

the additions on the current or most recent contractors, the Committee has determined that the products and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4.

The following comments pertain to Commissary Shelf Stocking, Custodial & Warehousing, Offutt Air Force Base, Nebraska.

Comments were received from the current contractor indicating that he had previously been impacted by the Committee's actions that have slowed business growth and impacted employees. Besides the impact calculated as a percent of gross sales the commenter believes that when the Committee determines impact it should also consider the effect on the current employees, the increased cost of unemployment insurance on the impacted company and how the Committee determines the effect of previous additions that impacted the contractor.

In addition the commenter raised question about the capability of the nonprofit agency to do the commissary work, if it is a Nebraska nonprofit agency and how would he know that the 75 percent direct labor ratio requirement was being met.

The Committee recognizes that when it adds a product or service to the Procurement List that many of the existing workers will lose their current jobs. The proposed addition to the Procurement List is projected to create over 18 jobs for people with severe disabilities, whose unemployment rate is over 70 percent, well above the rate for other groups. The benefit to people with severe disabilities created by this Procurement List addition outweighs the harm which may be done to the firm's employees who could more readily find other jobs.

The commenter is correct that the Committee must consider previous impact(s) when it adds an item to the Procurement List. It is the Committee's practice to consider the cumulative impact of its actions for the most recent three-year period expressed as a percentage of firm's current total sales. In addition, the Committee also looks at all other occurrences where the current contractor has been impacted. The current contractor has been previously impacted four times, twice in 1992, once in 1997, and once in 2000.

The Committee does not believe that these actions over a decade reflect an excessive amount of impact, nor does it believe that the increase in unemployment premiums the contractor experienced because some jobs were

lost to the JWOD Program raises the total impact to the severe level.

BH Services, Inc. has been found technically capable of performing the service. The nonprofit agency that will be performing this project has successfully been participating in the JWOD Program since 1974. It has been successfully providing commissary services at another location since 1989 and other services at Offutt AFB since 1996.

As with small businesses, there is no requirement that a nonprofit agency be incorporated in the State where the Federal contract is being performed. The nonprofit agency that will perform the work is actually incorporated in South Dakota, but as noted above has been providing services at Offutt AFB since 1996.

The 75 percent direct labor ratio requirement is a requirement for all of the work done by a nonprofit and does not necessarily apply to an individual JWOD project. However, the nonprofit agency that will be performing the commissary project at Offutt has a direct labor ratio on its current JWOD projects of over 80%.

The following material pertains to all of the items being added to the Procurement List.

#### Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. The action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the products and services proposed for addition to the Procurement List.

#### End of Certification

Accordingly, the following products and services are added to the Procurement List:

#### Products

*Product/NSN:* Flat Highlighter, Yellow, 7520-01-201-7791.

*NPA:* Winston-Salem Industries for the Blind, Winston-Salem, North Carolina.

*Contracting Activity:* Office Supplies & Paper Products Acquisition Center, New York, NY.

*Product/NSN:* Laser Labels, 7530-01-289-8190—White label size—1" x 4"; 7530-01-289-8191—White label size—1" x 2 5/8"; 7530-01-302-5504—White label size—1 1/3" x 4"; 7530-01-336-0540—White label size—2" x 4"; 7530-01-349-4463—White label size—8 1/2" x 11"; 7530-01-349-4464—White label size—3 1/3" x 4."

*NPA:* North Central Sight Services, Inc., Williamsport, Pennsylvania.

*Contracting Activity:* Office Supplies & Paper Products Acquisition Center, New York, NY.

#### Services

*Service Type/Location:* Commissary Shelf Stocking, Custodial & Warehousing, Offutt Air Force Base, Nebraska.

*NPA:* BH Services, Inc., Box Elder, South Dakota.

*Contracting Activity:* Defense Commissary Agency, Fort Lee, Virginia.

*Service Type/Location:* Custodial & Grounds Maintenance, Navy and Marine Corps Reserve Center, 314 Graves Mill Road, Lynchburg, Virginia.

*NPA:* Goodwill Industries of the Valleys, Inc., Roanoke, Virginia.

*Contracting Activity:* Naval Facilities Engineering Command Contracts, Norfolk, Virginia.

*Service Type/Location:* Laundry Service, Veterans Integrated Service Network (VISN12), Jesse Brown VA Medical Center, Chicago, Illinois (and it's divisions), VA Medical Center Hines, Hines, Illinois.

*NPA:* Goodwill Industries of Southeastern Wisconsin, Inc., Milwaukee, Wisconsin.

*Contracting Activity:* VISN 12, Great Lakes Network, Milwaukee, Wisconsin.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

**Sheryl D. Kennerly,**

*Director, Information Management.*

[FR Doc. 05-4256 Filed 3-3-05; 8:45 am]

**BILLING CODE 6353-01-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-533-813]

#### Certain Preserved Mushrooms From India: Preliminary Results of Antidumping Duty Administrative Review

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

**SUMMARY:** In response to timely requests by two manufacturers/exporters and the

petitioner,<sup>1</sup> the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain preserved mushrooms from India with respect to four companies. The period of review (POR) is February 1, 2003, through January 31, 2004.

