

Dated: July 14, 2005.

**Susan H. Kuhbach,**

*Acting Deputy Assistant Secretary for Import Administration.*

[FR Doc. E5-3910 Filed 7-20-05; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-851]

#### **Certain Preserved Mushrooms from the People's Republic of China: Preliminary Results of the Eighth New Shipper Review**

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

**SUMMARY:** The Department of Commerce ("the Department") is currently conducting the eighth new shipper review of the antidumping duty order on certain preserved mushrooms from the People's Republic of China ("PRC") covering the period February 1, 2004, through July 31, 2004. This review covers one exporter.

Pursuant to section 751(a)(2)(B) of the Tariff Act of 1930 ("the Act"), we have preliminarily determined that sales have not been made at less than normal value ("NV") with respect to the exporter who participated in this review. If the preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection ("CBP") to not assess antidumping duties on entries of merchandise subject to this review.

Interested parties are invited to comment on the preliminary results. We will issue the final results no later than 90 days from the date of publication of this notice.

**EFFECTIVE DATE:** July 21, 2005.

**FOR FURTHER INFORMATION CONTACT:**

Amber Musser or Stephen F. Berlinguette, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1777 and (202) 482-3740, 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 the PRC. See *Notice of Amendment of Final Determination of Sales at Less Than*

*Fair Value and Antidumping Duty Order: Certain Preserved Mushrooms from the People's Republic of China*, 64 FR 8308 (February 19, 1999). The Department received a timely request from Blue Field (Sichuan) Food Industrial Co., Ltd. ("Blue Field"), in accordance with 19 CFR 351.214(b) and (c), for a new shipper review of the antidumping duty order on certain preserved mushrooms from the PRC, which has a February annual anniversary month and an August semi-annual anniversary month. On September 24, 2004, the Department found that Blue Field's request for review appeared to satisfy the requirements of 19 CFR 351.214(b) and initiated the new shipper antidumping duty review. See *Certain Preserved Mushrooms from the People's Republic of China: Initiation of Eighth New Shipper Antidumping Duty Review*, 69 FR 57264 (September 24, 2004). On September 30, 2004 the Department provided the parties an opportunity to submit publicly available information for consideration in the preliminary results.

On October 1, 2004, the Department requested from CBP copies of all customs documents pertaining to the entry of certain preserved mushrooms from the PRC exported by the respondent during the period of February 1, 2004, through July 31, 2004. See *Memorandum from James C. Doyle, Director, Office 9, to William R. Scopa of CBP*, dated October 1, 2004. We issued the original questionnaire to Blue Field in September 2004. Responses to the questionnaire were received in October 2004. We issued supplemental questionnaires to Blue Field and an importer-specific questionnaire to Blue Field's U.S. importer in December 2004. We received responses to the questionnaires in December 2004 and January 2005.

From January 10 through January 14, 2005, the Department conducted verification of the information submitted by Blue Field in accordance with 782(i) of the Act and 19 CFR 351.307. On February 8, 2005, we issued the verification report for Blue Field. See *Memorandum to the File from Amber Musser and Steve Winkates through Brian C. Smith, Re: Verification of the Response of Blue Field (Sichuan) Food Industrial Co., Ltd. in the Eighth Antidumping Duty New Shipper Review of Certain Preserved Mushrooms from the People's Republic of China*, dated February 8, 2005 ("Blue Field verification report").

On March 22, 2005, the Department published in the **Federal Register** a notice of postponement of the

preliminary results until no later than July 14, 2005 (70 FR 14444).

#### **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. Included within the scope of this order are "brined" mushrooms, which are pre-salted 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 mushrooms, 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.<sup>1</sup>

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 ("HTSUS"). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

#### **Period of Review**

The period of review ("POR") covers February 1, 2004, through July 31, 2004.

