

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-831]

Fresh Garlic From the People's Republic of China: Continuation of Antidumping Duty Order

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

SUMMARY: As a result of the determination by the Department of Commerce ("the Department") and the International Trade Commission ("ITC") that revocation of the antidumping duty order on fresh garlic from the People's Republic of China ("PRC") would be likely to lead to continuation or recurrence of dumping and of material injury to an industry in the United States within a reasonably foreseeable time, the Department is publishing notice of the continuation of the antidumping duty order.

DATES: *Effective Date:* April 30, 2012.

FOR FURTHER INFORMATION CONTACT: Sean Carey or Dana Mermelstein, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-3964 and (202) 482-1391, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 1, 2011, the Department published the notice of initiation of the third sunset review of the antidumping duty order on fresh garlic from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended (Act).¹ The Department conducted an expedited sunset review of this order. As a result of its review, the Department found that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping and notified the ITC of the magnitude of the margins likely to prevail were the order to be revoked.²

On April 27, 2012, the ITC issued its determination pursuant to section 751(c) of the Act that revocation of the antidumping duty order on fresh garlic from the PRC would be likely to lead to continuation or recurrence of material injury to an industry in the United

States within a reasonably foreseeable time.³

Scope of the Order

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

The scope of 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 0703.20.0010, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6500, and 2005.99.9700 of the Harmonized Tariff Schedule of the United States ("HTSUS").⁴ 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 otherwise prepared for use as seed must be accompanied by declarations to U.S. Customs and Border Protection to that effect.

Continuation of the Order

As a result of the determinations by the Department and the ITC that revocation of the antidumping duty

order would be likely to lead to continuation or recurrence of dumping and of material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty order on fresh garlic from the PRC.

U.S. Customs and Border Protection will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of continuation of the order will be the effective date listed above. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next five-year review of the order not later than 30 days prior to the fifth anniversary of the effective date of this continuation of the antidumping duty order.

This five-year (sunset) review and this notice are in accordance with sections 751(c) and 777(i)(1) of the Act and 19 CFR 351.218(f)(4).

Dated: May 8, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

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

² See *Fresh Garlic from the People's Republic of China: Final Results of Expedited Sunset Review of the Antidumping Duty Order*, 77 FR 777 (January 6, 2012).

³ See *Fresh Garlic From China; Determination*, 77 FR 26579 (May 4, 2012).

⁴ Effective January 10, 2002, HTSUS subheading 0711.90.60 was replaced by 0711.90.65. See *Proclamation 7515—To Modify the Harmonized Tariff Schedule of the United States, To Provide Rules of Origin Under the North American Free Trade Agreement for Affected Goods, and for Other Purposes*, 66 FR 66549 (December 26, 2001). Effective February 3, 2007, HTSUS subheading 2005.90.97 was replaced by 2005.99.97. See *Proclamation 8097—To Modify the Harmonized Tariff Schedule of the United States, To Adjust Rules of Origin Under the United States-Australia Free Trade Agreement and for Other Purposes By the President of the United States of America*, 72 FR 453 (January 4, 2006).