We preliminarily determine that sales have been made below normal value (NV). Interested parties are invited to comment on these preliminary results. If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries.

**DATES:** *Effective Date:* March 4, 2005.

**FOR FURTHER INFORMATION CONTACT:** David J. Goldberger or Kate Johnson, AD/CVD Operations, Office 2, Import Administration—Room B099, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4136 or (202) 482-4929, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On February 19, 1999, the Department published in the **Federal Register** an amended final determination and antidumping duty order on certain preserved mushrooms from India (64 FR 8311).

In response to timely requests by two manufacturers/exporters, Agro Dutch Foods Ltd. (Agro Dutch) and Premier Mushroom Farms (Premier), as well as the petitioner, the Department published a notice of initiation of an administrative review with respect to the following companies: Agro Dutch, Dinesh Agro Products, Ltd. (Dinesh Agro), Flex Foods, Ltd. (Flex Foods), Himalya International, Ltd. (Himalya), Premier, Saptarishi Agro Industries Ltd. (Saptarishi Agro), and Weikfield Agro Products Ltd. (Weikfield) (69 FR 15788, March 26, 2004). The POR is February 1, 2003, through January 31, 2004.

On March 29, 2004, the Department issued antidumping duty questionnaires to the above-mentioned companies. We received responses to the original questionnaire during the period May through June 2004 from Agro Dutch, Flex Foods, Premier, and Weikfield.

On June 24, 2004, the petitioner timely withdrew its request for review

with respect to Dinesh Agro, Himalya, and Saptarishi Agro. Accordingly, we published a *Notice of Partial Rescission of Antidumping Duty Administrative Review*, 69 FR 58393 (September 30, 2004) with respect to Dinesh Agro, Himalya, and Saptarishi Agro.

We issued supplemental questionnaires to Agro Dutch, Flex Foods, Premier, and Weikfield during the period July 2004 through January 2005, and received responses from these companies during the period August 2004 through February 2005.

On June 18, June 25, and July 12, 2004, the petitioner timely requested that the Department initiate cost investigations with respect to home market sales of subject merchandise made by Premier, Weikfield and Flex Foods, respectively. With respect to Weikfield, we did not consider the allegation because we had already initiated a cost investigation and requested that Weikfield respond to the cost of production (COP) portion of the Section D questionnaire. Specifically, we stated in the Department's antidumping questionnaire issued on March 29, 2004, that because we disregarded sales that were below the COP in the most recently completed administrative review (*i.e.*, the 2001–2002 review), Weikfield was required to respond to Section D of the questionnaire. We received Weikfield's response on May 24, 2004.

With respect to Premier, we also did not consider the allegation because we found sales made below the COP in the final results of the 2002–2003 administrative review (*see Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Administrative Review*, 69 FR 51630 (August 20, 2004)). Accordingly, on August 20, 2004, we requested that Premier respond to Section D of the questionnaire. We received Premier's response on September 10, 2004.

With respect to Flex Foods, we analyzed the petitioner's cost allegation and determined that the petitioner did not provide a reasonable basis to believe or suspect that Flex Foods was selling certain preserved mushrooms in India at prices below the COP. Therefore, on September 15, 2004, we decided not to initiate an investigation to determine whether Flex Foods' home market sales of preserved mushrooms were made at prices below the COP during the POR. *See Petitioner's Allegation of Sales Below the Cost of Production for Flex Foods Limited*, Memorandum to File, dated September 15, 2004.

In the March 29, 2004, questionnaire, we advised Agro Dutch that, if the Department found sales below COP in

the final results of the 2002–2003 administrative review, the Department would request that Agro Dutch respond to section D of the antidumping questionnaire. Agro Dutch submitted its section D response as part of its original questionnaire response on June 4, 2004. Subsequently, we determined that Agro Dutch made comparison market sales below the COP in the final results of the 2002–2003 administrative review (*see Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Administrative Review*, 69 FR 51630 (August 20, 2004)); thus, we automatically initiated a sales-below-cost investigation on Agro Dutch's third country sales in the current review.

On October 15, 2004, the Department extended the time limit for the preliminary results in this review until February 28, 2005. *See Certain Preserved Mushrooms from the People's Republic of China and India: Notice of Extension of Time Limit for Preliminary Results in Antidumping Duty Administrative Reviews*, 69 FR 61202.