<sup>1</sup> On June 19, 2000, the Department affirmed that "marinated," "acidified," or "pickled" mushrooms containing less than 0.5 percent acetic acid are within the scope of the antidumping duty order. See "Recommendation Memorandum-Final Ruling of Request by Tak Fat, et al. for Exclusion of Certain Marinated, Acidified Mushrooms from the Scope of the Antidumping Duty Order on Certain Preserved Mushrooms from the People's Republic of China," dated June 19, 2000. The Department's scope determination was affirmed by the Court of Appeals for the Federal Circuit in *Tak Fat Trading Company, et. al. v. United States*, et. al., 396 F.3d 1378 (Fed. Cir., 2005).

## Verification

As provided in section 782(i) of the Act, as amended, we verified information provided by Blue Field. We used standard verification procedures, including on-site inspection of Blue Field's facility and examination of relevant sales and financial records. Our verification results are outlined in the Blue Field verification report.

## New Shipper Status

Consistent with our practice, we investigated the *bona fide* nature of the two sales made by Blue Field for this new shipper review. We found no evidence that the sales in question were not *bona fide* sales. Based on our investigation into the *bona fide* nature of the sales, the questionnaire responses submitted by the company, and our verification thereof, we preliminarily determine that the respondent has met the requirements to qualify as a new shipper during the POR, and that it was not affiliated with any exporter or producer that had previously shipped subject merchandise to the United States. Therefore, for purposes of these preliminary results of the review, we are treating the respondent's sales of certain preserved mushrooms to the United States as an appropriate transaction for this new shipper review.

## Separate Rates

In proceedings involving non-market-economy ("NME") countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate (*i.e.*, a PRC-wide rate).

Blue Field is a limited liability company registered in the PRC. Thus, a separate-rates analysis is necessary to determine whether the export activities of this respondent are independent from government control. See *Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China*, 61 FR 56570 (April 30, 1996). To establish whether a firm is sufficiently independent in its export activities from government control to be entitled to a separate rate, the Department utilizes a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991), and amplified in the *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*"). Under the separate-rates criteria, the Department assigns separate

rates in NME cases only if the respondent can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

### 1. De Jure Control

Evidence supporting, though not requiring, a finding of *de jure* absence of government control over exporter activities includes: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies.

In prior cases involving products from the PRC, the Department has examined the following PRC laws for purposes of determining whether there is an absence of *de jure* control with respect to a respondent's export functions: the 1994 "Foreign Trade Law of the People's Republic of China;" the "Company Law of the PRC," effective as of July 1, 1994; and "The Enterprise Legal Person Registration Administrative Regulations," promulgated on June 13, 1988. See July 22, 2004, Memorandum to the File, which places the above-referenced laws on the record of this proceeding segment.

As in prior cases, we have analyzed these laws and have found them to establish sufficiently an absence of *de jure* control of limited liability companies absent proof on the record to the contrary. See, *e.g.*, *Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544 (May 8, 1995) ("*Furfuryl Alcohol*"), and *Preliminary Determination of Sales at Less Than Fair Value: Certain Partial-Extension Steel Drawer Slides with Rollers from the People's Republic of China*, 60 FR 29571 (June 5, 1995).

The respondent has placed on the record a number of documents to demonstrate absence of *de jure* control, including the Foreign Trade Law of the People's Republic of China (May 12, 1994) and the Administrative Regulations of the People's Republic of China Governing the Registration of Legal Corporations (June 3, 1988). The Department has analyzed such PRC laws and found that they establish an absence of *de jure* control. See, *e.g.*, *Preliminary Results of New Shipper Review: Certain Preserved Mushrooms From the People's Republic of China*, 66 FR 30695, 30696 (June 7, 2001). At verification, we found that the respondent's business license and Certificate of Approval for enterprises with foreign trade rights in the PRC were granted in accordance

with these laws. For further information, see the Blue Field verification report. Therefore, we preliminarily determine that there is an absence of *de jure* control over the respondent's export activities.

