

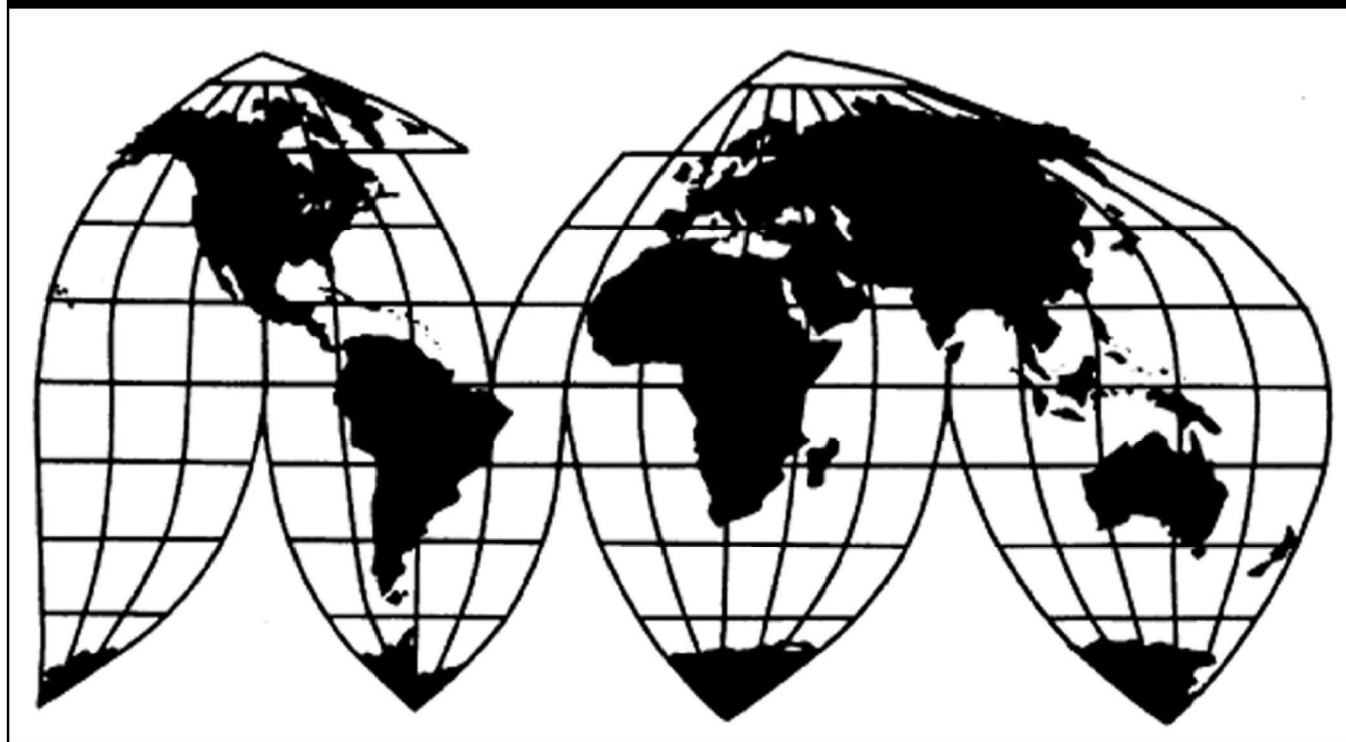
# **Fresh Garlic from China**

Investigation No. 731-TA-683 (Fifth Review)

**Publication 5425**

**May 2023**

**U.S. International Trade Commission**



Washington, DC 20436

# U.S. International Trade Commission

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# **UNITED STATES INTERNATIONAL TRADE COMMISSION**

Investigation No. 731-TA-683 (Fifth Review)

Fresh Garlic from China

## **DETERMINATION**

On the basis of the record<sup>1</sup> developed in the subject five-year review, the United States International Trade Commission (“Commission”) determines, pursuant to the Tariff Act of 1930 (“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 October 3, 2022 (87 FR 59824) and determined on January 6, 2023 that it would conduct an expedited review (88 FR 20186, April 5, 2023).

The Commission made this determination pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determination in this review on May 12, 2023.

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<sup>1</sup> The record is defined in § 207.2(f) of the Commission’s Rules of Practice and Procedure (19 CFR 207.2(f)).





## Views of the Commission

Based on the record in this five-year review, we determine under section 751(c) of the Tariff Act of 1930, as amended (“the Tariff 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.

### I. Background

*Original investigation:* In response to a petition filed by the Fresh Garlic Producers Association (“FGPA”) on January 31, 1994, the Commission determined on November 7, 1994, that an industry in the United States producing fresh garlic was materially injured by reason of imports of fresh garlic from China that were sold in the United States at less than fair value (“LTFV”).<sup>1</sup> On November 16, 1994, the U.S. Department of Commerce (“Commerce”) issued an antidumping duty order on imports of fresh garlic from China.<sup>2</sup>

*Prior reviews:* In December 1999, February 2006, September 2011, and April 2017, the Commission instituted its first, second, third, and fourth five-year reviews, respectively, of the antidumping duty order on fresh garlic from China.<sup>3</sup> The Commission determined in each of those reviews 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.<sup>4</sup> Following the most recent five-year review, Commerce published its most recent notice of continuation of the order on November 6, 2017.<sup>5</sup>

*Current review:* On October 3, 2022, the Commission instituted this fifth five-year review.<sup>6</sup> The FGPA and its three individual U.S. producers of fresh garlic jointly responded to

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<sup>1</sup> *Fresh Garlic from the People’s Republic of China*, Inv. No. 731-TA-683 (Final), USITC Pub. 2825 (Nov. 1994) (“Original Determination”) at I-27. The Commission also determined that the domestic dehydrated garlic and domestic seed garlic industries were neither materially injured nor threatened with material injury by reason of LTFV imports. *Id.* at I-28 to I-29.

<sup>2</sup> 59 Fed. Reg. 59209 (Nov. 16, 1994).

<sup>3</sup> 64 Fed. Reg. 67315 (Dec. 1, 1999) (first review); 71 Fed. Reg. 5374 (Feb. 1, 2006) (second review); 76 Fed. Reg. 54487 (Sept. 1, 2011) (third review); and 82 Fed. Reg. 49230 (Oct. 24, 2017) (fourth review).

<sup>4</sup> *Fresh Garlic from the People’s Republic of China*, Inv. No. 731-TA-683 (Review), USITC Pub. 3393 at 13 (Feb. 2001) (“First Five-Year Review”); *Fresh Garlic from China*, Inv. No. 731-TA-683 (Second Review), USITC Pub. 3886 at 15 (Sep. 2006) (“Second Five-Year Review”); *Fresh Garlic from China*, Inv. No. 731-TA-683 (Third Review), USITC Pub. 4316 at 16 (Apr. 2012) (“Third Five-Year Review”); *Fresh Garlic from China*, Inv. No. 731-TA-683 (Fourth Review), USITC Pub. 4735 at 22 (Oct. 2017) (“Fourth Five-Year Review”).

<sup>5</sup> 82 Fed. Reg. 51394 (Nov. 6, 2017).

<sup>6</sup> 87 Fed. Reg. 59824 (Oct. 3, 2022).

the notice of institution.<sup>7</sup> No respondent interested party responded to the notice of institution or participated in this review. On January 6, 2023, the Commission determined that the domestic interested party group response to its notice of institution was adequate and that the respondent interested party group response was inadequate.<sup>8</sup> The Commission did not find any circumstances that would warrant conducting a full review and thus determined that it would conduct an expedited review.<sup>9</sup> On April 20, 2023, the domestic interested parties filed comments with the Commission pursuant to 19 C.F.R. § 207.62(d).<sup>10</sup>

U.S. industry data are based on information submitted by the three domestic producers in their response to the notice of institution. These producers estimate that they accounted for \*\*\* percent of domestic production of fresh garlic in 2022.<sup>11</sup> U.S. import data and related information are based on Commerce's official import statistics.<sup>12</sup> Foreign industry data and related information are based on information from the original investigation and prior reviews, as well as available information submitted by domestic interested parties in this expedited review and publicly available information, such as Global Trade Atlas ("GTA") data, gathered by the Commission.

## **II. Domestic Like Product and Industry**

### **A. Domestic Like Product**

In making its determination under section 751(c) of the Tariff Act, the Commission defines the "domestic like product" and the "industry."<sup>13</sup> The Tariff Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and

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<sup>7</sup> Response of the FGPA and Christopher Ranch L.L.C. ("Christopher Ranch"), The Garlic Company, and Valley Garlic, Inc. ("Valley Garlic") (jointly "Domestic Interested Parties"), EDIS Doc. 783631 (Nov. 2, 2022) ("Domestic Interested Parties' Response") at 1. Vessey and Company, Inc. ("Vessey"), which was a member of FGPA during the fourth review, ceased fresh garlic production in the latter part of 2016. *Id.*

<sup>8</sup> Explanation of Commission Determination on Adequacy, EDIS Doc. 787891 (Jan. 12, 2023).

<sup>9</sup> Explanation of Commission Determination on Adequacy. Chairman Johanson voted to conduct a full review. *Id.*

<sup>10</sup> Domestic Industry's Comments Regarding the Commission's Determination in This Review, EDIS Doc. 794743 (Apr. 20, 2023) ("Domestic Interested Parties' Comments").

<sup>11</sup> Domestic Interested Parties' Response at 25.

<sup>12</sup> *Fresh Garlic from China*, Inv. No. 731-TA-683 (Fifth Review), Confidential Report, INV-UU-126 (Dec. 22, 2022) ("CR")/ *Fresh Garlic from China*, Inv. No. 731-TA-683 (Fifth Review), USITC Pub. 5425 (May 2023) ("PR") at Table I-5.

<sup>13</sup> 19 U.S.C. § 1677(4)(A).

uses with, the article subject to an investigation under this subtitle.”<sup>14</sup> The Commission’s practice in five-year reviews is to examine the domestic like product definition from the original investigation and consider whether the record indicates any reason to revisit the prior findings.<sup>15</sup>

Commerce has defined the imported merchandise within the scope of the order under review as follows:

{A}ll 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 the 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, 0703.20.0005, 0703.20.0015, 0703.20.0010, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, 0711.90.6500, 2005.90.9500, 2005.90.9700 and 2005.99.9700 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive. In order to be excluded from the antidumping duty order, garlic entered under the HTSUS subheadings listed above that is (1) mechanically harvested and primarily, but not exclusively, destined for non-fresh use or (2) specially prepared and cultivated prior to planting and then harvested and

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<sup>14</sup> 19 U.S.C. § 1677(10); see, e.g., *Cleo Inc. v. United States*, 501 F.3d 1291, 1299 (Fed. Cir. 2007); *NEC Corp. v. Dep’t. of Commerce*, 36 F. Supp. 2d 380, 383 (Ct. Int’l Trade 1998); *Nippon Steel Corp. v. United States*, 19 CIT 450, 455 (1995); *Timken Co. v. United States*, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996); *Torrington Co. v. United States*, 747 F. Supp. 744, 748-49 (Ct. Int’l Trade 1990), *aff’d*, 938 F.2d 1278 (Fed. Cir. 1991); see also S. Rep. No. 249, 96<sup>th</sup> Cong., 1<sup>st</sup> Sess. 90-91 (1979).

<sup>15</sup> See, e.g., *Internal Combustion Industrial Forklift Trucks from Japan*, Inv. No. 731-TA-377 (Second Review), USITC Pub. 3831 at 8-9 (Dec. 2005); *Crawfish Tail Meat from China*, Inv. No. 731-TA-752 (Review), USITC Pub. 3614 at 4 (July 2003); *Steel Concrete Reinforcing Bar from Turkey*, Inv. No. 731-TA-745 (Review), USITC Pub. 3577 at 4 (Feb. 2003).

otherwise prepared for use as seed must be accompanied by declarations to U.S. Customs and Border Protection to that effect.<sup>16</sup>

The scope is unchanged from the original order except for the necessary replacement of the relevant HTS statistical reporting numbers.

Fresh garlic is used in the preparation of other foods, especially to impart flavor to meats, vegetables, stews, soups, and sauces.<sup>17</sup> Fresh garlic may be used fresh or cooked and whole (such as in baked garlic) or in cloves.<sup>18</sup> In such instances, it is valued for its appearance and flavor.<sup>19</sup> It may also be used in chopped or pureed form.<sup>20</sup> In normal industry practice, fresh garlic is sorted and packed according to size, ranging from 1.5 inches in diameter, in 0.25-inch increments, to 2.75 inches or more.<sup>21</sup> U.S. standards designate fresh garlic as either U.S. Department of Agriculture (“USDA”) Grade No. 1 or unclassified.<sup>22</sup>

In the original investigation, the Commission found three separate domestic like products consisting of fresh garlic, dehydrated garlic, and seed garlic, corresponding with the broader scope of the original investigation.<sup>23</sup> The Commission found that there were pronounced differences in the uses for the three types of garlic, actual practice indicated that the products were not interchangeable, the three types of garlic did not share channels of distribution, customer and producer perceptions were different for the three different types of garlic, there was virtually no overlap between producers of fresh and dehydrated garlic and therefore no overlap in production facilities or employees, and fresh garlic prices were considerably higher than prices for either dehydrated or seed garlic.<sup>24</sup> It determined that the domestic fresh garlic industry in the United States was materially injured by reason of subject imports of fresh garlic from China and that the domestic dehydrated garlic and domestic seed

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<sup>16</sup> *Fresh Garlic from the People’s Republic of China: Final Results of Fifth Expedited Sunset Review of the Antidumping Duty Order*, 88 Fed. Reg. 7940 (Feb. 7, 2023). See also Issues and Decision Memorandum: Final Results of Expedited Fifth Sunset Review of the Antidumping Duty Order on Fresh Garlic from the People’s Republic of China (Jan. 7, 2023) (“Issues & Decisions Memo”).

<sup>17</sup> CR/PR at I-8.

<sup>18</sup> CR/PR at I-8.

<sup>19</sup> CR/PR at I-8.

<sup>20</sup> CR/PR at I-8.

<sup>21</sup> CR/PR at I-8.

<sup>22</sup> CR/PR at I-8.

<sup>23</sup> Original Determination, USITC Pub. 2825 at I-12. Commerce narrowed its scope later to cover only fresh garlic to conform to the Commission’s affirmative determination with respect only to fresh garlic. 59 Fed. Reg. 59209 (Nov. 16, 1994).

<sup>24</sup> Original Determination, USITC Pub. 2825 at I-10, I-13 to I-14, and I-17 to I-18.

garlic industries were neither materially injured nor threatened with material injury by reason of the relevant subject imports.<sup>25</sup>

In light of the Commission's determination in the original investigation, the antidumping duty order covered only fresh garlic.<sup>26</sup> In the first five-year review, the Commission defined the domestic like product to be fresh garlic.<sup>27</sup> The Commission conducted a full review and found no new information on the record that suggested a reason for departing from the original definition of fresh garlic as a distinct domestic like product, noting again there was extremely limited, if any, overlap among fresh garlic, dehydrated garlic, and seed garlic.

In the expedited second, third, and fourth five-year reviews of the order, the Commission defined the domestic like product in the same manner that it did in the first review, as fresh garlic.<sup>28</sup> In each review, the Commission found that no party had argued for a different domestic like product definition and that there was no new information obtained during the respective five-year reviews that suggested a reason for departing from the Commission's prior definition of the domestic like product.<sup>29</sup>

In this fifth five-year review of the order, the record does not contain any new information suggesting that the pertinent product characteristics and uses of fresh garlic have changed since the prior proceedings so as to warrant revisiting the Commission's domestic like product definition,<sup>30</sup> and the domestic interested parties agree with the definition from the prior proceedings.<sup>31</sup> Consequently, we again define the domestic like product as all fresh garlic, coextensive with Commerce's scope.