On October 25, 2004, the petitioner made a second timely allegation that Flex Foods sold certain preserved mushrooms in its home market at prices below the COP. Based on this allegation, on November 30, 2004, the Department found reasonable grounds to believe or suspect that Flex Foods was selling certain preserved mushrooms in India at prices below the COP and initiated a cost investigation of Flex Foods' home market sales (*see Petitioner's Second Allegation of Sales Below the Cost of Production for Flex Foods Limited*, Memorandum From The Team to Louis Apple, dated November 30, 2004 (*Flex Foods COP Initiation Memo*)).

On February 3 and 7, 2005, the petitioner submitted comments with respect to the preliminary results calculations for Weikfield and Flex Foods, respectively.

**Scope of the Order**

The products covered by this order are certain preserved mushrooms, whether imported whole, sliced, diced, or as stems and pieces. The preserved mushrooms covered under this order are the species *Agaricus bisporus* and *Agaricus bitorquis*. "Preserved mushrooms" refer to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heated in containers including but not limited to cans or glass jars in a suitable liquid medium, including but not limited to water, brine, butter or butter sauce. Preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces.

<sup>1</sup> The petitioner is the Coalition for Fair Preserved Mushroom Trade which includes the following domestic companies: L.K. Bowman, Inc., Monterey Mushrooms, Inc., Mushroom Canning Company, and Sunny Dell Foods, Inc.

Included within the scope of this order are “brined” mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing.

Excluded from the scope of this order are the following: (1) All other species of mushroom, including straw mushrooms; (2) all fresh and chilled mushrooms, including “refrigerated” or “quick blanched mushrooms”; (3) dried mushrooms; (4) frozen mushrooms; and (5) “marinated,” “acidified” or “pickled” mushrooms, which are prepared or preserved by means of vinegar or acetic acid, but may contain oil or other additives.

The merchandise subject to this order is currently classifiable under subheadings 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, 2003.10.0153 and 0711.51.0000 of the *Harmonized Tariff Schedule of the United States* (HTS). Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this order dispositive.

#### Fair Value Comparisons

To determine whether sales of certain preserved mushrooms by the respondents to the United States were made at less than NV, we compared export price (EP), as appropriate, to the NV, as described in the “Export Price” and “Normal Value” sections of this notice.

Pursuant to section 777A(d)(2) of the Act, we compared the EPs of individual U.S. transactions to the weighted-average NV of the foreign like product where there were sales made in the ordinary course of trade, as discussed in the “Cost of Production Analysis” section below.

#### Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondents covered by the description in the “Scope of the Order” section, above, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home market (Premier, Weikfield, and Flex Foods) or third country market (Agro Dutch) within the contemporaneous window period, which extends from three months prior to the U.S. sale until two months after the sale. Where there were no sales of identical merchandise in the comparison market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like

product made in the ordinary course of trade. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondents in the following order: preservation method, container type, mushroom style, weight, grade, container solution, and label type.

#### Export Price

For Agro Dutch, Flex Foods, Premier, and Weikfield, we used EP methodology, in accordance with section 772(a) of the Act, because the subject merchandise was sold directly by the producer/exporter in India to the first unaffiliated purchaser in the United States prior to importation and constructed export price (CEP) methodology was not otherwise indicated. We based EP on packed prices to unaffiliated purchasers in the United States.

We did not make an adjustment to EP for the freight expense offset claimed by Agro Dutch and Premier because such an adjustment is not contemplated by the Act or the Department’s regulations. Specifically, the program described by the respondents, granting an international freight subsidy from the Indian Agricultural and Processed Food Products Export Development Authority for the export of certain food products, is not contingent upon importation of inputs used to produce the exported subject merchandise—the duty drawback system contemplated under section 772(c)(1)(B) of the Act. Neither is it packing (as contemplated under section 772(c)(1)(A) of the Act) nor the amount of any countervailing duty, as there is no companion countervailing duty investigation on certain preserved mushrooms from India (see section 772(c)(1) of the Act). Accordingly, we disregarded the claimed amounts for purposes of the preliminary results.

#### Agro Dutch

Agro Dutch reported its U.S. sales on an FOB Indian port, CIF or ex-dock duty paid basis. We made deductions from the starting price, where appropriate, for international freight, foreign inland freight, transportation insurance, foreign and U.S. brokerage and handling, and U.S. duty in accordance with section 772(c)(2) of the Act and 19 CFR 351.402.

#### Flex Foods

Flex Foods reported its U.S. sales on a C&F basis. We made deductions from the starting price, where appropriate, for international freight and foreign inland freight, in accordance with section 772(c)(2) of the Act and 19 CFR 351.402.

#### Premier

Premier reported its U.S. sales on an FOB Hyderabad basis. We made a deduction from the starting price, where appropriate, for brokerage and handling expenses, in accordance with section 772(c)(2) of the Act and 19 CFR 351.402. For certain invoices, we reduced the reported gross prices by the amount of price reductions taken by the customer for rejected merchandise and other items. See *Preliminary Results Calculation Memorandum for Premier Mushroom Farms* (Premier), Memorandum to the File from Kate Johnson, dated February 25, 2005 (*Premier Calculation Memorandum*).

