

Exporter	Producer	Weighted-average margin
Shenyang Yuanda Aluminium Industry Engineering Co. Ltd .....	Zhaoqing Asia Aluminum Factory Company Limited; Guang Ya Aluminum Industries Co., Ltd.	59.31
Tai-Ao Aluminium (Taishan) Co., Ltd .....	Tai-Ao Aluminium (Taishan) Co., Ltd .....	59.31
Tianjin Ruixin Electric Heat Transmission Technology Co., Ltd	Tianjin Ruixin Electric Heat Transmission Technology Co., Ltd	59.31
USA Worldwide Door Components (Pinghu) Co., Ltd.; World-wide Door Components (Pinghu) Co.	USA Worldwide Door Components (Pinghu) Co., Ltd .....	59.31
Zhejiang Yongkang Listar Aluminium Industry Co., Ltd .....	Zhejiang Yongkang Listar Aluminium Industry Co., Ltd .....	59.31
Zhongshan Gold Mountain Aluminium Factory Ltd .....	Zhongshan Gold Mountain Aluminium Factory Ltd .....	59.31
PRC-wide Entity* .....	.....	59.31

### Disclosure

We will disclose the calculations performed to parties in this proceeding within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

### Suspension of Liquidation

In accordance with section 733(d) of the Act, we will instruct U.S. Customs and Border protection ("CBP") to suspend liquidation of all entries of aluminum extrusions from the PRC as described in the "Scope of Investigation" section, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds U.S. price, as follows: (1) The rate for the exporter/producer combinations listed in the chart above will be the rate we have determined in this preliminary determination; (2) for all PRC exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be the PRC-wide rate; and (3) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be the rate applicable to the PRC exporter/producer combination that supplied that non-PRC exporter. These suspension-of-liquidation instructions will remain in effect until further notice.

Additionally, as the Department has determined in its *Aluminum Extrusions From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 75 FR 54302 (September 7, 2010) ("*CVD Prelim*") that the merchandise under investigation exported by Guang Ya Group, and that exported by New Zhongya, benefitted from export subsidies, we will instruct CBP to require an antidumping cash deposit or posting of a bond equal to the amount by which the NV exceeds the U.S. price for Guang Ya Group/New Zhongya/Xinya, as indicated above, minus the amount determined to

constitute an export subsidy. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Carbazole Violet Pigment 23 From India*, 69 FR 67306, 67307 (November 17, 2007).

### International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary affirmative determination of sales at LTFV. Section 735(b)(2) of the Act requires the ITC to make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of aluminum extrusions, or sales (or the likelihood of sales) for importation, of the merchandise under consideration within 45 days of our final determination.

### Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs. *See* 19 CFR 351.309. A table of contents, list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes. The Department also requests that parties provide an electronic copy of its case and rebuttal brief submissions in either a "Microsoft Word" or a "pdf" format.

In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Interested parties, who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30

days after the date of publication of this notice. *See* 19 CFR 351.310(c). Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, we intend to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230, at a time and location to be determined. *See* 19 CFR 351.310. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

We will make our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: October 27, 2010.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-831]

#### Fresh Garlic From the People's Republic of China: Preliminary Results of New Shipper Reviews and Preliminary Rescission, in Part

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

**SUMMARY:** The Department of Commerce (Department) is conducting new shipper reviews (NSRs) of Jinxiang Chengda Imp & Exp Co., Ltd. (Chengda), Jinxiang Yuanxin Imp & Exp Co., Ltd. (Yuanxin), and Zhengzhou Huachao Industrial Co., Ltd. (Huachao) under the antidumping duty order on fresh garlic from the People's Republic of China (PRC) covering the period of review (POR) of

November 1, 2008 through October 31, 2009. As discussed below, we preliminarily determine that Yuanxin's and Huachao's sales are *bona fide* and that these sales have been made in the United States at prices below normal value (NV). Yuanxin and Huachao have also demonstrated their eligibility for a separate rate in these NSRs. In addition, we find Chengda's sales to be not *bona fide*. As such, we are preliminarily rescinding the NSR for Chengda. The dumping margins are set forth in the "Preliminary Results of the Review" section below. If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on entries of subject merchandise during the POR for which importer-specific assessment rates are above *de minimis*. We invite interested parties to comment on these preliminary results. See "Comments" section below.

**DATES:** *Effective Date:* November 12, 2010.

**FOR FURTHER INFORMATION CONTACT:**

Scott Lindsay, Toni Page, and Lingjun Wang, 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) 482-0780, (202) 482-1398, and (202) 482-2316, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On November 27, 2009, the Department received timely requests for a NSR from Chengda and Yuanxin, and on December 1, 2009, the Department received a timely request from Huachao in accordance with 19 CFR 351.214(c). On December 29, 2009, the Department determined that the requests submitted by Chengda, Yuanxin, and Huachao met the threshold requirements for initiation of a NSR and initiated the NSRs. See *Fresh Garlic From the People's Republic of China: Initiation of New Shipper Reviews*, 75 FR 343 (January 5, 2010).

Since the initiation of these reviews, the Department has issued original and supplemental questionnaires to Chengda, Yuanxin, and Huachao, to which each has responded in a timely manner. As explained in the memorandum from the Deputy Assistant Secretary (DAS) for Import Administration, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from February 5 through February 12, 2010. Thus, all deadlines in this segment of the proceeding were extended by seven

days. See Memorandum to the Record from Ronald Lorentzen, DAS for Import Administration, Re: Tolling of Administrative Deadlines as a Result of the Government Closure During the Recent Snowstorm (February 12, 2010).

On March 10, 2010, the Department placed copies of CBP documents on the record of this review pertaining to Chengda's, Yuanxin's, and Huachao's shipments of garlic from the PRC exported to the United States during the POR. See Memorandum to the File, from Scott Lindsay, Senior Case Analyst, Re: New Shipper Review of Fresh Garlic from the People's Republic of China: Customs Entry Packages (March 10, 2010).