### 2. De Facto Control

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. See *Silicon Carbide*, 59 FR at 22587, and *Furfuryl Alcohol*, 60 FR at 22544. Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether the respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) whether the export prices are set by, or subject to the approval of, a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses. See *Silicon Carbide*, 59 FR at 22587 and *Furfuryl Alcohol*, 60 FR at 22545.

Blue Field has asserted the following: (1) it establishes its own export prices; (2) it negotiates contracts without guidance from any governmental entities or organizations; (3) it makes its own personnel decisions; and (4) it retains the proceeds of its export sales, uses profits according to its business needs, and has the authority to sell its assets and to obtain loans. We examined documentation at verification which substantiated Blue Field's claims as noted above. See the Blue Field verification report, pages 3-11. As a result, there is a sufficient basis to determine preliminarily that this respondent has demonstrated a *de facto* absence of government control of its export functions and is entitled to a separate rate. Consequently, we have preliminarily determined that Blue Field has met the criteria for the application of separate rates.

### Normal Value Comparisons

To determine whether Blue Field's two sales of subject merchandise to the United States were made at prices below NV, we compared the export prices to NV, as described in the "Export Price" and "Normal Value" sections of this notice, below.

### Export Price

We used export price ("EP") methodology in accordance with section 772(a) of the Act because the subject merchandise was first sold prior to importation by the exporter outside the United States directly to an unaffiliated purchaser in the United States, and constructed export price was not otherwise indicated.

We calculated EP based on the packed FOB China port price to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight and foreign brokerage and handling charges in the PRC in accordance with section 772(c) of the Act. Because foreign inland freight and foreign brokerage and handling fees were provided by PRC service providers or paid for in renminbi, we based those charges on surrogate rates from India (*see* "Surrogate Country" section below for further discussion of our surrogate-country selection).

To value foreign inland trucking charges, we used truck freight distances and rates published by the Indian Freight Exchange obtained from the following website: <http://www.infreight.com>. To value foreign inland train freight charges, we used data contained in the July 2001 *Reserve Bank of India Bulletin*. To value foreign brokerage and handling expenses, we relied on October 1999–September 2000 information reported in the public U.S. sales listing submitted by Essar Steel Ltd. in the antidumping investigation of *Certain Hot-Rolled Carbon Steel Flat Products from India: Final Determination of Sales at Less Than Fair Value*, 67 FR 50406 (October 3, 2001).

### Normal Value

#### A. Non-Market-Economy Status

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. Pursuant to section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the*

*People's Republic of China: Preliminary Results 2001–2002 Administrative Review and Partial Rescission of Review*, 68 FR 7500 (February 14, 2003). None of the parties to this review has contested such treatment. Accordingly, we calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

#### B. Surrogate Country

Section 773(c)(4) of the Act requires the Department to value an NME producer's factors of production, to the extent possible, in one or more market-economy countries that (1) are at a level of economic development comparable to that of the NME country, and (2) are significant producers of comparable merchandise. India was among the countries comparable to the PRC in terms of overall economic development. *See Surrogate Country Request Memorandum*, dated September 28, 2004. In addition, based on publicly available information placed on the record (e.g., world production data), India is a significant producer of the subject merchandise. Accordingly, we considered India the surrogate country for purposes of valuing the factors of production because it meets the Department's criteria for surrogate-country selection. *See Memorandum Re: Seventh Antidumping Duty New Shipper Review on Certain Preserved Mushrooms from the People's Republic of China: Selection of a Surrogate Country*, dated September 28, 2004.

#### C. Factors of Production

In accordance with section 773(c) of the Act, we calculated NV based on the factors of production which included, but were not limited to: (A) hours of labor required; (B) quantities of raw materials employed; (C) amounts of energy and other utilities consumed; and (D) representative capital costs, including depreciation. We used the factors reported by Blue Field which produced the preserved mushrooms it exported to the United States during the POR. To calculate NV, we multiplied the reported unit factor quantities by publicly available Indian values.

