres of garlic each year.²² It has substantially expanded operations at its Gilroy, CA, headquarters as well as added staff to new locations in Chicago and Florida. Two controlled-atmospheric storage facilities have recently been constructed in Gilroy, and new equipment has improved efficiencies in its peeling operation.²³

Several other producers reported changes to the character of their operations since the antidumping duty order became effective. The Garlic Company has ***. Vessey ***. Jenard Fresh has ***.

²⁰ Christopher Ranch producer questionnaire, question II-4.

²¹ Staff field trip, Gilroy, CA, October 11, 2000.

²² *Fresh Garlic from China*, Investigation No. 731-TA-683 (Final), USITC Pub. 2825, November 1994, p. II-16.

²³ Staff field trip, Gilroy, CA, October 11, 2000.

U.S. Importers

Thirteen firms were identified by U.S. Customs as having imported fresh garlic from China between January 1998 and June 2000 under HTS statistical reporting numbers 0703.20.0010, 0703.20.0020, and 0703.20.0090. Eight additional firms were identified by FGPA in its response to the Commission's Notice of Institution as possible importers of Chinese garlic. Importer questionnaires were sent to all 21 of these firms, the majority of which are located in California, New Jersey, and New York. Eight negative responses were received by the Commission, with those firms indicating that they have not imported fresh garlic since 1994. In follow-up conversations with Commission staff, 9 of the remaining 13 firms reported that the garlic they have imported is not included in the scope of this review (i.e., dehydrated garlic, pickled garlic, or chopped garlic preserved in oil). Eight of those 9 firms were among the 13 identified by U.S. Customs. Only 2 importers reported imports of fresh garlic from China, but these were outside the 3-year reporting period (crop years 1998-2000). One of these firms imported *** pounds of fresh garlic from China at a value of \$*** in crop year 1997, while the other firm imported *** pounds of fresh garlic from China at a value of \$*** in crop year 2001.

APPARENT U.S. CONSUMPTION AND MARKET SHARES

Table I-5 presents data on apparent U.S. consumption and U.S. market shares for the review period. U.S. consumption of fresh garlic jumped 18.5 percent in quantity between 1998 and 1999 and then fell slightly in 2000, by 2.2 percent. U.S. producers' share of quantity tumbled in 1999, falling 24.2 percentage points from 1998, but recovered to slightly above the 1998 level by the following year. U.S. imports from nonsubject countries made up for the drop in U.S. production in 1999, which was caused by an extremely poor U.S. crop devastated by a rare garlic fungus. Despite Chinese imports' overall increase throughout the 3-year period, Chinese market share amounted to only 0.6 percent, in terms of quantity, by 2000.

Table I-5

Fresh garlic: U.S. shipments of domestic product, U.S. imports, by sources, apparent U.S. consumption, and market shares, crop years 1998-2000

Item	1998	1999	2000
	Quantity (1,000 pounds)		
U.S. producers' shipments	109,437	83,511	128,415
U.S. imports from--			
China	497	876	1,030
All other sources	50,888	106,137	56,972
Total U.S. imports	51,385	107,013	58,002
Apparent consumption	160,822	190,524	186,417
	Value (\$1,000)		
U.S. producers' shipments	95,432	89,196	89,616
U.S. imports from--			
China	92	261	182
All other sources	29,285	60,445	28,848
Total U.S. imports	29,377	60,706	29,031
Apparent consumption	124,809	149,902	118,647
	Share of quantity (percent)		
U.S. producers' shipments	68.0	43.8	68.9
U.S. imports from--			
China	0.3	0.5	0.6
All other sources	31.6	55.7	30.6
Total U.S. imports	32.0	56.2	31.1
	Share of value (percent)		
U.S. producers' shipments	76.5	59.5	75.5
U.S. imports from--			
China	0.1	0.2	0.2
All other sources	23.5	40.3	24.3
Total U.S. imports	23.5	40.5	24.5
Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.			

PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET

U.S. MARKET SEGMENTS/CHANNELS OF DISTRIBUTION

According to ***, three market segments exist in the fresh garlic industry: (1) wholesalers, distributors, and retailers; (2) food service; and (3) industrial. The largest area of growth in this industry has been in the food service segment. Peeled garlic has increased in popularity, particularly in the food service industry because of ease of usage. In 1995, 10 percent of consumption was peeled, compared with 35 percent in 2000. Eighty percent of fresh garlic bulbs end up in homes, while a majority of peeled garlic ends up in the food service industry. The industrial segment of the market is quite small. This segment consists mostly of dehy producers, with a small amount of fresh garlic sales going to this segment. The dehy industry is separate and distinct from the fresh garlic industry in the United States, with each having different producers. This is generally not true in other countries.¹

U.S. Market Leadership

Seven of 10 domestic producers responded to Commission questionnaires, with the three non-responding producers assumed to be small. Two domestic producers from the original investigation are no longer producers of fresh garlic, three of the responding domestic producers in the current investigation did not participate in the 1994 investigation, and five producers have participated in both investigations.² Listed below are the changes in share of production from crop year 1994 to crop year 2000 of the five producers that have participated in both investigations.

* * * * *

Christopher Ranch is the largest domestic producer of fresh garlic with a ***-percent share of reported 2000 crop year production. Apparent domestic consumption of fresh garlic increased slightly from crop year 1994 to crop year 2000. However, China's share of the quantity of U.S. consumption has dwindled as a result of the dumping order to virtually nil in crop year 2000 from 35.2 percent in crop year 1994. Domestic producers, particularly Christopher Ranch, have responded by increasing their acreage of fresh garlic. Although domestic producers' capacity to produce fresh garlic exceeds demand, unpredictable factors such as weather and disease can have a large impact on capacity utilization. The industry's Herfindahl index is estimated to be higher in crop year 2000 than it was in crop year 1994 due to several factors.³ First, the industry has consolidated somewhat. Two domestic producers in the original investigation have ceased production of fresh garlic. Although several new producers have entered the market since 1994, they are relatively smaller than the existing producers. Second, many importers of Chinese garlic that existed in the original investigation are not present in the fresh garlic market currently. Lastly, five domestic producers accounted for more than one quarter of nonsubject imports in crop year 2000. Data from individual importers of nonsubject imports, which account for the remaining 72 percent of imports from nonsubject countries in crop year 2000, are not available.

¹ ***.

² *** was a non-petitioner in the original investigation.

³ The Herfindahl index is the sum of the square of the producers' and importers' market share; a monopoly would have a Herfindahl index of 100 percent. An exact calculation was not performed because of missing data from the original investigation, as well as the sunset review.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Production

Since 1994, the domestic fresh garlic industry has experienced substantial growth. The capacity to produce fresh garlic has increased 41 percent from crop year 1994 to crop year 2000. How this increase translates into increased acreage is unclear, however Christopher Ranch has *** its acreage planted since 1994.⁴ According to ***, the industry has increased its confidence, due to increased stability, since the antidumping order was put in place. Acreage has increased and expansion into other forms of garlic, such as minced and peeled garlic, has grown. New product developments have also increased acreage, which in turn has increased supply.⁵

Based on available information, U.S. fresh garlic producers are likely to respond to changes in demand with moderate changes in the quantity of shipments of U.S.-produced fresh garlic to the U.S. market. There are several main contributing factors to the moderate degree of responsiveness of U.S. supply. The planting of fresh garlic requires much advanced planning as to the number of acres that are to be planted. Therefore, the production capacity is fixed in the short term. Although unused capacity exists, it is a non-factor in the short run because of factors such as weather and disease, which can affect yields or capacity utilization. Due to the long growing cycle of fresh garlic, which is planted from September through November and harvested mid-May through the end of August, domestic producers cannot quickly plant more garlic, or shift production to other crops once it has been planted. However, the increased usage of cold and controlled-atmosphere storage for fresh garlic has increased domestic producers' responsiveness to the changes in demand. Controlled-atmosphere storage can hold fresh garlic for up to 11 months. For example, Christopher Ranch has increased its controlled-atmosphere storage capacity by *** pounds since 1996.⁶ Some export markets exist for the U.S. producers of fresh garlic, but they are limited. Some domestic producers have reported that they have lost some of their export markets to China because they cannot compete with the Chinese prices in other markets. Domestic producers also lack the ability to produce other products using the same production facilities. However, domestic producers import nonsubject imports of fresh garlic, which allows them to supplement supply when needed.

Industry capacity

Domestic production capacity for crop year 2000 has increased by approximately 15 million pounds since crop year 1998. Capacity utilization rates for fresh garlic production were 66.8 percent in crop year 1998, 52.0 percent in crop year 1999, and 76.7 percent in crop year 2000. However, these rates do not indicate that U.S. producers can increase production in the short run as noted earlier.

Alternative markets

U.S. exports of fresh garlic represent a small but steady portion of sales, accounting for 3.4 percent of total shipments in 1998 (in terms of value), 2.5 percent of total shipments in 1999, and 3.1

⁴ ***.

⁵ ***'s response to Commission producer questionnaire.

⁶ Staff field trip, Gilroy, CA, October 11, 2000.

percent in 2000. Domestic producers have reported that their export sales of fresh garlic have declined because they cannot compete with China's low prices in overseas markets.

Inventory levels

U.S. inventories as a percent of total shipments were *** in crop year 1998, increased to *** percent in crop year 1999, and decreased to *** percent in crop year 2000. Due to the perishable nature of fresh garlic, these data are not necessarily indicative of U.S. producers' ability to utilize inventories to increase the supply of domestic fresh garlic in response to price changes. However, with the addition of controlled-atmosphere storage, the shelf life of fresh garlic is extended. The shelf life varies for fresh garlic depending on the type of storage used. The shelf life of fresh garlic is approximately 4 months when stored in dry storage, 6.5 months when stored in cold storage, and 11 months when stored in controlled-atmosphere storage.⁷

Production alternatives

Domestic producers indicated that they would not be able to switch between fresh garlic production and other products in response to a relative change in the price of fresh garlic vis-a-vis the price of other products using the same equipment and labor.

Subject Imports

The Commission has received no data from Chinese producers of fresh garlic, although four exporters returned questionnaires. These exporters have not exported Chinese fresh garlic to the United States during crop years 1998-2000. Based on available information, the Chinese exporters are likely to respond with increased sales to the U.S. market if the antidumping order is removed. One purchaser, ***, reported that it gets several offers a month for Chinese garlic even with the antidumping duty in place.

U.S. Demand

Demand Characteristics

The overall U.S. demand for fresh garlic has grown considerably since the early 1990s. The surge in demand is likely due to several factors, such as rising popularity of ethnic foods and restaurants, persistent health messages circulating in the press about garlic, demand from the health supplements industry, and an increasing quest by consumers for new taste experiences. Apparent domestic consumption in terms of quantity has increased slightly from crop year 1994, by 3.4 percent. However, since crop year 1991, apparent domestic consumption has more than doubled. Apparent domestic consumption increased 18.5 percent from 1998 to 1999, and decreased 2.2 percent from 1999 to 2000.

Much of the fresh garlic in whole bulb form is sold to grocery stores which, in turn, sell it to consumers for use in cooking. Most of the whole peeled garlic ends up in restaurants and is used in the flavoring of foods. The biggest change in the end use of fresh garlic since 1994 has been the increased use of fresh whole peeled garlic. It is much easier to use because the consumer does not have to peel it before using it. Due to this factor, the peeled garlic is easily accessible and more is used. Most domestic

⁷ Staff field trip, Gilroy, CA, October 11, 2000.

producers do not anticipate any big changes in end uses of fresh garlic in the future. However, *** has seen an increase in sales of pickled garlic, roasted garlic, and peeled garlic. Sales of peeled garlic are almost as large as the bulb sales. The quantities of pickled and roasted garlic are relatively small, but are expected to grow.

Substitute Products

Domestic producers reported that substitutes for fresh garlic do not exist. Purchasers were mixed on this issue with seven reporting no substitutes and three reporting that dehydrated garlic can be substituted for fresh garlic by food processors and picklers.

The overall demand responsiveness for fresh garlic to changes in its price depends on the availability of substitute products. Fresh garlic, in some end uses, can face competition with dehydrated garlic; therefore, price changes can have a moderate effect on the overall demand for it. Fresh garlic is not necessarily a main staple in consumers' diets, rather it is used as flavoring. In addition, it is also perishable. If fresh garlic prices increase, some consumers will simply opt not to purchase it, or perhaps substitute dehydrated garlic depending on the end use. On the other hand, due to fresh garlic's perishable nature, consumers will not necessarily purchase more of it if prices decline.

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported fresh garlic depends upon such factors as relative prices, quality (e.g., grade standards, size, appearance, etc.), and conditions of sale (e.g., price discounts/rebates, lead times between order and delivery dates, payment terms, product services, etc.). Although fresh garlic from China is currently limited in the U.S. market because of the antidumping order in effect, it is believed that the only difference between domestic and Chinese garlic is price. Chinese imports are cheaper. Based on available data, staff believes that there is a high degree of substitutability between domestic and Chinese fresh garlic.

Factors Affecting Purchasing Decisions

Purchasers were asked to list the top three factors that they consider when choosing a supplier of fresh garlic.⁸ Table II-1 summarizes the responses to this question.

Purchasers were asked what characteristics firms consider when determining the quality of a supplier's fresh garlic. Purchasers reported that characteristics such as appearance (i.e., color, cleanliness, clove structure, or bruising), size, freshness, and density are important.