#### Weikfield

Weikfield reported its U.S. sales on an FOB Indian port, delivered duty paid, or C&F basis. We made deductions from the starting price, where appropriate, for foreign inland freight, foreign inland and marine insurance, foreign and U.S. brokerage and handling expenses, international freight, and U.S. duty, in accordance with section 772(c)(2) of the Act and 19 CFR 351.402.

#### Normal Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared the respondents’ volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act.

With regard to Flex Foods, Premier, and Weikfield, the aggregate volume of home market sales of the foreign like product was greater than five percent of the aggregate volume of U.S. sales of the subject merchandise. Therefore, we determined that the home market provides a viable basis for calculating NV for Flex Foods, Premier, and Weikfield.

With regard to Agro Dutch, we determined that the home market was not viable because Agro Dutch’s aggregate volume of home market sales of the foreign like product was less than five percent of its aggregate volume of U.S. sales of the subject merchandise. However, we determined that the third country market of Israel was viable, in accordance with section 773(a)(1)(B)(ii) of the Act. Therefore, pursuant to section 773(a)(1)(C) of the Act, we used third country sales as a basis for NV for Agro Dutch.

#### Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on

sales at the same level of trade (LOT) as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). See 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing (*id.*); see also *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa (Plate from South Africa)* 62 FR 61731, 61732 (November 19, 1997). In order to determine whether the comparison sales were at different stages in the marketing process from the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the “chain of distribution”), including selling functions, class of customer (“customer category”), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices<sup>2</sup>), we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. See *Micron Technology, Inc. v. United States*, 243 F. 3d 1301, 1314–1315 (Fed. Cir. 2001).

When the Department is unable to match U.S. sales to sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it practicable, and where the difference affects price comparability, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if an NV LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.*, no LOT adjustment was practicable), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. See *Plate from South Africa* at 61731. We obtained information from the respondents regarding the marketing stages involved in making the reported foreign market and U.S. sales, including

a description of the selling activities performed for each channel of distribution. Company-specific LOT findings are summarized below.

#### Agro Dutch

Agro Dutch sold to importers/traders through one channel of distribution in both the U.S. and Israeli markets. As described in its questionnaire response, Agro Dutch performs no selling functions in the United States or in any of the third countries to which it sells, including Israel. Therefore, these sales channels are at the same LOT. Accordingly, all sales comparisons are at the same LOT for Agro Dutch and an adjustment pursuant to section 773(a)(7)(A) is not warranted.

#### Flex Foods

Flex Foods sold only to distributors/manufacturers through one channel of distribution in both the U.S. and home markets. In its questionnaire responses, Flex Foods did not report any selling functions in the home or U.S. market. In addition, Flex Foods reported that it did not incur any technical service, advertising, or warehousing expenses in either the home market or the United States. Based on our analysis of its responses, we preliminarily determine that Flex Foods' sales in both markets are all at the same LOT. Accordingly, an adjustment pursuant to section 773(a)(7)(A) is not warranted.

#### Premier

In the home market, Premier sold directly to small local distributors, hotels, and small retailers. We examined Premier's home market distribution system, including selling functions, classes of customers, and selling expenses, and determined that Premier offers the same support and assistance to all its home market customers. Accordingly, all of Premier's home market sales are made through the same channel of distribution and constitute one LOT.

With regard to sales to the United States, Premier made only EP sales to large distributors. We examined Premier's U.S. distribution system and determined that Premier does not perform any selling functions or activities in conjunction with its U.S. sales except for making freight arrangements. Accordingly, all of Premier's U.S. sales are made through the same channel of distribution and constitute one LOT. This EP LOT differed considerably from the home market LOT with respect to sales process, advertising, and inventory maintenance. Consequently, we could not match the EP LOT to sales at the

same LOT in the home market. Because there was only one LOT in the home market, there was no pattern of consistent price differences between different LOTs in the home market, and we do not have any other information that provides an appropriate basis for determining an LOT adjustment. Accordingly, we have not made an LOT adjustment. See section 773(a)(7)(A) of the Act.

#### Weikfield

As noted in past reviews (*see, e.g., Certain Preserved Mushrooms from India: Preliminary Results of Antidumping Duty Administrative Review*, 69 FR 10659, 10633 (March 8, 2004) (*AR4 Preliminary Results*)), Weikfield's home market sales are made via two channels of distribution: (a) Direct sales to large quantity end-users, and b) sales to distributors and “carrying and forwarding” (C&F) agents, which either resell the merchandise to small quantity end-users, or act as Weikfield's agent in selling and distributing the merchandise to small quantity end-users. We examined Weikfield's home market distribution system, including selling functions, classes of customers, and selling expenses, and determined that Weikfield offers the same support and assistance to all its home market customers except with respect to sales promotion activities. In the Indian states of Maharashtra and Goa, Weikfield's affiliate WPCL includes Weikfield's preserved mushroom products in its market development activities to promote sales.