## **B. Domestic Industry**

Section 771(4)(A) of the Tariff Act defines the relevant industry as the domestic "producers as a whole 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."<sup>32</sup> In defining the domestic industry, the Commission's general practice has been

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<sup>25</sup> Original Determination, USITC Pub. 2825 at I-23 to I-24, I-28 to I-29.

<sup>26</sup> 59 Fed. Reg. 59209 (Nov. 16, 1994).

<sup>27</sup> First Five-Year Review, USITC Pub. 3393 at 6.

<sup>28</sup> Second Five-Year Review, USITC Pub. 3886 at 5; Third Five-Year Review, USITC Pub. 4316 at 5; Fourth Five-Year Review, USITC Pub. 4735 at 7.

<sup>29</sup> Second Five-Year Review, USITC Pub. 3886 at 5; Third Five-Year Review, USITC Pub. 4316 at 5; Fourth Five-Year Review, USITC Pub. 4735 at 7.

<sup>30</sup> See *generally* CR/PR at I-8 to I-13.

<sup>31</sup> Domestic Interested Parties' Response at 27; Domestic Interested Parties' Comments at 4.

<sup>32</sup> 19 U.S.C. § 1677(4)(A). The definitions in 19 U.S.C. § 1677 are applicable to the entire subtitle containing the antidumping and countervailing duty laws, including 19 U.S.C. §§ 1675 and 1675a. See 19 U.S.C. § 1677.

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.

In the original investigation, consistent with its domestic like product definition, the Commission defined three separate domestic industries, consisting of all domestic producers of each respective like product.<sup>33</sup> In all prior five-year reviews, the Commission defined the domestic industry as all producers of fresh garlic, consistent with its domestic like product definition.<sup>34</sup>

In this review, the domestic interested parties state that they agree with this definition,<sup>35</sup> and the record raises no related party or other domestic industry issues.<sup>36</sup> Accordingly, consistent with our definition of the domestic like product, we again define the domestic industry as all U.S. producers of fresh garlic.

### **III. Revocation of the Antidumping Duty Order Would Likely Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time**

#### **A. Legal Standards**

In a five-year review conducted under section 751(c) of the Tariff Act, Commerce will revoke an antidumping or countervailing 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 the antidumping or countervailing duty order “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”<sup>37</sup> The Statement of Administrative Action to the Uruguay Round Agreements Act (“SAA”) states that “under the likelihood standard, the Commission will engage in a counterfactual 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

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<sup>33</sup> Original Determination, USITC Pub. 2825 at I-15.

<sup>34</sup> First Five-Year Review, USITC Pub. 3393 at 6; Second Five-Year Review, USITC Pub. 3886 at 6; Third Five-Year Review, USITC Pub. 4316 at 5; Fourth Five-Year Review, USITC Pub. 4735 at 8.

<sup>35</sup> Domestic Interested Parties’ Response at 27; Domestic Interested Parties’ Comments at 4.

<sup>36</sup> In their response to the notice of institution, the domestic interested parties state that none of the three domestic producers are also importers of subject merchandise or related to any subject importer or exporter of fresh garlic. They also state that it is unknown whether Harris Fresh, Inc. (“Harris”), the only other known domestic producer of fresh garlic, imported subject merchandise or is related to any importer or exporter of fresh garlic from China. Domestic Interested Parties’ Response at 24. There is no information on the record of this review suggesting that Harris may qualify for possible exclusion from the domestic industry pursuant to the related parties provision.

<sup>37</sup> 19 U.S.C. § 1675a(a).

restraining effects on volumes and prices of imports.”<sup>38</sup> Thus, the likelihood standard is prospective in nature.<sup>39</sup> The U.S. Court of International Trade (“CIT”) has found that “likely,” as used in the five-year review provisions of the Act, means “probable,” and the Commission applies that standard in five-year reviews.<sup>40</sup>

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.”<sup>41</sup> According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ timeframe applicable in a threat of injury analysis in original investigations.”<sup>42</sup>

Although the standard in a five-year review is not the same as the standard applied in an original investigation, 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 imports of the subject merchandise on the industry if the orders are revoked or the suspended investigation is terminated.”<sup>43</sup> 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

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<sup>38</sup> 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). Likewise, the standard applies to suspended investigations that were never completed.” *Id.* at 883.

<sup>39</sup> 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.

<sup>40</sup> See *NMB Singapore Ltd. v. United States*, 288 F. Supp. 2d 1306, 1352 (Ct. Int’l Trade 2003) (“‘likely’ means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)”), *aff’d mem.*, 140 Fed. Appx. 268 (Fed. Cir. 2005); *Nippon Steel Corp. v. United States*, 26 CIT 1416, 1419 (2002) (same); *Usinor Industeel, S.A. v. United States*, 26 CIT 1402, 1404 nn.3, 6 (2002) (“more likely than not” standard is “consistent with the court’s opinion;” “the court has not interpreted ‘likely’ to imply any particular degree of ‘certainty’”; *Indorama Chemicals (Thailand) Ltd. v. United States*, 26 CIT 1059, 1070 (2002) (“standard is based on a likelihood of continuation or recurrence of injury, not a certainty”); *Usinor v. United States*, 26 CIT 767, 794 (2002) (“‘likely’ is tantamount to ‘probable,’ not merely ‘possible’”).

<sup>41</sup> 19 U.S.C. § 1675a(a)(5).

<sup>42</sup> 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.*

<sup>43</sup> 19 U.S.C. § 1675a(a)(1).

the suspension agreement under review, whether the industry is vulnerable to material injury if an order is revoked or a suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).<sup>44</sup> 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.<sup>45</sup>

In evaluating the likely volume of imports of subject merchandise if an order under review is revoked and/or a suspended investigation is terminated, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.<sup>46</sup> 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.<sup>47</sup>

In evaluating the likely price effects of subject imports if an order under review is revoked and/or a suspended investigation is terminated, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to the domestic like product and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.<sup>48</sup>

In evaluating the likely impact of imports of subject merchandise if an order under review is revoked and/or a suspended investigation is terminated, 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 the following: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of

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<sup>44</sup> 19 U.S.C. § 1675a(a)(1). Commerce has not made any duty absorptions findings concerning imports of fresh garlic from China. Issues and Decision Memo at 5.

<sup>45</sup> 19 U.S.C. § 1675a(a)(5). Although the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

<sup>46</sup> 19 U.S.C. § 1675a(a)(2).

<sup>47</sup> 19 U.S.C. § 1675a(a)(2)(A-D).

<sup>48</sup> See 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.



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.<sup>49</sup> 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. 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 orders under review and whether the industry is vulnerable to material injury upon revocation.<sup>50</sup>

No respondent interested party participated in this expedited review. The record, therefore, contains limited new information with respect to the fresh garlic industry in China. There also is limited information on the fresh garlic market in the United States during the period of review. Accordingly, for our determination, we rely as appropriate on the facts available from the original investigation and four prior reviews, and the limited new information on the record in this fifth five-year review.

## **B. Conditions of Competition and the Business Cycle**

In evaluating the likely impact of the subject imports on the domestic industry if an order is revoked, 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.”<sup>51</sup> The following conditions of competition inform our determinations.

### **1. Demand Conditions**

*Prior Proceedings.* In the original determination and each of the four prior five-year reviews, the Commission found that apparent U.S. consumption of fresh garlic increased steadily.<sup>52</sup>

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<sup>49</sup> 19 U.S.C. § 1675a(a)(4).

<sup>50</sup> 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.

<sup>51</sup> 19 U.S.C. § 1675a(a)(4).

<sup>52</sup> During the original investigation, apparent U.S. consumption increased from 86 million pounds in 1991 to 180 million pounds in 1994. Original Determination, USITC Pub. 2825 at Table C-3. During the full first five-year review, apparent U.S. consumption increased from 161 million pounds in 1998 to 186 million pounds in 2000, with the increase primarily attributed to the food service sector. First Five-Year Review, USITC Pub. 3393 at 10 and Table C-1. In subsequent expedited reviews, apparent U.S. consumption was \*\*\* pounds in 2005, \*\*\* pounds in 2011, and \*\*\* pounds in 2016. Confidential

*Current Review.* The record indicates that demand for fresh garlic increased during the period of review, due at least in part to \*\*\*.<sup>53</sup> Apparent U.S. consumption was \*\*\* pounds in 2021, which was higher than in the original investigation or any prior review and \*\*\* percent greater than in 2016.<sup>54</sup>

## **2. Supply Conditions**

*Prior Proceedings.* The Commission made several observations regarding supply conditions in the original investigation and prior reviews, finding that garlic is a seasonal crop – once a garlic crop has been planted, it takes nine months for the crop to be ready for harvesting;<sup>55</sup> the domestic industry planted its crop in the fall and harvested it in June and July of the following year, and therefore supplied the market during the late summer and early autumn months;<sup>56</sup> and subject producers in China planted slightly earlier than domestically produced garlic and sold in the U.S. market during the last six months of the year, and thus directly competed with the domestic like product.<sup>57</sup> However, because the growing season for nonsubject imports of fresh garlic from Argentina, Chile, and Mexico differed from that for domestically produced garlic, nonsubject imports of fresh garlic were predominantly present in the U.S. market during the winter or spring months of the year.<sup>58</sup> The Commission also observed that the seasonal nature of the garlic crop had been moderated somewhat due to increased use of cold-storage and controlled atmosphere storage facilities,<sup>59</sup> with one third of

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Second Five-Year Review Determination, EDIS Doc. 613771 at 13; Confidential Third Five-Year Review Determination, EDIS Doc. 478807 at 8. Confidential Fourth Five-Year Review Determination, EDIS Doc. 785756 at 15.

<sup>53</sup> CR/PR at Table I-3, D-3.

<sup>54</sup> CR/PR at Table I-6; Confidential Fourth Five-Year Review Determination at 15; Fourth Five-Year Review, USITC Pub. 4735 at 11.

<sup>55</sup> Original Determination, USITC Pub. 2825 at I-19 to I-20; First Five-Year Review, USITC Pub. 3393 at 9; Second Five-Year Review, USITC Pub. 3886 at 9; Third Five-Year Review, USITC Pub. 4316 at 8; Fourth Five-Year Review USITC Pub. 4735 at 11; CR/PR at I-12.

<sup>56</sup> Original Determination, USITC Pub. 2825 at I-19; First Five-Year Review, USITC Pub. 3393 at 9; Second Five-Year Review, USITC Pub. 3886 at 9; Third Five-Year Review, USITC Pub. 4316 at 8; Fourth Five-Year Review USITC Pub. 4735 at 11-12.

<sup>57</sup> Original Determination, USITC Pub. 2825 at I-20; First Five-Year Review, USITC Pub. 3393 at 10; Second Five-Year Review, USITC Pub. 3886 at 9; Third Five-Year Review, USITC Pub. 4316 at 8; Fourth Five-Year Review USITC Pub. 4735 at 12.

<sup>58</sup> Original Determination, USITC Pub. 2825 at I-19; First Five-Year Review, USITC Pub. 3393 at 9; Second Five-Year Review, USITC Pub. 3886 at 9; Third Five-Year Review, USITC Pub. 4316 at 8; Fourth Five-Year Review USITC Pub. 4735 at 12.

<sup>59</sup> Original Determination, USITC Pub. 2825 at I-20; First Five-Year Review, USITC Pub. 3393 at 10; Second Five-Year Review, USITC Pub. 3886 at 9; Third Five-Year Review, USITC Pub. 4316 at 8; Fourth Five-Year Review USITC Pub. 4735 at 12.

the U.S. fresh garlic crop stored using one of these two methods,<sup>60</sup> and cold-storage facilities becoming more commonplace in China.<sup>61</sup>

During the original investigation, the volume of domestic producers' domestic shipments of fresh garlic increased each year, from 42.3 million pounds in 1991 to 82.1 million pounds in 1994, but their share of apparent U.S. consumption declined from 49.4 percent to 45.5 percent.<sup>62</sup> During the first five-year review, the volume of domestic producers' domestic shipments increased from 109 million pounds in 1998 to 128 million pounds in 2000, and their share of apparent U.S. consumption increased from 68.0 percent in 1998 to 68.9 percent in 2000.<sup>63</sup> In the subsequent expedited reviews, domestic producers' U.S. shipments were \*\*\* pounds and accounted for \*\*\* percent of apparent U.S. consumption in 2005;<sup>64</sup> they were \*\*\* pounds and accounted for \*\*\* percent of apparent U.S. consumption in 2011;<sup>65</sup> and they were \*\*\* pounds and was accounted for \*\*\* percent of apparent U.S. consumption in 2016.<sup>66</sup>

During the original investigation, subject imports' market share increased from 7.1 percent of apparent consumption in 1991 to 35.2 percent in 1994.<sup>67</sup> In the first five-year review, subject imports were virtually nonexistent in the U.S. market.<sup>68</sup> In the second five-year review, the level of subject imports in the U.S. market had increased dramatically and, in 2005, subject imports accounted for \*\*\* percent of the U.S. market.<sup>69</sup> In the third five-year review,

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<sup>60</sup> First Five-Year Review, USITC Pub. 3393 at 10; Second Five-Year Review, USITC Pub. 3886 at 9; Third Five-Year Review, USITC Pub. 4316 at 8; Fourth Five-Year Review USITC Pub. 4735 at 12.

<sup>61</sup> First Five-Year Review, USITC Pub. 3393 at 10; Second Five-Year Review, USITC Pub. 3886 at 9; Third Five-Year Review, USITC Pub. 4316 at 8; Fourth Five-Year Review USITC Pub. 4735 at 12.

<sup>62</sup> Original Determination, USITC Pub. 2825 at I-21 and Table C-3.

<sup>63</sup> First Five-Year Review, USITC Pub. 3393 at Table C-1.

<sup>64</sup> Confidential Second Five-Year Review Determination at 13; and Second Five-Year Review Confidential Report, Memorandum INV-DD-099 (June 29, 2006) as revised by Memorandum INV-DD-137 (Sept. 11, 2006), EDIS Doc. 613737, at Table I-8 ("Second Five-Year Review CR"); Second Five-Year Review, USITC Pub. 3886 at 10 and Table I-8.

<sup>65</sup> Confidential Third Five-Year Review Determination at 20; Third Five-Year Review, USITC Pub. 4316 at 15.

<sup>66</sup> Confidential Fourth Five-Year Review Determination at 19; Fourth Five-Year Review, USITC Pub. 4735 at 14.

<sup>67</sup> Original Determination, USITC Pub. 2825 at I-25.

<sup>68</sup> First Five-Year Review, USITC Pub. 3393 at 11 and Table I-5.

<sup>69</sup> Confidential Second Five-Year Review Determination at 13; Second Five-Year Review, USITC Pub. 3886 at 10.

subject imports accounted for \*\*\* percent of the U.S. market in 2011.<sup>70</sup> In the fourth five-year review, subject imports accounted for \*\*\* percent of the U.S. market.<sup>71</sup>

During the original investigation, nonsubject imports' share of the U.S. market declined steadily from 43.5 percent of apparent consumption in 1991 to 19.3 percent in 1994.<sup>72</sup> During the first five-year review, nonsubject imports' share of the U.S. market decreased from 1998 to 2000, but was higher in each year than in 1994.<sup>73</sup> In the second five-year review, the Commission found that the share of the U.S. market held by nonsubject imports had declined significantly.<sup>74</sup> In the third five-year review, nonsubject imports' share of the U.S. market was \*\*\* percent in 2011, a figure below those in the original investigation and the prior five-year reviews.<sup>75</sup> In the fourth five-year review, nonsubject imports' share of the U.S. market was \*\*\* percent in 2016, which was lower than in most years during the original investigation, but higher than that of 2011.<sup>76</sup>

*Current Review.* In this review, the domestic interested parties maintain that many supply conditions from the prior proceedings continue to be applicable.<sup>77</sup> In particular, the information available reflects that domestically produced garlic continues to be a seasonal crop planted in the fall, harvested from June through August of the following year, and marketed during the late summer and early autumn months; garlic from China is harvested slightly earlier and sold in the U.S. market during the last six months of the year, competing directly with the domestic like product.<sup>78</sup> As in the prior proceedings, unlike subject imports, nonsubject imports of fresh garlic continue to be predominantly present in the U.S. market during the winter or spring months of the year, due to the different growing seasons in the major country sources of nonsubject imports.<sup>79</sup> The record also shows that cold-storage and controlled atmosphere storage facilities continue to be used domestically and in China.<sup>80</sup>

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<sup>70</sup> Confidential Third Five-Year Review Determination at 10; Third Five-Year Review, USITC Pub. 4316 at 9.