While price is also important to purchasers, they reported that the lowest price would not necessarily win the contract or sale. Two purchasers reported that the lowest price would "usually" win the contract or sale, while four purchasers reported "sometimes."⁹

⁸ Purchaser questionnaires were sent to 27 firms believed to be purchasers of fresh garlic; 10 firms provided usable responses to Commission questionnaires.

⁹ Two purchasers reported that they never purchase fresh garlic offered at the lowest price.

Table II-1**Fresh garlic: Ranking of factors used in purchasing decisions, as reported by U.S. purchasers**

Purchase factor	Number 1 factor	Number 2 factor	Number 3 factor
	<i>Number of firms reporting</i>		
Quality	7	2	0
Price	2	4	2
Traditional supplier	0	2	1
Availability	0	0	1
Delivery	0	0	1
Source: Compiled from data submitted in response to Commission questionnaires.			

Comparisons of Domestic Products and Subject Imports

Domestic producers agree that domestic and Chinese fresh garlic are used interchangeably. One domestic producer reported that the quality of Chinese garlic over the past 5-6 years has improved and it looks as good as the fresh garlic from California. Another producer added that the only reason to buy one over the other is price. One purchaser, ***, reported that the color of some Chinese garlic may alter usage. For example, a red or streaked skin is not liked by retail supermarkets, but it is a benefit to Latin/Oriental wholesalers.

Comparisons of Domestic Products and Nonsubject Imports

Fresh garlic from Argentina, Chile, and Mexico has different growing cycles than domestic fresh garlic. For this reason, the nonsubject imports are used to augment domestic supply when supplies are low, or when consumers demand a fresh product. Conversely, domestic producers export fresh garlic to these countries for similar reasons.

Supplies of nonsubject imports have grown since 1994, and have paralleled the growth in the domestic industry. Nonsubject suppliers have increasingly turned to the U.S. market for several reasons. One domestic producer, ***, reported that China has flooded the Argentine and Chilean markets with low-priced fresh garlic, forcing them to export their own crop. Two domestic producers, ***, reported that nonsubject countries cannot compete with China in the world market, which makes nonsubject importers look to the U.S. marketplace for garlic sales. One producer reported that nonsubject imports are available at reasonable prices, generally lower than what the producer sells its fresh garlic for in the United States.

Comparisons of Subject Imports and Nonsubject Imports

Domestic producers and purchasers agree that nonsubject and subject fresh garlic are used interchangeably in the same applications. Domestic producers reported that Chinese fresh garlic undersells nonsubject imports and destroys nonsubject pricing.

ELASTICITY ESTIMATES

This section discusses the elasticity estimates that are normally used in the COMPAS analysis. Because the Chinese product attained virtually no market share in crop year 2000, the elasticity estimates are presented but a COMPAS analysis has not been conducted. However, the petitioner provided an estimation of the quantities of fresh garlic from China that would be diverted to the United States from China's other export markets in the first year following the revocation of the antidumping order.¹⁰ This estimate and an analysis follows the brief discussions on the supply, demand, and substitution elasticities.

U.S. Supply Elasticity¹¹

The domestic supply elasticity for fresh garlic measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of fresh garlic. The elasticity of domestic supply depends on several factors including the level of excess capacity, the ease with which producers can alter capacity, the length of the growing season, producers' ability to shift to production of other products, the existence of inventories, and the availability of alternate markets for U.S.-produced fresh garlic. Analysis of these factors suggests that the domestic fresh garlic industry would respond to reduced or increased demand for its product by adjusting product pricing and/or increasing or decreasing its imports of nonsubject fresh garlic; an estimate in the range of 3 to 5 is suggested.

U.S. Demand Elasticity

The U.S. demand elasticity for fresh garlic measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of fresh garlic. This estimate depends on factors discussed earlier such as the existence, availability, and commercial viability of substitute products, as well as the component share of the fresh garlic in the production of any downstream products. Based on the available information, the U.S. demand elasticity for fresh garlic is likely to be in the range of -0.7 to -1.2.

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.¹² Product differentiation, in turn, depends upon such factors as quality (e.g., size, appearance, etc.) and conditions of sale (availability, sales terms/discounts/promotions, etc.). Based on available information, the elasticity of substitution between U.S.-produced fresh garlic and imported fresh garlic is likely to be in the range of 3 to 5.

¹⁰ Petitioner's prehearing brief, Exhibit 13.

¹¹ A supply function is not defined in the case of a non-competitive market.

¹² The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and the domestic like products to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject products (or vice versa) when prices change.

Estimation of Diversion of Fresh Garlic from China to the United States as a Result of Revocation of the Antidumping Order

The petitioner used a Chinese exporter revenue maximization model to estimate that the range of imported fresh garlic from China that would be diverted to the U.S. market from China's other export markets would be between 47-49 million pounds and 81-84 million pounds, depending on the demand elasticity used. The basic assumptions underlying the model are (1) Chinese exporters would want to divert fresh garlic exports to the U.S. market because of attractive pricing in the United States compared to the world market and (2) fresh garlic prices in the rest of the world would increase because the supply of Chinese fresh garlic to alternative markets would decrease in the short run. Petitioner's estimate for aggregate demand is taken from the United Nations' Food and Agricultural Organization (FAO) data and may be overstated,¹³ which could lead to overestimates of the quantities of Chinese fresh garlic diverted to the U.S. market. The model estimated that the Chinese exporters would initially receive \$0.60 a pound from the sales of the diverted Chinese garlic but this price would later decline to \$0.40 a pound.

The petitioner's analysis does not examine the effects that the revocation of the antidumping duty order would have on domestic producers' prices, domestic shipments, or revenues. In addition, it does not estimate the effects of the revocation of the antidumping duty order on shipments and prices of nonsubject imports.

Seasonality of supply appeared to have played a larger role in the original investigation, with the domestic and Chinese fresh garlic coming to harvest at approximately the same time. Nonsubject imports of fresh garlic are harvested at different times of the year and appeared to have been little affected by the surge in Chinese fresh garlic imports from 1993 to 1994. In the original investigation, the surge of Chinese imports from 9.4 million pounds in 1993 to 63.5 million pounds in 1994 had several effects. According to the petitioner, the surge in imports that occurred between 1993 and 1994 was a result of fledgling Chinese exporters flooding the U.S. market. The import surge was supply-driven, rather than demand-driven.¹⁴ Domestic producer shipments increased 10.2 percent and U.S. export shipments increased 52.8 percent during 1993-94, while U.S. producers' market share fell 18.0 percentage points and the average unit value of domestic shipments decreased 8.5 percent. Nonsubject import shipments increased slightly from 1993 to 1994, but the market share for nonsubject imports of fresh garlic decreased 9.2 percentage points. Average unit values of nonsubject imports from Argentina and Chile increased and average unit values of fresh garlic from Mexico and Taiwan decreased.

Several changes that have taken place in the fresh garlic industry since the imposition of the order need to be examined because they may mitigate the impact of the revocation of the order. The increased use of cold and controlled-atmosphere storage have made seasonality of fresh garlic less of an issue. According to Mr. Don Christopher, owner of Christopher Ranch, California garlic is available 12 months out of the year and imports compete with domestic fresh garlic during all 12 months because importers utilize cold and controlled-atmosphere storage as well. A significant additional cost exists for those producers and importers that utilize controlled-atmosphere storage; therefore, not all companies utilize it. Consequently, there is still a surge when the U.S. industry harvests and there would be a similar seasonal surge when the Chinese fresh garlic comes to the U.S. market, absent antidumping

¹³ For example, of the 660 million pounds of garlic that the United States reportedly produced in 2000, two-thirds to three-fourths of this quantity is dehydrated garlic and is not subject to this review. Likewise, the numbers given for Chinese production in 2000 include garlic destined for dehydration as well, although the percentage breakout between fresh and dehydrated garlic is unclear. See hearing transcript, pp. 63-66.

¹⁴ Petitioner's response to question posed by Commissioner Askey, hearing transcript, pp. 78-81.

duties.¹⁵ Peeled garlic has also increased in significance in the U.S. market since the original investigation, accounting for approximately 10 percent of domestic shipments in 1995 and 30 percent in 2000.¹⁶ Peeled garlic accounted for only 4 percent of the 106.1 million pounds of nonsubject imports in crop year 1999.¹⁷ Data are not available on the extent of production of peeled garlic in China. The petitioner testified, however, that China would likely take over the peeled market as well as the fresh market because they are good at both.¹⁸

It is difficult to discern the effects of the reduced seasonality, and the increased domestic shipments of peeled garlic, on the results of the petitioner's Chinese exporter revenue maximization model. Because seasonality was more of a factor in the original investigation and because the Chinese harvest their garlic right before the domestic harvest, the surge in Chinese garlic appeared to displace more of the domestic fresh garlic than nonsubject fresh garlic. It is not clear to what extent Chinese fresh garlic would currently displace nonsubject or domestic fresh garlic shipments given the flattening out of the seasonality factor. Uncertainty also exists as to the level of competition between domestic and Chinese peeled garlic since data are lacking on the amount of production of peeled garlic in China.

¹⁵ Hearing transcript, pp. 89-93.

¹⁶ Staff field trip, Gilroy, CA, October 11, 2000.

¹⁷ Petitioner's posthearing brief, Exhibit 1, p. 9.

¹⁸ Hearing transcript, p. 60.

PART III: CONDITION OF THE U.S. INDUSTRY

U.S. PRODUCERS' CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

U.S. producers' capacity, production, and capacity utilization are presented in table III-1. U.S. fresh garlic capacity has steadily increased throughout the period, rising 8.3 percent between crop years 1998 and 2000. As previously mentioned, Christopher Ranch has *** its garlic acreage since 1994. It also ***. The Garlic Company has ***, while Vessey ***. Jenard Fresh has ***.

Table III-1

Fresh garlic: U.S. producers' capacity, production, and capacity utilization, crop years 1998-2000

Item	1998	1999	2000
Capacity (1,000 pounds)	183,684	192,302	198,995
Production (1,000 pounds)	122,722	100,062	152,571
Capacity utilization (percent)	66.8	52.0	76.7
Source: Compiled from data submitted in response to Commission questionnaires.			

In contrast to the steadily rising U.S. capacity between crop years 1998 and 2000, U.S. fresh garlic production fell by almost 20 percent in crop year 1999 from the previous year due to a fungus that appeared on garlic plants in the spring of 1998. Unusually wet weather conditions during the winter and spring of that year, attributed to the El Nino phenomenon, triggered a severe outbreak of garlic rust disease, which had not been seen in the United States since the 1940s. The disease caused orange and black spores to develop on the plants' leaves and consume them, eventually reducing bulb size. No approved fungicide was available to treat the crop that year and a 15-percent decrease in yields for crop year 1999 was reported.¹ In Commission questionnaires, some firms reported yields reduced by *** percent for that crop year.² Although some firms anticipated the small harvest and imported from Argentina, Chile, and Mexico to make up for the shortages, the low domestic yields resulted in a generally increased market price.³

In an attempt to compensate for the possibility of another outbreak of rust, the following year some firms increased garlic acreage. Ironically, the rust did not appear during that growing season and yields were unusually high for crop year 2000. In addition, more garlic was shipped to the United States by South American growers who saw the U.S. market as more attractive than their normal market in Brazil due to that country's currency exchange rate fluctuations. This situation resulted in a general overabundance of fresh garlic in 2000 and lower-than-normal prices.⁴

In addition to unpredictable weather conditions, diseases, or other pestilence, producers reported various other constraints on production, including consumer demand, grading and packing equipment capabilities, and the shelf-life of garlic. The amount of garlic from a given area that can be properly

¹ "Commodity Spotlight," Agribusiness Association of Australia, May 24, 2000.

² *** producer questionnaire, question II-11, and *** producer questionnaire, question IV-B-10.

³ *** producer questionnaire, question IV-B-2, and *** producer questionnaire, question IV-B-10; "Garlic Hit with Double Whammy," San Joaquin Valley News Tips, University of California Division of Agriculture and Natural Resources, seen at www.cccfb.org/farms21.html on October 23, 2000.

⁴ *** producer questionnaire, question IV-B-10, and *** producer questionnaire, question IV-B-2.

packed and subsequently handled and marketed, prior to quality deterioration, largely determines practical capacity.

U.S. PRODUCERS' SHIPMENTS AND PURCHASES

Mirroring production, U.S. producers' U.S. shipments fluctuated upward between crop years 1998 and 2000, as seen in table III-2. Export shipments fell somewhat more than U.S. commercial shipments between 1998 and 1999, while both types bounced back in 2000. Exports more than doubled and U.S. shipments increased by more than 50 percent. At the Commission's public hearing, domestic

Table III-2

Fresh garlic: U.S. producers' shipments, by type, crop years 1998-2000

Item	1998	1999	2000
Quantity (1,000 pounds)			
Commercial shipments	***	***	***
Internal consumption	***	***	***
Transfers to related firms	***	***	***
U.S. shipments	109,437	83,511	128,415
Export shipments	3,884	2,401	5,364
Total	113,321	85,912	133,779
Value (\$1,000)			
Commercial shipments	***	***	***
Internal consumption	***	***	***
Transfers to related firms	***	***	***
U.S. shipments	95,432	89,196	89,616
Export shipments	3,338	2,242	2,911
Total	98,770	91,438	92,527
Unit value (per pound)			
Commercial shipments	\$***	\$***	\$***
Internal consumption	***	***	***
Transfers to related firms	***	***	***
U.S. shipments	0.87	1.07	0.70
Export shipments	0.86	0.93	0.54
Average	0.87	1.06	0.69
Source: Compiled from data submitted in response to Commission questionnaires.			

industry representatives reported having lost Australian, Canadian, French, German, and Japanese export markets since the original investigation.⁵ The petitioner also argued that the small amount of U.S. garlic that has been exported in recent years has been sold on world markets at low and declining prices in an effort to compete with Chinese product.⁶

Two firms reported internal consumption or company transfers. *** reported internal consumption in crop years 1999 and 2000 which reflects ***. *** reported transfers of ***. The quantities of these internal consumption/transfers increased significantly during the period, reflecting the increased demand for these companies' processed garlic products.