On June 8, 2010, the Department extended the deadline for the preliminary results of these NSRs to no later than November 1, 2010. See *Fresh Garlic from the People's Republic of China: Extension of Time Limit for the Preliminary Results of the New Shipper Reviews*, 75 FR 32362 (June 8, 2010). On July 20, 2010, the Department sent interested parties a letter requesting comments on the surrogate country selection and information pertaining to valuing factors of production. See Letter to Interested Parties, from the Department, Re: New Shipper Review of Fresh Garlic from the People's Republic of China ("PRC") (July 20, 2010). On September 10, 2010, Huachao submitted comments on the surrogate country selection and information pertaining to valuing factors of production. See Letter to the Department, from Huachao, Re: Fresh Garlic from the People's Republic of China—Surrogate Value Information for 16th New Shipper Review (September 10, 2010) (Huachao's Surrogate Value Submission). The Fresh Garlic Producers Association (FGPA) and its individual members (Christopher Ranch L.L.C., the Garlic Company, Valley Garlic, and Vessey and Company, Inc.) (collectively, Petitioners) also submitted comments regarding surrogate values for this NSR. See Letter to the Department, from Petitioners, Re: 16th New Shipper Review of the Antidumping Duty Order on Fresh Garlic from the People's Republic of China (September 10, 2010) (Petitioners' Surrogate Value Data). No other party has submitted surrogate values or surrogate country comments on the record of this proceeding.

On October 6, 2010, the Department placed a copy of the CBP data run on the record of this review, which contains all entries of subject merchandise exported from the PRC to the United States during the POR. See Memorandum to the File, from The Team, AD/CVD Operations, Office 6, Re:

New Shipper Review of Fresh Garlic from the People's Republic of China: Customs Entries from November 1, 2008 through October 31, 2009 (October 6, 2010). On October 18, 2010, Petitioners placed on the record comments regarding the *bona fides* of sales made by Yuanxin, Chengda, and Huachao. See Petitioners' October 18, 2010 *Bona Fides* Comments.

**Period of Review**

Pursuant to 19 CFR 351.214(g), the POR covered by these NSRs is November 1, 2008 through October 31, 2009.

**Scope of the Order**

The products covered by this order are all grades of garlic, whole or separated into constituent cloves, whether or not peeled, fresh, chilled, frozen, provisionally preserved, or packed in water or other neutral substance, but not prepared or preserved by the addition of other ingredients or heat processing. The differences between grades are based on color, size, sheathing, and level of decay. The scope of this order does not include the following: (a) Garlic that has been mechanically harvested and that is primarily, but not exclusively, destined for non-fresh use; or (b) garlic that has been specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed. The subject merchandise is used principally as a food product and for seasoning. The subject garlic is currently classifiable under subheadings 0703.20.0010, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, and 2005.90.9700 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive. In order to be excluded from the 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 CBP to that effect.

**Non-Market Economy Country Status**

In every case conducted by the Department involving the PRC, the PRC has been treated as a non-market economy (NME) country. In accordance with section 771(18)(C)(i) of the Tariff Act of 1930, as amended (the Act), any determination that a foreign country is

an NME country shall remain in effect until revoked by the administering authority. See, e.g., *Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the 2004/2005 Administrative Review and Notice of Rescission of 2004/2005 New Shipper Review*, 71 FR 66304 (November 14, 2006). None of the parties to this proceeding have contested such treatment. Accordingly, we calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

### Bona Fides Analysis

Consistent with Department practice, we examined the *bona fides* of each new shipper sale at issue. In evaluating whether or not a sale in a NSR is commercially reasonable, and therefore *bona fide*, the Department considers, *inter alia*, such factors as: (1) The timing of the sale; (2) the price and quantity; (3) the expenses arising from the transaction; (4) whether the goods were resold at a profit; and (5) whether the transaction was made on an arm's-length basis. See *Tianjin Tiancheng Pharmaceutical Co., Ltd. v. United States*, 366 F. Supp. 2d 1246, 1250 (Ct. Int'l Trade 2005) (*TTPC*). Accordingly, the Department considers a number of factors in its *bona fides* analysis, "all of which may speak to the commercial realities surrounding an alleged sale of subject merchandise." See *Hebei New Donghua Amino Acid Co., Ltd. v. United States*, 374 F. Supp. 2d 1333, 1342 (Ct. Int'l Trade 2005) (*New Donghua*) (citing *Fresh Garlic From the People's Republic of China: Final Results of Antidumping Administrative Review and Rescission of New Shipper Review*, 67 FR 11283 (March 13, 2002), and accompanying Issues and Decision Memorandum: New Shipper Review of Clipper Manufacturing Ltd.). In *TTPC*, the court also affirmed the Department's decision that "any factor which indicates that the sale under consideration is not likely to be typical of those which the producer will make in the future is relevant," (*TTPC*, 366 F. Supp. 2d at 1250), and found that "the weight given to each factor investigated will depend on the circumstances surrounding the sale." *TTPC*, 366 F. Supp. 2d at 1263. Finally, in *New Donghua*, the Court of International Trade affirmed the Department's practice of evaluating the circumstances surrounding a NSR sale, so that a respondent does not unfairly benefit from an atypical sale and obtain a lower dumping margin than the producer's usual commercial practice would dictate.

*Chengda*: We preliminarily find that the sales made by Chengda during the

POR were not *bona fide* commercial transactions. Chengda's POR sales' price and quantities were both atypical and aberrational. Since much of the factual information used in our analysis of the *bona fides* of the transactions involves business proprietary information, a full discussion of the bases for our decision to rescind is set forth in the Memorandum to: Barbara E. Tillman, Office Director, AD/CVD Operations, Office 6, Import Administration, from Thomas Gilgunn, Program Manager, AD/CVD Operations, Office 6, Import Administration: *Bona Fide Nature of the Sale in the Antidumping Duty New Shipper Review of Fresh Garlic from the People's Republic of China (PRC): Jinxiang Chengda Import & Export Co., Ltd.* (November 1, 2010) (*Chengda Bona Fides Memorandum*). Because we have found Chengda's sales to not be *bona fide*, we cannot rely on them to calculate a dumping margin and are therefore preliminarily rescinding Chengda's NSR. See *TTPC* and *New Donghua*.