With respect to such activities as sales negotiation, freight and distribution services, and inventory maintenance, the two home market distribution channels involve the same services performed by Weikfield. With respect to sales promotion activities, the level of sales promotion activities performed by WPCL for certain home market sales are not so extensive as to constitute a separate LOT. Accordingly, we consider all of Weikfield's home market sales to constitute one LOT.

With regard to sales to the United States, Weikfield made only EP sales to importers/traders. We examined Weikfield's U.S. distribution system, including selling functions, classes of customers, and selling expenses, and determined that Weikfield offers the same support and assistance to all its U.S. customers. Accordingly, all of Weikfield's U.S. sales are made through the same channel of distribution and constitute one LOT.

Weikfield contends in its August 16, 2004, response at page 5 that the EP

<sup>2</sup> Where NV is based on constructed value (CV), we determine the NV LOT based on the LOT of the sales from which we derive selling expenses and profit for CV, where possible.

LOT is significantly different from the home market LOT because Weikfield states that it or WPCL actively markets its products to its home market customers and their customers, while it does not do so for its U.S. customers. We compared the EP LOT to the home market LOT and concluded that the selling functions performed for home market customers are sufficiently similar to those performed for U.S. customers. As we determined in the prior review (*AR4 Preliminary Results* at 10633), and as discussed in Weikfield's questionnaire responses in the instant review, apart from the promotion activities conducted by WPCL on Weikfield's behalf in the home market, which are not extensive, as discussed above, Weikfield does not perform different selling activities in either the U.S. or home markets. Except for the occasional handling of customer complaints, Weikfield reports that it does not offer or perform selling activities in either market. Accordingly, we consider the EP and home market LOTs to be the same. Consequently, we are comparing EP sales to sales at the same LOT in the home market.

#### Cost of Production Analysis

As stated in the "Background" section of this notice, based on a timely allegation filed by the petitioner, the Department initiated an investigation to determine whether Flex Foods' home market sales were made at prices less than the COP within the meaning of section 773(b) of the Act. *See Flex Foods COP Initiation Memo*.

In addition, the Department disregarded certain sales made by Weikfield in the 2001–2002 administrative review and certain sales made by Agro Dutch and Premier in the 2002–2003 administrative review, pursuant to findings in those reviews that sales failed the cost test (*see Notice of Final Results of Antidumping Duty Administrative Review: Certain Preserved Mushrooms from India*, 68 FR 41303 (July 11, 2003) and *Notice of Final Results of Antidumping Duty Administrative Review: Certain Preserved Mushrooms from India*, 69 FR 51630 (August 20, 2004)). Thus, in accordance with section 773(b)(2)(A)(ii) of the Act, there are reasonable grounds to believe or suspect that Agro Dutch, Premier, and Weikfield made sales in the home market or third country at prices below the cost of producing the merchandise in the current review period.

#### A. Calculation of Cost of Production

We calculated the COP on a product-specific basis, based on the sum of each

company's respective costs of materials and fabrication for the foreign like product, plus amounts for selling, general and administrative (SG&A) expenses, interest expense, and all expenses incidental to placing the foreign like product in a condition packed ready for shipment in accordance with section 773(b)(3) of the Act.

We relied on the COP information submitted by Agro Dutch, Flex Foods, Premier, and Weikfield, except for the adjustments discussed below. With respect to Flex Foods, although certain deficiencies continue to exist in its COP responses, including the reporting of fresh mushroom costs, general and administrative (G&A) expenses, and interest expenses, we have determined that the use of facts available based on adverse inferences under section 776(b) of the Act is not warranted because, based on Flex Foods' level of participation and cooperation in this review, Flex Foods did not fail to act to the best of its ability in this review.

#### Flex Foods

1. Flex Foods incorrectly reported different fresh mushroom costs for its sales of whole/sliced preserved mushrooms and its sales of preserved mushroom pieces and stems, claiming, contrary to the Department's consistent practice, that its fresh mushroom costs for pieces and stem products should be valued significantly less than its fresh mushroom costs for whole/sliced products. Furthermore, Flex Foods' reported fresh mushroom costs, and the underlying reconciliation worksheets submitted in the February 8, 2005, response, did not tie to Flex Foods' financial statement data. Consistent with our longstanding practice in the preserved mushrooms proceedings of assigning the same cost to the fresh mushrooms grown by the respondent and used in the production of the preserved mushrooms without regard to mushroom style, we recalculated these costs to reflect one weighted-average fresh mushroom cost for all products. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from India*, 63 FR 72246, 72248, (December 31, 1998) (wherein the Department stated that " \* \* \* the cost-generating elements of growing mushrooms for both preserved and fresh, whole or pieces, large or small mushrooms are identical. \* \* \*"), and *Certain Preserved Mushrooms From Indonesia: Final Results of Antidumping Duty Administrative Review*, 66 FR 36754, July 13, 2001, Issues and Decision Memorandum at Comment 2.