<sup>71</sup> Confidential Fourth Five-Year Review Determination at 19; Fourth Five-Year Review, USITC Pub. 4735 at 14.

<sup>72</sup> Original Determination, USITC Pub. 2825 at I-25 and II-12.

<sup>73</sup> First Five-Year Review, USITC Pub. 3393 at 11 and Table I-5.

<sup>74</sup> Second Five-Year Review, USITC Pub. 3886 at 11.

<sup>75</sup> Confidential Third Five-Year Review Determination at 10; Third Five-Year Review, USITC Pub. 4316 at 9.

<sup>76</sup> Confidential Fourth Five-Year Review Determination at 19; Fourth Five-Year Review, USITC Pub. 4735 at 14.

<sup>77</sup> CR/PR at I-9 to I-10.

<sup>78</sup> CR/PR at I-9 to I-10.

<sup>79</sup> CR/PR at I-9 to I-10.

<sup>80</sup> CR/PR at I-12 to I-13.

The domestic industry was the largest source of supply in 2022,<sup>81</sup> with \*\*\* pounds of U.S. shipments, which was higher than in any of the prior proceedings, and its share of apparent U.S. consumption was \*\*\* percent, which was lower than in the original investigation and first review but higher than in the second, third, and fourth reviews.<sup>82</sup> There were no changes to the domestic industry during the period of review.<sup>83</sup>

Nonsubject imports were the second largest source of supply in the U.S. market, accounting for \*\*\* percent of apparent U.S. consumption in 2022.<sup>84</sup> Subject imports were the smallest source of supply in the U.S. market in 2022, accounting for \*\*\* percent of apparent U.S. consumption that year.<sup>85</sup>

### **3. Substitutability and Other Conditions**

*Prior Proceedings.* In the original investigation and prior reviews, the Commission found that the domestic like product and subject imports were highly substitutable and that fresh garlic was sold on the basis of price.<sup>86</sup> Furthermore, since the original investigation, numerous import restraints, including antidumping and phytosanitary measures, had been instituted around the world against exports of fresh garlic from China.<sup>87</sup>

*Current Review.* In this review, there is no information on the record to suggest any change since the prior reviews in the substitutability between domestically produced fresh garlic and subject imports or in the importance of price to purchasing decisions.<sup>88</sup> The domestic interested parties assert that fresh garlic remains highly price sensitive based on the continued, substitutable nature of fresh garlic.<sup>89</sup> Accordingly, we again find that the domestic like product

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<sup>81</sup> We note that Table I-6 in the staff report provides data for 2022, but inadvertently stated such data were for 2021. Consistent with the Domestic Industry's response, the data are for 2022.

<sup>82</sup> CR/PR at Tables I-4 and I-6.

<sup>83</sup> CR/PR at Table I-3; Domestic Interested Parties' Response at 26. As noted above, Vessey and Company, Inc. ceased fresh garlic production in the latter part of 2016.

<sup>84</sup> CR/PR at Table I-6. The primary sources of nonsubject imports were Spain, Mexico, and Argentina. *Id.* at Table I-5.

<sup>85</sup> CR/PR at Table I-6. \*\*\*, a responding purchaser, reported that \*\*\* but also noted that while \*\*\*. *Id.* at Table I-7, D-3.

<sup>86</sup> Original Determination, USITC Pub. 2825 at I-26 and I-27; First Five-Year Review, USITC Pub. 3393 at 10 and 12; Second Five-Year Review, USITC Pub. 3886 at 9; Third Five-Year Review, USITC Pub. 4316 at 13; Fourth Five-Year Review, USITC Pub. 4735 at 14.

<sup>87</sup> First Five-Year Review, USITC Pub. 3393 at 11 and n.73; Second Five-Year Review, USITC Pub. 3886 at 12; Third Five-Year Review, USITC Pub. 4316 at 10; Fourth Five-Year Review, USITC Pub. 4735 at 14.

<sup>88</sup> Domestic Interested Parties' Response at 18-19; Domestic Interested Parties' Comments at 14; CR/PR at I-9.

<sup>89</sup> Domestic Interested Parties' Response at 19.

and subject imports are highly substitutable and that price is an important factor in purchasing decisions. Furthermore, the record shows that there continue to be third-country restrictions on fresh garlic from China.<sup>90</sup>

Imports of fresh garlic from China are currently subject to an additional 25 percent ad valorem duty under Section 301 of the Trade Act of 1974.<sup>91</sup>

### **C. Likely Volume of Subject Imports**

#### **1. The Prior Proceedings**

In its original determination, the Commission found that the volume and market share of subject imports increased significantly throughout the period examined: by 949.2 percent over the period, from 6.1 million pounds in 1991 to 63.5 million pounds in 1994.<sup>92</sup> Further, subject imports' market share increased by 27.2 percentage points from 1993 to 1994, while the domestic industry's market share decreased by 18.0 percentage points.<sup>93</sup> The Commission concluded that the increase in the volume and market share of subject imports came primarily at the expense of the domestic industry.<sup>94</sup>

In the first five-year review, the Commission found that the antidumping duty order's restraining effect on subject import volumes had led to virtually no imports of fresh garlic from China in the U.S. market after the order was imposed.<sup>95</sup> Several factors supported the conclusion that subject import volume would likely be significant if the order were revoked.<sup>96</sup> Specifically, the Commission found that subject producers were export oriented, that there were substantial barriers to imports from China in other world markets that made the growing U.S. market attractive to subject producers, and that during the original investigation subject producers demonstrated the ability to increase rapidly their exports to the U.S. market.<sup>97</sup>

In the second five-year review, the Commission again found that the likely volume of subject imports would be significant if the order were revoked.<sup>98</sup> The Commission emphasized

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<sup>90</sup> CR/PR at I-23 to I-25. Trade measures on imports of fresh garlic from China, including antidumping duty orders, tariffs and import quotas, and phytosanitary measures, are maintained by Brazil, Canada, the Dominican Republic, the European Union, Iceland, Korea, Mexico, Morocco, Peru, the Philippines, South Africa, Taiwan, Thailand, and the United Kingdom. *Id.*

<sup>91</sup> CR/PR at I-7.

<sup>92</sup> Original Determination, USITC Pub. 2825 at I-25.

<sup>93</sup> Original Determination, USITC Pub. 2825 at I-25 and Table 23. The share of the U.S. market held by imports from countries other than China also decreased during this period. *Id.*

<sup>94</sup> Original Determination, USITC Pub. 2825 at I-25.

<sup>95</sup> First Five-Year Review, USITC Pub. 3393 at 11.

<sup>96</sup> First Five-Year Review, USITC Pub. 3393 at 11.

<sup>97</sup> First Five-Year Review, USITC Pub. 3393 at 11–12.

<sup>98</sup> Second Five-Year Review, USITC Pub. 3886 at 12.

the dramatic increase in the quantity and value of subject imports since the period examined in the first review, despite the presence of the antidumping duty order, and noted that subject imports' share of apparent U.S. consumption had risen correspondingly.<sup>99</sup> The Commission found that Chinese producers continued to have substantial capacity,<sup>100</sup> and noted that according to United Nations Food and Agriculture Organization ("FAO") data, China's capacity to produce the larger category of "all garlic" had increased by 48 percent over the period of review to reach more than 24.5 billion pounds in 2005.<sup>101</sup>

Total exports from China of fresh garlic also increased by 200 percent from 2000 to 2005,<sup>102</sup> despite numerous import restraints in other markets, including antidumping and phytosanitary measures, that had been imposed on fresh garlic from China since the original investigation.<sup>103</sup> Further, the Commission reasoned that if the order were revoked, the U.S. market would become more attractive to subject producers, resulting in increased exports of fresh garlic from China to the United States.<sup>104</sup> For all these reasons, the Commission found that subject imports would likely increase significantly upon revocation of the antidumping duty order.<sup>105</sup>

In the third five-year review, the Commission found that subject imports continued to increase and capture market share, reaching record levels despite the presence of the order.<sup>106</sup> The domestic industry, which lost half of its U.S. market share to subject imports during the second review period, gained little ground.<sup>107</sup> China was the world's largest producer of garlic and subject producers were export oriented,<sup>108</sup> while various countries continued to take

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<sup>99</sup> The Commission observed that the volume of subject imports increased from 1 million pounds in 2000 to 112 million pounds in 2005. Second Five-Year Review, USITC Pub. 3886 at 11. Subject imports' market share increased from less than 1 percent in 2000 to \*\*\* percent in 2005. Confidential Second Five-Year Review Determination at 13; Second Five-Year Review, USITC Pub. 3886 at 10.

<sup>100</sup> Second Five-Year Review, USITC Pub. 3886 at 12.

<sup>101</sup> Second Five-Year Review, USITC Pub. 3886 at 12.

<sup>102</sup> Second Five-Year Review, USITC Pub. 3886 at 12.

<sup>103</sup> Second Five-Year Review, USITC Pub. 3886 at 12.

<sup>104</sup> Second Five-Year Review, USITC Pub. 3886 at 12.

<sup>105</sup> Second Five-Year Review, USITC Pub. 3886 at 12.

<sup>106</sup> Subject import volume increased from 112 million pounds in 2005 to 137 million pounds in 2011, and in 2011, subject imports' market share was \*\*\* percent. Confidential Third Five-Year Review Determination at 14; Third Five-Year Review, USITC Pub. 4316 at 11.

<sup>107</sup> Third Five-Year Review, USITC Pub. 4316 at 11. The domestic industry's market share increased from \*\*\* percent in 2005 to \*\*\* percent in 2011. Confidential Third Five-Year Review Determination at 14.

<sup>108</sup> UN data showed that China accounted for an estimated 78 percent of global garlic production between 2005 to 2009, that production of garlic in China was 60 percent higher in 2009 than

actions, including antidumping and phytosanitary measures, to limit imports of fresh garlic from China, thereby increasing the likelihood that large volumes of fresh garlic from China would be exported to the U.S. market if the order were revoked.<sup>109</sup> For these reasons, the Commission found that the likely volume of subject merchandise, both in absolute terms and relative to consumption and production in the United States, would likely be significant within a reasonably foreseeable time if the order were revoked.<sup>110</sup>

In the fourth five-year review, the Commission again found that despite the antidumping duty order, subject imports continued to enter the U.S. market in substantial quantities during the period of review. From 2012 to 2016, the quantity of subject imports ranged from a low of 119.9 million pounds in 2016 to a high of 143.5 million pounds in 2014.<sup>111</sup> Subject import market share in 2016, at \*\*\* percent, exceeded that in 1994, during the original investigation.<sup>112</sup> China maintained its position as the world's largest producer of garlic,<sup>113</sup> and acreage under cultivation in China had increased from 2016 to 2017.<sup>114</sup> The subject industry expanded from 121 producers during the third review to 170 producers that had exported subject merchandise since 2011, and production increased from 18.5 million tons in 2010 to almost 20 million tons in 2014.<sup>115</sup> Based on these factors, as well as the attractiveness of the U.S. market and trade measures on garlic from China in various third-country markets, the Commission found that subject producers were likely to increase their exports to the United States if the order was revoked.<sup>116</sup>

## **2. The Current Review**

Despite the antidumping duty order, subject imports continued to enter the U.S. market in substantial quantities during the current period of review. Subject imports increased from

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in 2005, and that harvested acreage increased by 20.2 percent between 2005 and 2009. Third Five-Year Review, USITC Pub. 4316 at 12. UN data also showed that subject producers' exports of fresh garlic increased from 2.4 billion pounds in 2005 to 3.0 billion pounds in 2010, capturing 88 percent of the global export market in 2010, down slightly from 90 percent in 2009. *Id.*

<sup>109</sup> Third Five-Year Review, USITC Pub. 4316 at 12.

<sup>110</sup> Third Five-Year Review, USITC Pub. 4316 at 12.

<sup>111</sup> Fourth Five-Year Review, USITC Pub. 4735 at 17.

<sup>112</sup> Subject imports accounted for 35.2 percent of the U.S. market in 1994, \*\*\* percent in 2005, and \*\*\* percent in 2011. Confidential Fourth Five-Year Review Determination at 24; Fourth Five-Year Review, USITC Pub. 4735 at 17.

<sup>113</sup> Fourth Five-Year Review, USITC Pub. 4735 at 17.

<sup>114</sup> Fourth Five-Year Review, USITC Pub. 4735 at 17.

<sup>115</sup> Fourth Five-Year Review, USITC Pub. 4735 at 17. The Commission noted that the subject industry's production increase of 1.5 million tons from 2010 to 2014 was equivalent to roughly 10 times the amount of apparent U.S. consumption in 2016.

<sup>116</sup> Fourth Five-Year Review, USITC Pub. 4735 at 19.



109.1 million pounds in 2017 to 138.2 million pounds in 2018 before declining to 134.8 million pounds in 2019, 109.9 million pounds in 2020, and 103.8 million pounds in 2021, equivalent to \*\*\* percent of apparent U.S. consumption that year.<sup>117</sup> Subject import market share in 2021 was lower than in 1994, 2005, 2011, or 2016, but higher than in 2000.<sup>118</sup>

The record contains limited new data concerning the fresh garlic industry in China. Nonetheless, the available information indicates that subject producers have the means and incentive to increase their exports of subject merchandise to the U.S. market to significant levels if the order were revoked. The domestic interested parties identified 153 possible exporters of fresh garlic in China, and provided data from the FAO indicating that production of garlic in China increased from 20 million tons (44.1 billion pounds) in 2017 to 20.7 million tons (45.6 billion pounds) in 2020 – a four-fold increase since the original investigation.<sup>119</sup> These data also show that the subject industry in China accounted for three-quarters of global garlic production during the 2017-2020 period, making China by far the world’s largest producer of garlic, and increased its garlic acreage under cultivation from 807,563 hectares in 2017 to 825,302 hectares in 2020.<sup>120</sup> According to other sources, the area of garlic harvested in China’s five main garlic-producing provinces increased another 6.6 percent from 2020 to 2021.<sup>121</sup>

The record also indicates that subject producers remain highly export oriented. According to GTA data, exports of garlic from China increased irregularly from 3.8 billion pounds in 2017 to 4.2 billion pounds in 2021, which represented 80 percent of global garlic exports that year.<sup>122</sup>

The information available also indicates that the U.S. market remains attractive to subject producers. Subject imports maintained a substantial presence in the U.S. market throughout the period of review, notwithstanding the restraining effect of the order, thereby retaining customers and ready distribution networks and reflecting an ongoing interest in selling into the U.S. market.<sup>123</sup> Moreover, garlic from China is subject to antidumping duty orders in Brazil and South Africa; tariffs and import quotas imposed by the European Union, South Korea, Morocco, Taiwan, and Thailand; annual quotas imposed by the Dominican Republic, Iceland, and the United Kingdom; and phytosanitary measures imposed by Brazil,

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<sup>117</sup> CR/PR at Tables I-5 and I-6.

<sup>118</sup> CR/PR at Table I-6. Subject import market accounted for \*\*\* percent in 2016, \*\*\* percent in 2011, \*\*\* percent in 2005, 0.6 percent in 2000, and 35.2 percent in 1994.

<sup>119</sup> Domestic Interested Parties’ Response at 11 and exh. 11.

<sup>120</sup> Domestic Interested Parties’ Response at 11-12.