*Yuanxin*: Based on the totality of circumstances, we preliminarily find that the sale made by Yuanxin during the POR was a *bona fide* commercial transaction. The facts that led us to this preliminary conclusion include the following: (1) Neither Yuanxin nor its customers incurred any extraordinary expenses arising from this transaction; (2) the sale was made between unaffiliated parties at arm's length; and (3) the timing of the sale does not indicate that the sale was not *bona fide*. Since much of the factual information used in our analysis of the *bona fides* of the transaction involves business proprietary information, a full discussion of the bases for our decision to rescind is set forth in the Memorandum to: Barbara E. Tillman, Office Director, AD/CVD Operations, Office 6, Import Administration, from Thomas Gilgunn, Program Manager, AD/CVD Operations, Office 6, Import Administration: *Bona Fide Nature of the Sale in the Antidumping Duty New Shipper Review of Fresh Garlic from the People's Republic of China (PRC): Jinxiang Yuanxin Imp & Exp Co., Ltd.* (November 1, 2010) (*Yuanxin Bona Fides Memorandum*). We will continue to examine the *bona fides* of Yuanxin's sale after the preliminary results.

*Huachao*: Based on the totality of circumstances, we preliminarily find that the sale made by Huachao during the POR was a *bona fide* commercial transaction. The facts that led us to this preliminary conclusion include the following: (1) Neither Huachao nor its customer incurred any extraordinary expenses arising from the transaction; (2) the sale was made between

unaffiliated parties at arm's length; and (3) the timing of the sale does not indicate that this sale was not *bona fide*. However, we note that certain evidence on the record suggests that the *bona fides* of Huachao's sale is not definitive. Since much of our analysis regarding the evidence of the *bona fides* of the transaction involves business proprietary information, a full discussion of the bases for our preliminary decision is set forth in the Memorandum to: Barbara E. Tillman, Office Director, AD/CVD Operations, Office 6, Import Administration, from Thomas Gilgunn, Program Manager, AD/CVD Operations, Office 6, Import Administration: *Bona Fide Nature of the Sale in the Antidumping Duty New Shipper Review of Fresh Garlic from the People's Republic of China (PRC): Zhengzhou Huachao Industrial Co., Ltd.* (November 1, 2010) (*Huachao's Bona Fides Memorandum*). Accordingly, we will continue to examine the *bona fides* of Huachao's sale after the preliminary results.

### Separate Rates

As noted above, designation of a country as an NME remains in effect until it is revoked by the Department. See section 771(18)(C)(i) of the Act. Accordingly, there is a rebuttable presumption that all companies within the PRC are subject to government control and, thus, should be assessed a single antidumping duty rate.

It is the Department's standard policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to its exports. To establish whether a company is sufficiently independent to be eligible for a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in the *Final Determination of Sales at Less than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*), as amplified by the *Notice of Final Determination of Sales at Less than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*).

The Department's separate-rate status test to determine whether the exporter is independent from government control does not consider, in general, macroeconomic/border-type controls (e.g., export licenses, quotas, and minimum export prices), particularly if these controls are imposed to prevent dumping. The test focuses, rather, on

controls over the investment, pricing, and output decision-making process at the individual firm level.<sup>1</sup>

#### A. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies.

Throughout the course of this proceeding, Yuanxin and Huachao have each placed documentation on the record to demonstrate absence of *de jure* control including business licenses, financial statements, and narrative information regarding government laws and regulations on corporate ownership and the companies' operations and selection of management.<sup>2</sup> In addition, Yuanxin and Huachao have each placed on the record copies of certain laws and regulations, including the "Company Law of the People's Republic of China," the "Foreign Trade Law of the PRC," and "Regulations of the PRC on the Administration of Company Registration." The Department has analyzed these PRC laws and found that they establish an absence of *de jure* control. See, e.g., *Honey from the People's Republic of China: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 102, 105 (January 3, 2007), unchanged in *Honey from the People's Republic of China: Final Results and Final Rescission, In Part, of Antidumping Duty Administrative Review*, 72 FR 37715, 37716 (July 11, 2007). We have no information in this proceeding that would cause us to reconsider this determination. Thus, we determine that the evidence on the record supports a preliminary finding of an absence of *de jure* government control of Yuanxin and Huachao based on: (1) An absence of restrictive stipulations associated with the exporter's business license; (2) the existence of legislative enactments legal

authority on the record decentralizing control over the respondent; and (3) other formal measures by the government decentralizing control of companies.

#### B. Absence of De Facto Control

As stated in previous cases, there is evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. See, e.g., *Silicon Carbide*, 59 FR at 22586–87. Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether Yuanxin and Huachao are, in fact, subject to a degree of government control which would preclude the Department from assigning separate rates.

The absence of *de facto* governmental control over exports is based on whether a company: (1) Sets its own export prices independent of the government and other exporters; (2) retains the proceeds from its export sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) has the authority to negotiate and sign contracts and other agreements; and (4) has autonomy from the government regarding the selection of management. See, e.g., *Silicon Carbide*, 59 FR at 22587, and *Sparklers*, 56 FR at 20589; see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China, 60 FR 22544, 22545 (May 8, 1995).

The Department conducted a separate-rates analysis for each new shipper. In their questionnaire responses, Yuanxin and Huachao each submitted evidence indicating an absence of *de facto* governmental control over its export activities. Specifically, this evidence indicates that: (1) Each new shipper sets its own export prices independent of the government and without the approval of a government authority; (2) each new shipper retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) each new shipper has an executive director and general manager with the authority to negotiate and bind the company in an agreement; (4) the general manager is selected by the owners of the company, and the general manager appoints the manager of each department; and (5) there is no restriction on each new shipper's use of export revenues. The questionnaire responses of the new shippers do not suggest that pricing is coordinated among exporters. During our analysis of the information on the record, we found

no information indicating the existence of *de facto* government control. Therefore, the Department preliminarily finds that Yuanxin and Huachao have established, *prima facie*, that each qualifies for separate rate status under the criteria established by *Silicon Carbide* and *Sparklers*. Accordingly, the Department has preliminarily granted Yuanxin and Huachao separate rate status.