One firm, ***, provided data on its wastage during the period. This wastage was in the form of sliver-sized cloves unmarketable for their extremely small size as well as discarded garlic skin. ***'s wastage amounted to *** pounds in crop year 1998, *** pounds in crop year 1999, and *** pounds in crop year 2000.

Three producers reported purchases of fresh garlic from domestic sources. These producers made purchases to fill supply gaps on sales to customers when short of certain sizes and grades of fresh garlic. *** reported domestic purchases at ratios to production in crop year 2000 of *** percent, *** percent, and *** percent, respectively.

U.S. PRODUCERS' INVENTORIES

Table III-3 shows U.S. producers' end-of-period inventories for crop years 1998-2000. In crop year 1999, inventories *** the amount in the previous year; they then remained as high through crop year 2000. The ratio of inventories to total shipments increased as well to *** percent in 1999 from *** percent a year earlier, before settling at *** percent in crop year 2000.

Table III-3

Fresh garlic: U.S. producers' end-of-period inventories, crop years 1998-2000

* * * * *

U.S. PRODUCERS' EMPLOYMENT, WAGES, AND PRODUCTIVITY

The U.S. fresh garlic industry's employment, wages, and productivity data are shown in table III-4. Five of seven domestic producers were able to provide complete employment data, which reflect employees, contract or otherwise, involved in handling, peeling, and packing fresh garlic, and do not include harvest workers. In the original investigation it was reported that, in general, workers employed in packing houses are permanent company employees and that, by contrast, virtually all responding firms used contract labor in harvesting.⁷ All producers reporting data for this review hire contract workers for fresh garlic harvesting. Two firms reported retaining permanent employees for packing and peeling; three firms reported that both packing and harvesting are done by contract employees who are only hired for two to three months out of the year. Two firms did not provide information on contract versus non-contract employees.

The number of production and related workers fluctuated upward during the period, rising by 6.1 percent between crop years 1998 and 2000. Both the hours worked and wages paid to peeling and

⁵ Hearing transcript, pp. 98-100.

⁶ Petitioner's posthearing brief, p. 7.

⁷ *Fresh Garlic from China*, Investigation No. 731-TA-683 (Final), USITC Pub. 2825, November 1994, p. II-31.

Table III-4

Fresh garlic: Average number of production and related workers, hours worked, wages paid to such employees, hourly wages, productivity, and unit labor costs, crop years 1998-2000¹

Item	1998	1999	2000
Production and related workers (<i>number</i>)	931	875	988
Hours worked (<i>1,000</i>)	1,503	1,409	1,673
Wages paid (<i>\$1,000</i>)	10,262	10,192	12,195
Hourly wages	\$6.83	\$7.23	\$7.29
Productivity (<i>pounds per hour</i>)	71.6	67.7	82.1
Unit labor costs (<i>per pound</i>)	\$0.10	\$0.11	\$0.09
¹ *** and *** not reporting.			
Source: Compiled from data submitted in response to Commission questionnaires.			

packing employees fluctuated upward, with the dip in crop year 1999 reflecting the poor crop yields in that year.

FINANCIAL CONDITION OF THE U.S. INDUSTRY

Background

Six producers of fresh garlic⁸ provided usable financial data. Another producer provided insufficient data that could not be utilized. Only two producers reported either internal consumption or transfers to related firms.⁹ Less than *** percent of fresh garlic products (in terms of sales values) in crop year 2000 were either internally consumed or transferred to related companies. Two producers reported financial data on a cash basis.¹⁰

Operations on Fresh Garlic

The results of the six responding U.S. producers' operations producing fresh garlic are presented in table III-5. Per-pound sales values for the combined firms increased from crop years 1998 to 1999, while unit cost of goods sold (COGS) for the combined firms also increased for the same period. Operating income per pound for the combined firms decreased from 1998 to 1999 and declined further from 1999 to 2000. Net sales volume and values decreased substantially from 1998 to 1999. Although sales volume increased significantly from 1999 to 2000, net sales values decreased slightly for the same period, due mainly to reduced per-pound sales values, from \$1.12 in 1999 to \$0.71 in 2000, an almost 37-percent decline. Operating income and per-unit profitability decreased continuously for the entire review period. The results of operations by firm are presented in table III-6. While only one producer had an operating loss in 1998 and another in 1999, four producers had operating losses in 2000.

⁸ The producers with fiscal year ends other than December 31 are ***.

⁹ ***.

¹⁰ They are ***.

Table III-5

Results of operations of U.S. producers in the production of fresh garlic, crop years 1998-2000

Item	Crop year		
	1998	1999	2000
	Quantity (1,000 pounds)		
Commercial sales	***	***	***
Internal consumption	***	***	***
Related company transfers	***	***	***
Total net sales	113,137	84,890	133,071
	Value (\$1,000)		
Commercial sales	***	***	***
Internal consumption	***	***	***
Related company transfers	***	***	***
Total net sales	102,011	94,905	94,902
COGS	68,573	72,616	75,595
Gross profit	33,438	22,289	19,307
SG&A expenses	17,706	15,082	16,029
Operating income	15,732	7,207	3,278
Interest expense	135	165	214
Other expense	0	0	0
Other income items	445	737	687
Net income	16,042	7,779	3,751
Depreciation/amortization	3,270	3,443	3,912
Cash flow	19,312	11,222	7,663
	Number of firms reporting		
Operating losses	1	1	4
Data	6	6	6
Continued on the following page.			

Table III-5--Continued

Results of operations of U.S. producers in the production of fresh garlic, crop years 1998-2000

Item	Crop year		
	1998	1999	2000
	Unit value (<i>per pound</i>)		
Net sales	\$0.90	\$1.12	\$0.71
COGS	0.61	0.86	0.57
Gross profit	0.30	0.26	0.15
SG&A expenses	0.16	0.18	0.12
Operating income	0.14	0.08	0.02
	Ratio to net sales (<i>percent</i>)		
COGS	67.2	76.5	79.7
Gross profit	32.8	23.5	20.3
SG&A expenses	17.4	15.9	16.9
Operating income	15.4	7.6	3.5
Source: Compiled from data submitted in response to Commission questionnaires.			

Table III-6

Results of operations of U.S. producers (by firm) in the production of fresh garlic, crop years 1998-2000

* * * * *

Selected cost data of the producers on their fresh garlic operations are presented in table III-7. Total unit COGS and total unit cost (COGS and selling, general and administrative (SG&A) expenses combined) increased substantially from 1998 to 1999 and decreased below the 1998 cost levels from 1999 to 2000. All components of COGS and SG&A expenses increased in 1999 from 1998 and decreased back in 2000. Overall total unit cost increased by \$0.27 from 1998 to 1999 and decreased by \$0.34 in 2000 from 1999.

A variance analysis showing the effects of prices and volume on the producers' net sales of fresh garlic, and of costs and volume on their total cost, is shown in table III-8. The information for this variance analysis is derived from table III-5. This analysis is more effective when the product involved is a homogeneous product with no variation in product mix within a firm and between firms. The analysis is summarized at the bottom of the table. Operating income decreased by \$8.5 million in 1999 from 1998 and decreased further by \$3.9 million in 2000 from 1999. The analysis shows that the substantial decrease in operating income between 1998 and 2000 was attributable mainly to lower average prices (price variance), especially from 1999 to 2000.

Table III-7**Results (per pound) of operations of U.S. producers in the production of fresh garlic, crop years 1998-2000**

Item	Crop year		
	1998	1999	2000
COGS:	<i>Value (per pound)</i>		
Raw materials	\$0.25	\$0.38	\$0.22
Direct labor	0.12	0.16	0.12
Factory overhead	0.24	0.32	0.23
Total COGS	0.61	0.86	0.57
SG&A expenses:			
Selling expenses	0.01	0.02	0.01
G&A expenses	0.14	0.16	0.11
Total SG&A expenses	0.16	0.18	0.12
Total cost	0.76	1.03	0.69
Source: Compiled from data submitted in response to Commission questionnaires.			

Table III-8

Variance analysis of operations of U.S. producers in the production of fresh garlic between crop years 1998-2000

Item	Between crop years		
	1998-2000	1998-1999	1999-2000
	Value (\$1,000)		
Net sales:			
Price variance	(25,083)	18,363	(53,868)
Volume variance	17,974	(25,469)	53,865
Total net sales variance	(7,109)	(7,106)	(3)
Cost of sales:			
Cost variance	5,060	(21,164)	38,236
Volume variance	(12,082)	17,121	(41,215)
Total cost variance	(7,022)	(4,043)	(2,979)
Gross profit variance	(14,131)	(11,149)	(2,982)
SG&A expenses:			
Expense variance	4,797	(1,797)	7,613
Volume variance	(3,120)	4,421	(8,560)
Total SG&A variance	1,677	2,624	(947)
Operating income variance	(12,454)	(8,525)	(3,929)
Summarized as:			
Price variance	(25,083)	18,363	(53,868)
Net cost/expense variance	9,857	(22,960)	45,849
Net volume variance	2,772	(3,928)	4,090
Note.--Unfavorable variances are shown in parentheses; all others are favorable.			
Source: Compiled from data submitted in response to Commission questionnaires.			

Capital Expenditures, Research and Development Expenses, and Investment in Productive Facilities

The U.S. producers' capital expenditures and research and development (R&D) expenses, together with the value of their fixed assets, are presented in table III-9. Capital expenditures of all producers combined increased from 1998 to 1999, then decreased from 1999 to 2000. R&D expenses combined decreased continuously throughout the period. Only two producers, ***, reported R&D expenses, while four producers reported capital expenditures. The original cost and book value of productive facilities for fresh garlic products increased continuously from 1998 to 2000 except for a minor decline in the book value from 1999 to 2000.

Table III-9
Capital expenditures, R&D expenses, and assets utilized by U.S. producers in their production of fresh garlic, crop years 1998-2000

Item	Crop year		
	1998	1999	2000
	Value (\$1,000)		
Capital expenditures	6,026	9,287	3,118
R&D expenses	***	***	***
Productive facilities:			
Original cost	42,807	51,701	54,866
Book value	19,310	21,751	21,174
Source: Compiled from data submitted in response to Commission questionnaires.			

PART IV: U.S. IMPORTS AND THE FOREIGN INDUSTRY

U.S. IMPORTS

As mentioned above in the section entitled “The Product,” imports subject to this investigation are provided for under statistical reporting numbers 0703.20.0010, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, and 2005.90.9700 of the HTS. Fresh garlic is specifically provided for under numbers 0703.20.0010, 0703.20.0020, and 0703.20.0090; the remaining HTS numbers are basket categories that provide for garlic along with many other vegetables. In the original investigation, data presented were limited to imports under 0703.20.0010, 0703.20.0020, and 0703.20.0090, since the quantity of fresh garlic entered under the basket HTS categories is unknown, but believed to be minuscule.¹

Table IV-1 presents data on U.S. imports of fresh garlic under the three HTS numbers mentioned above. As previously stated, imports from China may be overstated as approximately two-thirds of the firms identified by U.S. Customs as having imported fresh garlic from China reported in Commission questionnaires having only imported Chinese garlic that is outside the scope (i.e., dehydrated, pickled, or preserved or packed in oil). Those imports appear to have been misclassified.

According to official import statistics from Commerce, imports from China were a small share of total imports of fresh garlic throughout the period. Although the quantity of Chinese imports more than doubled between crop years 1998 and 2000, it accounted for only 1.8 percent of the total quantity of imports of fresh garlic in crop year 2000. Fresh garlic from sources other than China, the vast majority of which comes from Mexico, Argentina, and Chile, fluctuated upward by 12.0 percent between crop years 1998 and 2000. The spike in imports from other sources in crop year 1999 coincides with the U.S. producers’ increased imports that year due to the extremely low yields of the diseased U.S. crop. Unit values of Chinese imports are about one-third those of imports from other sources in crop years 1998 and 2000, and about half of the other sources’ unit values in crop year 1999.

Of the seven domestic producers that submitted questionnaire responses, five imported fresh garlic during the review period. No domestic producer imported Chinese garlic during the three-year period; imports were from Mexico, Argentina, and Chile. In crop years 1998-2000, imports made by domestic producers represented the following percentages of total imports of fresh garlic from all sources: ***. At the time of the original investigation, four of 11 producers providing data reported imports of garlic, and only one, ***, imported garlic from China.