<sup>121</sup> Domestic Interested Parties’ Response at 12, Exhibit 7.

<sup>122</sup> CR/PR at I-25 and Table I-9.

<sup>123</sup> CR/PR at Table I-5.

Canada, South Korea, Mexico, Peru, and the Philippines.<sup>124</sup> These actions provide additional incentives for subject producers to target the United States should the order be revoked.<sup>125</sup>

Given the foregoing, including the significant volume and market share of subject imports in the original investigation, the substantial presence of subject imports in the U.S. market during the period of review, the large size and exports of the subject industry in China, and the attractiveness of the U.S. market, particularly in light of the trade restrictions on garlic from China in numerous third-country markets, we find that the volume of subject imports would likely be significant, both in absolute terms and relative to consumption in the United States, if the order were revoked.

#### **D. Likely Price Effects of Subject Imports**

##### **1. The Prior Proceedings**

In its original determination, the Commission found that the domestic like product and subject imports were highly fungible and competed head-to-head due to overlapping marketing seasons, and that price was a key factor in purchasing decisions.<sup>126</sup> It also observed that subject imports undersold the domestic like product in 20 out of 21 price comparisons, with underselling margins reaching 70.0 percent.<sup>127</sup> As a result, the Commission found that subject imports had a significant depressing effect on prices of the domestic like product.<sup>128</sup>

In the first five-year review, the Commission found that subject imports, which were virtually absent during the period examined, would likely be aggressively priced to recapture market share if the order were revoked, given the underselling, and resulting adverse price effects during the original investigation.<sup>129</sup>

In the second, third, and fourth reviews, the Commission found that the average unit values (“AUVs”) of fresh garlic imports from China remained below the AUVs for domestic producers’ shipments.<sup>130</sup> The Commission further found in each review that, in light of the substantial and increasing presence of fresh garlic imports from China while under the restraint

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<sup>124</sup> CR/PR at I-23 to I-25. In 2019, Brazil determined to extend antidumping duties on imports of fresh garlic from China for an additional five years, and in 2022, South Africa also determined to extend duties for an additional five years. *Id.* at I-23.

<sup>125</sup> Because of the expedited nature of this review, the record does not contain information about inventories of the subject merchandise or the subject industry’s potential for product shifting.

<sup>126</sup> Original Determination, USITC Pub. 2825 at I-26.

<sup>127</sup> Original Determination, USITC Pub. 2825 at I-26.

<sup>128</sup> Original Determination, USITC Pub. 2825 at I-26.

<sup>129</sup> First Five-Year Review, USITC Pub. 3393 at 12.

<sup>130</sup> Second Five-Year Review, USITC Pub. 3886 at 13; Third Five-Year Review, USITC Pub. 4316 at 13–14; Confidential Fourth Five-Year Review Determination at 28 n. 122; Fourth Five-Year Review, USITC Pub. 4735 at 19.

of the antidumping duty order, and the fungibility between the domestic like product and subject merchandise, subject producers had an incentive to lower their prices to increase their U.S. market share.<sup>131</sup> Given the past history of underselling by subject imports, the Commission therefore determined in each review that, if the order were revoked, significant volumes of subject imports would likely undersell the domestic like product in order to gain market share and would likely significantly depress or suppress domestic prices within a reasonably foreseeable time.<sup>132</sup>

## **2. The Current Review**

As discussed in section III.B.3 above, we find that there is a high degree of substitutability between subject imports and the domestic like product and that price continues to be an important factor in purchasing decisions. We find that the likely significant volume of subject imports after revocation would likely undersell the domestic like product to a significant degree, as during the original investigation. There is no new product-specific pricing data on the record of this expedited review. Nevertheless, we observe that the AUV of subject imports was \$1.22 per pound in 2021, which was \*\*\* percent lower than the AUV of the domestic industry's U.S. shipments that year, at \$\*\*\* per pound.<sup>133</sup>

Given the high degree of substitutability between subject imports and the domestic like product and the importance of price in purchasing decisions, the significant volume of low-priced subject imports would likely take sales and market share from domestic producers and/or force the domestic industry to cut prices or forego needed price increases. Accordingly, we conclude that if the order were revoked, subject imports would likely have significant price effects.

## **E. Likely Impact of Subject Imports**

### **1. The Prior Proceedings**

In the original investigation, the Commission found that the domestic industry was unable to operate profitably, despite rising apparent consumption and sales revenues, due to

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<sup>131</sup> Second Five-Year Review, USITC Pub. 3886 at 13; Third Five-Year Review, USITC Pub. 4316 at 13–14; Fourth Five-Year Review, USITC Pub. 4735 at 19.

<sup>132</sup> Second Five-Year Review, USITC Pub. 3886 at 13; Third Five-Year Review, USITC Pub. 4316 at 13–14; Fourth Five-Year Review, USITC Pub. 4735 at 19.

<sup>133</sup> CR/PR at Tables I-4 and I-5. We recognize that differences in AUVs can reflect differences in product mix rather than differences in price, but note that such concerns are minimized for commodity products. See Domestic Interested Parties' Response at 19 ("Garlic remains a commodity product that is sold largely on the basis of price.").

falling prices.<sup>134</sup> The domestic industry experienced declining profits from 1991 to 1993 and operating losses in 1994, immediately following the increase in imports of low-priced garlic from China.<sup>135</sup> The Commission found that the declines in operating income resulted primarily from the price depression and volume displacement caused by subject imports.<sup>136</sup>

In the first five-year review, the Commission found that the domestic industry would be vulnerable to material injury within a reasonably foreseeable time if the order were revoked, due in part to its decline in operating income over the period of review.<sup>137</sup> Similarly, in the second five-year review, given the contraction of the domestic industry and resulting decrease in its production and domestic shipments, the Commission found that the domestic industry would be vulnerable to material injury if the antidumping duty order were revoked.<sup>138</sup> Because of the highly substitutable nature of the domestic product and subject merchandise and the increasing volume of subject imports, the Commission found in both reviews that the volume and price effects of the subject imports would likely cause the domestic industry to lose market share, which would have a significant impact on the domestic industry's production, shipments, sales, and revenues.<sup>139</sup> This in turn would be likely to have a significant impact on the industry's profitability and its ability to raise capital.<sup>140</sup>

In the third and fourth five-year reviews, the Commission did not make a finding on whether the domestic industry was vulnerable to the continuation or recurrence of material injury in the event of revocation of the order. It found, however that if the order were revoked, subject imports would likely increase their presence in the U.S. market at the expense of the domestic industry,<sup>141</sup> and would likely undersell the domestic like product and significantly suppress or depress U.S. prices.<sup>142</sup> The likely significant volume of subject imports and their

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<sup>134</sup> Original Determination, USITC Pub. 2825 at I-27.

<sup>135</sup> Original Determination, USITC Pub. 2825 at I-27.

<sup>136</sup> Original Determination, USITC Pub. 2825 at I-27.

<sup>137</sup> First Five-Year Review, USITC Pub. 3393 at 13. In the first five-year review the Commission found an operating income of \$3,278 thousand in 2000, in comparison to the negative \$960 thousand in the original investigation in 1994. CR/PR at Table I-4.

<sup>138</sup> Second Five-Year Review, USITC Pub. 3886 at 15.

<sup>139</sup> First Five-Year Review, USITC Pub. 3393 at 13; Second Five-Year Review, USITC Pub. 3886 at 15.

<sup>140</sup> First Five-Year Review, USITC Pub. 3393 at 13; Second Five-Year Review, USITC Pub. 3886 at 15.

<sup>141</sup> Third Five-Year Review, USITC Pub. 4316 at 15; Fourth Five-Year Review, USITC Pub. 4735 at 21.

<sup>142</sup> Third Five-Year Review, USITC Pub. 4316 at 15; Fourth Five-Year Review, USITC Pub. 4735 at 21.

price effects would likely have a significant impact on the domestic industry.<sup>143</sup> With respect to non-attribution, the Commission found that because nonsubject imports generally were not marketed concurrently with the domestic like product, they were unlikely to prevent subject imports from penetrating the U.S. market significantly at the expense of the domestic industry after revocation.<sup>144</sup>

## **2. The Current Review**

The limited information available in this expedited review indicates that the domestic industry's performance was generally stronger in 2022 as compared to its performance in the final years examined in the original investigation and prior reviews.<sup>145</sup> In 2022, the domestic industry's production capacity was \*\*\* pounds, which is lower than in the fourth review but higher than in the original investigation and first and third reviews.<sup>146</sup> Its production was \*\*\* pounds, which is higher than any of the prior proceedings,<sup>147</sup> and its capacity utilization rate was \*\*\* percent, which is \*\*\*.<sup>148</sup> The industry's domestic shipments were \*\*\* pounds, accounting for \*\*\* percent of apparent U.S. consumption by volume,<sup>149</sup> and its net sales value was \$\*\*\* – all generally higher than in the prior proceedings.<sup>150</sup> The industry's operating income, at \$\*\*\*,<sup>151</sup> and operating income as a share of net sales, at \*\*\* percent, were lower

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<sup>143</sup> Third Five-Year Review, USITC Pub. 4316 at 15-16; Fourth Five-Year Review, USITC Pub. 4735 at 21.

<sup>144</sup> Third Five-Year Review, USITC Pub. 4316 at 16; Fourth Five-Year Review, USITC Pub. 4735 at 21.

<sup>145</sup> CR/PR at Table I-4.

<sup>146</sup> CR/PR at Table I-4. The domestic industry's production capacity was \*\*\* pounds in 2016; \*\*\* pounds in 2011; \*\*\* pounds in 2000; and \*\*\* pounds in 1994. There was no reported production capacity data for 2005.

<sup>147</sup> CR/PR at Table I-4. The domestic industry's production was \*\*\* pounds in 2016; \*\*\* pounds in 2011; \*\*\* pounds in 2005; \*\*\* pounds in 2000; and \*\*\* pounds in 1994.

<sup>148</sup> CR/PR at Table I-4. The domestic industry's capacity utilization was \*\*\* percent in 2016; 55.7 percent in 2011; 76.7 in 2000; and 66.7 percent in 1994. There was no reported capacity utilization data in 2005.

<sup>149</sup> CR/PR at Tables I-4 and I-6. The domestic industry's shipments were \*\*\* pounds in 2016 accounting for \*\*\* percent of apparent U.S. consumption by volume; \*\*\* pounds in 2011 accounting for \*\*\* percent of apparent U.S. consumption; \*\*\* pounds in 2005, accounting for \*\*\* percent of apparent U.S. consumption; 128 million pounds in 2000, accounting for 68.9 percent of apparent U.S. consumption; and 82 million pounds in 1994, accounting for 45.5 percent of apparent U.S. consumption.

<sup>150</sup> CR/PR at Table I-4. The domestic industry's net sales value was \$\*\*\* in 2016; \$\*\*\* in 2011; \$\*\*\* in 2005; \$95 million in 2000; and \$61 million in 1994.

<sup>151</sup> CR/PR at Table I-6. The domestic industry's operating income was \$\*\*\* in 2016; \$\*\*\* in 2011; \$3 million in 2000; and negative \$960,000 in 1994. There was no reported data in 2005.

than in the prior proceedings with the exception of the original investigation.<sup>152</sup> The limited information in this expedited review is insufficient for us to make a finding on whether the domestic industry is vulnerable to the continuation or recurrence of material injury in the event of revocation of the order.

Based on the information available in this review, we find that revocation of the order would likely lead to a significant volume of subject imports and that these imports would likely undersell the domestic like product to a significant degree. Given the high degree of substitutability between the domestic like product and subject imports and the importance of price to purchasers, significant volumes of low-priced subject imports would likely capture sales and market share from the domestic industry and/or significantly depress or suppress prices for the domestic like product. The likely significant volume of subject imports and their adverse price effects would likely have a significant adverse impact on the domestic industry's production, shipments, sales, market share, and revenues, which, in turn, would have a direct adverse impact on the industry's profitability and employment, as well as its ability to raise capital and make and maintain necessary capital investments.

We have also considered the role of factors other than subject imports, including the presence of nonsubject imports. Nonsubject imports have been present in the U.S. market since the original investigation and accounted for a higher share of apparent U.S. consumption in 2022, at \*\*\* percent, than in the prior proceedings.<sup>153</sup> Nevertheless, due to their differing growing seasons, imports from nonsubject sources are generally not present in the U.S. market concurrently with the domestic like product. More significantly, the record provides no indication that the presence of nonsubject imports would prevent subject imports from entering the U.S. market in significant quantities after revocation of the order, given the large size and exports of the subject industry in China and the attractiveness of the U.S. market. Consequently, the likely adverse effects of the subject imports, which compete head-to-head with the domestic like product, would be distinct from any effects caused by nonsubject imports.

In sum, we conclude that if the antidumping duty order on fresh garlic from China were revoked, subject imports would likely have a significant impact on the domestic industry within a reasonably foreseeable time.

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<sup>152</sup> CR/PR at Table I-4. The domestic industry's operating income as a share of net sales was \*\*\* percent in 2016; \*\*\* percent in 2011; 3.5 percent in 2000; and negative 1.6 percent in 1994. There was no reported data in 2005.

<sup>153</sup> CR/PR at Table I-6. As explained above, the data in Table I-6 for the current review are incorrectly labeled in the staff report as 2021 but are actually for 2022.

#### **IV. Conclusion**

For the above 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 an industry in the United States within a reasonably foreseeable time.





# Information obtained in this review

## Background

On October 3, 2022, the U.S. International Trade Commission (“Commission”) gave notice, pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”),<sup>1</sup> that it had instituted a review to determine whether revocation of the antidumping order on fresh garlic from China would likely lead to the continuation or recurrence of material injury to a domestic industry.<sup>2</sup> All interested parties were requested to respond to this notice by submitting certain information requested by the Commission.<sup>3</sup> <sup>4</sup> Table I-1 presents information relating to the background and schedule of this proceeding:

**Table I-1**  
**Fresh garlic: Information relating to the background and schedule of this proceeding**

Effective date	Action
October 3, 2022	Notice of initiation by Commerce (87 FR 59779, October 3, 2022)
October 3, 2022	Notice of institution by Commission (87 FR 59824, October 3, 2022)
January 6, 2023	Commission’s vote on adequacy
February 7, 2023	Commerce’s results of its expedited review
May 12, 2023	Commission’s determination and views

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<sup>1</sup> 19 U.S.C. 1675(c).

<sup>2</sup> 87 FR 59824, October 3, 2022. In accordance with section 751(c) of the Act, the U.S. Department of Commerce (“Commerce”) published a notice of initiation of a five-year review of the subject antidumping duty order. 87 FR 59779, October 3, 2022. Pertinent Federal Register notices are referenced in app. A, and may be found at the Commission’s website ([www.usitc.gov](http://www.usitc.gov)).

<sup>3</sup> As part of their response to the notice of institution, interested parties were requested to provide company-specific information. That information is presented in app. B. Summary data compiled in the original investigation and subsequent full reviews are presented in app. C.

<sup>4</sup> Interested parties were also requested to provide a list of three to five leading purchasers in the U.S. market for the domestic like product and the subject merchandise. Presented in app. D are the responses received from purchaser surveys transmitted to the purchasers identified in this proceeding.

## Responses to the Commission’s notice of institution

### Individual responses

The Commission received one submission in response to its notice of institution in the subject review. It was filed on behalf of the Fresh Garlic Producers Association (“FGPA”) and its three individual members<sup>5</sup> (collectively referred to herein as “domestic interested parties”). FGPA is a trade association whose members produce and process fresh garlic in the United States and whose members account for the majority of U.S. production of fresh garlic.

A complete response to the Commission’s notice of institution requires that the responding interested party submit to the Commission all the information listed in the notice. Responding firms are given an opportunity to remedy and explain any deficiencies in their responses. A summary of the number of responses and estimates of coverage for each is shown in table I-2.

