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**FOR FURTHER INFORMATION CONTACT:**

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Signed in Washington, DC on October 21, 2002.

**Thomas A. Weber,**

*Associate Chief, Natural Resources Conservation Service.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-846]

#### Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the Fourth Antidumping Duty Administrative Review

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

**ACTION:** Notice of final results and partial rescission of fourth antidumping duty administrative review.

**SUMMARY:** On January 4, 2002, the Department of Commerce published the preliminary results, partial rescission and postponement of the fourth antidumping duty administrative review of the antidumping duty order on brake rotors from the People's Republic of China. *See Brake Rotors from the People's Republic of China: Preliminary Results, Preliminary Partial Rescission, and Postponement of Final Results of the Fourth Antidumping Duty Administrative Review*, 67 FR 557 (January 4, 2002) (*Preliminary Results*). This administrative review examines six PRC companies (i.e., one exporter whose entries are all subject to the antidumping duty order and five exporters included in three exporter/producer combinations for which only certain entries are subject to the antidumping duty order) (*see* "Background" section below for further discussion). The period of review is April 1, 2000, through March 31, 2001. We gave interested parties an opportunity to comment on our preliminary results.

Based on the use of additional publicly available information and the comments received from the interested parties, we have made two changes to the margin calculation for the sole respondent in the administrative review for which we calculated an antidumping duty margin. The final weighted-average dumping margin for the reviewed firm in the administrative review is listed below in the section entitled "Final Results of Administrative Review."

**EFFECTIVE DATE:** October 28, 2002.

**FOR FURTHER INFORMATION CONTACT:**

Brian Smith or Terre Keaton, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 482-1766 or (202) 482-1280, respectively.

**SUPPLEMENTARY INFORMATION:**

### The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce's ("the Department's") regulations are to 19 CFR Part 351 (2001).

### Background

On January 4, 2002, the Department published in the **Federal Register** the preliminary results, preliminary partial rescission, and postponement of final results of the fourth antidumping duty administrative review of the antidumping duty order on brake rotors from the People's Republic of China ("PRC") (67 FR 557).

On January 14, 2002, the petitioner<sup>1</sup> requested the Department to reconsider its decision not to conduct verification of Qingdao Gren (Group) Co. ("Gren") based on the argument that it submitted a timely request for that company to be verified and that there was good cause to verify Gren's data based on the concerns raised in its letter. On January 24, 2002, we informed the petitioner's counsel that it would not be possible to conduct verification of Gren's submitted data in this review because (1) a verification of Gren's data was not statutorily required; (2) the petitioner did not sufficiently demonstrate that good cause existed for verifying Gren's data; and (3) in the absence of good cause, the Department's team assigned to this case did not have the resources to verify any additional companies other than those companies it had already selected for verification (*see* Memorandum dated January 24, 2002, from Irene Darzenta Tzafolias, Program Manager, to the File).

On March 2, 2002, the Department provided a verification outline to certain respondents<sup>2</sup> selected for verification

<sup>1</sup> The petitioner is the Coalition for the Preservation of American Brake Drum and Rotor Aftermarket Manufacturers.

<sup>2</sup> The respondents in this review are Gren and the following three exporters/producer combinations (which are excluded from the order on brake rotors only with respect to brake rotors sold through those combinations): (1) China National Automobile Industry Import & Export Corporation ("CAIEC") or Laizhou CAPCO Machinery Co., Ltd. ("Laizhou CAPCO")/Laizhou CAPCO; (2) Shenyang Honbase Machinery Co., Ltd. ("Shenyang Honbase") or Laizhou Luyuan Automobile Fittings Co., Ltd. ("Laizhou Luyuan")/Shenyang Honbase or Laizhou Luyuan; and (3) China National Machinery and Equipment Import & Export (Xinjiang) Co., Ltd. ("Xinjiang")/Zibo Botai Manufacturing Co., Ltd. ("Zibo").

Continued

(i.e., four of the five exporters included in the three exporter/producer combinations and as discussed in the *Preliminary Results* at 67 FR 558). On March 7, 2002, the petitioner provided verification comments. From March 14 through April 2, 2002, the Department conducted its verification of data obtained for certain U.S. entries of brake rotors from four of the five exporters included in the three exporter/producer combinations, in accordance with 19 CFR 351.307.

On April 16, 2002, the Department placed on the record certain publicly available information for consideration in the final results (see April 16, 2002, letter with attachment from Katherine Johnson, Acting Program Manager, to each interested party).

On April 26, and May 2, 2002, the Department issued its verification reports. The petitioner submitted its case brief on June 14, 2002. The respondents collectively submitted their rebuttal brief on June 21, 2002.