#### Preliminary Determination of New Shipper Status

We preliminarily determine that Yuanxin and Huachao have met the requirements to qualify as new shippers during the POR. Both companies have preliminarily established that they have: (1) Not previously shipped subject merchandise to the United States, (2) made sales to the United States we have preliminarily found to be *bona fide*; (3) demonstrated eligibility for a separate rate, and (4) provided adequate questionnaire responses. Therefore, for purposes of these preliminary results, we are treating Yuanxin's and Huachao's respective new shipper sales of subject merchandise to the United States as appropriate transactions for review.

#### Surrogate Country

When the Department investigates imports from an NME country, section 773(c)(1) of the Act directs it to base NV on the NME producer's factors of production (FOPs), valued in a surrogate market economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market economy countries that are: (1) At a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise. Moreover, it is the Department's practice to select an appropriate surrogate country based on the availability and reliability of data from the countries. See *Department Policy Bulletin No. 04.1: Non-Market Economy Surrogate Country Selection Process* (March 1, 2004).

As discussed in the "Non-Market Economy Country Status" section above, the Department considers the PRC to be an NME country. Pursuant to section 773(c)(4) of the Act, the Department determined that India, Indonesia, Peru, the Philippines, Thailand, and Ukraine are countries comparable to the PRC in terms of economic development. See Memorandum to Thomas Gilgunn, Program Manager, from Carole Showers,

<sup>1</sup> See Notice of Final Determination of Sales at Less Than Fair Value; Certain Cut-to-Length Carbon Steel Plate from Ukraine, 62 FR 61754, 61758 (November 19, 1997), and Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China, Final Results of Antidumping Administrative Review, 62 FR 61276, 61279 (November 17, 1997)

<sup>2</sup> Since we have preliminarily determined that Chengda's NSR sales are not *bona fide*, there is no reason to conduct an analysis of whether Chengda has demonstrated an absence of government control over its operations.

Director, Office of Policy, Subject: Request for a List of Surrogate Countries for a New Shipper Review of the Antidumping Duty Order on Fresh Garlic from the People's Republic of China (July 20, 2010). Also in accordance with section 773(c)(4) of the Act, the Department has found that India is a significant producer of comparable merchandise. Moreover, pursuant to section 773(c)(4) of the Act, the Department finds India to be a reliable source for surrogate values because India is at a similar level of economic development, is a significant producer of comparable merchandise, and has publicly available and reliable data. Furthermore, the Department notes that India has been the primary surrogate country in past segments of this proceeding, and the only surrogate value data submitted on the record are from Indian sources. Given the above facts, the Department has selected India as the primary surrogate country for this review. The sources of the surrogate factor values are discussed under the "Normal Value" section below and in the Memorandum from Scott Lindsay, Re: Preliminary Results of the 2008–2009 New Shipper Reviews of Fresh Garlic from the People's Republic of China: Surrogate Values (November 1, 2010) (*Surrogate Values Memorandum*).

#### U.S. Price

In accordance with section 772(a) of the Act, we calculated an export price for sales to the United States for Yuanxin and Huachao because each company made its sale to an unaffiliated party before the date of importation and the use of constructed export prices was not otherwise warranted. We calculated each company's export price based on its price to unaffiliated purchasers in the United States. In accordance with section 772(c) of the Act, where appropriate, we deducted from the starting price to unaffiliated purchasers the expenses for foreign inland freight, international freight, brokerage and handling, marine insurance, warehousing, and U.S. customs duties. For the expenses that were either provided by an NME vendor or paid for using an NME currency, we used surrogate values as appropriate. See the "Factor Valuations" section below for details regarding the surrogate values for movement expenses. See also Memorandum To: The File, From: Lingjun Wang, Case Analyst, Office 6, Import Administration: Antidumping Duty New Shipper Review of Fresh Garlic from the People's Republic of China: Calculation Memorandum for the Preliminary Results of Jinxian Yuanxin Imp. & Exp. Co., Ltd.; and Memorandum

To: The File, From: Summer Avery, Case Analyst, Office 6, Import Administration: Antidumping Duty New Shipper Review of Fresh Garlic from the People's Republic of China: Calculation Memorandum for the Preliminary Results of Zhengzhou Huachao Industrial Co., Ltd.

#### Normal Value

##### A. Methodology

Section 773(c)(1)(B) of the Act provides that the Department shall determine NV using an FOP methodology if the merchandise is exported from an NME country and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department calculates NV using each of the FOPs that a respondent consumes in the production of a unit of the subject merchandise because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies. However, there are circumstances in which the Department will modify its standard FOP methodology, choosing to apply a surrogate value to an intermediate input instead of the individual FOPs used to produce that intermediate input. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from the People's Republic of China*, 68 FR 47538 (August 11, 2003), and accompanying Issues and Decision Memorandum at Comment 1 (PVA) (citing to *Final Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms from the People's Republic of China*, 66 FR 31204 (June 11, 2001)).