**Table I-2**

**Fresh garlic: Summary of completed responses to the Commission’s notice of institution**

Interested party	Type	Number of firms	Coverage
U.S. trade association	Domestic	1	***%
U.S. producer	Domestic	3	***%

Note: The U.S. producer coverage figure presented is the domestic interested parties’ estimate of their share of total U.S. production of fresh garlic during crop year 2022 (June 2021-May 2022). Domestic interested parties’ response to the notice of institution, November 2, 2022, p. 25 and exh. 1.

### Party comments on adequacy

The Commission received party comments on the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or a full review from FGPA and its individual members. FGPA and its individual members request that the Commission find the domestic interested parties’ group response to be adequate; find that the lack of any response by subject foreign producers/exporters or importers to be inadequate; and expedite this review of the antidumping duty order on fresh garlic from China.<sup>6</sup>

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<sup>5</sup> The members of FGPA are as follows: Christopher Ranch L.L.C. (Gilroy, California); The Garlic Company (Bakersfield, California); and Valley Garlic (Coalinga, California).

<sup>6</sup> Domestic interested parties’ comments on adequacy of responses, December 14, 2022, p. 2.

## **The original investigation and subsequent five-year reviews**

### **The original investigation**

The original investigation resulted from a petition filed on January 31, 1994, with Commerce and the Commission by the Fresh Garlic Producers Association (“FGPA”), consisting at the time of the following firms: A&D Christopher Ranch (Gilroy, California); Belridge Packing Co. (Wasco, California); Colusa Produce Corp. (Colusa, California); Denice & Filice Packing Co. (Hollister, California); El Camino Packing Co. (Gilroy, California); The Garlic Co. (Shafter, California); and Vessey and Company, Inc. (El Centro, California).<sup>7</sup> On September 26, 1994, Commerce determined that imports of fresh garlic from China were being sold at less than fair value (“LTFV”).<sup>8</sup> The Commission determined on November 7, 1994, that a domestic industry was materially injured by reason of LTFV imports of fresh garlic from China.<sup>9</sup> On November 16, 1994, Commerce issued its antidumping duty order with the final weighted-average dumping margin of 376.67 percent.<sup>10</sup>

### **The first five-year review**

On March 3, 2000, the Commission determined that it would conduct a full review of the antidumping duty order on fresh garlic from China.<sup>11</sup> On July 5, 2000, Commerce determined that revocation of the antidumping duty order on fresh garlic from China would be likely to lead to continuation or recurrence of dumping.<sup>12</sup> On February 21, 2001, the Commission determined that material injury would be likely to continue or recur within a reasonably foreseeable time.<sup>13</sup> Following affirmative determinations in the five-year review by Commerce and the Commission, effective March 13, 2001, Commerce issued a continuation of the antidumping duty order on imports of fresh garlic from China.<sup>14</sup>

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<sup>7</sup> Fresh Garlic from The People’s Republic of China, Inv. No. 731-TA-683 (Final), USITC Publication 2825, November 1994 (“Original publication”), p. II-3.

<sup>8</sup> 59 FR 49058, September 26, 1994.

<sup>9</sup> 59 FR 59247, November 16, 1994. The Commission also determined that critical circumstances did not exist such that it was necessary to impose the duty retroactively.

<sup>10</sup> 59 FR 59209, November 16, 1994.

<sup>11</sup> 65 FR 13989, March 15, 2000.

<sup>12</sup> 65 FR 41432, July 5, 2000.

<sup>13</sup> 66 FR 12810, February 28, 2001.

<sup>14</sup> 66 FR 14544, March 13, 2001.

## **The second five-year review**

On May 8, 2006, the Commission determined that it would conduct an expedited review of the antidumping duty order on fresh garlic from China.<sup>15</sup> On June 8, 2006, Commerce determined that revocation of the antidumping duty order on fresh garlic from China would be likely to lead to continuation or recurrence of dumping.<sup>16</sup> On September 28, 2006, the Commission determined that material injury would be likely to continue or recur within a reasonably foreseeable time.<sup>17</sup> Following affirmative determinations in the five-year review by Commerce and the Commission, effective October 19, 2006, Commerce issued a continuation of the antidumping duty order on imports of fresh garlic from China.<sup>18</sup>

## **The third five-year review**

On December 5, 2011, the Commission determined that it would conduct an expedited review of the antidumping duty order on fresh garlic from China.<sup>19</sup> On January 6, 2012, Commerce determined that revocation of the antidumping duty order on fresh garlic from China would be likely to lead to continuation or recurrence of dumping.<sup>20</sup> On April 27, 2012, the Commission determined that material injury would be likely to continue or recur within a reasonably foreseeable time.<sup>21</sup> Following affirmative determinations in the five-year review by Commerce and the Commission, effective April 30, 2012, Commerce issued a continuation of the antidumping duty order on imports of fresh garlic from China.<sup>22</sup>

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<sup>15</sup> 71 FR 29352, May 22, 2006.

<sup>16</sup> 71 FR 33279, June 8, 2006.

<sup>17</sup> 71 FR 58630, October 4, 2006.

<sup>18</sup> 71 FR 61708, October 19, 2006.

<sup>19</sup> 76 FR 78694, December 19, 2011.

<sup>20</sup> 77 FR 777, January 6, 2012.

<sup>21</sup> 77 FR 26579, May 4, 2012.

<sup>22</sup> 77 FR 28355, May 14, 2012.

## **The fourth five-year review**

On July 7, 2017, the Commission determined that it would conduct an expedited review of the antidumping duty order on fresh garlic from China.<sup>23</sup> On August 7, 2017, Commerce determined that revocation of the antidumping duty order on fresh garlic from China would be likely to lead to continuation or recurrence of dumping.<sup>24</sup> On October 19, 2017, the Commission determined that material injury would be likely to continue or recur within a reasonably foreseeable time.<sup>25</sup> Following affirmative determinations in the five-year review by Commerce and the Commission, effective November 6, 2017, Commerce issued a continuation of the antidumping duty order on imports of fresh garlic from China.<sup>26</sup>

## **Previous and related investigations**

Fresh garlic has not been the subject of any prior related antidumping or countervailing duty investigations in the United States.

## **Commerce's five-year review**

Commerce announced that it would conduct an expedited review with respect to the order on imports of fresh garlic from China with the intent of issuing the final results of this review based on the facts available not later than January 31, 2023.<sup>27</sup> Commerce publishes its Issues and Decision Memoranda and its final results concurrently, accessible upon publication at <http://enforcement.trade.gov/frn/>. Issues and Decision Memoranda contain complete and up-to-date information regarding the background and history of the order, including scope rulings, duty absorption, changed circumstances reviews, and anticircumvention, as well as any decisions that may have been pending at the issuance of this report. Any foreign producers/exporters that are not currently subject to the antidumping duty order on imports of fresh garlic from China are noted in the sections titled "The original investigation" and "U.S. imports," if applicable.

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<sup>23</sup> 82 FR 37237, July 7, 2017.

<sup>24</sup> 82 FR 36752, August 7, 2017.

<sup>25</sup> 82 FR 49230, October 24, 2017.

<sup>26</sup> 82 FR 51394, November 6, 2017.

<sup>27</sup> Letter from Shawn Thompson, Acting Senior Director, Office VII, Office of AD/CVD Operations, U.S. Department of Commerce to Nannette Christ, Director of Investigations, November 30, 2022.

## The product

### Commerce's scope

Commerce has defined the scope as follows:

*The products subject to the AD Order are all grades of garlic, whole or separated into constituent cloves, whether or not peeled, fresh, chilled, frozen, provisionally preserved, or packed in water or other neutral substance, but not prepared or preserved by the addition of other ingredients or heat processing. The differences between grades are based on color, size, sheathing, and level of decay.*

*The scope of the AD Order does not include the following: (a) Garlic that has been mechanically harvested and that is primarily, but not exclusively, destined for non-fresh use; or (b) garlic that has been specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed.*

*The subject merchandise is used principally as a food product and for seasoning.<sup>28</sup>*

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<sup>28</sup> 82 FR 51394, November 6, 2017.

## U.S. tariff treatment

Fresh garlic is currently provided for in HTS subheadings 0703.20.00 and is imported under HTS statistical reporting numbers 0703.20.0005<sup>29</sup> (certified organic fresh whole bulbs), 0703.20.0015<sup>30</sup> (other fresh whole bulbs), 0703.20.0020 (fresh whole peeled cloves), and 0703.20.0090 (other fresh garlic).<sup>31</sup> Fresh garlic imported from China enters the U.S. market at a column 1-general duty rate, applicable to China, of 0.43¢ per kilogram, free under special tariff treatment programs (none covering products of China),<sup>32</sup> or at a column-2 rate of 3.3¢ per kilogram.<sup>33</sup> Fresh garlic originating in China is subject to an additional 25 percent ad valorem duty under Section 301 of the Trade Act of 1974.<sup>34</sup> Decisions on the tariff classification and treatment of imported goods are within the authority of U.S. Customs and Border Protection.

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<sup>29</sup> Effective January 1, 2013, HTS subheading 0703.20.0010 was replaced by HTS subheadings 0703.20.0005 and 0703.20.0015.

<sup>30</sup> Ibid.

<sup>31</sup> The remaining HTS provisions cited in Commerce's scope under headings 0710, 0711, and 2005 are residual or "basket" categories that cover imports of other vegetable products outside the scope of this review.

<sup>32</sup> Eligible imports under the following special tariff treatment programs can enter free of duty: imports under Generalized System of Preferences ("GSP"); and imports under free trade agreements from Australia, Bahrain, Canada, Chile, Israel, Jordan, South Korea, Morocco, Oman, Peru, Mexico, and Singapore. Duty-free entry also applies to imports from countries eligible for preferential treatment pursuant to the Andean Trade Preference Act, the Caribbean Basin Economic Recovery Act, and the African Growth and Opportunity Act (available under 0710.80.97 only).

<sup>33</sup> Applies to imports from a small number of countries that do not enjoy normal trade relations duty status.

<sup>34</sup> The U.S. Trade Representative imposed the tariffs under Section 301 of the Trade Act of 1974 after determining that certain acts, policies, and practices of China are unreasonable or discriminatory and burden or restrict U.S. commerce (82 FR 40213, August 24, 2017; 83 FR 14906, April 6, 2018). Fresh garlic was included in the third enumeration ("Tranche 3") of goods produced in China that are subject to additional Section 301 duties. Tranche 3 tariffs with a duty rate of 10 percent were put in place September 24, 2018 (83 FR 47974, September 21, 2018). On May 10, 2019, tranche 3 tariffs were increased to 25 percent ad valorem (84 FR 20459, May 9, 2019). If a Tranche 3 good was exported from China to the United States prior to May 10, 2019, and entered the United States prior to June 1, 2019, it was not subject to the escalated 25 percent duty (84 FR 21892, May 15, 2019).

See also HTS headings 9903.88.03 and 9903.88.04 and U.S. notes 20(e)–20(g) to subchapter III of chapter 99 and related tariff provisions for this duty treatment. USITC, HTS (2022) Revision 8, USITC Publication 5345, July 2022, pp. 99-III-26–99-III-51, 99-III-293.

## Description and uses<sup>35</sup>

Garlic, *Allium sativum* L., is a member of the onion family (Alliaceae).<sup>36</sup> Fresh garlic is produced commercially for its composite bulb, which consists of cloves (thickened storage leaves) individually wrapped in dried leaf sheaths or skins attached to a compressed stem plate. The whole bulb is also wrapped in several layers of dried leaf sheaths.<sup>37</sup> Fresh garlic is used in the preparation of other foods, especially to impart flavor to meats, vegetables, stews, soups, and sauces. Fresh garlic may be used fresh or cooked and whole (such as in baked garlic) or in cloves. In such instances, it is valued for its appearance and flavor. It may also be used in chopped or pureed form.<sup>38</sup>

U.S. standards treat fresh garlic as either USDA Grade No. 1 or unclassified.<sup>39</sup> Fresh garlic that is not USDA Grade No. 1 is designated as unclassified, which is not a grade within the meaning of these standards. Typically, 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. These practices are also used in the sale of closely related products, such as elephant garlic meeting USDA Grade No. 1-quality fresh garlic standards.<sup>40</sup> Most imported fresh garlic from China is

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<sup>35</sup> Unless otherwise noted, this information is based on Fresh Garlic from China, Inv. No. 731-TA-683 (Fourth Review), USITC Publication 4735, October 2017 (“Fourth review publication”), pp. I-6-I-7.

<sup>36</sup> There are two main types of garlic, hardneck (*Allium sativum ophioscorodon*) and softneck (*Allium sativum sativum*). Most commercial production is of the softneck variety in part because it is easier to grow and plant mechanically. Softneck garlic has a flexible stalk, white papery skin, and an abundance of cloves. Hardneck garlic has a stalk that coils from the top, has fewer but larger cloves than softneck garlic, and has fewer outer bulb wrappers, reducing its shelf life.  
<https://www.gardeningknowhow.com/edible/herbs/garlic/different-types-of-garlic.htm> and <https://www.thespruce.com/hardneck-and-softneck-garlic-2540056>.

<sup>37</sup> U.S. Department of Agriculture (USDA). Agricultural Research Service. The Commercial Storage of Fruits, Vegetables, and Florist and Nursery Stocks. Agricultural Handbook Number 66, Revised February 2016, p. 333. <https://www.ars.usda.gov/arsuserfiles/oc/np/commercialstorage/commercialstorage.pdf>.

<sup>38</sup> Fresh Garlic from China, Inv. No. 731-TA-683 (Fourth Review), USITC Publication 4735, October 2017 (“Fourth review publication”), p. 6.

<sup>39</sup> USDA Grade No. 1 consists of garlic of similar varietal characteristics which is mature and well cured, compact with cloves well filled and fairly plump, free from mold, decay, shattered cloves, and from damage caused by dirt or staining, sunburn, sunscald, cuts, sprouts, tops, roots, disease, insects or mechanical or other means. Each bulb shall be fairly well enclosed in its outer sheath. Unless otherwise specified, the minimum diameter of each bulb shall be not less than 1-1/2 inches. From the U.S. Department of Agriculture’s United States Standards for Grades of Garlic, effective September 6, 2016, <https://www.ams.usda.gov/sites/default/files/media/GarlicStandard.pdf>, retrieved May 31, 2017.

<sup>40</sup> A large-diameter relative of garlic, known as elephant garlic, is not a true garlic. It is a separate species (*Allium ampeloprasum*) and is not recognized as a separate garlic grade. Elephant garlic is a type of leek that is a close relative of garlic and onions. Much larger than true garlic, elephant garlic tends to  
(continued...)



considered USDA Grade No. 1 and generally ranges in size from 1-1/2 inches to 2-1/2 inches in diameter.

Chinese and American garlic have a similar taste although U.S.-grown garlic has reportedly been marketed as having a more robust flavor than Chinese garlic.<sup>41</sup> Chinese cloves are the same size and firmness as the “California White” that is widely available in grocery stores, but Chinese garlic often has a tough, inedible stem shooting up from the center.<sup>42</sup> It may be possible to distinguish between U.S. and Chinese produced garlic by the amount of roots showing at the bottom of the bulb. According to the CEO of Christopher Ranch, “In California, we cut the roots off but we leave a little bit of brush. In Chinese garlic they cut the root plate off flat, with no brush.”<sup>43</sup>



Source: Fourth review publication, p. I-7.

## Manufacturing process<sup>44</sup>

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,

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have a milder flavor. In California, the area devoted to elephant garlic is small relative to regular garlic. Fresh Garlic from China, Inv. No. 731-TA-683 (Review), USITC Publication 3393, February 2001 (“First review publication”), p. I-8-I-9; and Fresh Garlic from China, Inv. No. 731-TA-683 (Second Review), USITC Publication 3886, September 2006 (“Second review publication”), p. I-9 and fn. 33.

<sup>41</sup> U.S. Department of Agriculture, Economic Research Service, “Increased U.S. Imports of Fresh Fruit and Vegetables,” FTS-328-01, September 2007, p. 14.