Based on our verification findings, we revised the per-unit factor reported for soil and the reported inland freight distances reported in Blue Field's responses. *See* Blue Field verification report at pages 14 and 16.

The Department's selection of the surrogate values applied in this determination was based on the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices to make them delivered prices. For those values not contemporaneous

with the POR and quoted in a foreign currency or in U.S. dollars, we adjusted for inflation using wholesale price indices ("WPIs") published in the International Monetary Fund's *International Financial Statistics ("IFS")*. *See Memorandum Re: Factors Valuation For the Preliminary Results, from Stephen F. Berlinguette, International Trade Compliance Analyst to James C. Doyle, Director, Office 9*, dated July 14, 2005, for a detailed explanation of the methodology used to calculate surrogate values.

Except where specified below, we valued raw material inputs using the weighted-average unit import values from the POR derived from the *World Trade Atlas Trade Information System (Internet Version 4.3e)* ("*World Trade Atlas*"). The source of these values was the Directorate General of Commercial Intelligence and Statistics of the Indian Ministry of Commerce and Industry. Below is a listing of surrogate values that utilized sources other than POR-contemporaneous *World Trade Atlas* data.

Blue Field produced (rather than purchased) the fresh mushrooms which it used in the mushroom canning process during the POR. Therefore, we valued the inputs which this company used to produce the fresh mushrooms which were canned during the POR. To value spawn, we used an average price based on data contained in the 2003–2004 financial reports of Agro Dutch Foods, Ltd. ("Agro Dutch"), Flex Foods Ltd. ("Flex Foods") and Premier Explosives, Ltd. ("Premier Explosives") (i.e., three Indian producers of the subject merchandise). To value cow manure, we averaged data contained in the above-referenced Flex Foods and Agro Dutch financial reports. To value rice straw, we used data from the 2003–2004 Premier Explosives financial report. For soil, we used 2003–2004 price information obtained from a project report issued in December 2004 by India's National Bank for Agriculture and Rural Development entitled *Integrated Project on Production and Processing of Button Mushrooms for Export*, available online at: <http://www.nabard.org/roles/ms/ap/mushroom.htm>.

Blue Field produced all of the cans which it used to sell preserved mushrooms to the U.S. market during the POR. Therefore, for can-making materials, we valued tin plate using January 2002–December 2002 average Indian import values from *World Trade Atlas*, and we valued copper conducting wire using January 2003–December 2003 average Indian import values from

*World Trade Atlas*, as its useable form is consumed in the production of cans.

Because there is insufficient evidence on the record to account for the factors involved in recovering the resulting scrap, we did not apply a scrap offset. Parties requesting a byproduct offset have the burden of presenting to the Department not only evidence that the generated byproduct is sold or re-used in the production of the subject merchandise, but also all the information necessary for the Department to incorporate such offsets into the margin calculation. In this instance, however, Blue Field did not provide evidence that post-production copper wire scrap was sold or re-used. Moreover, Blue Field did not provide either the complete set of factors necessary for the reworking of the scrap copper wire into a useable form, nor did it provide an attempt at a valuation for such factors. As a result of these considerations, we preliminarily determine that Blue Field did not meet its burden of adequately documenting the claimed byproduct offset and, as a result, we did not apply it.

To value salt, we used and inflated an average import price based on January 2002–December 2003 data contained in *World Trade Atlas* because we were unable to obtain a more current value. To value water we used January 2003 data available on the Maharashtra Industrial Development Corporation's website and was used in the *Final Determination of Sales at Less Than Fair Value: Fresh Garlic from the People's Republic of China*, 70 FR 34082–34086 (June 13, 2005). We used data contained in the 2002–2003 financial report of Flex Foods to calculate and inflate a POR value for super phosphate.

We valued labor based on a regression-based wage rate, in accordance with 19 CFR 351.408(c)(3). See *Expected Wages of Selected Non-market Economy Countries*, from the Import Administration website at: <http://ia.ita.doc.gov/wages/index.html>.