U.S. IMPORTERS’ INVENTORIES

No U.S. importer reported imports of Chinese garlic during the review period, therefore table IV-2 presents U.S. importers’ end-of-period inventories of imports from all other sources. Inventories fluctuated upward between crop years 1998 and 2000, more than doubling by the end of the period. The relatively high level of inventories in crop year 1999 is consistent with U.S. producers’ reporting of increased imports to offset domestic production shortages in that year.

¹ *Fresh Garlic from China*, Investigation No. 731-TA-683 (Final), USITC Pub. 2825, November 1994, p. II-52, fn. 106.

Table IV-1

Fresh garlic: U.S. imports, by sources, crop years 1998-2000

Source	1998	1999	2000
	Quantity (1,000 pounds)		
China	497	876	1,030
Other sources	50,888	106,137	56,972
Total	51,385	107,013	58,002
	Value (\$1,000)¹		
China	92	261	182
Other sources	29,285	60,445	28,848
Total	29,377	60,706	29,031
	Unit value (per pound)		
China	\$0.18	\$0.30	\$0.18
Other sources	0.58	0.57	0.51
Average	0.57	0.57	0.50
	Share of quantity (percent)		
China	1.0	0.8	1.8
Other sources	99.0	99.2	98.2
Total	100.0	100.0	100.0
	Share of value (percent)		
China	0.3	0.4	0.6
Other sources	99.7	99.6	99.4
Total	100.0	100.0	100.0
¹ Values are landed, duty-paid.			
Note.—Crop years are June-May, with crop year 2000 covering June 1999-May 2000.			
Source: Compiled from official Commerce statistics.			

Table IV-2

Fresh garlic: U.S. importers' end-of-period inventories of imports, crop years 1998-2000

Item	1998	1999	2000
Imports from China--			
Inventories (1,000 pounds)	0	0	0
Ratio to imports (percent)	(¹)	(¹)	(¹)
Ratio to U.S. shipments of imports (percent)	(¹)	(¹)	(¹)
Imports from all other sources--			
Inventories (1,000 pounds)	515	1,766	1,136
Ratio to imports (percent)	2.7	4.6	7.2
Ratio to U.S. shipments of imports (percent)	3.3	5.7	7.5
Imports from all sources--			
Inventories (1,000 pounds)	515	1,766	1,136
Ratio to imports (percent)	2.7	4.6	7.2
Ratio to U.S. shipments of imports (percent)	3.3	5.7	7.5
¹ No value.			
Source: Compiled from data submitted in response to Commission questionnaires.			

PRODUCERS IN CHINA

In addition to the five exporters represented by counsel, 19 other possible foreign producers/exporters were identified by Commission staff. Questionnaires were sent by fax and email to these 19 firms that had either advertised on the website of the Chinese Ministry of Foreign Trade and Economic Cooperation (MOFTEC) or were referred to Commission staff after inquiries were made to members of MOFTEC via its website. Four of the five respondent firms, Anhui Cereals, Oils & Foodstuffs Import & Export Co. (Anhui); China Fruits, Vegetables & Aquatic Products Import & Export Co. (China Fruits); Henan Cereals, Oils & Foodstuffs Import & Export Co. (Henan); and Jiangsu Cereals, Oils & Foodstuffs Import & Export Co. (Jiangsu), completed questionnaires. Only four of the 19 other firms responded to the Commission, indicating that they had not exported garlic to the United States since 1994.

The four Chinese respondent firms that completed questionnaires are exporters only, not producers, of fresh garlic. All four firms reported that if the order were revoked, they could once again resume exportation to the United States market. The firms reported that their exports of fresh garlic are subject to the following tariff and non-tariff barriers: an import quota in the European Union, imposed in 1994; an antidumping duty order in Brazil, imposed in 1996; and an import limitation in Canada, also imposed in 1996.

The petitioner supplied information regarding tariff and non-tariff barriers in third-country markets in its response to the Notice of Institution and its prehearing submission. The Mexican government imposed a phytosanitary ban on garlic from China, which was first enforced in 1993. Quotas have been in place on Chinese garlic imports into the European Union since 1994. Since 1997, the government of Canada has been levying antidumping duties on imports of Chinese garlic between the months of July and December, and on January 2, 2001, it announced the imposition of provisional

antidumping duties on Chinese garlic for the previously uncovered period of January through June. Antidumping duties were also imposed by the government of South Africa on Chinese garlic imports in September 2000. The Korean government imposed a temporary increase in the import duty on Chinese garlic in November 1999, but in the face of a retaliatory ban on imports of Korean mobile phones and polyethylene into China, agreed in July 2000 to substantially reduce the duty.² Three of the four Chinese exporters reported the development of no new export markets as a result of the antidumping order on Chinese garlic in the United States. One firm reported developing new markets in Canada and the European Union.

AVAILABLE DATA ON THE CHINESE INDUSTRY

The Commission has received no data from Chinese producers of fresh garlic. Table IV-3 contains data on the exports of four of the five respondent Chinese exporters of fresh garlic, none of which exported to the United States during crop years 1998-2000.

Table IV-3
Fresh garlic: Data for exporters in China, crop years 1998-2000

Item	1998	1999	2000
	Quantity (1,000 pounds)		
Exports to:			
United States	0	0	0
All other markets	29,658	14,988	4,451
Total exports	29,658	14,988	4,451
	Shares (percent)		
Share of exports to:			
United States	0.0	0.0	0.0
All other markets	100.0	100.0	100.0
Total	100.0	100.0	100.0
Source: Compiled from data submitted in response to Commission questionnaires.			

Anhui reported its five largest export markets to be ***. China Fruits exports to *** only. Henan listed *** as its five largest export markets. Jiangsu exports to ***.

The FAO, which compiles information on worldwide food production for the United Nations, publishes data on the country-level production of all types of garlic (including garlic destined for dehydration). Table IV-4 shows the United Nations' figures on the quantity of garlic produced in China and in several other of the largest garlic-producing countries.³

² Petitioner's prehearing brief, pp. 13-18 and Exhibits 2-7.

³ As seen at www.fao.org on November 18, 2000.

Table IV-4**Garlic: World production, by major producing countries, 1994-2000¹**

Producing country	Calendar year						
	1994	1995	1996	1997	1998	1999	2000
	<i>Quantity (million pounds)</i>						
China	10,735	11,848	12,377	12,545	12,818	13,148	13,700
India	675	889	1,080	965	1,068	1,141	1,141
United States	459	470	613	561	551	660	660
Spain	465	383	469	450	353	412	386
Argentina	194	162	202	256	326	331	331
Mexico	111	96	144	165	147	147	147
Chile	43	44	49	35	43	44	44
¹ Year 2000 projected as of October 27, 2000.							
Source: The Food and Agriculture Organization of the United Nations.							

Chinese government figures for the quantity of fresh or chilled garlic bulbs, seed, or other parts of garlic (not including dehydrated garlic) exported to selected destinations, on a calendar-year basis, are shown in table IV-5.

Table IV-5**Fresh or chilled garlic: Chinese exports, by principal destinations, 1997-99, January-May 1999, and January-May 2000**

Export market	1997	1998	1999	Jan.-May 1999	Jan.-May 2000
	<i>Quantity (1,000 pounds)</i>				
United States	331	494	256	63	326
Indonesia	104,767	44,255	83,040	3,799	79,019
Netherlands	60,944	48,928	74,871	10,122	28,703
Japan	35,090	58,886	69,012	20,188	26,305
United Arab Emirates	33,065	21,975	67,907	4,390	8,306
Singapore	3,980	11,594	50,650	5,851	19,270
Brazil	68,445	43,841	45,723	21	0
South Korea	12,101	32,852	23,539	13,192	6,568
Canada	1,460	5,721	7,514	3,497	8,486
Source: World Trade Atlas, China Customs, 1997-2000.					

At the Commission's hearing, the petitioner presented testimony regarding Chinese garlic growing operations. According to the domestic industry representatives, China is the only country that irradiates its garlic; at a minimum, the major part of its production is irradiated.⁴ The process of garlic irradiation kills the garlic's capability to reproduce, thus preventing it from sprouting. Garlic that has been irradiated contains a germ that is unable to grow and therefore has a shelf life of up to one year when kept in cold storage.⁵ Domestic company representatives stated that while irradiation *per se* is not necessarily harmful, irradiated food has not generally been accepted by the U.S. public as safe for consumption. According to the petitioner, U.S. Food and Drug Administration regulations require that all irradiated foods sold in the United States to be labeled as such, yet no Chinese exporters have ever complied with those regulations.⁶

In early 1994, the government of China put in place a control regime in which export licenses were required to export garlic from China. In addition, global Chinese garlic exports were limited to 100,000 metric tons in 1994 and 120,000 metric tons in 1995.⁷ In an attachment to their prehearing brief, respondents provided a letter from the Chinese government's MOFTEC to the Commission which describes a new proposal to voluntarily limit Chinese exports of garlic to the United States. A MOFTEC official states in the letter that the Chinese government currently maintains a system in which exporters are charged a "quota fee" of 400 RMB (about \$50) per ton on fresh garlic exports. The official suggests that the government would consider raising the level of the quota fee if Chinese exports to the U.S. market "increase heavily" upon revocation of the antidumping duty in order to ensure that there would be no material injury to the U.S. industry.⁸

Respondents argue that the MOFTEC letter is evidence that if the antidumping duty were revoked, Chinese garlic imports would not be injurious to the domestic industry because of the proposed further restrictions.⁹ The petitioner argued that the tax on Chinese garlic exports referred to in the MOFTEC letter, which has been in place since July 1999 and amounts to \$0.02 per pound, has thus far not had the desired effect, since average export prices of Chinese garlic have decreased in 2000 from the previous year.¹⁰ Respondents further proposed in their posthearing brief that an agreement between the United States and China be negotiated that would regulate the amount of fresh garlic that can be exported from China to the United States. On December 27, 2000, respondents' counsel submitted letters to the U.S. Secretary of State and the U.S. Trade Representative asking for their assistance in negotiating such an agreement.¹¹

⁴ Hearing transcript, p. 29.

⁵ Ibid., p. 50.

⁶ Ibid., p. 29.

⁷ *Fresh Garlic from China*, Investigation No. 731-TA-683 (Final), USITC Pub. 2825, November 1994, p. II-50.

⁸ Respondents' prehearing brief, Attachment 1.

⁹ Ibid., p. 15. Respondents' posthearing brief, p. 8.

¹⁰ Hearing transcript, pp. 185-186.

¹¹ Copies of the letters are contained in Exhibits 2 and 3 of respondents' posthearing brief.

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Some uncertainty in growing agricultural crops always exists, such as weather and disease, which can affect prices. Yields from the 1999 domestic garlic harvest were well below average due to a disease called “rust,” which is a fungus that reduced the crop by 20 percent. Almost all of the garlic was small in size and had small cloves. As a result, garlic prices increased and approached all-time highs. Nonsubject imports increased, however, to satisfy demand. Over-planting of garlic ensued the following year and the yields increased dramatically. This put downward pressure on garlic prices in 2000, and held them to 5-year lows.

The petitioner was asked why lower priced nonsubject imports (average unit value of \$0.57 a pound) did not put downward pressure on the price of domestic fresh garlic (average unit value of domestic shipments of \$1.07) while apparent domestic consumption increased 18.5 percent in crop year 1999.¹ The petitioner responded that nonsubject imports did put downward price pressure on domestic fresh garlic during crop year 1999. The petitioner argued that because of the seasonal pattern of import supply, in which Mexico harvests its fresh garlic in April-June, and both Argentina and Chile harvest their fresh garlic in December-February, supplies of fresh garlic were short during the last two quarters of 1998, and this, along with the rust problem, caused domestic prices to increase. Prices then started to fall in the first and second quarters of 1999 because large quantities of nonsubject imports began to enter the U.S. market. The petitioner provided monthly import quantities from three nonsubject countries, Mexico, Argentina, and Chile, in support of their argument.²

The petitioner also suggested that the average unit value of nonsubject imports actually increased rather than decreased from \$0.58 to \$0.57 a pound between crop years 1998 and 1999 as the staff report shows.³ The petitioner argued that the rust problem not only affected fresh garlic, but it also affected the domestic dehydrated market. According to the petitioner, industry sources indicate that millions of pounds of off-grade fresh garlic were purchased from offshore sources during crop year 1999, primarily from Argentina. The customs values of these off-grade imports were \$0.36 and \$0.29 in the months of February and March of 1999, respectively. If these millions of pounds of off-grade fresh garlic are excluded from the unit value data, the average unit value of nonsubject imports for crop year 1999 would increase from \$0.57 to \$0.63 a pound. The petitioner alleged that this shows that the upward price effect of the reduced U.S. fresh crop brought upward price pressure on nonsubject imports.⁴ The petitioner added that when examining the price differential between the average unit value of nonsubject imports versus the average unit value of domestic shipments, it is important to keep in mind that the average unit value of imports does not include any of the markup applied by importers to cover the cost of import operations and profit prior to offering the product in head-to-head competition with the domestic product.⁵

¹ See Responses to questions posed by the Commission staff, petitioner’s posthearing brief, Exhibit 1, pp. 4-9.

² Petitioner’s posthearing brief, Exhibits 11-14. These data should be viewed with caution because they represent imports rather than sales of nonsubject fresh garlic, and with the increased use of cold and controlled-atmosphere storage, import data could be somewhat misleading, although seasonality still plays somewhat of a role in the market.

³ See table IV-1 of the staff report.