Specifically, we recalculated a fresh mushroom material cost for the POR based on the raw material data provided in Flex Foods' 2003–2004 financial statement and the reported POR adjustments in Annexure B(10) of the February 8, 2005, response. Because Flex Foods did not report a POR breakdown for the labor and variable overhead costs related to the growing and harvesting of the fresh mushrooms, we recalculated the labor and variable overhead costs related to the growing and harvesting of fresh mushrooms using the fiscal year 2003–2004 labor and variable overhead farming costs reported by Flex Foods in Annexure 1 of the February 8, 2005, response, which tied to the Flex Foods' 2003–2004 financial statement. To this calculated total fresh mushroom cost per kilogram, we applied a fresh mushroom to canned mushroom yield-loss ratio derived from Flex Foods' submitted data to obtain a total fresh mushroom cost on a kilogram per net drained-weight basis. *See Flex Foods Ltd. Preliminary Results Calculation Memorandum, Memorandum to the File from Sophie Castro and P. Lee Smith*, dated February 25, 2005 (*Flex Foods Calculation Memorandum*).

2. Flex Foods reported its G&A and interest expenses based on its 2002–2003 financial statements. We recalculated the G&A and interest expenses consistent with the 2003–2004 financial statements which most closely corresponded to the POR in accordance with our normal practice (*see Flex Foods Calculation Memorandum*).

3. In calculating its fixed overhead expenses, Flex Foods included G&A expenses related to canning. We reclassified the canning-related G&A expenses included in the fixed overhead costs to the company-wide G&A expenses, consistent with our normal practice (*see Flex Foods Calculation Memorandum*).

4. Flex Foods failed to report cost data for one of its home market products. We used the cost reported for a similar product/control number as facts available under section 776(a)(1) of the Act (*see Flex Foods Calculation Memorandum*).

We intend to issue Flex Foods an additional supplemental questionnaire after the preliminary results to allow it a final opportunity to address the remaining deficiencies in its COP responses prior to the final results of this review.

#### Weikfield

1. We revised the reported G&A expense to reflect the corrected ratio

reported at revised Exhibit SD-9 in the January 15, 2005, submission.

### *B. Test of Home or Third Country Market Prices*

For all four companies, on a product-specific basis, we compared the weighted-average COP to the prices of home market or third country market sales of the foreign like product, as required by section 773(b) of the Act, in order to determine whether these sales were made at prices below the COP. For purposes of this comparison, we used COP exclusive of selling and packing expenses. The prices (inclusive of interest revenue, where appropriate) were exclusive of any applicable movement charges, discounts, direct and indirect selling expenses and packing expenses, revised where appropriate as discussed below under "Price-to-Price Comparisons." In determining whether to disregard home market sales made at prices less than their COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether such sales were made: (1) Within an extended period of time, (2) in substantial quantities; and (3) at prices which did not permit the recovery of all costs within a reasonable period of time.

### *C. Results of COP Test*

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the POR were at prices less than the COP, we disregarded the below-cost sales because we determined that they represented "substantial quantities" within an extended period of time, and were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1) of the Act.

The results of our cost test for Weikfield indicated that less than 20 percent of home market sales of any given product were at prices below COP. We therefore retained all sales in our analysis and used them as the basis for determining NV.

The results of our cost tests for Agro Dutch, Flex Foods and Premier indicated that, for certain products, more than 20 percent of home market or third country sales within an extended period of time were at prices below COP which would not permit the full recovery of all costs within a reasonable

period of time. See 773(b)(2) of the Act. Therefore, in accordance with section 773(b)(1) of the Act, we excluded these below-cost sales from our analysis and used the remaining sales as the basis for determining NV.

### **Price-to-Price Comparisons**

For all four respondents, we based NV on the price at which the foreign like product is first sold for consumption in the home market or third country market, in the usual commercial quantities and in the ordinary course of trade, and at the same LOT as EP, where possible, as defined by section 773(a)(1)(B)(i) of the Act.

Home market or third country prices were based on ex-Hyderabad, FOB Indian port, or delivered prices. We reduced the starting price for billing adjustments (Agro Dutch), discounts (Weikfield) and movement expenses (Agro Dutch, Flex Foods, Premier and Weikfield), and increased the starting price for interest revenue (Premier), where appropriate, in accordance with section 773(a)(6) of the Act and 19 CFR 351.401.

We disregarded Agro Dutch's claimed freight expense offset for certain third country sales, granted under the Indian government program discussed in the "Export Price" section above, because this type of adjustment to NV is not contemplated by section 773(a)(6) of the Act or the Department's regulations.