The Department has conducted these reviews in accordance with section 751 of the Act.

### Scope of the Order

The products covered by this order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, ranging in diameter from 8 to 16 inches (20.32 to 40.64 centimeters) and in weight from 8 to 45 pounds (3.63 to 20.41 kilograms). The size parameters (weight and dimension) of the brake rotors limit their use to the following types of motor vehicles: automobiles, all-terrain vehicles, vans and recreational vehicles under "one ton and a half," and light trucks designated as "one ton and a half."

Finished brake rotors are those that are ready for sale and installation without any further operations. Semi-finished rotors are those on which the surface is not entirely smooth, and have undergone some drilling. Unfinished rotors are those which have undergone some grinding or turning.

These brake rotors are for motor vehicles, and do not contain in the casting a logo of an original equipment manufacturer ("OEM") which produces vehicles sold in the United States (e.g., General Motors, Ford, Chrysler, Honda, Toyota, Volvo). Brake rotors covered in this order are not certified by OEM

producers of vehicles sold in the United States. The scope also includes composite brake rotors that are made of gray cast iron, which contain a steel plate, but otherwise meet the above criteria. Excluded from the scope of this order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, with a diameter less than 8 inches or greater than 16 inches (less than 20.32 centimeters or greater than 40.64 centimeters) and a weight less than 8 pounds or greater than 45 pounds (less than 3.63 kilograms or greater than 20.41 kilograms).

Brake rotors are classifiable under subheading 8708.39.5010 of the *Harmonized Tariff Schedule of the United States* ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

### Partial Rescission of Review

Pursuant to 19 CFR 351.213(d)(3), we have determined that, during the period of review ("POR"), the exporters which are part of the three exporter/producer combinations which received zero rates in the less-than-fair-value ("LTFV") investigation did not make shipments of subject merchandise to the United States during the POR. Specifically, we have determined that during the POR, (1) neither CAIEC nor Laizhou CAPCO exported brake rotors to the United States that were manufactured by producers other than Laizhou CAPCO; (2) neither Shenyang Honbase nor Laizhou Luyuan exported brake rotors to the United States that were manufactured by producers other than Shenyang Honbase or Laizhou Luyuan; and (3) Xinjiang did not export brake rotors to the United States that were manufactured by producers other than Zibo.

In order to make this determination, we first examined POR-subject merchandise shipment data furnished by the Customs Service by performing a data query. Because the data from our initial query was voluminous, we randomly selected 25 entries (i.e., five entries per company) from the data query results for further examination by the Customs Service (see Memorandum dated October 2, 2001, from Brian C. Smith, Team Leader, to the File, titled, "Request for Assistance: Shipments of Brake Rotors from the People's Republic of China Manufactured and/or Exported By Five PRC Companies During the Period April 1, 2000, Through March 31, 2001").

Specifically, we requested the Customs Service to examine further the documentation filed at the U.S. port for

each of those selected entries made by the exporters at issue to determine the manufacturer of the merchandise. To check further the accuracy of the data for those entries, we conducted verification of the entry data selected for four of the five exporters included in the three exporter/producer combinations.

At verification, we examined all documentation (i.e., bills of lading, invoices, payment documentation, production orders, etc.) pertaining to the entry data for those companies. See verification reports for CAIEC and Laizhou CAPCO dated April 26, 2002, and verification reports for Laizhou Luyuan and Shenyang Honbase dated May 2, 2002, for additional discussion.

Therefore, based on the data contained on the record for all 25 entries from our data query results and our findings with respect to these and other entries selected at verification, we found no evidence that any of the exporter/producer combinations which are the subject of this administrative review made shipments of subject merchandise during the POR. (See "Issues and Decision Memorandum" from Richard W. Moreland, Deputy Assistant Secretary for Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated October 21, 2002 (Comments 1 through 4 and 6).) Therefore, we are rescinding this review with respect to CAIEC, Laizhou CAPCO, Shenyang Honbase, Laizhou Luyuan, and Xinjiang.

Since the preliminary results, we have also examined whether any exporter/producer combinations in this review underwent changes in ownership and, if so, whether there are changed circumstances which would affect their order exclusion status. As a result of verification findings, although we did find that there had been changes in ownership since the LTFV investigation with respect to Laizhou Luyuan, Laizhou CAPCO, and CAIEC, we found no evidence that the change in ownership in each of these companies affects their exclusion status.

With respect to Laizhou Luyuan, another company purchased a significant portion of it after the LTFV investigation. At verification, we thoroughly examined the facts behind that other company's investment in Laizhou Luyuan, and whether it was exporting through Laizhou Luyuan brake rotors to the U.S. market.