⁴ Petitioner’s posthearing brief, Exhibit 1, pp. 6-8, and Exhibit 16.

⁵ Petitioner’s posthearing brief, Exhibit 1, p. 8. This is corroborated by questionnaire data. The average unit

(continued...)

V-1

Finally, the petitioner argued that the product mix of imports is significantly different from that of domestic shipments with respect to the share of peeled garlic.⁶ Approximately 30 percent of domestic shipments consist of the higher-valued peeled garlic, with a weighted-average price of \$1.30 a pound in crop year 1999 based on submitted pricing data.⁷ On the other hand, sales of the three categories of domestic whole bulb garlic for which pricing data were obtained had a weighted-average price of \$0.96 a pound in crop year 1999. Relatively little peeled garlic is imported, accounting for only 4 percent of the 106.1 million pounds of nonsubject imports that entered the United States during crop year 1999. Thus, the petitioner contended that it is in the whole bulb area that domestic product competes with traditional imports. The price differentials between domestic and nonsubject imports are much narrower when viewed in this regard.⁸

Transportation Costs to the U.S. Market

Transportation costs for fresh garlic from China to the United States (excluding U.S. inland costs) are estimated to be approximately 27.7 percent of the total cost for fresh garlic.⁹ These estimates are derived from official import data and represent the transportation and other charges on imports valued on a c.i.f. basis, as compared with customs value.

U.S. Inland Transportation Costs

Transportation costs of fresh garlic for delivery within the United States vary from firm to firm and range from 2 to 12 percent. The fresh garlic producers are located in California, which makes shipments to the east coast at the high end of that range. The nonsubject importers and domestic producers of fresh garlic are essentially the same and, therefore, so are the inland transportation costs.

Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that the nominal value of the Chinese yuan appreciated 4.1 percent relative to the U.S. dollar from 1994 to 1999 (figure V-1). The real value of the Chinese yuan is not available.

⁵ (...continued)

value of imports obtained from importer questionnaires of 3 of the 4 domestic producers (***) data were not used because they appeared questionable) in crop year 1999 was *** compared with the average unit value of their commercial shipments of imports of ***. The extent that the average unit value of their commercial shipments is higher due to the fact that some imports are subsequently peeled in the United States and then sold is unclear.

⁶ At least one domestic producer, ***, imports both fresh garlic that is packed and ready for sale, and raw material that is peeled in the United States.

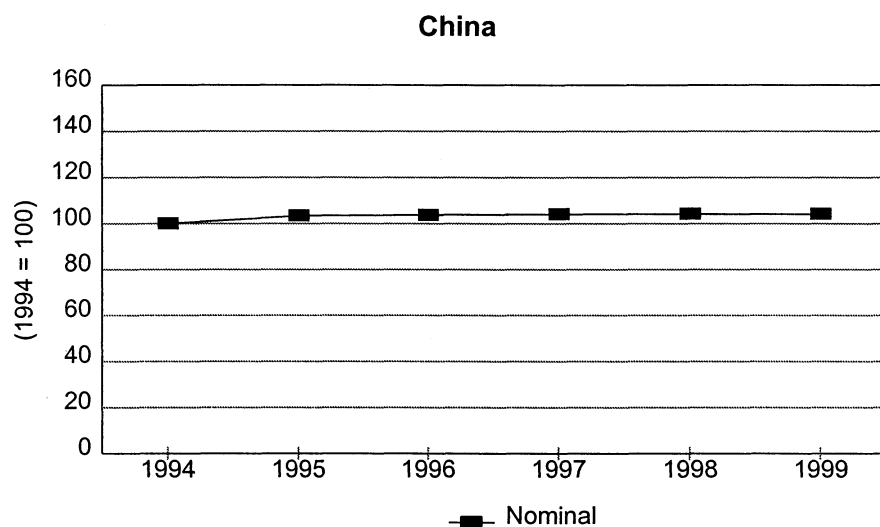
⁷ Weighted-average prices for crop year 1999 represent the aggregation of quarterly price data for the period from July 1998 through June 1999.

⁸ Petitioner's posthearing brief, Exhibit 1, pp. 8-9.

⁹ This estimate is based on 1994 data, the last year of significant imports from China. Recent imports may be misclassified.

Figure V-1

Exchange rate: Index of the nominal exchange rate between the Chinese yuan and the U.S. dollar, by years, 1994-99



Source: International Monetary Fund, *International Financial Statistics*, September 2000.

PRICING PRACTICES

Pricing Methods

The supply and demand of fresh garlic in the market sets the price. Some producers set prices transaction by transaction, while others have price lists that can change daily, weekly, or biweekly. In general, when the market is flooded with fresh garlic, prices decrease, and when supplies are tight, prices increase. A large majority of domestic producer sales are made on a spot basis.

Sales Terms and Discounts

Three domestic producers give discounts and four do not have discount arrangements. *** reported that *** percent of its sales have small discounts and these vary. A ***-percent discount is given on truckload orders of 40,000 pounds or more, a ***-percent discount is given if payment is made within 10 days, and other discounts are given if the product does not arrive in the best condition, or the market changes while the product is in transit. Another domestic producer, ***, gives discounts based on availability, volume, payment terms, size and grade, and customer loyalty.

Sales terms vary by producer, with producers requiring payment from 10 to 30 days after delivery. Three domestic producers quote their prices f.o.b. warehouse, one producer quotes its prices delivered, and three producers quote their prices either delivered or f.o.b. warehouse.

PRICE DATA

The Commission requested U.S. producers and importers of fresh garlic to provide quarterly data for the total quantity and value of fresh garlic that was shipped to unrelated customers in the U.S. market.¹⁰ Data were requested for the period January 1998-September 2000. The products for which pricing data were requested are as follows:

Product 1.--USDA Grade No. 1 fresh garlic, white (whole bulb), 2-inch diameter, packed in 30-pound or 22-pound cartons, sold to wholesalers/distributors.

Product 2.--USDA Grade No. 1 fresh garlic, white (whole bulb), 2-1/4-inch diameter, packed in 30-pound or 22-pound cartons, sold to wholesalers/distributors.

Product 3.--USDA Grade No. 1 fresh garlic, white (whole bulb), 2-1/2-inch diameter, packed in 30-pound or 22-pound cartons, sold to wholesalers/distributors.

Product 4.--Peeled fresh garlic cloves, white, packed in 5-pound plastic bags or plastic jars, sold to wholesalers/distributors.

Six U.S. producers provided usable pricing data for sales of the requested products, although not all firms reported pricing for all products for all quarters. *** was unable to provide separate pricing data for products 1-3, and therefore its data were not used. It is difficult to determine the percentage of U.S. producer shipments represented by the pricing data because the trade and related data are reported in crop years and the pricing data are reported in calendar years.

Tables V-1 to V-4 and figures V-2 and V-3 show the weighted-average prices for U.S.-produced fresh garlic from the first quarter of 1998 through the third quarter of 2000.

¹⁰ Imports of Chinese fresh garlic were small and the importers are unidentified. Therefore, subject import price data are unavailable.

Table V-1

Fresh garlic: Weighted-average f.o.b. prices and quantities of domestic product 1¹ sold to wholesalers/distributors, by quarters, January 1998-September 2000

Period	United States	
	Price (per pound)	Quantity (1,000 pounds)
1998:		
Jan.-Mar.	\$0.78	3,048
Apr.-June	0.74	1,407
July-Sept.	0.84	986
Oct.-Dec.	0.97	2,204
1999:		
Jan.-Mar.	0.88	1,239
Apr.-June	0.65	867
July-Sept.	0.48	2,130
Oct.-Dec.	0.47	2,854
2000:		
Jan.-Mar.	0.48	2,192
Apr.-June	0.51	1,175
July-Sept.	0.60	1,356
¹ USDA Grade No. 1 fresh garlic white (whole bulb), 2-inch diameter, packed in 30-pound or 22-pound cartons.		
Source: Compiled from data submitted in response to Commission questionnaires.		

Table V-2

Fresh garlic: Weighted-average f.o.b. prices and quantities of domestic product 2¹ sold to wholesalers/distributors, by quarters, January 1998-September 2000

Period	United States	
	Price (per pound)	Quantity (1,000 pounds)
1998:		
Jan.-Mar.	\$0.88	2,813
Apr.-June	0.71	1,741
July-Sept.	0.92	1,159
Oct.-Dec.	1.07	1,762
1999:		
Jan.-Mar.	0.96	1,049
Apr.-June	0.68	964
July-Sept.	0.53	1,961
Oct.-Dec.	0.51	3,205
2000:		
Jan.-Mar.	0.55	2,483
Apr.-June	0.59	1,192
July-Sept.	0.65	1,708
¹ USDA Grade No. 1 fresh garlic, white (whole bulb), 2-1/4-inch diameter, packed in 30-pound or 22-pound cartons.		
Source: Compiled from data submitted in response to Commission questionnaires.		

Table V-3

Fresh garlic: Weighted-average f.o.b. prices and quantities of domestic product 3¹ sold to wholesalers/distributors, by quarters, January 1998-September 2000

Period	United States	
	Price (per pound)	Quantity (1,000 pounds)
1998:		
Jan.-Mar.	\$1.06	1,987
Apr.-June	0.89	1,545
July-Sept.	1.10	1,260
Oct.-Dec.	1.25	2,192
1999:		
Jan.-Mar.	0.99	1,615
Apr.-June	0.78	1,315
July-Sept.	0.58	3,374
Oct.-Dec.	0.57	4,479
2000:		
Jan.-Mar.	0.66	3,100
Apr.-June	0.71	2,016
July-Sept.	0.82	2,399
¹ USDA Grade No. 1 fresh garlic, white, (whole bulb), 2-1/2-inch diameter, packed in 30-pound or 22-pound cartons.		
Source: Compiled from data submitted in response to Commission questionnaires.		

Table V-4

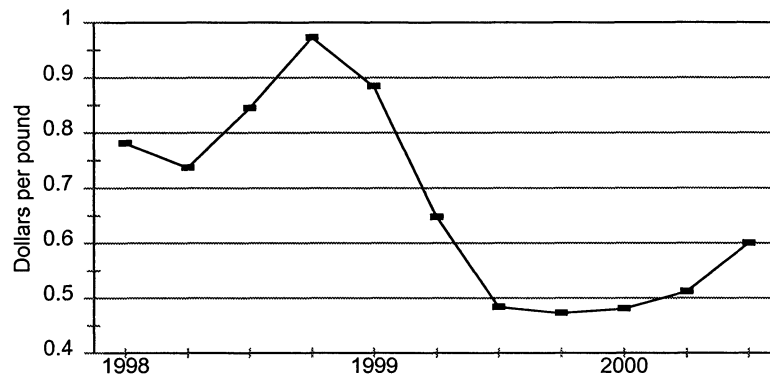
Fresh garlic: Weighted-average f.o.b. prices and quantities of domestic product 4¹ sold to wholesalers/distributors, by quarters, January 1998-September 2000

Period	United States	
	Price (per pound)	Quantity (1,000 pounds)
1998:		
Jan.-Mar.	\$1.27	6,288
Apr.-June	1.24	6,156
July-Sept.	1.31	6,364
Oct.-Dec.	1.39	7,194
1999:		
Jan.-Mar.	1.30	6,381
Apr.-June	1.18	7,188
July-Sept.	1.06	8,052
Oct.-Dec.	1.01	7,693
2000:		
Jan.-Mar.	0.99	7,765
Apr.-June	0.98	8,602
July-Sept.	1.01	8,238
¹ Peeled fresh garlic cloves, white, packed in 5-pound plastic bags or plastic jars.		
Source: Compiled from data submitted in response to Commission questionnaires.		

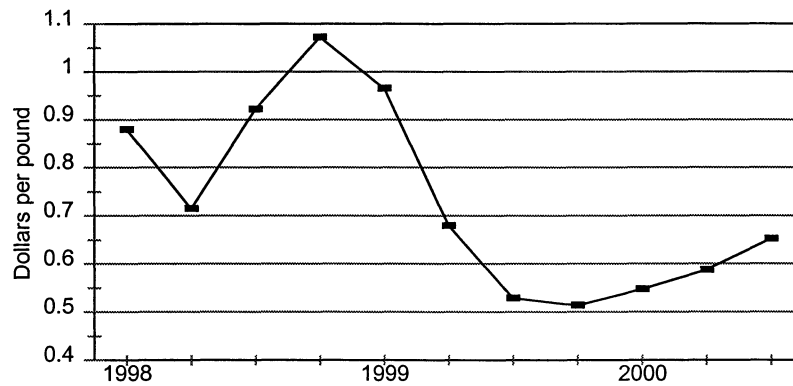
Figure V-2

Fresh garlic: Weighted-average f.o.b. prices of domestic products 1 and 2 sold to wholesalers/distributors, by quarters, January 1998-September 2000

Product 1



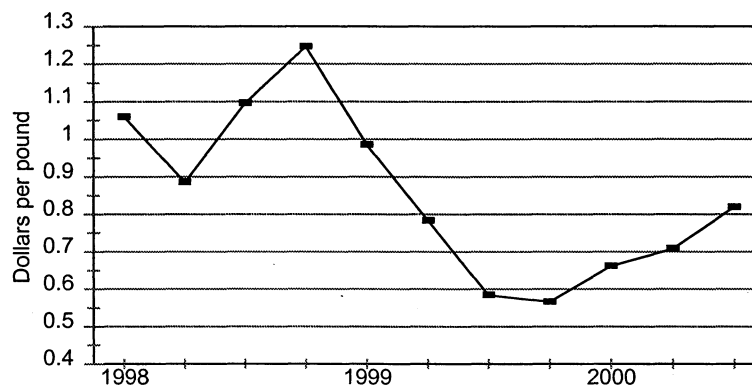
Product 2



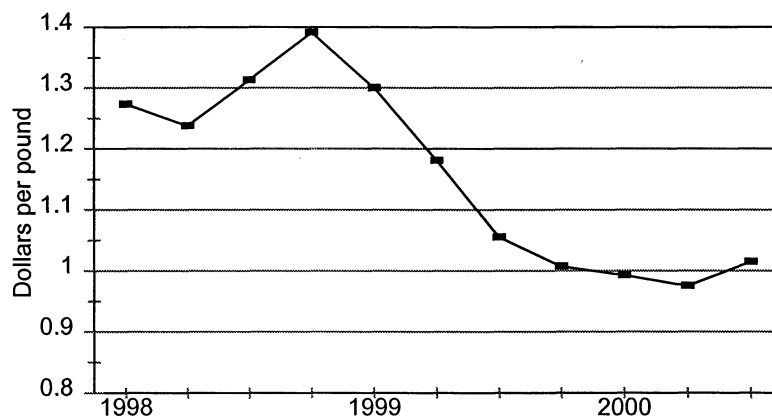
Source: Compiled from data submitted in response to Commission questionnaires.