We recalculated Premier's interest revenue consistent with Premier's February 10, 2005, submission. We reclassified Premier's home market discounts as commissions, consistent with our treatment of this adjustment in the 2002-2003 administrative review (see *Certain Preserved Mushrooms from India: Preliminary Results of Antidumping Duty Administrative Review*, 69 FR 10659 (March 8, 2004)), as affirmed in our final results (see *Certain Preserved Mushrooms from India: Final Results of Antidumping Duty Administrative Review*, 69 FR 51630 (August 20, 2004)).

As indicated at page 3 of Weikfield's January 15, 2005, submission, Weikfield shipped merchandise to certain home market customers using Weikfield's own trucks. Therefore, consistent with our treatment in the previous review (see *AR4 Preliminary Results at 10644*), we did not deduct movement expenses from the starting price for these sales.

We also reduced the starting price for packing costs incurred in the home market, in accordance with section 773(a)(6)(B)(i) of the Act, and increased NV to account for U.S. packing expenses in accordance with section 773(a)(6)(A) of the Act. We made circumstance-of-

sale adjustments for credit expenses and bank fees, where appropriate, pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. In addition, we made adjustments to NV, where appropriate, for differences in costs attributable to differences in the physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. For Premier and Weikfield, we made an adjustment to NV to account for commissions paid in the home market but not in the U.S. market, in accordance with 19 CFR 351.410(e). As the offset for home market commissions, we applied the lesser of home market commissions or U.S. indirect selling expenses.

As in past reviews, Weikfield contends that its commission payments to WPCL on certain sales are at arm's length. In the instant review, Weikfield claims that, due to changes in the equity ownership of Weikfield, as listed in Exhibit A-3 of the May 24, 2004, questionnaire response, Weikfield is not controlled by WPCL, implying that Weikfield and WPCL should not be considered affiliated parties for purposes of considering whether commissions were made at arm's length. However, our analysis of the ownership structure in that response indicates no substantive change in Weikfield's ownership structure or affiliation with WPCL. Even if the issuance of additional stock may dilute the nominal ownership of Weikfield by affiliated parties, it does not change the fundamental nature of the affiliation between Weikfield and WPCL, which remain closely tied through common shareholders as well as WPCL's shareholdings in Weikfield. Weikfield has offered no additional evidence to support its arm's-length claim.

Therefore, consistent with our treatment in the two previous reviews, we have not considered Weikfield's commission payments to WPCL on home market and U.S. sales to be at arm's length, and instead have included the selling expenses incurred by WPCL on Weikfield's behalf as part of Weikfield's indirect selling expenses. See *Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Administrative Review*, 68 FR 41303 (July 11, 2003) (*AR3 Final Results*), Issues and Decision Memorandum at Comments 4 and 7.

We recalculated Weikfield's home market and U.S. imputed credit expenses because the amounts reported in its sales listings did not reconcile with the methodology described in the questionnaire response. In addition, we recalculated the home market credit

expense in order to deduct freight expenses from the price base for sales made on a freight-collect basis. To calculate home market and U.S. indirect selling expenses, we used the indirect selling expense ratios Weikfield reported in its January 15, 2005, submission at revised Exhibit C-3.

#### Calculation of Constructed Value

We calculated CV in accordance with section 773(e) of the Act, which indicates that CV shall be based on the sum of each respondent's cost of materials and fabrication for the subject merchandise, plus amounts for SG&A expenses, profit and U.S. packing costs. We relied on the submitted CV information except for the following adjustments:

#### Flex Foods

We made the same adjustments to the CV data as we made to the COP data, as discussed above under "Calculation of Cost of Production."

#### Weikfield

We made the same adjustments to the CV data as we made to the COP data, as discussed above under "Calculation of Cost of Production."

#### Price-to-Constructed Value Comparisons

For each respondent, we made only price-to-price comparisons as there were contemporaneous above-cost sales in each comparison market to match to each U.S. sale.

#### Currency Conversion

We made currency conversions in accordance with section 773A of the Act based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

#### Preliminary Results of Review

As a result of this review, we preliminarily determine that the weighted-average dumping margins for the period February 1, 2003, through January 31, 2004, are as follows:

Manufacturer/exporter	Percent margin
Agro Dutch Foods, Ltd .....	2.79
Flex Foods, Ltd .....	114.76
Premier Mushroom Farms .....	41.67
Weikfield Agro Products, Ltd .....	25.69

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice. See 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of publication. See 19 CFR 351.310(c). If

requested, a hearing will be scheduled after determination of the briefing schedule.

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, Room B-099, 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 the respective case briefs. Case briefs from interested parties and rebuttal briefs, limited to the issues raised in the respective case briefs, may be submitted in accordance with a schedule to be determined. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

#### Assessment Rates

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries, in accordance with 19 CFR 351.212. The Department will issue appropriate appraisal instructions for the companies subject to this review directly to CBP within 15 days of publication of the final results of this review.