For the final results of several recent prior administrative reviews (ARs) and NSRs,<sup>3</sup> the Department found that garlic industry producers in the PRC do not generally track actual labor hours incurred for growing, tending, and harvesting activities and, thus, do not

<sup>3</sup> See, e.g., *Fresh Garlic from the People's Republic of China: Final Results and Partial Rescission of the Eleventh Administrative Review and New Shipper Reviews*, 72 FR 34438 (June 22, 2007) (11th AR and NSRs); *Fresh Garlic from the People's Republic of China: Final Results and Partial Rescission of the 12th Administrative Review*, 73 FR 34251 (June 17, 2008) (12th AR); *Fresh Garlic from the People's Republic of China: Final Results and Rescission, In Part, of Twelfth New Shipper Reviews*, 73 FR 56550 (September 29, 2008); and *Fresh Garlic From the People's Republic of China: Final Results and Partial Rescission of the 13th Antidumping Duty Administrative and New Shipper Reviews*, 74 FR 29174 (June 19, 2009).

maintain appropriate records which would allow most, if not all, respondents to quantify, report, and substantiate this information. In the preliminary results of the 11th AR and NSRs, the Department also stated that "should a respondent be able to provide sufficient factual evidence that it maintains the necessary information in its internal books and records that would allow us to establish the completeness and accuracy of the reported FOPs, we will revisit this issue and consider whether to use its reported FOPs in the calculation of NV."<sup>4</sup> In the course of this review, none of the garlic producers reported FOPs related to growing whole garlic bulbs. As such, for the reasons outlined in the Memorandum from Scott Lindsay, Re: 2008–2009 New Shipper Review of Fresh Garlic from the People's Republic of China: Intermediate Input Methodology (November 1, 2010) (*Intermediate Input Methodology Memorandum*), the Department is applying an "intermediate-product valuation methodology" to the NSR respondents for which we are calculating an antidumping duty margin in these preliminary results. Using this methodology, the Department calculated NV by starting with a surrogate value for the garlic bulb (i.e., the "intermediate product"), adjusting for yield losses during the processing stages, and adding the respondents' processing costs, which were calculated using their reported usage rates for processing fresh garlic. See *Intermediate Input Methodology Memorandum*.

##### B. Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on the FOP data reported by Yuanxin and Huachao for the POR. We relied on the factor-specific data submitted by Yuanxin and Huachao for the production inputs in their questionnaire responses, where applicable, for purposes of selecting surrogate values (SVs). To calculate NV, we multiplied the reported per-unit factor consumption rates by publicly-available Indian SVs.

In selecting the SVs, consistent with our past practice, we considered the quality, specificity, and contemporaneity of the data. See, e.g., *Folding Metal Tables and Chairs from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 71 FR 71509

<sup>4</sup> *Fresh Garlic from the People's Republic of China: Partial Rescission and Preliminary Results of the Eleventh Administrative Review and New Shipper Reviews*, 71 FR 71510, 71520 (December 11, 2006).

(December 11, 2006), and accompanying Issues and Decision Memorandum at Comment 9. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to Indian import SVs a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory, where appropriate. This adjustment is in accordance with the decision of the U.S. Court of Appeals for the Federal Circuit (CAFC). See *Sigma Corp. v. United States*, 117 F. 3d 1401, 1408 (Fed. Cir. 1997). Where necessary, we adjusted the SVs for inflation/deflation using the Wholesale Price Index (WPI) as published in the International Monetary Fund's International Financial Statistics, available at <http://ifs.apdi.net/imf>. For more information regarding the Department's valuation for the various FOPs, see *Surrogate Values Memorandum*.

#### Garlic Bulb Valuation for Huachao

The Department's practice when selecting the "best available information" for valuing FOPs, in accordance with section 773(c)(1) of the Act,<sup>5</sup> is to select, to the extent practicable, surrogate values which are publicly available, product-specific, representative of a broad market average, tax-exclusive, and contemporaneous with the POR. See, e.g., *Final Determination of Sales at Less Than Fair Value: Certain Artist Canvas from the People's Republic of China*, 71 FR 16116 (March 30, 2006), and accompanying Issues and Decision Memorandum at Comment 2.

As discussed above, the Department is applying an intermediate input methodology for Huachao. Therefore, we sought to identify the best available SV for the garlic bulb input for production. See Petitioners' Surrogate Value Data and Huachao's Surrogate Value Submission; see also *Surrogate Values Memorandum*. For the preliminary results of this review, we find that data from the Azadpur APMC's "Market Information Bulletin" are the most appropriate information available to value Huachao's garlic bulb input.

In its FOP database, Huachao reported garlic bulb input size for the garlic produced and sold to the United States during the POR. Consistent with our findings in the 12th AR, the Department

continues to find that garlic bulb sizes that range from 55 mm and above are Grade Super-A, and garlic bulb sizes that range between 40 mm and 55 mm are Grade A and Grade Super-A. See *Surrogate Values Memorandum*. Because the Grade Super-A prices reported by the APMC which are on the record of this review are from 2007–2008, we inflated them to make them contemporaneous to our POR. See *Surrogate Values Memorandum*.

#### Garlic Bulb Valuation for Yuanxin

Yuanxin has submitted information on the record indicating that it sold single clove garlic. When examining single clove garlic in a prior segment of this proceeding, the Department determined that single clove garlic possessed physical characteristics which significantly distinguish it from the Grade A and Grade Super-A garlic on which we normally rely to value garlic bulb inputs. See *Fresh Garlic from the People's Republic of China: Final Results and Final Rescission, In Part, of New Shipper Reviews*, 74 FR 50952 (October 2, 2009). As such, neither Grade A nor Grade Super-A garlic is an appropriate basis from which to derive a SV for the bulb input used by Yuanxin. Petitioners have placed on the record an FOB sales offer, which is contemporaneous with the POR, from Sundaram Overseas Operations (SOO), an Indian trading company, as the basis for deriving NV. SOO's sales offer is an Indian export price for a whole garlic product that is physically similar to the product sold by Yuanxin. For these preliminary results, the Department is using the SOO sales offer of single clove garlic as the NV for Yuanxin. See *Surrogate Values Memorandum*. However, the Department requests comments and factual information regarding the appropriate SV to use in calculating the single clove garlic input for Yuanxin for purposes of the final results of review. Since much of our analysis regarding Yuanxin's garlic and the garlic bulb input thereof has been treated as business proprietary information, a full discussion of the basis for calculating an appropriate surrogate value for Yuanxin's garlic bulb input is set forth in the *Surrogate Values Memorandum*.