Figure V-3
Fresh garlic: Weighted-average f.o.b. prices of domestic products 3 and 4 sold to wholesalers/distributors, by quarters, January 1998-September 2000

Product 3



Product 4



Source: Compiled from data submitted in response to Commission questionnaires.

APPENDIX A

***FEDERAL REGISTER* NOTICES AND COMMISSION DETERMINATION ON ADEQUACY**

International Trade Administration**[A-570-831]****Antidumping Duty Order: Fresh Garlic
From the People's Republic of China****AGENCY:** Import Administration,
International Trade Administration,
Department of Commerce.**EFFECTIVE DATE:** November 16, 1994.**FOR FURTHER INFORMATION CONTACT:**Jennifer Stagner, Office of Antidumping
Investigations, Import Administration,
International Trade Administration,
U.S. Department of Commerce, 14th
Street and Constitution Avenue, N.W.,
Washington, D.C., 20230; telephone
(202) 482-1673.**Scope of Order**

The products subject to 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: (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.¹

The subject merchandise is used
principally as a food product and for
seasoning. The subject garlic is
currently classifiable under subheadings
0703.20.0000, 0710.80.7060,
0710.80.9750, 0711.90.6000, and
2005.90.9500 of the Harmonized Tariff
Schedule of the United States (HTSUS).
Although the HTSUS subheadings are
provided for convenience and customs

¹ Fresh Garlic from the People's Republic of
China, Inv. No. 731-TA-683 (Final), USITC Pub.
2825 (November 1994).

purposes, our written description of the scope of this proceeding is dispositive.

In order to be excluded from the antidumping duties ordered in this notice, 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. We invite interested parties to provide suggested language for the certifications within ten days after publication of this order.

Antidumping Duty Order

In accordance with section 735(a) of the Tariff Act of 1930, as amended (the Act), on September 19, 1994, the Department of Commerce (the Department) made its final determination that fresh garlic from the People's Republic of China (PRC) is being sold at less than fair value (59 FR 49058, September 26, 1994).

On November 7, 1994, in accordance with section 735(d) of the Act, the U.S. International Trade Commission (ITC) notified the Department of its final determination in this investigation. In its determination, the ITC found three like products: (1) Fresh garlic, defined as garlic that has been manually harvested and is intended for use as fresh produce; (2) dehy garlic, defined as garlic that has been mechanically harvested and that is primarily, but not exclusively, destined for non-fresh use; and (3) seed garlic, defined as garlic that has been specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed. The ITC determined that the industry in the United States producing fresh garlic, as defined by the ITC, is materially injured by reason of less than fair value (LTFV) imports from the PRC, but that critical circumstances do not exist with regard to such imports. The ITC further determined that the industries in the United States producing dehy and seed garlic are not materially injured nor threatened with material injury by reason of LTFV imports from the PRC.

Regarding fresh garlic, since the ITC determined that imports of such merchandise are materially injuring a U.S. industry, but that critical circumstances do not exist with regard to such imports, retroactive imposition of antidumping duties is not necessary. All unliquidated entries of fresh garlic from the PRC entered, or withdrawn from warehouse, for consumption on or after July 11, 1994, the date on which

the Department published its preliminary determination (59 FR 35310), will be liable for the assessment of antidumping duties. The Department will direct U.S. Customs officers to terminate the suspension of liquidation for entries of fresh garlic from the PRC entered, or withdrawn from warehouse, for consumption before July 11, 1994, and to release any bond or other security, and refund any cash deposit, posted to secure the payment of estimated antidumping duties with respect to these entries.

In accordance with section 736(a)(1) of the Act, we are directing the Customs Service to assess antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United State price for entries of fresh garlic from the PRC. These antidumping duties will be assessed on all unliquidated entries of fresh garlic from the PRC, as defined in the "Scope of Order" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after July 11, 1994. The Customs Service must require, at the same time as importers would normally deposit estimated duties, the following cash deposit for the subject merchandise:

Manufacturer/Producer/Exporter	Weighted-average margin per cent
All Manufacturers/Producers/Exporters	376.67

This notice constitutes the antidumping duty order with respect to fresh garlic from the PRC, pursuant to section 736(a) of the Act. Interested parties may contact the Central Records Unit, room B-099 of the Main Commerce Building, for copies of an updated list of antidumping orders currently in effect.

This order is published in accordance with section 736(a) of the Act (19 U.S.C. 1673b(f)) and 19 CFR 353.21.

Dated: November 10, 1994.

Susan G. Esserman,
Assistant Secretary for Import
Administration.

[FR Doc. 94-28462 Filed 11-15-94; 8:45 am]

BILLING CODE 3510-00-P

specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Countries that currently export or have exported Subject Merchandise to the United States or other countries since 1992.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from each of the Subject Countries accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from each of the Subject Countries; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from each of the Subject Countries.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in each of the Subject Countries accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from each of the Subject Countries accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the

United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: November 24, 1999.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 99-31217 Filed 11-30-99; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-683 (Review)]

Fresh Garlic From China

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on fresh garlic from China.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on fresh garlic from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;¹ to be assured of consideration, the deadline for responses is January 20, 2000. Comments on the adequacy of responses may be filed with the Commission by February 11, 2000.

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and

¹ No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 99-5-047, expiration date July 31, 2002. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at <http://www.usitc.gov/rules.htm>.

EFFECTIVE DATE: December 1, 1999.

FOR FURTHER INFORMATION CONTACT:

Mary Messer (202-205-3193) or Vera Libeau (202-205-3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION:

Background

On November 16, 1994, the Department of Commerce issued an antidumping duty order on imports of fresh garlic from China (59 F.R. 59209). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions

The following definitions apply to this review:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The Subject Country in this review is China.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original

determination, the Commission found in the affirmative for one Domestic Like Product: fresh garlic. One Commissioner defined the Domestic Like Product differently.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission found in the affirmative for one Domestic Industry: producers of fresh garlic, excluding crop tenders. One Commissioner defined the Domestic Industry differently.

(5) The Order Date is the date that the antidumping duty order under review became effective. In this review, the Order Date is November 16, 1994.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Review and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the *Federal Register*. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the "same particular matter" as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was "personal and substantial." However, any informal consultation will not relieve former employees of the

obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202-205-3088.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the *Federal Register*. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is January 20, 2000. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is February 11, 2000. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the A-6

Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability To Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided in Response to This Notice of Institution

As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please

discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since 1994.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/ which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise

produced in the Subject Country, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: November 24, 1999.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 99-31222 Filed 11-30-99; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701-TA-355 (Review) and 731-TA-659-660 (Review)]

Grain-Oriented Silicon Electrical Steel From Italy and Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the countervailing duty

order on grain-oriented silicon electrical steel from Italy and the antidumping duty orders on grain-oriented silicon electrical steel from Italy and Japan.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the countervailing duty order on grain-oriented silicon electrical steel from Italy and the antidumping duty orders on grain-oriented silicon electrical steel from Italy and Japan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;¹ to be assured of consideration, the deadline for responses is January 20, 2000. Comments on the adequacy of responses may be filed with the Commission by February 11, 2000.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules

of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at <http://www.usitc.gov/rules.htm>.

EFFECTIVE DATE: December 1, 1999.

FOR FURTHER INFORMATION CONTACT:

Mary Messer (202-205-3193) or Vera Libeau (202-205-3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION:

Background

On the dates listed below, the Department of Commerce issued countervailing duty and antidumping duty orders on the subject imports:

Order date	Product/Country	Inv. No.	FR cite
6/7/94	Grain-oriented silicon electrical steel/Italy	701-TA-355	59 FR 29414
6/10/94	Grain-oriented silicon electrical steel/Japan	731-TA-660	59 FR 29984
8/12/94	Grain-oriented silicon electrical steel/Italy	731-TA-659	59 FR 41431

The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions

The following definitions apply to these reviews:

(1) Subject Merchandise is the class or kind of merchandise that is within the

scope of the five-year reviews, as defined by the Department of Commerce.

(2) The Subject Countries in these reviews are Italy and Japan.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, the Commission found one Domestic Like Product: grain-oriented silicon electrical steel.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission found one Domestic

Industry: producers of grain-oriented silicon electrical steel.

(5) The Order Dates are the dates that the countervailing duty and antidumping duty orders under review became effective. In these reviews, the Order Dates are as shown in the preceding tabulation.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Reviews and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as

¹ No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 99-5-045,

expiration date July 31, 2002. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to

the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION: On March 3, 2000, the Commission determined that it should proceed to a full review in the subject five-year review pursuant to section 751(c)(5) of the Act. The Commission found that both the domestic and respondent interested party group responses to its notice of institution (64 FR 67302, December 1, 1999) were adequate.

A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's web site.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: March 9, 2000.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 00-6404 Filed 3-14-00; 8:45 am]
BILLING CODE 7020-02-U

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-683 (Review)]

Fresh Garlic From China

AGENCY: United States International Trade Commission.

ACTION: Notice of Commission determination to conduct a full five-year review concerning the antidumping duty order on fresh garlic from China.

SUMMARY: The Commission hereby gives notice that it will proceed with a full review pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) to determine whether revocation of the antidumping duty order on fresh garlic from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission will exercise its authority

to extend the review period by up to 90 days pursuant to 19 U.S.C.

1675(c)(5)(B), if necessary. A schedule for the review will be established and announced at a later date. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: March 3, 2000.

FOR FURTHER INFORMATION CONTACT:

Robert Carpenter (202-205-3172), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION: On March 3, 2000, the Commission determined that it should proceed to a full review in the subject five-year review pursuant to section 751(c)(5) of the Act. The Commission found that both the domestic and respondent¹ interested party group responses to its notice of institution (64 FR 67315, December 1, 1999) were adequate.

A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's web site.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: March 9, 2000.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 00-6406 Filed 3-14-00; 8:45 am]
BILLING CODE 7020-02-U

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701-TA-355 (Review) and 731-TA-659-660 (Review)]

Grain-Oriented Silicon Electrical Steel From Italy and Japan

AGENCY: United States International Trade Commission.

ACTION: Notice of Commission determinations to conduct full five-year reviews concerning the countervailing duty and antidumping duty orders on grain-oriented silicon electrical steel from Italy and Japan.

SUMMARY: The Commission hereby gives notice that it will proceed with full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) to determine whether revocation of the countervailing duty and antidumping duty orders on grain-oriented silicon electrical steel from Italy and Japan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission will exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B), if necessary. A schedule for the reviews will be established and announced at a later date. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: March 3, 2000.

FOR FURTHER INFORMATION CONTACT:

Bonnie Noreen (202-205-3167), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION: On March 3, 2000, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c)(5) of the Act. The Commission found that both the domestic and respondent interested party group responses to its notice of

¹ Commissioner Hillman dissenting.

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 of the Department's regulations. Timely 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.

We are issuing and publishing this determination and notice in accordance with sections 751(c), 752, and 777(i) of the Act.

Dated: June 28, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00-16955 Filed 7-3-00; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-831]

Fresh Garlic From the People's Republic of China; Final Results of Expedited Sunset Review of Antidumping Duty Order

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

ACTION: Notice of final results of expedited sunset review: fresh garlic from the People's Republic of China.

SUMMARY: On December 1, 1999, the Department of Commerce ("the Department") published the notice of initiation of sunset review of the antidumping duty order on fresh garlic from the People's Republic of China ("PRC") (64 FR 67247), pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). On the basis of a notice of intent to participate and adequate substantive response filed on behalf of domestic interested parties and inadequate responses from respondent interested parties, we determined to conduct an expedited sunset review. Based on our analysis of the comments received, we find that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels listed below in the section entitled Final Results of the Review.

EFFECTIVE DATE: July 5, 2000.

FOR FURTHER INFORMATION CONTACT: Eun W. Cho or James Maeder, Office of Policy for Import Administration,

International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-1698 or (202) 482-3330, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to 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 (1999). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department Policy Bulletin 98:3—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).