In addition, in order to determine whether these two companies should be treated as one entity, we examined the extent to which the export operations of Laizhou Luyuan and this other company were intertwined and whether this

As stated in the *Preliminary Results*, we selected CAIEC, Laizhou CAPCO, Shenyang Honbase, Laizhou Luyuan, and a company related to Laizhou Luyuan for verification. We did not select Gren for verification because we did not find good cause had been demonstrated with respect to this company and verification of this company was not statutorily required (see 67 FR at 558).

relationship has significant potential for the manipulation of pricing, export, and production decisions pertaining to the subject merchandise. Based on our verification findings, we find that the export activities of Laizhou Luyuan and the company that purchased a significant portion of Laizhou Luyuan are sufficiently separate even though common ownership does exist. Specifically, based on our verification findings, we determine that Laizhou Luyuan has not significantly changed its (1) management, (2) production facilities, (3) supplier relationships, or (4) customer base as a result of its purchase by the other company (see Laizhou Luyuan's April 26, 2002, verification report). Thus, we find that the export operations of Laizhou Luyuan and the other company are sufficiently separate from one another such that there is no significant potential for manipulation of pricing, export, or production decisions.

Finally, after examining both companies' records at verification we found no instance that the other company is exporting Laizhou Luyuan-made brake rotors to the U.S. market or that Laizhou Luyuan is exporting brake rotors sourced through the other company.

#### Analysis of Comments Received

All issues raised in the case briefs are addressed in the Decision Memo, which is hereby adopted by this notice. A list of the issues raised, all of which are in the Decision Memo, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in the briefs and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B-099 of the main Department building. In addition, a complete version of the Decision Memo can be accessed directly on the Web at <http://ia.ita.doc.gov>. The paper copy and electronic version of the Decision Memo are identical in content.

#### Changes Since the Preliminary Results

After the use of additional publicly available information and the comments received from the interested parties, we made two changes to Gren's margin calculation.

1. To value selling, general, and administrative expenses, factory overhead and profit, we used the 1998 financial data of Jayaswals Neco Limited, the 1998-1999 financial data of Rico Auto Industries Limited, and the 2000-2001 financial data of Kalyani Brakes Limited.
2. We used the updated value from the International Trade Administration

website to value skilled, unskilled and packing labor.

#### Final Results of Review

We determine that the following weighted-average margin percentage exists for the period April 1, 2000, through March 31, 2001:

Exporter	Margin (percent)
Qingdao Gren (Group) Co. ....	0.02 (de minimis)

#### Assessment Rates

The Department will determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated importer-specific *ad valorem* duty assessment rates for merchandise subject to this review. In accordance with 19 CFR 351.106(c)(2), we will instruct the Customs Service to liquidate without regard to antidumping duties all entries of subject merchandise during the POR from Gren for which the importer-specific assessment rate is zero or *de minimis* (i.e., less than 0.50 percent). The Department will issue appropriate assessment instructions directly to the Customs Service within 15 days of publication of these final results of review. We will direct the Customs Service to assess the resulting percentage margin against the entered Customs values for the subject merchandise on each of that importer's entries during the review period. For entries made by PRC companies for which the Department has rescinded the administrative review (i.e., the exporter/producer combinations listed in the "Background" section of this notice), the Customs Service shall continue not to assess *ad valorem* duties on those entries made by those exporter/producer combinations.

#### Cash Deposit Requirements

The following deposit rates shall be required for merchandise subject to the order entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for Gren will be the rate indicated above; (2) the cash deposit rate for PRC exporters who received a separate rate in a prior segment of the proceeding, but for whom the Department has rescinded the review or of whom the review was not requested for this POR will continue to be the rate assigned in that segment of the proceeding; (3) the cash deposit rate for all other PRC exporters will continue to be 43.32 percent; and (4) the

cash deposit rate for non-PRC exporters of subject merchandise from the PRC will be the rate applicable to the PRC supplier of that exporter. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final 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 occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections section 751(a)(1) and 777(i) of the Act and 19 CFR 351.213.