To value electricity, we used 2000 Indian price data from the International Energy Agency's ("IEA") report, "Electricity Prices for Industry," contained in the *2002 Key World Energy Statistics from the IEA*. To value steam coal, we used February 2004–July 2004 Indian import data from *World Trade Atlas*, and added an amount for loading and additional transportation charges associated with delivering coal to the factory based on June 1999 Indian price data contained in the periodical *Business Line*.

To value factory overhead and selling, general, and administrative ("SG&A")

expenses, and profit, we used the 2003–2004 financial reports of Agro Dutch and Flex Foods, both Indian producers of the subject merchandise.

In accordance with the decision of the Court of Appeals for the Federal Circuit in *Sigma Corp. v. United States*, 117 F. 3d 1401 (Fed. Cir. 1997), we revised our methodology for calculating source-to-factory surrogate freight for those material inputs that are valued, based all or in part, on CIF import values in the surrogate country. Therefore, we have added to CIF surrogate values from India a surrogate freight cost using the shorter of the reported distances from either the closest PRC port of importation to the factory, or from the domestic supplier to the factory on an input-specific basis.

#### Preliminary Results of the Review

We preliminarily determine that the following margin exists during the period February 1, 2004, through July 31, 2004:

Manufacturer/producer/exporter	Margin Percent
Blue Field (Sichuan) Food Industrial Co., Ltd. ....	0.00

We will disclose the calculations used in our analysis to the parties to this proceeding within five days of the date of publication of this notice. Any interested party may request a hearing within 30 days of publication of this notice. Any hearing, if requested, will be held on September 12, 2005.

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 case briefs and rebuttal briefs. Case briefs from interested parties may be submitted no later than August 22, 2005. Rebuttal briefs, limited to issues raised in the case briefs, will be due no later than August 29, 2005. 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 the review, including the results of its analysis of issues raised in any such written briefs or at the hearing, if held, not later than 90 days after the date of issuance of the preliminary results.

#### Assessment Rates

Upon issuing the final results of the review, the Department shall determine, and CBP shall assess and liquidate, antidumping duties on all appropriate entries. The Department will issue appropriate appraisal instructions for the company subject to this review directly to CBP within 15 days of publication of the final results of this review. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. 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*.

#### Cash Deposit Requirements

Upon completion of this review, we will require cash deposits at the rate established in the final results as further described below.

Bonding will no longer be permitted to fulfill security requirements for shipments of mushrooms from the PRC produced and exported by Blue Field that are entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of the new shipper review. The following cash deposit requirements will be effective upon publication of the final results of this review for all shipments of subject merchandise from Blue Field entered, or withdrawn from warehouse, for consumption on or after the publication date: (1) for subject merchandise manufactured and exported by Blue Field, no cash deposit will be required if the cash deposit rate calculated in the final results is zero or *de minimis*; (2) for subject merchandise exported by Blue Field but not manufactured by Blue Field, the cash deposit rate will continue to be the PRC-wide rate (*i.e.*, 198.63 percent); and (3) for subject merchandise produced by Blue Field but not exported by Blue Field, the cash deposit rate will be the rate applicable to the exporter.

These requirements, when imposed, shall remain in effect until publication

of the final results of the next administrative review.

#### 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 occurred and the subsequent assessment of double antidumping duties.

This new shipper review and notice are in accordance with sections 751(a)(2)(B) and 777(i) of the Act and 19 CFR 351.214.

Dated: July 14, 2005.