Background

On December 1, 1999, the Department published the notice of initiation of sunset review of the antidumping duty order on fresh garlic from the PRC (64 FR 67247). We invited parties to comment. On the basis of a notice of intent to participate and adequate substantive response filed on behalf of domestic interested parties and inadequate substantive responses from respondent interested parties, we determined to conduct an expedited sunset review. The Department is conducting this sunset review in accordance with sections 751 and 752 of the Act.

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). This review concerns a transition order within the meaning of section 751(c)(6)(C)(ii) of the Act. Therefore, on April 6, 2000, the Department determined that the sunset review of the antidumping duty order on fresh garlic from the PRC is extraordinarily complicated and extended the time limit for completion of the final results of this review until not later than June 28, 2000, in accordance with section 751(c)(5)(B) of the Act.¹

¹ See Extension of Time Limit for Final Results of Five-Year Reviews, 65 FR 18058 (April 6, 2000).

Scope of Review

The products subject to 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 0703.20.0000, 0710.80.7060, 0710.80.9750, 0711.90.6000, and 2005.90.9500 of the Harmonized Tariff Schedule of the United States ("HTSUS").

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.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Analysis of Comments Received

All issues raised in substantive responses by parties to this sunset review are addressed in the Issues and Decision Memorandum ("Decision Memo") from Jeffrey A. May, Director, Office of Policy, Import Administration, to Troy H. Cribb, Acting Assistant Secretary for Import Administration, dated March 30, 2000, which is hereby adopted by this notice. The issues discussed in the Decision Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the margin likely to prevail were the order revoked. 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 B-099, the Central Records Unit, of the main Commerce building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at ia.doc.gov/frn. The paper copy and electronic version of the Decision Memo are identical in content.

Final Results of Review

We determine that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the following percentage weighted-average margins:

Manufacturer/exporter	Margin (percent)
PRC-wide	376.67

This notice also serves as the only 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 of the Department's regulations. Timely 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.

We are issuing and publishing this determination and notice in accordance with sections 751(c), 752, and 777(i) of the Act.

Dated: June 28, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00-16954 Filed 7-3-00; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-475-811; A-588-831]

Grain-Oriented Electrical Steel From Italy and Japan; Final Results of Expedited Sunset Reviews of Antidumping Duty Orders

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

ACTION: Notice of final results of expedited sunset reviews: grain-oriented electrical steel from Italy and Japan.

SUMMARY: On December 1, 1999, the Department of Commerce ("the Department") initiated sunset reviews of the antidumping duty orders on grain-oriented electrical steel ("GOES") from Italy and Japan (64 FR 67247) pursuant to section 751(c) of the Tariff Act of

1930, as amended ("the Act"). On the basis of notices of intent to participate and adequate substantive responses filed on behalf of domestic interested parties and inadequate response from respondent interested parties (in these cases, no response), the Department determined to conduct expedited reviews. As a result of these reviews, the Department finds that revocation of the antidumping duty orders would likely lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Reviews section of this notice.

EFFECTIVE DATE: July 5, 2000.

FOR FURTHER INFORMATION CONTACT: Kathryn B. McCormick or James Maeder, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1930 or (202) 482-3330, respectively.

SUPPLEMENTARY INFORMATION:

Statute and Regulations

Unless otherwise indicated, all citations to 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 regulations are to 19 CFR Part 351 (1999). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98.3—*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").

Scope of Reviews

The scope of these reviews includes GOES, which is a flat-rolled alloy steel product containing by weight at least 0.6 percent of silicon, not more than 0.08 percent of carbon, not more than 1.0 percent of aluminum, and no other element in an amount that would give the steel the characteristics of another alloy steel, of a thickness of no more than 0.56 millimeters, in coils of any width, or in straight lengths which are of a width measuring at least 10 times the thickness, as currently classifiable in the Harmonized Tariff Schedule of the United States ("HTS") under item numbers 7225.10.0030, 7226.10.1030, 7226.10.5015, and 7226.10.5056. Although the HTS subheadings are provided for convenience and customs

purposes, our written descriptions of the scope of these proceedings are dispositive.

Background

On December 1, 1999, the Department initiated the sunset reviews of the antidumping duty orders on GOES from Italy and Japan (64 FR 67247), pursuant to section 751(c) of the Act. The Department received a notice of intent to participate in these cases on behalf of Allegheny Ludlum Corporation ("Allegheny Ludlum"), AK Steel Corporation ("AK Steel"), Butler Armco Independent Union, the United Steelworkers of America AFL-CIO/CLC, and the Zanesville Armco Independent Union (collectively, "domestic interested parties"), within the applicable deadline (December 16, 1999) specified in 19 CFR 351.218(d)(1)(i). Additionally, on December 16, 1999, Acciai Speciali Terni S.p.A. and Acciai Speciali Terni USA Inc. (together, "AST") submitted an entry of appearance in the Italian proceeding and, pursuant to 19 CFR 351.305(b), an application for access to business proprietary information under administrative protect order.

Allegheny Ludlum and AK Steel claimed interested-party status under section 771(9)(C) of the Act, as U.S. producers of a domestic like product. The unions listed above are interested parties, pursuant to 771(9)(D), because they are certified or recognized unions or groups of workers representative of the industry engaged in the manufacture, production, or wholesale in the United States of the domestic like product.

Domestic interested parties state that Allegheny Ludlum, Armco Inc. ("Armco"), United Steel Workers of America, Butler Armco Independent Union, and Zanesville Armco Independent Union were the petitioners in the initial investigation of GOES from Italy and participated in the only completed administrative review of the Italian order (see January 3, 2000, substantive response of domestic interested parties at 5). Armco was not a petitioner in the case concerning GOES from Japan because Armco had certain technical relationships with a Japanese producer of GOES at the time that it wanted to preserve. However, the relationship terminated prior to AK Steel's acquisition of Armco, on September 30, 1999, when it assumed control of Armco's production of GOES. *Id.* Accordingly, AK Steel, as the successor of Armco, has replaced Armco as a domestic interested party for purposes of these sunset reviews and all other administrative reviews. *Id.*

permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on August 24, 2000. The views of the Commission are contained in USITC Publication 3345 (September 2000), entitled *Anhydrous Sodium Sulfate From Canada: Investigation No. 731-TA-884 (Preliminary)*.

Issued: August 24, 2000.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 00-22197 Filed 8-29-00; 8:45 am]

BILLING CODE 7026-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-859 (Final)]

Circular Seamless Stainless Steel Hollow Products From Japan; Determination

On the basis of the record¹ developed in the subject investigation, the United States International Trade Commission determines,² pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Japan of circular seamless stainless steel hollow products³ that have been found by the Department of

¹ The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

² Chairman Koplan and Vice Chairman Okun dissenting.

³ For purposes of this investigation, Commerce has defined the subject merchandise as "pipes, tubes, redraw hollows, and hollow bars, of circular cross-section, containing 10.5 percent or more by weight chromium, regardless of production process, outside diameter, wall thickness, length, industry specification (domestic, foreign or proprietary), grade or intended use. Common specifications for the subject circular seamless stainless steel hollow products include, but are not limited to, ASTM-A-213, ASTM-A-268, ASTM-A-269, ASTM-A-270, ASTM-A-271, ASTM-A-312, ASTM-A-376, ASTM-A-498, ASTM-A-511, ASTM-A-632, ASTM-A-731, ASTM-A-771, ASTM-A-789, ASTM-A-790, ASTM-A-826 and their proprietary or foreign equivalents."

The products subject to this investigation are covered by statistical reporting numbers 7304.10.5020; 7304.10.5050; 7304.10.5080; 7304.41.3005; 7304.41.3015; 7304.41.3045; 7304.41.6005; 7304.41.6015; 7304.41.6045; 7304.49.0005; 7304.49.0015; 7304.49.0045; and 7304.49.0060 of the Harmonized Tariff Schedule of the United States (HTS).

Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective October 26, 1999, following receipt of a petition filed with the Commission and the Department of Commerce by Altx, Inc., Watervliet, NY; American Extruded Products Corp., Beaver Falls, PA; DMV Stainless USA, Inc., Houston, TX; Salem Tube, Inc., Greenville, PA; Sandvik, Steel Co., Scranton, PA; International Extruded Products LLC d/b/a Wyman-Gordon Energy Products—IXP Buffalo, Buffalo, NY;⁴ and United Steelworkers of America, AFL-CIO/CLC, Pittsburgh, PA. The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by the Department of Commerce that imports of circular seamless stainless steel hollow products from Japan were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of May 10, 2000 (65 FR 30133). The hearing was held in Washington, DC, on July 12, 2000, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on August 25, 2000. The views of the Commission are contained in USITC Publication 3344 (September 2000), entitled *Circular Seamless Stainless Steel Hollow Products from Japan: Investigation No. 731-TA-859 (Final)*.

Issued: August 25, 2000.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 00-22194 Filed 8-29-00; 8:45 am]

BILLING CODE 7020-02-U

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-683 (Review)]

Fresh Garlic From China

AGENCY: International Trade Commission.

⁴ On June 7, 2000, International Extruded withdrew from participation as a petitioner in this investigation.

ACTION: Scheduling of a full five-year review concerning the antidumping duty order on fresh garlic from China.

SUMMARY: The Commission hereby gives notice of the scheduling of a full review pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the antidumping duty order on fresh garlic from China would be likely to lead to continuation or recurrence of material injury. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at <http://www.usitc.gov/rules.htm>.

EFFECTIVE DATE: August 22, 2000.

FOR FURTHER INFORMATION CONTACT: Joanna Bonarriva (202-708-4083), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION:

Background

On March 3, 2000, the Commission determined that responses to its notice of institution of the subject five-year review were such that a full review pursuant to section 751(c)(5) of the Act should proceed (65 FR 13989, March 15, 2000). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's web site.

Participation in the Review and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level,

representative consumer organizations, wishing to participate in this review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the review need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this review available to authorized applicants under the APO issued in the review, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the review. A party granted access to BPI following publication of the Commission's notice of institution of the review need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the review will be placed in the nonpublic record on December 1, 2000, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the review beginning at 9:30 a.m. on December 19, 2000, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before December 11, 2000. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on December 14, 2000, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections

201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony in camera no later than 7 days prior to the date of the hearing.

Written Submissions

Each party to the review may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is December 12, 2000. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is January 3, 2001; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the review may submit a written statement of information pertinent to the subject of the review on or before January 3, 2001. On January 30, 2001, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before February 1, 2001, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: August 23, 2000.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 00-22192 Filed 8-29-00; 8:45 am]

BILLING CODE 7020-02-U

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-413-415 and 419 (Review)]

Certain Industrial Belts From Germany, Italy, Japan, and Singapore

Determinations

On the basis of the record¹ developed in these subject five-year reviews, the United States International Trade Commission determines,² pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act), that revocation of the antidumping duty orders on certain industrial belts from Germany, Italy, Japan, and Singapore would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted these reviews on June 1, 1999 (64 FR 29342) and determined on September 3, 1999, that it would conduct full reviews (64 FR 50106, September 15, 1999). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* on February 10, 2000 (65 FR 6627). Since all requests by interested parties to appear at the hearing were withdrawn before its scheduled date, no hearing was held in these reviews.

The Commission transmitted its determinations in these reviews to the Secretary of Commerce on August 18, 2000. The views of the Commission are contained in USITC Publication 3341 (August 2000), entitled *Certain Industrial Belts from Germany, Italy, Japan, and Singapore: Investigations Nos. 731-TA-413-415 and 419 (Review)*.

Issued: August 24, 2000.

¹ The record is defined in § 207.2(f) of the Commission's rules of practice and procedure (19 CFR 207.2(f)).

² Commissioner Lynn M. Bragg dissenting with respect to Italy, Japan, and Singapore.

EXPLANATION OF COMMISSION DETERMINATION ON ADEQUACY
in

Fresh Garlic from the People's Republic of China, Inv. No. 731-TA-683 (Review)

On March 3, 2000, the Commission determined that it should proceed to a full review in the subject five-year review pursuant to section 751(c)(3)(B) of the Act, as amended, 19 U.S.C. § 1675(c)(3)(B).

The Commission determined that the domestic interested party group response was adequate. In this regard, the Commission received a response from an association all of whose members are producers of the domestic like product. That response contained company specific data from ten participating domestic producers who collectively account for the majority of domestic fresh garlic production.

The Commission also determined that the respondent interested party group response was adequate.¹ In this regard, the Commission received a joint response from five Chinese exporters of fresh garlic.²

In light of the adequate responses, the Commission determined to proceed to a full review of *Fresh Garlic from the People's Republic of China*.

A record of the Commissioners' votes is available from the Office of the Secretary and at the Commission's web site.

¹Commissioner Hillman found the respondent interested party response inadequate, but exercises her discretion to proceed to a full review. She notes that the five Chinese exporters have not exported to the United States since the original investigation at the present antidumping duty of 376.67 percent and that in their response to the notice of institution expressed their willingness to participate in a full review.