#### Other Factors of Production

In past cases, it has been the Department's practice to value various FOPs using import statistics of the primary selected surrogate country from World Trade Atlas (WTA), as published by Global Trade Information Services

(GTIS).<sup>6</sup> However, in October 2009, the Department learned that Indian import data obtained from the WTA, as published by GTIS, began identifying the original reporting currency for India as the U.S. Dollar. The Department then contacted GTIS about the change in the original reporting currency for India from the Indian Rupee to the U.S. Dollar. Officials at GTIS explained that while GTIS obtains data on imports into India directly from the Ministry of Commerce, Government of India, as denominated and published in Indian Rupees, the WTA software is limited with regard to the number of significant digits it can manage. Therefore, GTIS made a decision to change the original reporting currency for Indian data from the Indian Rupee to the U.S. Dollar in order to reduce the loss of significant digits when obtaining data through the WTA software. GTIS explained that it converts the Indian Rupee to the U.S. Dollar using the monthly Federal Reserve exchange rate applicable to the relevant month of the data being downloaded and converted.<sup>7</sup>

However, the data reported in the Global Trade Atlas (GTA) software published by GTIS reports import statistics, such as from India, in the original reporting currency and, thus, these data correspond to the original currency value reported by each country. Additionally, the data reported in the GTA software are reported to the nearest digit and, thus, there is not a loss of data by rounding, as there is with the data reported by the WTA software. Consequently, the Department will now obtain import statistics from GTA for valuing various FOPs because the GTA import statistics are in the original reporting currency of the country from which the data are obtained, and have the same level of accuracy as the original data released.

Furthermore, with regard to the GTA Indian import-based SVs, in accordance with the Omnibus Trade and Competitiveness Act of 1988 legislative history, the Department continues to apply its long-standing practice of disregarding SVs if it has a reason to

<sup>6</sup> See *Certain Preserved Mushrooms from the People's Republic of China: Preliminary Results of Antidumping Duty New Shipper Review*, 74 FR 50946, 50950 (October 2, 2009) (unchanged in *Certain Preserved Mushrooms From the People's Republic of China: Final Results of Antidumping Duty New Shipper Review*, 74 FR 65520 (December 10, 2009)).

<sup>7</sup> See *Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances, and Final Determination of Targeted Dumping*, 75 FR 20335 (April 19, 2010), and accompanying Issues and Decision Memorandum at Comment 4.

<sup>5</sup> Section 773(c)(1)(B) of the Act states that \* \* \* "the valuation of the factors of production shall be based on the best available information regarding the values of such factors in a market economy country or countries considered to be appropriate by the administering authority."

believe or suspect the source data may be subsidized.<sup>8</sup> In this regard, the Department has previously found that it is appropriate to disregard such prices from India, Indonesia, South Korea and Thailand, because we have determined that these countries maintain broadly available, non-industry specific export subsidies.<sup>9</sup> Based on the existence of these subsidy programs that were generally available to all exporters and producers in Indonesia, South Korea, and Thailand at the time of the POR, the Department finds that it is reasonable to infer that all exporters from these countries may have benefitted from these subsidies. We also disregarded prices from NME countries<sup>10</sup> and those imports that were labeled as originating from an “unspecified” country from the average Indian import values, because we could not be certain that they were not from either an NME or a country with general export subsidies.

We valued the packing material inputs using weighted-average unit import values derived from the Monthly Statistics of the Foreign Trade of India (MSFTI), as published by the Directorate General of Commercial Intelligence and Statistics of the Ministry of Commerce and Industry, Government of India, and compiled by the GTA.

The Department valued surrogate truck freight cost by using a per-unit average rate calculated from April 2009 data on the following Web site: <http://www.infobanc.com/logistics/logtruck.htm>. See *Polyethylene Retail Carrier Bags from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 73 FR 52282, 52286 (September 9, 2008) (and unchanged in *Polyethylene Retail Carrier Bags from the People's Republic of China: Final Results of Antidumping Duty*

*Administrative Review*, 74 FR 6857 (February 11, 2009)); and *Surrogate Values Memorandum* at Attachment 9.

To value electricity, the Department used March 2008 electricity price rates from Electricity Tariff & Duty and Average Rates of Electricity Supply in India, published by the Central Electricity Authority of the Government of India. Because these data are not contemporaneous with the POR, we inflated March 2008 prices to make them contemporaneous to our POR. See *Surrogate Values Memorandum* at Attachment 4.

We valued brokerage and handling expenses using a price list of export procedures necessary to export a standardized cargo of goods in India. The price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by ocean transport in India that is published in *Doing Business 2010: India*, published by the World Bank. See *Surrogate Value Memorandum* at Attachment 4.

For direct, indirect, and packing labor, pursuant to a recent decision by the Court CAFC, we are no longer using the regression-based methodology to value labor. See *Dorbest Ltd. v. United States*, 604 F.3d 1363, 1372 (Fed. Cir. 2010). The Department is continuing to evaluate options for determining labor values in light of the recent CAFC decision. For these preliminary results, we have calculated an hourly wage rate to use in valuing respondents' reported labor input by averaging industry-specific earnings and/or wages in countries that are economically comparable to the PRC and that are significant producers of comparable merchandise.

For the preliminary results of this AR, the Department is valuing labor using a simple average industry-specific wage rate using earnings or wage data reported under Chapter 5B by the International Labor Organization (ILO). To achieve an industry-specific labor value, we relied on industry-specific labor data from the countries we determined to be both economically comparable to the PRC, and significant producers of comparable merchandise. A full description of the industry-specific wage rate calculation methodology is provided in the *Surrogate Values Memorandum*. The Department calculated a simple average industry-specific wage rate of \$1.20 for these preliminary results. Specifically, for this review, the Department has calculated the wage rate using a simple average of the data provided to the ILO under Sub-Classification 15 of the ISIC–Revision 3 standard by countries

determined to be both economically comparable to the PRC and significant producers of comparable merchandise. The Department finds the two-digit description under ISIC–Revision 3 (“Manufacture of Food Products and Beverages”) to be the best available wage rate SV on the record because it is specific and derived from industries that produce merchandise comparable to the subject merchandise. Consequently, we averaged the ILO industry-specific wage rate data or earnings data available from the following countries found to be economically comparable to the PRC and to be significant producers of comparable merchandise: Ecuador, Egypt, Indonesia, Jordan, Peru, Philippines, Thailand, and Ukraine. Further information on the calculation of the wage rate can be found in the *Surrogate Values Memorandum*.