<sup>42</sup> Cropchoice.com, *California farmers give up garlic battle*, July 23, 2003, <http://www.cropchoice.com/leadstryed7c.html?recid=1901>, retrieved May 24, 2006.

<sup>43</sup> <http://www.seecalifornia.com/farms/california-garlic.html>, retrieved December 6, 2022.

<sup>44</sup> Unless otherwise noted, this information is based on Fourth review publication, pp. I-7-I-10.

planting takes place in March through May for harvest in the following December through February. The result of such staggered crop years is that garlic traditionally was available from one source or another in the Western Hemisphere throughout the entire year, and no two countries seriously affected one another in the U.S. market. The crop year in China, however, basically coincides with that in California, except that garlic in China is harvested somewhat earlier, allowing it to enter the U.S. market coincident with the harvesting of the U.S.-produced product.

In the United States, the garlic crop year begins with the acquisition of seed stock. It is imperative that the garlic seed is free of white rot disease, a soil-borne fungus that is extremely destructive to *Allium* crops (including garlic) in both the short and long term.<sup>45</sup> Found around the world (including China),<sup>46</sup> the pathogen (*Sclerotium cepivorum*) that causes white rot is a small, dormant structure that is transmitted from seed to soil.<sup>47</sup> The white rot fungus can survive in the soil for over twenty years, threatening production areas for years.<sup>48</sup> The pathogen remains dormant in the soil until an *Allium* crop (including garlic or onion) is planted.<sup>49</sup> *Sclerotium cepivorum* spreads quickly and can spread throughout a field or from field to field by floodwater, equipment, or on plant material including wind-blown scales, making prevention and sanitation crucial.<sup>50</sup>

California garlic acreage has declined substantially due to white rot (*Sclerotium cepivorum*). Domestic planted garlic acreage dropped by 17 percent between 2000 and 2021. Domestic planted garlic acreage fell from 32,000 acres in 2000 to 26,500 acres in 2021.<sup>51</sup> White rot “infected over 14,000 acres (over 90 known fields) in the San Joaquin valley between 1994

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<sup>45</sup> Crop Profile for Garlic in California, <https://ipmdata.ipmcenters.org/documents/cropprofiles/CAGarlic.pdf>, retrieved June 9, 2017.

<sup>46</sup> Western Farm Press, *White Rot Major Garlic Issue*, <https://www.farmprogress.com/white-rot-major-garlic-issue>, retrieved December 6, 2022.

<sup>47</sup> Western Farm Press, *California Garlic, Onion Growers Tackle White Rot Challenge*, <https://www.farmprogress.com/management/california-garlic-onion-growers-tackle-white-rot-challenge>, retrieved December 6, 2022.

<sup>48</sup> University of California Pest Management Guidelines, Onion and Garlic, White Rot. Updated June 2016. <http://ipm.ucanr.edu/PMG/r584100511.html>.

<sup>49</sup> University of California Pest Management Guidelines, Onion and Garlic, White Rot, <http://ipm.ucanr.edu/PMG/r584100511.html>, retrieved June 9, 2017.

<sup>50</sup> University of California Pest Management Guidelines, Onion and Garlic, White Rot, <http://ipm.ucanr.edu/PMG/r584100511.html>, retrieved June 9, 2017.

<sup>51</sup> USDA NASS QuickStats Garlic, <https://quickstats.nass.usda.gov/results/3F1DD581-AA1F-3CFC-BA5D-F14356EA3F51>, retrieved December 5, 2022.

and 2007.”<sup>52</sup> In 2005, the California Garlic and Onion Research Committee was established with the goal of developing white rot management programs.<sup>53</sup> Reportedly, farmers have been avoiding planting in infested fields since no single treatment, chemical or natural, is completely successful.<sup>54</sup> <sup>55</sup> <sup>56</sup> Once established, white rot can cause yield losses ranging between 50 to 80 percent and since it remains in the field, prevents replanting of garlic for more than 20 years.<sup>57</sup>

Once safe seed supplies have been acquired, grower-packers (fresh market producers) contract with farmers for raising their crop. According to the USDA, virtually all major commercial garlic is grown under contract and the garlic industry is fairly concentrated in the fresh market. Several large shippers account for the majority of fresh-market volume.<sup>58</sup> 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 matured garlic when the crop is ready. Under the direction of a grower-packer, the farmer is responsible for fertilizing, weeding, and irrigating the crop.

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<sup>52</sup> Western Farm Press, *Garlic and Onion Industry Targets White Rot Cure*, <https://www.farmprogress.com/garlic-and-onion-industry-targets-white-rot-cure>, retrieved December 6, 2022.

<sup>53</sup> California Garlic and Onion Research Advisory Board website, <http://www.cagarlicandonion.com>, retrieved June 9, 2017.

<sup>54</sup> Western Farm Press, *Garlic and Onion Industry Targets White Rot Cure*, <https://www.farmprogress.com/garlic-and-onion-industry-targets-white-rot-cure>, retrieved December 6, 2022.

<sup>55</sup> Johnson, Steven B. “White Rot of Garlic and Onions,” The University of Maine Cooperative Extension Publications, Bulletin # 2062. <https://extension.umaine.edu/publications/2062e/>.

<sup>56</sup> Biostimulants (such as garlic powder or *diallele disulfide*) significantly reduced *sclerotia* populations in the soil, achieving disease control similar to methyl bromide fumigation, but as soon as allium crops are planted, the disease quickly reaches economically damaging levels and multiple treatments were cost prohibitive. Fumigation with methyl bromide is not cost effective and has been phased out for environmental reasons. Currently registered fungicides applied at planting in the fall do not have adequate residual activity to prevent the disease when *sclerotia* become infective in the spring. UC Davis “Progress Report Garlic White Rot Trial” 2003; Davis, Mike. UC Davis “White Rot Overview & Use of Germination Stimulants”; Bo Ming Wu, “Developing New Integrated Strategies for Controlling White Rot in Garlic” Oregon State, [https://agsci.oregonstate.edu/sites/agscid7/files/coarec/publications/10\\_white\\_rot\\_garlic\\_1.pdf](https://agsci.oregonstate.edu/sites/agscid7/files/coarec/publications/10_white_rot_garlic_1.pdf).

<sup>57</sup> Western Farm Press, *Garlic and Onion Industry Targets White Rot Cure*, <https://www.farmprogress.com/garlic-and-onion-industry-targets-white-rot-cure>, retrieved December 6, 2022; University of California Pest Management Guidelines, Onion and Garlic, White Rot. Updated June 2016. <http://ipm.ucanr.edu/PMG/r584100511.html>.

<sup>58</sup> U.S. Department of Agriculture, Economic Research Service, “Vegetable and Melons Outlook,” VGS-317, October 19, 2006, pp. 25-29.

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 four 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). This 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 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 2-3 weeks before harvest, 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 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 seven or eight skins. The number of skins is critical since, during undercutting, windrowing, harvesting, cleaning, grading, sorting, and packing, the bulbs often lose three or four 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, under these conditions, bulbs will eventually become soft, spongy, and shriveled due to water loss.<sup>59</sup> For this reason, 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 for up to approximately 6 and 11

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<sup>59</sup> U.S. Department of Agriculture (USDA). Agricultural Research Service. The Commercial Storage of Fruits, Vegetables, and Florist and Nursery Stocks. Agricultural Handbook Number 66, Revised February 2016, p. 333. <https://www.ars.usda.gov/arsuserfiles/oc/np/commercialstorage/commercialstorage.pdf>.

months, respectively, or well into the next crop year. Special storage allows grower-packers and importers to spread sales over a longer period, albeit at substantial additional cost.<sup>60</sup>

## The industry in the United States

### U.S. producers

During the final phase of the original investigation, the Commission received U.S. producer questionnaires from eight producers of fresh garlic, which were believed to account for a substantial majority of production of fresh garlic in the United States during crop year 1994.<sup>61</sup> During the full first five-year review, seven firms, which accounted for the vast majority of production of fresh garlic in the United States during crop year 2000, participated in the proceeding.<sup>62</sup>

During the expedited second five-year review, the FGPA filed a substantive response on behalf of its four members at the time and identified two additional producers of fresh garlic.<sup>63</sup> The four FGPA members estimated that they accounted for \*\*\* percent of production of fresh garlic in the United States during crop year 2005 with the additional two firms accounting for \*\*\*.<sup>64</sup> During the expedited third five-year review, the FGPA again filed a substantive response on behalf of its four members and identified two additional producers of fresh garlic.<sup>65</sup> The four FGPA members estimated that they accounted for \*\*\* percent of production of fresh garlic in the United States during crop year 2011, while the additional two firms were believed to account for \*\*\*.<sup>66</sup> During the expedited fourth five-year review, the FGPA once again filed a response on behalf of its four members and identified two additional producers of fresh garlic.<sup>67</sup> The four FGPA members estimated that they accounted for \*\*\* percent of production

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<sup>60</sup> At the time of the first five-year review, storage costs (per pound and per 5-month season), as reported during the Commission's hearing held in connection with that review, were \$0.02 for dry storage, \$0.04 for cold storage, and \$0.06 for controlled-atmosphere storage. First review publication, p. I-8, fn 10.

<sup>61</sup> Original publication, pp. II-9 and II-14.

<sup>62</sup> First review publication, pp. I-10-11 and II-1.

<sup>63</sup> Second review publication, p. I-12

<sup>64</sup> Investigation Nos. 731-TA-683 (Third Review): Fresh Garlic from China, Confidential Report, INV-KK-032, March 21, 2012 ("Third review confidential report"), pp. I-15-16.

<sup>65</sup> Fresh Garlic from China, Inv. No. 731-TA-683 (Third Review), USITC Publication 4316, April 2012 ("Third review publication"), pp. I-12-13.

<sup>66</sup> Third review confidential report, p. I-3, fn. 4.

<sup>67</sup> Fourth review publication, pp. I-1-2 and I-18.

of fresh garlic in the United States during crop year 2016, with the two other firms accounting for \*\*\*,<sup>68</sup>

In response to the Commission’s notice of institution in this current review, domestic interested parties identified four known and currently operating U.S. producers of fresh garlic. The three FGPA members<sup>69</sup> providing U.S. industry data in response to the Commission’s notice of institution accounted for approximately \*\*\* percent of production of fresh garlic in the United States during crop year 2022.<sup>70</sup>

## Recent developments

Table I-3 presents recent developments in the U.S. industry.<sup>71</sup>

**Table I-3**  
**Fresh garlic: Recent developments in the U.S. industry**

Item	Event
Shift in supply	In 2016, U.S. producer Vessey ceased commercial fresh garlic production.
Shift in demand	U.S. demand for fresh garlic increased since the last review, ***.

Sources: Domestic interested parties’ response to the notice of institution, November 2, 2022, p. 26 and Purchaser Questionnaire Responses (see Appendix D).

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<sup>68</sup> Investigation Nos. 731-TA-683 (Fourth Review): Fresh Garlic from China, Confidential Report, INV-PP-081, June 26, 2017 (“Fourth review confidential report”), pp. I-2 and I-24.

<sup>69</sup> The domestic interested parties indicated that previous FGPA member Vessey and Company, Inc. (“Vessey”) ceased commercial fresh garlic production in the latter part of 2016. Domestic interested parties’ response to the notice of institution, November 2, 2022, fn. 2 and p. 26.

<sup>70</sup> Domestic interested parties’ response to the notice of institution, November 2, 2022, p. 25 and exh. 1.

<sup>71</sup> For recent developments in tariff treatment, please see “U.S. tariff treatment” section.

## U.S. producers' trade and financial data

The Commission asked domestic interested parties to provide trade and financial data in their response to the notice of institution in the current five-year review.<sup>72</sup> Table I-4 presents a compilation of the trade and financial data submitted from all responding U.S. producers in the original investigation and subsequent five-year reviews.

**Table I-4**  
**Fresh garlic: Trade and financial data submitted by U.S. producers, by period**

Quantity in 1,000 pounds; value in 1,000 dollars; unit value in dollars per pound; ratio is in percent

Item	Measure	1994	2000	2005	2011	2016	2022
Capacity	Quantity	141,274	198,995	NA	***	***	***
Production	Quantity	100,307	152,571	***	***	***	***
Capacity utilization	Ratio	66.7	76.7	NA	55.7	***	***
U.S. shipments	Quantity	82,102	128,415	***	***	***	***
U.S. shipments	Value	52,966	89,616	***	***	***	***
U.S. shipments	Unit value	0.65	0.70	***	***	***	***
Net sales	Value	60,554	94,902	NA	***	***	***
COGS	Value	54,757	75,595	NA	***	***	***
COGS to net sales	Ratio	90.4	79.7	NA	***	***	***
Gross profit or (loss)	Value	5,797	19,307	NA	***	***	***
SG&A expenses	Value	***	16,029	NA	***	***	***
Operating income or (loss)	Value	(960)	3,278	NA	***	***	***
Operating income or (loss) to net sales	Ratio	(1.6)	3.5	NA	***	***	***

Source: For the years 1994, 2000, 2005, 2011, and 2016 data are compiled using data submitted in the Commission's original staff report and subsequent five-year reviews. The Commission's notice of institution for the second five-year review only requested producers' production and shipment data for crop year 2005; as such, "NA" denotes items for which data was not available. For crop year 2022, data are compiled using data submitted by domestic interested parties. Domestic interested parties' response to the notice of institution, November 2, 2022, exh. 1.

Note: For a discussion of data coverage, please see "U.S. producers" section.

<sup>72</sup> Individual company trade and financial data are presented in app. B.

## Definitions of the domestic like product and domestic industry

The domestic like product is defined as 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. The domestic industry is defined as 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. Under the related parties provision, the Commission may exclude a U.S. producer from the domestic industry for purposes of its injury determination if “appropriate circumstances” exist.<sup>73</sup>

In its original determination, the Commission found three separate domestic like products consisting of fresh garlic, dehydrated garlic, and seed garlic corresponding with the broader scope of the original investigation. However, the Commission found that the domestic industries producing garlic for dehydration and seed garlic were neither materially injured nor threatened with material injury by reason of the subject imports from China. One Commissioner defined the domestic like product differently in the original determination. In light of the Commission’s determination, Commerce narrowed the scope of the order to cover only fresh garlic.<sup>74</sup> The Commission found in its full first five-year review determination and its expedited second, third, and fourth five-year review determinations a single domestic like product consisting of all fresh garlic, coextensive with Commerce’s scope.

In its original determination, the Commission found three domestic industries consisting of the domestic producers of fresh garlic, the domestic producers of dehydrated garlic, and the domestic producers of seed garlic to coincide with the three domestic like products. The Commission also found that crop tenders were not members of the domestic industry. One Commissioner defined the domestic industry differently in the original determination. In its full first five-year review determination, consistent with Commerce’s narrower scope and the Commission’s domestic like product definition of a single domestic like product consisting of all fresh garlic, the Commission found a single domestic industry consisting of all producers of fresh garlic. In its expedited second, third, and fourth five-year review determinations, the Commission again found a single domestic industry consisting of all domestic producers of fresh garlic.<sup>75</sup>

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<sup>73</sup> Section 771(4)(B) of the Tariff Act of 1930, 19 U.S.C. § 1677(4)(B).

<sup>74</sup> 59 FR 59209, November 16, 1994.

<sup>75</sup> 87 FR 59824, October 3, 2022.



## U.S. importers

During the final phase of the original investigation, the Commission received usable U.S. importer questionnaire data from 17 firms,<sup>76</sup> which accounted for approximately 40 percent of imports from China in crop year 1994.<sup>77</sup> Import data presented in the original investigation were based on official Commerce statistics and questionnaire responses. During the first five-year review, no U.S. importers reported any U.S. imports of fresh garlic from China during the period of review.<sup>78</sup> Import data presented in the first review were based on official Commerce statistics.