Dated: October 21, 2002.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

#### Appendix--Issues in Decision Memo

##### Comments

1. Whether the Sampling Technique and Method Used for Collecting Data in this Review Violated the Petitioners' Rights of Due Process
2. Whether to Reverse the Preliminary Results With Respect to the Exporter/Producer Combinations
3. Whether the Exporter/Producer Combinations Excluded from the Order Violated the Exclusion Conditions Based on Examination of Selected U.S. Brake Rotor Entries during the Period of Review
4. Whether Two Companies Failed the Verification Process Based on the Verification Findings and Documents Obtained From Verification
5. Whether Certain Data Obtained from Verification Were Illegible
6. Whether the Change in Ownership Warrants Assigning Laizhou Luyuan the PRC-Wide Rate

7. Whether We Should Have Conducted Verification of Gren's Data

[FR Doc. 02-27393 Filed 10-25-02; 8:45 am]

BILLING CODE 3510-DS-S

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-831]

#### Fresh Garlic From the People's Republic of China: Partial Rescission of Antidumping Duty New Shipper Review

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

**ACTION:** Notice of partial rescission of the antidumping duty new shipper review of fresh garlic from the People's Republic of China.

**SUMMARY:** On July 31, 2002, the Department of Commerce published the preliminary results of the new shipper review of the antidumping duty order on fresh garlic from the People's Republic of China. The review covers Jinan Yipin Corporation, Ltd., and Shandong Heze International Trade and Developing Company. The period of review is November 1, 2000, through October 31, 2001. For the reasons discussed below, we are rescinding the review of Shandong Heze International Trade and Developing Company.<sup>1</sup>

**EFFECTIVE DATE:** October 28, 2002.

**FOR FURTHER INFORMATION CONTACT:** Brian Ellman or Mark Ross, Office of AD/CVD Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4852 and (202) 482-4794, respectively.

#### SUPPLEMENTARY INFORMATION:

##### The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (April 2001).

<sup>1</sup> We are also conducting a new shipper review of the antidumping duty order on fresh garlic from the People's Republic of China for Jinan Yipin Corporation, Ltd. On October 22, 2002, we issued a notice extending the final results of that new shipper review.

#### Scope of the Order

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

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

The subject merchandise is used principally as a food product and for seasoning. The subject garlic is currently classifiable under subheading 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 antidumping duty order, garlic entered under the HTSUS subheadings listed above that is (1) mechanically harvested and primarily, but not exclusively, destined for non-fresh use or (2) specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed must be accompanied by declarations to the Customs Service to that effect.

#### Background

On July 31, 2002, we published in the *Federal Register* the notice of preliminary results of the new shipper review of the antidumping duty order on fresh garlic from the People's Republic of China (PRC), in which we indicated our intent to rescind the review of Shandong Heze International Trade and Developing Company (Shandong Heze) based on lack of evidence supporting Shandong Heze's entitlement to a separate rate from the PRC-wide entity. See *Fresh Garlic from the People's Republic of China: Preliminary Results of Antidumping Duty New Shipper Review and Intent to Rescind in Part*, 67 FR 49669 (July 31, 2002); see also *Shandong Heze International Trade and Developing Company—Separate Rates Analysis and Deficient Submissions Memorandum*,

dated July 24, 2002, available in the Central Records Units (CRU), Room B-099 of the main Department of Commerce Building. In the notice we invited interested parties to comment on our preliminary results.

On August 15, 2002, Shandong Heze filed a case brief addressing issues raised in the Department's preliminary results of review, and the petitioner filed rebuttal comments on August 21, 2002. Subsequent to our receipt of the case brief, we identified an additional deficiency in Shandong Heze's reporting and, on September 19, 2002, we released for comment the draft decision memorandum in which we identified the deficiency. See *Shandong Heze International Trade and Developing Company—Rescission of New Shipper Review Due to Lack of Required Certification*, dated September 19, 2002, available in CRU. We did not receive any comments from either party by the due date we established. Therefore, the analysis we proposed in that memorandum remains unchanged.

#### Rescission of Review

The Department's regulations at 19 CFR 351.214(b)(2)(ii) state that, if the company requesting the review is the exporter but not the producer of the subject merchandise, then the request from this company must contain: (1) A certification that the company did not export subject merchandise to the United States during the period of investigation (POI), and (2) a certification from the person or company that produced or supplied the subject merchandise to the company requesting the review that the producer or supplier did not export the subject merchandise to the United States during the POI. Shandong Heze did not supply the Department with the certifications required in a new shipper review under 351.214(b)(2)(ii)(B) of the Department's regulations. As discussed above, the Department released to the parties for comment a draft decision memorandum in which it identified the deficiency and, in the memorandum, a prompt rescission of the review of Shandong Heze was recommended. As indicated above, we did not receive any comments on this issue. Therefore, we find it appropriate to rescind the new shipper review of Shandong Heze based on its failure, despite multiple opportunities, to provide the proper certifications pursuant to 19 CFR 351.214(b)(2)(ii).

#### Analysis of Comments Received

Because the Department is rescinding this review based on Shandong Heze's failure to provide the proper certifications, we have not addressed