#### Financial Ratios

Petitioners and Huachao submitted factual information regarding surrogate financial ratios. See Petitioners' Surrogate Value Data and Huachao's Surrogate Value Submission. After analyzing these comments and factual information, the Department has determined that it is appropriate to calculate a single set of surrogate financial ratios applicable to the production and sales of all subject merchandise (both whole and peeled garlic) for these preliminary results using both Tata Tea's and Limtex's financial data. Since the 2002–2003 administrative review, the Department has considered tea processing to be sufficiently similar to garlic processing in that neither product is highly processed or preserved prior to sale. See *Fresh Garlic from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 70 FR 34082 (June 13, 2005) (*9th AR Final Results*), and accompanying Issues and Decision Memorandum at 34–35. Moreover, we note that it is the Department's preference to use financial data from more than one surrogate producer to reflect the broader experience of the surrogate industry.<sup>11</sup>

<sup>11</sup> See, e.g., *Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the Sixth Antidumping Duty Administrative Review and Final Results of the Ninth New Shipper Review*, 69 FR 42039 (July 13, 2004), and accompanying Issues and Decision Memorandum at Comment 2; see also *Final Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms from the People's Republic of China*, 66 FR 31204 (June 11, 2001), and accompanying Issues and Decisions Memorandum at Comment 3, and *Certain Oil Country Tubular Goods from the*

<sup>8</sup> Omnibus Trade and Competitiveness Act of 1988, Conf. Report to Accompany H.R. 3, H.R. Rep. No. 576, 100th Cong., 2nd Sess. (1988) at 590.

<sup>9</sup> See, e.g., *Expedited Sunset Review of the Countervailing Duty Order on Carbazole Violet Pigment 23 from India*, 75 FR 13257 (March 19, 2010), and accompanying Issues and Decision Memorandum at pages 4–5; *Expedited Sunset Review of the Countervailing Duty Order on Certain Cut-to-Length Carbon Quality Steel Plate from Indonesia*, 70 FR 45692 (August 8, 2005), and accompanying Issues and Decision Memorandum at page 4; *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*, 74 FR 2512 (January 15, 2009), and accompanying Issues and Decision Memorandum at pages 17, 19–20; and *Certain Hot-Rolled Carbon Steel Flat Products from Thailand: Final Results of Countervailing Duty Determination*, 66 FR 50410 (October 3, 2001), and accompanying Issues and Decision Memorandum at page 23.

<sup>10</sup> The NME countries are Armenia, Azerbaijan, Belarus, Georgia, Kyrgyz Republic, Moldova, North Korea, the People's Republic of China, Tajikistan, Turkmenistan, Uzbekistan, and Vietnam.

We find that calculating an average of these two Indian tea processors' data provides financial ratios that best reflect the broader experience of the garlic industry and that are consistent with our practice during previous reviews.<sup>12</sup> The Department finds that both Tata Tea's and Limtex's non-integrated production process is similar to that of the garlic industry. We find that the resulting financial ratios from the average of Tata Tea's and Limtex's financial data provide the best surrogate for the garlic industry in the PRC as a whole, based on the information on the record of this review. *See Surrogate Values Memorandum.*

**Currency Conversion**

We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the date of the U.S. sale, as certified by the Federal Reserve Bank. *See http://www.ia.ita.doc.gov/exchange/index.html.*

**Preliminary Results of the Reviews**

As a result of our review, we preliminarily find that the following margins exist for Yuanxin and Huachao during the period November 1, 2008 through October 31, 2009:

FRESH GARLIC FROM THE PRC	
Exporter/manufacturer	Weighted-average margin (dollars per kilogram)
Manufactured and Exported by Jinxiang Yuanxin Imp & Exp Co .....	\$0.75
Manufactured and Exported by Zhengzhou Huachao Industrial Co., Ltd .....	0.03

**Assessment Rates**

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. Consistent with the *Fresh Garlic From the People's Republic of China: Final Results and Partial Rescission of the 13th Antidumping Duty Administrative Review and New Shipper Reviews*, 74 FR 29174 (June 19, 2009) (*Final Results Garlic Thirteenth*

*Review*), we will direct CBP to assess importer-specific assessment rates based on the resulting per-unit (*i.e.*, per kilogram) amount on each entry of the subject merchandise during the POR. *See Final Results Garlic Thirteenth Review.* Specifically, we will divide the total dumping margins for each importer by the total quantity of subject merchandise sold to that importer during the POR to calculate a per-unit assessment amount. If the Department issues a final rescission determination for Chengda, it will be assessed at the PRC-entity rate of \$4.71 per kilogram. We will direct CBP to assess importer-specific assessment rates based on the resulting per-unit (*i.e.*, per kilogram) amount on each entry of the subject merchandise during the POR if any importer-specific assessment rate calculated in the final results of this review is above *de minimis*. The Department will issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this review.

**Cash Deposit Requirements**

Consistent with the final results of the *Final Results Garlic Thirteenth Review*, we will establish and collect a per-kilogram cash-deposit amount which will be equivalent to the company-specific dumping margin published in the final results of this review. Specifically, the following cash deposit requirements will be effective upon publication of the final results of this review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results, as provided by section 751(a)(1) of the Act: (1) For subject merchandise produced and exported by Yuanxin or Huachao, the cash deposit rate will be the per-unit rate determined in the final results of this new shipper review and; (2) for subject merchandise exported by Yuanxin, but not produced by Yuanxin, the cash deposit rate will be the per-unit PRC-wide rate (*i.e.*, \$4.71 per kilogram); (3) for subject merchandise exported by Huachao, but not produced by Huachao, the cash deposit rate will be the per-unit PRC-wide rate; (4) For subject merchandise produced and exported by Chengda, the cash deposit rate will continue to be the PRC-wide rate; (5) for subject merchandise exported Chengda but not manufactured by Chengda, the cash deposit rate will continue to be the PRC-wide rate; and (6) for subject merchandise manufactured by Chengda, but exported by any other party, the cash deposit rate will be the rate applicable to the exporter. These

requirements, when imposed, shall remain in effect until further notice.