With respect to Agro Dutch, Flex Foods, Premier and Weikfield, we intend to calculate importer-specific assessment rates for the subject merchandise by aggregating the dumping margins calculated for all of the U.S. sales examined and dividing this amount by the total entered value of the sales examined.

We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis* (i.e., at or above 0.50 percent). See 19 CFR 351.106(c)(1). The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future

deposits of estimated duties, where applicable.

#### Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies will be those established in the final results of this review, except if the rate is less than 0.50 percent, and therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 11.30 percent, the "All Others" rate made effective by the LTFV investigation (see *Notice of Amendment of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Preserved Mushrooms From India*, 64 FR 8311 (February 19, 1999)). These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

#### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) 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 double antidumping duties.

This administrative review and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221.



Dated: February 25, 2005.

**Joseph A. Spetrini,**  
Acting Assistant Secretary for Import Administration.

[FR Doc. E5-903 Filed 3-3-05; 8:45 am]

BILLING CODE 3510-DS-P

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[C-533-825]

**Polyethylene Terephthalate Film, Sheet, and Strip From India: Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Review**

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

**DATES:** *Effective Date:* March 4, 2005.

**FOR FURTHER INFORMATION CONTACT:** Jeff Pedersen or Sam Zengotitabengoa, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-2769 or (202) 482-4195, respectively.

**Background**

On August 30, 2004, the Department of Commerce (the Department) published a notice of initiation of administrative review of the countervailing duty order on polyethylene terephthalate film, sheet, and strip (PET film) from India covering the period from January 1, 2003, through December 31, 2003. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 69 FR 52857 (August 30, 2004). The preliminary results are currently due no later than April 2, 2005.

**Statutory Time Limits**

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of the date of publication of the order for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 365 days and the time limit for the final determination to 180 days (or 300 days if the Department

does not extend the time limit for the preliminary determination) from the date of publication of the preliminary determination.

**Extension of Time Limit for Preliminary Results of Review**

The Department finds that it is not practicable to complete the preliminary results in this countervailing duty administrative review of PET film from India within the 245-day statutory time frame because additional time is needed to fully analyze a new subsidy allegation submitted by the petitioner in this review, new subsidy programs, and submissions from a new respondent, as well as to conduct the verifications of the questionnaire responses of the respondents in this administrative review.

Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limit for completion of the preliminary results of this review until no later than August 1, 2005, which is the next business day after 365 days from the last day of the anniversary month of the date of publication of the order. The deadline for the final results of this administrative review continues to be 120 days after the publication of the preliminary results.

This notice is issued and published in accordance with section 751(a)(3)(A) of the Act.

Dated: February 28, 2005.

**Barbara E. Tillman,**  
Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. E5-902 Filed 3-3-05; 8:45 am]

BILLING CODE 3510-DS-P

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**DEPARTMENT OF THE INTERIOR**

**Office of Insular Affairs**

[Docket No. 990813222-0035-03]

RIN 0625-AA55

**Allocation of Duty-Exemptions for Calendar Year 2005 Among Watch Producers Located in the Virgin Islands**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce; Office of Insular Affairs, Department of the Interior.

**ACTION:** Notice.

**SUMMARY:** This action allocates calendar year 2005 duty exemptions for watch producers located in the Virgin Islands pursuant to Public Law 97-446, as amended by Public Law 103-465 (“the Act”).

**FOR FURTHER INFORMATION CONTACT:** Faye Robinson, (202) 482-3526.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Act, the Departments of the Interior and Commerce (the Departments) share responsibility for the allocation of duty exemptions among watch assembly firms in the United States insular possessions and the Northern Mariana Islands. In accordance with Section 303.3(a) of the regulations (15 CFR 303.3(a)), the total quantity of duty-free insular watches and watch movements for calendar year 2004 is 1,866,000 units for the Virgin Islands (65 FR 8048, February 17, 2000).

The criteria for the calculation of the calendar year 2005 duty-exemption allocations among insular producers are set forth in § 303.14 of the regulations (15 CFR 303.14).

The Departments have verified and adjusted the data submitted on application form ITA-334P by Virgin Islands producers and inspected their current operations in accordance with § 303.5 of the regulations (15 CFR 303.5).

In calendar year 2004 the Virgin Islands watch assembly firms shipped 319,624 watches and watch movements into the customs territory of the United States under the Act. The dollar amount of creditable corporate income taxes paid by Virgin Islands producers during calendar year 2004 plus the creditable wages paid by the industry during calendar year 2004 to residents of the territory was \$2,041,956.

There are no producers in Guam, American Samoa or the Northern Mariana Islands.

The calendar year 2005 Virgin Islands annual allocations, based on the data verified by the Departments, are as follows:

Name of firm	Annual allocation
Belair Quartz, Inc .....	500,000
Hampden Watch Co., Inc .....	200,000
Goldex Inc .....	50,000
Tropex, Inc .....	300,000

The balance of the units allocated to the Virgin Islands is available for new entrants into the program or producers