Although the Commission did not receive responses from any respondent interested parties in its second five-year review, the domestic interested parties provided a list of 81 firms believed to be importers of fresh garlic from China.<sup>79</sup> The Commission also did not receive responses from any respondent interested parties in its third five-year review; however, the domestic interested parties provided a list of 84 firms that were believed to be possible importers of fresh garlic from China.<sup>80</sup> Similarly, the Commission did not receive responses from any respondent interested parties in its fourth five-year review; however, the domestic interested parties provided a list of 137 firms that were believed to be possible importers of fresh garlic from China.<sup>81</sup>

The Commission did not receive responses from any respondent interested parties in this current review, but in its response to the Commission's notice of institution, the domestic interested parties provided a list of 125 potential U.S. importers of fresh garlic.<sup>82</sup>

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<sup>76</sup> Original publication, p. II-17.

<sup>77</sup> Original publication, p. II-52, fn. 107.

<sup>78</sup> First review publication, p. IV-1. Five firms reported imports of fresh garlic from Mexico, Argentina, and Chile during the period of review.

<sup>79</sup> Second review publication, p. I-17.

<sup>80</sup> Third review publication, p. I-15.

<sup>81</sup> Fourth review publication, p. I-21.

<sup>82</sup> Domestic interested parties' response to the notice of institution, November 2, 2022, exh. 10.

## U.S. imports

Table I-5 presents the quantity, value, and unit value of U.S. imports from China as well as the other top sources of U.S. imports (shown in descending order of 2021 imports by quantity).

**Table I-5**  
**Fresh garlic: U.S. imports, by source and period**

Quantity in 1,000 pounds; value in 1,000 dollars; unit value in dollars per pound

U.S. imports from	Measure	2017	2018	2019	2020	2021
China	Quantity	109,151	138,254	134,848	109,933	103,831
Spain	Quantity	32,096	19,250	37,793	49,062	53,194
Mexico	Quantity	28,127	18,308	21,657	33,664	42,348
Argentina	Quantity	16,554	12,754	10,327	17,939	23,834
All other sources	Quantity	12,096	5,458	7,230	13,763	14,891
Nonsubject sources	Quantity	88,873	55,770	77,008	114,429	134,267
All import sources	Quantity	198,024	194,024	211,856	224,361	238,098
China	Value	130,876	111,386	140,044	118,334	126,467
Spain	Value	40,410	23,268	47,267	74,955	81,336
Mexico	Value	19,084	12,355	16,968	24,827	31,847
Argentina	Value	18,266	10,063	7,544	20,565	22,966
All other sources	Value	14,093	6,141	9,383	18,928	16,068
Nonsubject sources	Value	91,853	51,827	81,160	139,275	152,217
All import sources	Value	222,730	163,213	221,205	257,609	278,685
China	Unit value	1.20	0.81	1.04	1.08	1.22
Spain	Unit value	1.26	1.21	1.25	1.53	1.53
Mexico	Unit value	0.68	0.67	0.78	0.74	0.75
Argentina	Unit value	1.10	0.79	0.73	1.15	0.96
All other sources	Unit value	1.17	1.13	1.30	1.38	1.08
Nonsubject sources	Unit value	1.03	0.93	1.05	1.22	1.13
All import sources	Unit value	1.12	0.84	1.04	1.15	1.17

Source: Compiled from official Commerce statistics for HTS statistical reporting numbers, 0703.20.0005, 0703.20.0015, 0703.20.0020, and 0703.20.0090, accessed November 16, 2022.

Note: The data do not include data from HTS subheadings 0710.80, 0711.90 or 2005.99, which contain out-of-scope merchandise.

Note: Because of rounding, figure may not add to total shown.

## Apparent U.S. consumption and market shares

Table I-6 presents data on U.S. producers' U.S. shipments, U.S. imports, apparent U.S. consumption, and market shares.

**Table I-6**

**Product: Apparent U.S. consumption and market shares, by source and period**

Quantity in 1,000 pounds; value in 1,000 dollars; shares in percent

Source	Measure	1994	2000	2005	2011	2016	2021
U.S. producers	Quantity	82,102	128,415	***	***	***	***
China	Quantity	63,532	1,030	111,988	137,018	119,904	103,831
Nonsubject sources	Quantity	34,677	56,972	41,540	22,464	72,648	134,267
All import sources	Quantity	98,209	58,002	153,528	159,481	192,552	238,098
Apparent U.S. consumption	Quantity	180,310	186,417	***	***	***	***
U.S. producers	Value	52,966	89,616	***	***	***	***
China	Value	20,014	182	59,494	97,947	150,390	126,467
Nonsubject sources	Value	17,697	28,848	25,796	17,002	71,514	152,217
All import sources	Value	37,711	29,031	85,290	114,949	221,904	278,685
Apparent U.S. consumption	Value	90,677	118,647	***	***	***	***
U.S. producers	Share of quantity	45.5	68.9	***	***	***	***
China	Share of quantity	35.2	0.6	***	***	***	***
Nonsubject sources	Share of quantity	19.3	30.6	***	***	***	***
All import sources	Share of quantity	54.5	31.1	***	***	***	***
U.S. producers	Share of value	58.4	75.5	***	***	***	***
China	Share of value	22.1	0.2	***	***	***	***
Nonsubject sources	Share of value	19.5	24.3	***	***	***	***
All import sources	Share of value	41.6	24.5	***	***	***	***

Source: For the years 1994, 2000, 2005, 2011, and 2016, data are compiled using data submitted in the Commission's original investigations and subsequent five-year reviews. For the year 2021, U.S. producers' U.S. shipments are compiled from the domestic interested parties' response to the Commission's notice of institution and U.S. imports are compiled using official Commerce statistics under HTS statistical reporting numbers 0703.20.0005, 0703.20.0015, 0703.20.0020, and 0703.20.0090, accessed November 16, 2022.

Note: Share of quantity is the share of apparent U.S. consumption by quantity in percent; share of value is the share of apparent U.S. consumption by value in percent.

Note: For a discussion of data coverage, please see "U.S. producers" and "U.S. importers" sections.

## The industry in China

### Producers in China

During the final phase of the original investigation, staff was unable to obtain data from foreign producers or exporters of fresh garlic in China directly but received limited information on the operations of the garlic industry in China from the U.S. Embassy in Beijing, the Embassy of China in Washington, DC, and the Ministry of Foreign Trade and Economic Cooperation.<sup>83</sup> During the first five-year review, the Commission received no questionnaire responses from producers of fresh garlic in China but received data from four exporters, none of which exported fresh garlic from China to the United States during crop years 1998-2000.<sup>84</sup>

Although the Commission did not receive responses from any respondent interested parties in its expedited second five-year review, the FGPA identified 106 possible producers/exporters of fresh garlic in China in that proceeding.<sup>85</sup> The Commission again did not receive responses from respondent interested parties in its expedited third five-year review; however, the FGPA identified 121 possible producers/exporters of fresh garlic in China in that proceeding.<sup>86</sup> During the expedited fourth five-year review, the Commission again received no responses from respondent interested parties, but the FGPA identified 170 possible producers/exporters of fresh garlic in China.<sup>87</sup>

Although the Commission did not receive responses from any respondent interested parties in this five-year review, the FGPA and its members identified 153 possible exporters of fresh garlic in China.<sup>88</sup>

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<sup>83</sup> Original publication, p. II-50.

<sup>84</sup> First review publication, p. IV-4.

<sup>85</sup> Second review publication, p. I-24.

<sup>86</sup> Third review publication, p. I-19.

<sup>87</sup> Fourth review publication, p. I-26.

<sup>88</sup> Domestic interested parties' response to the notice of institution, November 2, 2022, exh. 11.

## Recent developments

Table I-7 presents events in the Chinese industry since the Commission's last five-year review.

**Table I-7**  
**Fresh garlic: Recent developments in the Chinese industry**

Item	Event
Shifts in supply	***.
Shifts in demand	The COVID-19 pandemic caused an increase in home cooking worldwide, which lead to an increase in demand for garlic imports. In 2020, Chinese fresh garlic exports increased by 28 percent compared to the previous year.

Source: Purchaser Questionnaire Responses (see Appendix D) and <https://www.globaltrademag.com/global-garlic-imports-surged-but-record-chinese-exports-curb-price-growth/>, retrieved December 14, 2022.

## Exports

Table I-8 presents export data for fresh garlic from China (by export destination in descending order of quantity for 2021).

**Table I-8**  
**Fresh garlic: Quantity of exports from China, by destination and period**

Quantity in 1,000 pounds

Destination market	2017	2018	2019	2020	2021
Indonesia	1,176,893	1,263,120	1,026,995	1,376,425	1,240,628
Vietnam	427,398	487,918	499,060	567,446	504,797
Malaysia	324,769	338,027	243,061	259,614	311,916
Philippines	149,132	174,931	180,924	201,081	201,107
Thailand	80,366	132,768	179,647	196,578	177,668
United Arab Emirates	130,763	115,863	129,187	151,190	146,271
Bangladesh	86,822	142,916	176,450	226,002	135,818
Pakistan	114,498	98,878	132,181	238,938	107,919
United States	104,501	141,294	129,793	107,663	103,705
Saudi Arabia	101,476	105,625	106,661	115,785	97,694
All other markets	1,076,333	1,151,993	1,079,808	1,529,289	1,180,787
All markets	3,772,952	4,153,332	3,883,767	4,970,012	4,208,309

Source: Global Trade Information Services, Inc., Global Trade Atlas, HS subheadings 0703.20, accessed December 2, 2022.

Note: HTS subheadings 0710.80, 0711.90, 2005.90, and 2005.99 are not included, as they contain out-of-scope merchandise.

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

## Third-country trade actions

At the time of the original investigation, fresh garlic exported from China was not subject to any known antidumping proceedings in other countries. Since that time, however, fresh garlic exports from China have faced antidumping duty orders and other import barriers in the form of phytosanitary measures and quotas.<sup>89</sup> Brazil has maintained antidumping duties against fresh garlic from China since January 1996. In October 2019, Brazil determined to extend the duties for an additional five years.<sup>90</sup> South Africa also imposed antidumping duties on fresh garlic imports from China in November 2000. In February 2022, South Africa determined to extend the duties for an additional five years.<sup>91</sup> In 2006, Canada conducted a sunset review of its 1997 antidumping duty order on fresh garlic from China. The government determined that if the order was revoked, dumping of fresh garlic from China was likely to recur, but based on the absence of domestic industry participation, the government could not make a finding as to whether injury was likely to result from revocation, and thus, rescinded the finding and order, effective March 2007.<sup>92</sup>

Chinese garlic is subject to tariff restrictions and import quotas imposed by the European Union (“EU”), South Korea, Morocco, Taiwan, and Thailand. The EU maintains a tariff rate quota on imported garlic from China that is set at 48,225 metric tons (106 million pounds).<sup>93</sup> South Korea maintains a quota system on imports of garlic, allowing in 14,467 metric tons (31 million pounds). This quota also imposes an *ad valorem* tariff of 50 percent, while imports above the quota are subject to tariffs of 360 percent or 1,800 won per kilogram.<sup>94</sup> Thailand imposes a quota on imports of all garlic of 65 metric tons (143 thousand pounds).<sup>95</sup> Taiwan maintains an annual quota on garlic of imports of 3,520 metric tons (7,760 thousand

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<sup>89</sup> Third review publication, p. I-17.

<sup>90</sup> World Trade Organization, Semi-Annual Report under Article 16.4 of the Agreement: Brazil, G/ADP/N/357/BRA, October 19, 2021, p. 16.

<sup>91</sup> World Trade Organization, Semi-Annual Report under Article 16.4 of the Agreement: South Africa, G/ADP/N/370/ZAF, October 14, 2022, p. 8.

<sup>92</sup> Third review publication, p. I-18; and Canada International Trade Tribunal, Garlic, Expiry Review No. RR-2005-001, <https://cscb.ca/article/garlic-expiry-review-no-rr-2005-001-1>, accessed on March 20, 2012.

<sup>93</sup> Official Journal of the European Union, OJ L 185, 17.12.2019, p. 118-9

<sup>94</sup> Domestic Interested Parties’ Response to the Notice of Institution, November 2, 2022, p. 14; Trade Policy Review, Report by Secretariat, Republic of Korea, World Trade Organization Trade Policy Review Body, WT/TPR/S/414/Rev. 1, December 21, 2021.

<sup>95</sup> Domestic Interested Parties’ Response to the Notice of Institution, November 2, 2022, p. 14; and World Trade Organization, Committee on Agriculture, G/AG/N/THA/84, February 17, 2017, (Thailand).

pounds).<sup>96</sup> Additionally, the Dominican Republic maintains an annual quota on garlic imports of 4,500 metric tons (9.9 million pounds).<sup>97</sup> Iceland maintains an annual quota on garlic imports of 55.8 metric tons (12 thousand pounds).<sup>98</sup> The United Kingdom currently imposes an annual import quota on garlic of 5,770 metric tons (13 million pounds).<sup>99</sup>

Phytosanitary measures such as fungicide limitations, food safety requirements, and pest risk-analysis requirements have also hindered Chinese exports in some markets. For example, in 2015, Peru imposed pest risk analysis requirements on imports of garlic from China.<sup>100</sup> Similarly, Canada imposed phytosanitary measures on garlic from China in 2015, setting maximum residue limits on the chemical fludioxonil.<sup>101</sup> Phytosanitary measures specific to garlic from China have also been enacted by Brazil, which imposed two food safety measures related to chemicals used as active ingredients in pesticides.<sup>102</sup> Mexico, which banned imports of garlic from China based on phytosanitary concerns in 1993, imposed additional phytosanitary certification requirements for garlic from China in 1996.<sup>103</sup> In 2017, South Korea proposed food safety related phytosanitary measures that mandated additional testing criteria for garlic imports.<sup>104</sup> The Philippines government also imposed phytosanitary measures on garlic

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<sup>96</sup> World Trade Organization, Committee on Agriculture, G/AG/N/TPKM/211, February 23, 2022, (Taiwan).

<sup>97</sup> Domestic Interested Parties' Response to the Notice of Institution, November 2, 2022, p. 14; and Trade Policy Review, Report by the Secretariat, Dominican Republic, World Trade Organization Trade Policy Review Body, WT/TPR/S/319/Rev. 1, November 13, 2015.

<sup>98</sup> Domestic Interested Parties' Response to the Notice of Institution, November 2, 2022, p. 14; and World Trade Organization, Committee on Agriculture, G/AG/N/ISL/65, September 26, 2022, (Iceland).

<sup>99</sup> Domestic Interested Parties' Response to the Notice of Institution, November 2, 2022, p. 14; and World Trade Organization, Committee on Agriculture, G/AG/N/GBR/6/Rev. 1, February 7, 2022, (United Kingdom).

<sup>100</sup> Domestic Interested Parties' Response to the Notice of Institution, May 2, 2017, p. 23; and World Trade Organization, Committee on Sanitary and Phytosanitary Measures, G/SPS/N/PER/599, April 9, 2015, (Peru).

<sup>101</sup> Domestic Interested Parties' Response to the Notice of Institution, May 2, 2017, p. 23; and World Trade Organization, Committee on Sanitary and Phytosanitary Measures, G/SPS/N/CAN/941/Add. 1, October 16, 2015, (Canada).

<sup>102</sup> Domestic Interested Parties' Response to the Notice of Institution, May 2, 2017, p. 23; World Trade Organization, Committee on Sanitary and Phytosanitary Measures, G/SPS/N/BRA/1154/, July 4, 2016, (Brazil); and World Trade Organization, Committee on Sanitary and Phytosanitary Measures, G/SPS/N/BRA/1244/, April 11, 2017 (Brazil).

<sup>103</sup> Third review publication, p. I-18; *Domestic Interested Parties' Response to the Notice of Institution*, May 2, 2017, p. 23; World Trade Organization Committee on Sanitary and Phytosanitary Measures, G/SPS/N/MEX/98, (Mexico).