**Disclosure**

We will disclose the calculations used in our analysis to parties to this proceeding not later than ten days after the date of public announcement, or if there is no public announcement within five days of the date of publication of this notice. *See* 19 CFR 351.224(b).

**Comments**

Interested parties are invited to comment on these preliminary results and may submit case briefs and/or written comments within 30 days of the date of publication of this notice, unless otherwise notified by the Department. *See* 19 CFR 351.309(c)(ii). Rebuttal briefs, limited to issues raised in the case briefs, will be due five days later, pursuant to 19 CFR 351.309(d). Parties who submit case or rebuttal briefs in these proceedings are requested to submit with each argument: (1) A statement of the issue; and (2) a brief summary of the argument. Parties are requested to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Additionally, parties are requested to provide their case and rebuttal briefs in electronic format (*e.g.*, preferably in Microsoft Word).

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. *See* 19 CFR 351.310(c). Issues raised in the hearing will be limited to those raised in case and rebuttal briefs. The Department will issue the final results of this review, including the results of its analysis of issues raised in any such written briefs not later than 90 days after these preliminary results are issued, unless the final results are extended. *See* 19 CFR 351.214(i).

**Notification to Importers**

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties

*People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping*, 75 FR 20335 (April 19, 2010), and accompanying Issues and Decision Memorandum at Comment 13.

<sup>12</sup> *See Fresh Garlic From the People's Republic of China: Final Results of New Shipper Review*, 75 FR 61130 (October 4, 2010), and accompanying Issues and Decision Memorandum at Issue 4.



occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these preliminary results in accordance with sections 751(a)(2)(B) and 777(i) of the Act, and 19 CFR 351.214(h) and 351.221(b)(4).

Dated: November 1, 2010.

**Paul Piquado,**

*Acting Deputy Assistant Secretary for Import Administration.*

[FR Doc. 2010-28571 Filed 11-10-10; 8:45 am]

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## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### Information Collection Requirements; Defense Federal Acquisition Regulation Supplement; Small Business Programs (OMB Control Number 0704-0386)

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Notice and request for comments regarding a proposed extension of an approved information collection requirement.

**SUMMARY:** In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. DoD invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection requirement for use through April 30, 2011. DoD proposes that OMB extend its approval for use for three additional years.

**DATES:** DoD will consider all comments received by January 11, 2011.

**ADDRESSES:** You may submit comments, identified by OMB Control Number 0704-0386, using any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by inputting "OMB Control Number 0704-0386" under the heading "Enter keyword or ID" and selecting "Search." Select the link "Submit a Comment" that corresponds with "OMB Control Number 0704-0386". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "OMB Control Number 0704-0386" on your attached document.

- *E-mail:* [dfars@osd.mil](mailto:dfars@osd.mil). Include OMB Control Number 0704-0386 in the subject line of the message.

- *Fax:* (703) 602-0350.

- *Mail:* Defense Acquisition Regulations System, *Attn:* Ms. Jennifer Abi-Najm, OUSD(AT&L)DPAP(DARS), Room 3B855, 3060 Defense Pentagon, Washington, DC 20301-3060.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided. To confirm receipt of your comment(s), please check <http://www.regulations.gov> approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

**FOR FURTHER INFORMATION CONTACT:** Ms. Jennifer Abi-Najm, 703-602-0131. The information collection requirements addressed in this notice are available electronically via the Internet at: <http://www.regulations.gov>. Paper copies are available from Ms. Jennifer Abi-Najm, OUSD(AT&L)DPAP(DARS), Room 3B855, 3060 Defense Pentagon, Washington, DC 20301-3060.

**SUPPLEMENTARY INFORMATION:**

*Title and OMB Number:* Defense Federal Acquisition Regulation Supplement (DFARS) part 219, Small Business Programs, and the clause at DFARS 252.219-7003; OMB Control Number 0704-0386.

*Needs and Uses:* DoD uses this information in assessing contractor compliance with small business subcontracting plans in accordance with 10 U.S.C. 2323(h).

*Affected Public:* Businesses or other for-profit and not-for-profit institutions.

*Annual Burden Hours:* 41.

*Number of Respondents:* 41.

*Responses per Respondent:* 1.

*Annual Responses:* 41.

*Average Burden per Response:* 1 hour.

*Frequency:* On occasion.

#### Summary of Information Collection

DFARS 219.704 and paragraph (g) of the clause at DFARS 252.219-7003, Small Business Subcontracting Plan

(DoD Contracts), require prime contractors to notify the administrative contracting officer of any substitutions of firms that are not small business firms for the firms listed in those subcontracting plans that specifically identify small businesses. Notifications must be in writing and may be submitted in a contractor-specified format.

**Ynette R. Shelkin,**

*Editor, Defense Acquisition Regulations System.*

[FR Doc. 2010-28495 Filed 11-10-10; 8:45 am]

BILLING CODE 5001-08-P

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## DEPARTMENT OF EDUCATION

### Notice of Proposed Information Collection Requests

**AGENCY:** Department of Education.

**ACTION:** Comment request.

**SUMMARY:** The Department of Education (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

**DATES:** Interested persons are invited to submit comments on or before January 11, 2011.

**ADDRESSES:** Comments regarding burden and/or the collection activity requirements should be electronically mailed to [ICDocketMgr@ed.gov](mailto:ICDocketMgr@ed.gov) or mailed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202-4537. Please note that written comments received in response to this notice will be considered public records.

**SUPPLEMENTARY INFORMATION:** Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Regulatory