²As set forth in previous adequacy determinations, Chairman Bragg generally finds a respondent interested party group response to be inadequate when no foreign producer subject to the order has responded to the Commission's notice of institution. In the absence of foreign producer participation, a full review is unlikely to produce a significantly improved or different record from the original investigation. See Helical Spring Lock Washers from China and Taiwan, Inv. Nos. 731-TA-624-625 (Reviews), Explanation of Commission Determinations on Adequacy (February 2000). However, in the instant review Chairman Bragg finds that due to the fragmented nature of the Chinese garlic producing industry, the responding Chinese garlic exporters are in the best position of any respondent interested party to provide useful information in a full investigation. Accordingly, Chairman Bragg finds the respondent interested party group response to be adequate.

APPENDIX B
HEARING WITNESSES

CALENDAR OF PUBLIC HEARINGS

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject: Fresh Garlic from China
Inv. No.: 731-TA-683 (Review)
Date and Time: December 19, 2000 - 9:30 a.m.

Sessions were held in connection with this investigation in the Main Hearing Room, 500 E Street, SW, Washington, DC.

OPENING REMARKS

In Support of Continuation (**Michael J. Coursey**, Collier Shannon Scott, PLLC)
In Support of Revocation (**Bart S. Fisher**, Porter Wright Morris & Arthur LLP)

In Support of the Continuation of the Order:

Collier Shannon Scott, PLLC
Washington, D.C.
on behalf of

A&D Christopher Ranch
Colusa Produce Corporation
Crinklaw Farms
Dalena Farms
Denice & Filice Packing Company
Frank Pitts Farms
The Garlic Company
Spice World, Inc. (Jenard Fresh)
Thomson International, Inc.
Vessey and Company, Inc.

Donald C. Christopher, Owner, A&D Christopher Ranch

Michael Mentalli, Vice President, Garlic Operations, Superintendent of
Plant Operations, A&D Christopher Ranch

Jon Vessey, President, Vessey and Company, Inc.

John Layous, Partner, The Garlic Company

**In Support of the Continuation of
the Order--Continued:**

Gary R. Caneza, President, Jenard Fresh, Inc. and Spice World, Inc.

Mark Love, Senior Vice President, Economic Consulting Service Inc.

Michael J. Coursey)
) -- OF COUNSEL
John M. Herrmann)

**In Support of the Revocation of
the Order:**

Porter Wright Morris & Arthur LLP
Washington, D.C.
on behalf of

Anhui Cereals, Oils & Foodstuffs Import & Export Corporation
China Fruits, Vegetables & Aquatic Products Import & Export Company
Henan Cereals, Oils & Foodstuffs Import & Export Corporation
Jiangsu Cereals, Oils & Foodstuffs Import & Export Corporation
Shandong Foodstuffs Import & Export Corporation

Bart S. Fisher--OF COUNSEL

REBUTTAL/CLOSING REMARKS

In Support of Continuation (**Michael J. Coursey**, Collier Shannon Scott, PLLC)
In Support of Revocation (**Bart S. Fisher**, Porter Wright Morris & Arthur LLP)

APPENDIX C
SUMMARY DATA

Table C-1
Fresh garlic: Summary data concerning the U.S. market, crop years 1998-2000

(Quantity=1,000 pounds, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per pound;
period changes=percent, except where noted)

Item	Reported data			Period changes		
	1998	1999	2000	1998-2000	1998-1999	1999-2000
U.S. consumption quantity:						
Amount	160,822	190,524	186,417	15.9	18.5	-2.2
Producers' share (1)	68.0	43.8	68.9	0.8	-24.2	25.1
Importers' share (1):						
China	0.3	0.5	0.6	0.2	0.2	0.1
Other sources	31.6	55.7	30.6	-1.1	24.1	-25.1
Total imports	32.0	56.2	31.1	-0.8	24.2	-25.1
U.S. consumption value:						
Amount	124,809	149,902	118,647	-4.9	20.1	-20.9
Producers' share (1)	76.5	59.5	75.5	-0.9	-17.0	16.0
Importers' share (1):						
China	0.1	0.2	0.2	0.1	0.1	-0.0
Other sources	23.5	40.3	24.3	0.9	16.9	-16.0
Total imports	23.5	40.5	24.5	0.9	17.0	-16.0
U.S. imports from:						
China:						
Quantity	497	876	1,030	107.2	76.2	17.5
Value	92	261	182	98.9	184.8	-30.2
Unit value	\$0.18	\$0.30	\$0.18	-4.0	61.6	-40.6
Ending inventory quantity ...	0	0	0	(2)	(2)	(2)
Other sources:						
Quantity	50,888	106,137	56,972	12.0	108.6	-46.3
Value	29,285	60,445	28,848	-1.5	106.4	-52.3
Unit value	\$0.58	\$0.57	\$0.51	-12.0	-1.0	-11.1
Ending inventory quantity ...	515	1,766	1,136	120.6	242.9	-35.7
All sources:						
Quantity	51,385	107,013	58,002	12.9	108.3	-45.8
Value	29,377	60,706	29,031	-1.2	106.6	-52.2
Unit value	\$0.57	\$0.57	\$0.50	-12.5	-0.8	-11.8
Ending inventory quantity ...	515	1,766	1,136	120.6	242.9	-35.7
U.S. producers:						
Average capacity quantity ...	183,684	192,302	198,995	8.3	4.7	3.5
Production quantity	122,722	100,062	152,571	24.3	-18.5	52.5
Capacity utilization (1)	66.8	52.0	76.7	9.9	-14.8	24.6
U.S. shipments:						
Quantity	109,437	83,511	128,415	17.3	-23.7	53.8
Value	95,432	89,196	89,616	-6.1	-6.5	0.5
Unit value	\$0.87	\$1.07	\$0.70	-20.0	22.5	-34.7
Export shipments:						
Quantity	3,884	2,401	5,364	38.1	-38.2	123.4
Value	3,338	2,242	2,911	-12.8	-32.8	29.8
Unit value	\$0.86	\$0.93	\$0.54	-36.9	8.7	-41.9
Ending inventory quantity ...	***	***	***	***	***	***
Inventories/total shipments (1)	***	***	***	***	***	***
Production workers	931	875	988	6.1	-6.0	12.9
Hours worked (1,000s)	1,503	1,409	1,673	11.3	-6.3	18.7
Wages paid (\$1,000s)	10,262	10,192	12,195	18.8	-0.7	19.7
Hourly wages	\$6.83	\$7.23	\$7.29	6.8	5.9	0.8
Productivity (pounds per hour)	71.6	67.7	82.1	14.7	-5.4	21.3
Unit labor costs	\$0.10	\$0.11	\$0.09	-6.9	12.0	-16.9
Net sales:						
Quantity	113,137	84,890	133,071	17.6	-25.0	56.8
Value	102,011	94,905	94,902	-7.0	-7.0	-0.0
Unit value	\$0.90	\$1.12	\$0.71	-20.9	24.0	-36.2
Cost of goods sold (COGS) ..	68,573	72,616	75,595	10.2	5.9	4.1
Gross profit or (loss)	33,438	22,289	19,307	-42.3	-33.3	-13.4
SG&A expenses	17,706	15,082	16,029	-9.5	-14.8	6.3
Operating income or (loss) ...	15,732	7,207	3,278	-79.2	-54.2	-54.5
Capital expenditures	6,026	9,287	3,118	-48.3	54.1	-66.4
Unit COGS	\$0.61	\$0.86	\$0.57	-6.3	41.1	-33.6
Unit SG&A expenses	\$0.16	\$0.18	\$0.12	-23.0	13.5	-32.2
Unit operating income or (loss)	\$0.14	\$0.08	\$0.02	-82.3	-38.9	-71.0
COGS/sales (1)	67.2	76.5	79.7	12.4	9.3	3.1
Operating income or (loss)/ sales (1)	15.4	7.6	3.5	-12.0	-7.8	-4.1

(1) "Reported data" are in percent and "period changes" are in percentage points.

(2) Not applicable

Note.—Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.

APPENDIX D

RESPONSES OF U.S. PRODUCERS, IMPORTERS, PURCHASERS, AND FOREIGN PRODUCERS CONCERNING THE SIGNIFICANCE OF THE ANTIDUMPING DUTY ORDER AND THE LIKELY EFFECTS OF REVOCATION

**U.S. PRODUCERS' COMMENTS REGARDING THE EFFECTS OF THE ORDER AND THE
LIKELY EFFECTS OF REVOCATION**

The Commission requested producers to describe any anticipated changes in the character of their operations or organization relating to the production of fresh garlic in the future if the existing order were revoked (Question II-4).

Christopher Ranch

***.

Dalena

***.

Denice & Filice

***.

The Garlic Company

***.

Jenard Fresh

***.

Thomson

***.

Vessey

***.

The Commission requested producers to describe the significance of the existing order on their production capacity, acres planted, production (i.e., harvest), U.S. shipments, inventories, purchases, and employment (Question II-15).

Christopher Ranch

***.

Dalena

***.

Denice & Filice

The Garlic Company

Jenard Fresh

Thomson

Vessey

The Commission asked producers whether they anticipate changes in their production capacity, acres planted, production (i.e., harvest), U.S. shipments, inventories, purchases, or employment relating to the production of fresh garlic in the future if the existing order were revoked (Question II-16).

Christopher Ranch

Dalena

Denice & Filice

The Garlic Company

Jenard Fresh

Thomson

***.

Vessey

***.

The Commission asked U.S. producers to describe the significance of the order in terms of its effect on their firms' revenues, costs, profits, cash flow, capital expenditures, research and development expenditures, and asset values (Question III-8).

Christopher Ranch

***.

Dalena

***.

Denice & Filice

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The Garlic Company

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Jenard Fresh

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Thomson

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Vessey

***.

The Commission asked U.S. producers to describe any anticipated changes in their revenues, costs, cash flow, capital expenditures, research and development expenditures, or asset values relating to the production of fresh garlic in the future if the antidumping order on fresh garlic from China were to be revoked (Question III-9).

Christopher Ranch

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Dalena

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Denice & Filice

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The Garlic Company

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Jenard Fresh

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Thomson

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Vessey

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U.S. IMPORTERS' COMMENTS REGARDING THE EFFECTS OF THE ORDER AND THE LIKELY EFFECTS OF REVOCATION

The Commission requested importers to describe any anticipated changes in their operations or organization relating to the importation of fresh garlic in the future if the existing order were revoked (Question II-4).

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The Commission requested importers to describe the significance of the existing order covering imports of fresh garlic from China in terms of its effect on their firm's imports, U.S. shipments of imports, and inventories (Question II-8).

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The Commission requested importers to describe any anticipated changes in their imports, U.S. shipments of imports, or inventories of fresh garlic in the future if the existing order were revoked (Question II-9).

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FOREIGN PRODUCERS' COMMENTS REGARDING THE EFFECTS OF THE ORDER AND THE LIKELY EFFECTS OF REVOCATION

The Commission requested foreign producers to indicate whether they anticipated any changes in their operations or organization relating to the production of fresh garlic in the future if the existing order were revoked, and if yes, to describe those changes (Question II-3).

Anhui

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China Fruits

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Henan

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Jiangsu

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The Commission requested foreign producers to describe the significance of the existing order covering imports of fresh garlic from China in terms of its effect on their firm's production capacity, production, home market shipments, exports to the United States and other markets, and inventories (Question II-15).

Anhui

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China Fruits

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Henan

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Jiangsu

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The Commission requested foreign producers to describe any anticipated changes in their production capacity, production, home market shipments, exports to the United States and other markets, or inventories relating to the production of fresh garlic in the future if the existing order were revoked (Question II-16).

Anhui

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China Fruits

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Henan

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Jiangsu

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**U.S. PURCHASERS' COMMENTS REGARDING THE EFFECTS OF THE ORDER
AND THE LIKELY EFFECTS OF REVOCATION**

Effects on future activities of their firm and the U.S. market as a whole (Question III-7).

- (1) We will remain unchanged.
- (2) We do not have this information.

- (1) We will stop peeling garlic - it will mean laying off approximately 30 employees. We believe that many people will start importing that product and our sales will decline. We will lose all our investment in our peeling equipment valued at \$***.
- (2) Many farmers will need to find other crops to grow. The price of U.S. garlic can never compete with the Chinese imports.

- (1) Not familiar with the duty; can't say.
- (2) Don't know.

- (1) Currently our vendor does not supply out of China. They are not intending to change their position if the antidumping order is reversed. We prefer to purchase domestically.
- (2) Speculation: some consumers will not want Chinese garlic due to media information concerning China's agricultural practices. Yet there will be some who shop solely on price and this could definitely effect domestic producers.

- (1) If Chinese garlic comes in at a very cheap price and good quality, we would be forced to handle Chinese product rather than domestic.
- (2) Devastating effect - put companies out of business.

- (1) Don't know.
- (2) No response.

- (1) It will give us another competitive source to obtain raw material from both fresh and peeled. It will increase many-fold the number of competitors attempting to sell to my customers.
- (2) It will give our competitors and major customers the opportunity to obtain garlic from more sources, including from outside the traditional garlic inventory. If some of these do not have money invested in the crop, it has the potential to lower the market.

- (1) No response.
- (2) Will effect pricing.

- (1) Revocation would result in our customers having the ability to purchase garlic at the same prices as us from Chinese suppliers eliminating any current purchase advantage we have. Our sales of fresh garlic and thereby our purchase of U.S. fresh garlic would decrease significantly.
- (2) Chinese garlic prices would be ridiculously below the current U.S. market which would virtually eliminate suppliers maintaining profits. Chinese importers have ruined garlic markets in other countries.

- (1) None.
- (2) Damage domestic growers.