<sup>104</sup> Domestic Interested Parties' Response to the Notice of Institution, May 2, 2017, p. 23; World Trade Organization Committee on Sanitary and Phytosanitary Measures, G/SPS/N/KOR/557, February 6, 2017, (Korea).



imports.<sup>105</sup> A number of measures specific to Chinese garlic have also been imposed by Chile, New Zealand, and Venezuela in the past.<sup>106</sup>

## The global market

China, Spain, and Argentina are the leading exporters of fresh garlic, with China holding nearly 80 percent of the global market by volume. Global exports of fresh garlic increased by 9 percent between 2017-2021. Table I-9 presents global export data for fresh garlic (by source in descending order of quantity for 2021).

**Table I-9**  
**Fresh garlic: Quantity of global exports by country and period**

Quantity in 1,000 pounds

Exporting country	2017	2018	2019	2020	2021
China	3,772,952	4,153,332	3,883,767	4,970,012	4,208,310
Spain	371,694	338,612	413,249	427,007	390,963
Argentina	183,857	234,550	213,135	212,832	239,355
United Arab Emirates	24,131	74,896	81,754	103,225	97,754
Netherlands	76,232	81,231	70,320	75,920	70,372
Mexico	31,763	20,285	21,602	27,247	39,812
Chile	24,740	28,911	29,252	31,435	37,178
Malaysia	40,789	36,133	11,272	18,840	29,156
India	83,107	35,137	18,446	10,318	10,071
Egypt	50,958	35,581	79,438	81,274	45
All other exporters	170,213	141,809	143,295	169,591	158,483
All exporters	4,830,437	5,180,476	4,965,530	6,127,701	5,281,497

Source: Global Trade Information Services, Inc., Global Trade Atlas, HS subheadings 0703.20, accessed December 5, 2022.

Note: HTS subheadings 0710.80, 0711.90, 2005.90, and 2005.99 are not included, as they contain out-of-scope merchandise. Top exporting countries based on 2017-21 total export volumes.

Note: Because of rounding, figures may not add to total shown.

<sup>105</sup> Domestic Interested Parties' Response to the Notice of Institution, November 2, 2022, p. 15; and World Trade Organization, December 20, 2022, Committee on Import Licensing, G/LIC/N/3/PHL/14/Rev. 1.

<sup>106</sup> Third review publication, p. I-18; and World Trade Organization, Committee on Phytosanitary Measures, G/SPS/N/CHL/75, March 27, 2001 (Chile); G/SPS/N/NZL/345, G/SPS/N/KOR/358, March 25, 2010 (Korea); and G/SPS/N/VEN/5, March 12, 2003 (Venezuela).



**APPENDIX A**  
**FEDERAL REGISTER NOTICES**



The Commission makes available notices relevant to its investigations and reviews on its website, [www.usitc.gov](http://www.usitc.gov). In addition, the following tabulation presents, in chronological order, Federal Register notices issued by the Commission and Commerce during the current proceeding.

Citation	Title	Link
87 FR 59779, October 3, 2022	<i>Initiation of Five-Year (Sunset) Reviews</i>	<a href="https://www.govinfo.gov/content/pkg/FR-2022-10-03/pdf/2022-21419.pdf">https://www.govinfo.gov/content/pkg/FR-2022-10-03/pdf/2022-21419.pdf</a>
87 FR 59824, October 3, 2022	<i>Fresh Garlic from China; Institution of a Five-Year Review</i>	<a href="https://www.govinfo.gov/content/pkg/FR-2022-10-03/pdf/2022-21227.pdf">https://www.govinfo.gov/content/pkg/FR-2022-10-03/pdf/2022-21227.pdf</a>



**APPENDIX B**  
**COMPANY-SPECIFIC DATA**





\* \* \* \* \*



**APPENDIX C**  
**SUMMARY DATA COMPILED IN PRIOR PROCEEDINGS**



Table C-3

Fresh garlic: Summary data concerning the U.S. market, crop years 1991-94

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

Item	Reported data				Period changes			
	1991	1992	1993	1994	1991-94	1991-92	1992-93	1993-94
<b>U.S. consumption quantity:</b>								
Amount	85,620	96,150	117,441	180,310	+110.6	+12.3	+22.1	+53.5
Producers' share <sup>1</sup>	49.4	60.5	63.5	45.5	-3.9	+11.1	+3.0	-17.9
Importers' share: <sup>1</sup>								
China <sup>2</sup>	7.1	3.7	8.0	35.2	+28.2	-3.4	+4.3	+27.2
Argentina	9.2	5.4	4.3	3.1	-6.2	-3.9	-1.1	-1.2
Chile	3.3	2.1	1.9	.9	-2.4	-1.2	-0.2	-1.1
Mexico	24.1	23.6	21.3	14.7	-9.3	-0.4	-2.3	-6.6
Taiwan	5.5	3.1	.8	.4	-5.1	-2.4	-2.3	-0.4
Other sources	1.4	1.7	.2	.2	-1.3	+0.2	-1.5	(3)
Total	50.6	39.5	36.5	54.5	+3.9	-11.1	-3.0	+17.9
<b>U.S. consumption value:</b>								
Amount	55,790	61,439	74,825	90,677	+62.5	+10.1	+21.8	+21.2
Producers' share <sup>1</sup>	58.3	64.7	71.1	58.4	+0.1	+6.4	+6.4	-12.7
Importers' share: <sup>1</sup>								
China <sup>2</sup>	4.4	2.4	5.0	22.1	+17.6	-2.1	+2.6	+17.1
Argentina	10.9	5.9	4.3	4.0	-6.9	-5.0	-1.6	-0.3
Chile	4.7	3.0	2.6	1.6	-3.1	-1.8	-0.4	-1.0
Mexico	16.5	20.3	16.3	13.3	-3.2	+3.8	-4.0	-3.0
Taiwan	3.2	2.0	.5	.2	-3.0	-1.2	-1.5	-0.3
Other sources	1.8	1.7	.2	.3	-1.5	-0.1	-1.5	+0.1
Total	41.7	35.3	28.9	41.6	-0.1	-6.4	-6.4	+12.7
<b>U.S. importers' imports from—</b>								
<b>China:<sup>2</sup></b>								
Imports quantity	6,055	3,540	9,395	63,532	+949.2	-41.5	+165.4	+576.2
Imports value	2,474	1,446	3,719	20,014	+709.0	-41.6	+157.2	+438.2
Unit value	\$0.41	\$0.41	\$0.40	\$0.32	-22.9	(4)	-3.1	-20.4
Ending inventory quantity <sup>3</sup>	-	-	-	***	-	-	-	-
<b>Argentina:</b>								
Imports quantity	7,886	5,147	5,024	5,511	-30.1	-34.7	-2.4	+9.7
Imports value	6,106	3,627	3,241	3,640	-40.4	-40.6	-10.6	+12.3
Unit value	\$0.77	\$0.70	\$0.65	\$0.66	-14.7	-9.0	-8.5	+2.4
Ending inventory quantity	-	-	-	-	-	-	-	-
<b>Chile:</b>								
Imports quantity	2,826	2,018	2,264	1,543	-45.4	-28.6	+12.2	-31.8
Imports value	2,634	1,813	1,946	1,496	-43.2	-31.2	+7.3	-23.1
Unit value	\$0.93	\$0.90	\$0.86	\$0.97	+4.0	-3.6	-4.3	+12.8
Ending inventory quantity	-	-	-	-	-	-	-	-
<b>Mexico:</b>								
Imports quantity	20,616	22,721	25,059	26,565	+28.9	+10.2	+10.3	+6.0
Imports value	9,222	12,499	12,203	12,065	+30.8	+35.5	-2.4	-1.1
Unit value	\$0.45	\$0.55	\$0.49	\$0.45	+1.5	+23.0	-11.5	-6.7
Ending inventory quantity	-	-	-	-	-	-	-	-
<b>Taiwan:</b>								
Imports quantity	4,712	2,973	947	711	-84.9	-36.9	-68.1	-24.9
Imports value	1,792	1,241	382	206	-88.5	-30.7	-69.2	-46.1
Unit value	\$0.38	\$0.42	\$0.40	\$0.29	-24.0	+9.8	-3.4	-28.3
Ending inventory quantity	-	-	-	-	-	-	-	-
<b>Other sources:</b>								
Imports quantity	1,239	1,615	233	346	-72.1	+30.3	-85.6	+48.5
Imports value	1,025	1,047	142	290	-71.7	+2.1	-86.4	+104.2
Unit value	\$0.83	\$0.65	\$0.61	\$0.84	+1.3	-21.6	-5.9	+37.3
<b>All sources:</b>								
Imports quantity	43,334	38,014	42,922	98,209	+126.6	-12.3	+12.9	+128.8
Imports value	23,252	21,673	21,634	37,711	+62.2	-6.8	-0.2	+74.3
Unit value	\$0.54	\$0.57	\$0.50	\$0.38	-28.4	+6.3	-11.6	-23.8

Table continued on next page.

Table C-3—Continued

Fresh garlic: Summary data concerning the U.S. market, crop years 1991-94

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

Item	Reported data				Period changes			
	1991	1992	1993	1994	1991-94	1991-92	1992-93	1993-94
<b>U.S. producers<sup>1</sup>—</b>								
Ending capacity quantity . . . . .	97,932	104,456	141,274	141,274	+44.3	+6.7	+35.2	0
Production quantity . . . . .	49,102	70,087	93,416	100,307	+104.3	+42.7	+33.3	+7.4
Capacity utilization <sup>2</sup> . . . . .	50.1	66.3	62.5	66.7	+16.5	+16.2	-3.8	+4.2
<b>U.S. shipments:</b>								
Quantity . . . . .	42,286	58,137	74,520	82,102	+94.2	+37.5	+28.2	+10.2
Value . . . . .	32,538	39,766	53,191	52,966	+62.8	+22.2	+33.8	-0.4
Unit value . . . . .	\$0.77	\$0.68	\$0.71	\$0.65	-16.2	-11.1	+4.4	-9.6
<b>Export shipments:</b>								
Quantity . . . . .	3,482	5,885	7,883	12,042	+245.8	+69.0	+34.0	+52.8
Exports/shipments <sup>3</sup> . . . . .	7.6	9.2	9.6	12.8	+5.2	+1.6	+0.4	+3.2
Value . . . . .	3,078	4,329	***	7,588	+146.5	+40.6	***	***
Unit value . . . . .	\$0.88	\$0.74	***	\$0.63	-28.7	-16.8	***	***
Ending inventory quantity . . . . .	0	0	***	***	(6)	(6)	(6)	+689.1
Inventory/shipments <sup>4</sup> . . . . .	0	0	***	***	+0.8	0	+0.1	+0.7
Production workers . . . . .	599	710	1,021	1,087	+81.5	+18.5	+43.8	+6.5
Hours worked (1,000s) . . . . .	1,007	1,247	1,475	1,584	+57.3	+23.8	+18.3	+7.4
Total compensation (\$1,000) . . . . .	7,175	9,633	11,165	12,024	+67.6	+34.3	+15.9	+7.7
Hourly total compensation . . . . .	\$7.13	\$7.72	\$7.57	\$7.59	+6.5	+8.4	-2.0	+0.3
Productivity (lbs./hour) . . . . .	55.7	55.6	59.9	59.5	+6.8	-0.2	+7.7	-0.6
Unit labor costs (per 1,000 pounds) . . . . .	\$138.79	\$139.03	\$126.45	\$127.63	-8.0	+0.2	-9.0	+0.9
<b>Net sales—</b>								
Quantity . . . . .	45,768	64,022	82,402	94,144	+105.7	+39.9	+28.7	+14.2
Value . . . . .	35,615	44,093	59,046	60,554	+70.0	+23.8	+33.9	+2.6
Unit sales value . . . . .	\$0.78	\$0.69	\$0.72	\$0.64	-17.3	-11.5	+4.0	-10.2
All expenses . . . . .	32,095	42,236	57,803	61,909	+92.9	+31.6	+36.9	+7.1
Net income (loss) . . . . .	3,520	1,857	1,243	(1,355)	-138.5	-47.2	-33.1	-209.0
Capital expenditures . . . . .	***	***	***	***	+16.5	+21.8	-19.1	+18.3
Total assets . . . . .	***	***	***	***	+47.1	+39.6	+23.3	-14.5
Unit expenses . . . . .	\$0.70	\$0.66	\$0.70	\$0.66	-6.0	-5.7	+6.3	-6.3
Unit net income (loss) . . . . .	\$0.08	\$0.03	\$0.02	(\$0.01)	-118.3	-63.0	-48.0	-195.4
Net income(loss)/sales <sup>5</sup> . . . . .	9.9	4.2	2.1	(2.2)	-12.1	-5.7	-2.1	-4.3

<sup>1</sup> "Reported data" are in percent and "period changes" are in percentage points.<sup>2</sup> Includes imports from Hong Kong.<sup>3</sup> A decrease of less than 0.05 percentage points.<sup>4</sup> A decrease of less than 0.05 percent.<sup>5</sup> Data are for China only.<sup>6</sup> Not applicable.

Note.—Period changes are derived from the unrounded data. Period changes involving negative period data are positive if the amount of the negativity decreases and negative if the amount of the negativity increases. Because of rounding, figures may not add to the totals shown. Unit values and other ratios are calculated from the unrounded figures, using data of firms supplying both numerator and denominator information.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and from official statistics of the U.S. Department of Commerce.

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
<b>U.S. consumption quantity:</b>						
Amount .....	180,822	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
<b>U.S. consumption value:</b>						
Amount .....	124,809	149,902	118,647	-4.9	20.1	-20.9
Producers' share (1) .....	78.5	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
<b>U.S. imports from:</b>						
<b>China:</b>						
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)
<b>Other sources:</b>						
Quantity .....	50,686	106,137	56,972	12.0	108.6	-45.3
Value .....	29,285	60,445	28,848	-1.5	108.4	-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
<b>All sources:</b>						
Quantity .....	51,385	107,013	58,002	12.9	108.3	-45.8
Value .....	29,377	60,706	29,031	-1.2	108.6	-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
<b>U.S. producers:</b>						
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	62.5
Capacity utilization (1) .....	68.8	52.0	78.7	9.9	-14.8	24.6
<b>U.S. shipments:</b>						
Quantity .....	109,437	83,511	128,415	17.3	-23.7	53.8
Value .....	95,432	89,196	89,818	-6.1	-6.5	0.5
Unit value .....	\$0.87	\$1.07	\$0.70	-20.0	22.5	-34.7
<b>Export shipments:</b>						
Quantity .....	3,884	2,401	5,364	38.1	-35.2	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) .....	10,282	10,192	12,195	18.8	-0.7	19.7
Hourly wages .....	\$6.83	\$7.23	\$7.29	8.8	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
<b>Net sales:</b>						
Quantity .....	113,137	84,890	133,071	17.6	-26.0	66.6
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	-38.2
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 .....	17,708	15,082	16,029	-9.5	-14.8	6.3
Operating income or (loss) .....	15,732	7,207	3,278	-79.2	-54.2	-64.5
Capital expenditures .....	8,026	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	78.5	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**  
**PURCHASER QUESTIONNAIRE RESPONSES**



As part of their response to the notice of institution, interested parties were asked to provide a list of three to five leading purchasers in the U.S. market for the domestic like product. A response was received from domestic interested parties and it named the following three firms as top purchasers of fresh garlic: \*\*\*. Purchaser questionnaires were sent to these three firms and two firms (\*\*\*) provided responses, which are presented below.

1. Have there been any significant changes in the supply and demand conditions for fresh garlic that have occurred in the United States or in the market for fresh garlic in China since June 1, 2016?

Purchaser	Yes / No	Changes that have occurred
***	***	***
***	***	***

2. Do you anticipate any significant changes in the supply and demand conditions for fresh garlic in the United States or in the market for fresh garlic in China within a reasonably foreseeable time?

Purchaser	Yes / No	Anticipated changes
***	***	***
***	***	***