**Susan H. Kuhbach,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-851]

#### Certain Preserved Mushrooms from the People's Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review

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

**SUMMARY:** On March 23, 2005, the Department of Commerce ("the Department") published in the **Federal Register** (70 FR 14643) a notice announcing the initiation of the sixth administrative review of the antidumping duty order on certain preserved mushrooms from the People's Republic of China ("PRC"). The period of review ("POR") is February 1, 2004, to January 31, 2005. This review is now being rescinded for Blue Field (Sichuan) Food Industrial Co., Ltd.; China Processed Food Import & Export Company; China National Cereals, Oils, and Foodstuffs Import & Export Corporation; COFCO (Zhangzhou) Food Industrial Co.; Ltd., Fujian Zishan Group Co.; Xiamen Jiahua Import & Export Trading Co., Ltd.; Fujian Yu Xing Fruit and Vegetable Foodstuff Development Co., Ltd.<sup>1</sup>; Shandong Jiufa Edible Fungus Co., Ltd.; Guangxi

Hengxian Pro-Light Foods, Inc.; Guangxi Yizhou Dongfang Cannery; Inter-foods D.S. Co., Ltd.; Mei Wei Food Industry Co., Ltd.; Nanning Runchao Industrial Trade Co., Ltd.; Raoping Xingyu Foods Co., Ltd.; Xiamen Jiahua Import & Export Trading Co., Ltd.; Xiamen Zhongjia Import and Export Co., Ltd.; Shanghai Superlucky Import & Export Company, Ltd.; Shantou Hongda Industrial General Corporation; Shenxian Dongxing Foods Co., Ltd.; Shenzhen Qunxingyuan Trading Co., Ltd.; Tak Fat Trading Co.; Xiamen International Trade & Industrial Co., Ltd.; Zhangzhou Hongning Canned Food Factory; Zhangzhou Jingxiang Foods Co., Ltd.; Zhangzhou Longhai Lubao Food Co., Ltd.; and Zhangzhou Longhai Minhui Industry and Trade Co., Ltd., (collectively "the Twenty-five Companies") because the only requesting party withdrew its request in a timely manner.

**EFFECTIVE DATE:** July 21, 2005.

#### FOR FURTHER INFORMATION CONTACT:

Stephen F. Berlinguette, AD/CVD Operations Office 9, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Room 4003, Washington, DC 20230; telephone (202) 482-3740.

#### 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 the PRC. *See Notice of Amendment of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Preserved Mushrooms from the People's Republic of China*, 64 FR 8308 (February 19, 1999).

On February 1, 2005, the Department published a *Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation*, 70 FR 5136. On February 28, 2005, the Petitioner requested, in accordance with section 751(a) of the Tariff Act of 1930 ("the Act") and 19 CFR 351.213(b), an administrative review of the antidumping duty order on certain preserved mushrooms from the PRC for thirty companies covering the period February 1, 2004, through January 31, 2005. On February 7, 2005, and February 25, 2005, four Chinese companies requested an administrative review of their respective companies. The Department notes that these four companies were included in the Petitioner's February 28, 2005, request.

On March 23, 2005, the Department initiated an administrative review of thirty Chinese companies. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 14643 (March 23, 2005). On June 29, 2005, the Petitioner filed a timely letter withdrawing its request for review of the Twenty-five companies.

#### Rescission of Review

Pursuant to section 351.213(d)(1) of the Department's regulations, if a party that requests a review withdraws the review request within ninety days of the date of publication of the notice of initiation of the requested review, the Secretary will rescind the review. The Petitioner withdrew its review request with respect to the Twenty-five Companies in a timely manner, in accordance with 19 CFR 351.213(d)(1). Since the Petitioner was the only party to request an administrative review of the Twenty-five Companies, we are partially rescinding this review of the antidumping duty order on certain preserved mushrooms from the PRC covering the period February 1, 2004, through January 31, 2005, with respect to the Twenty-five Companies.

#### Assessment

The Department will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on all appropriate entries. For those companies for which this review is rescinded, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of this notice.

#### Notification of Interested Parties

This notice 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 the antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders ("APOs") of their responsibility concerning the return or destruction of proprietary information

<sup>1</sup> The Department originally made an inadvertent typographical error by neglecting to include the term "Development" in this company's name in the above-referenced *Federal Register* initiation notice.