

("POR") is May 1, 2005, through April 30, 2006.

On June 6, 2007, the Department published the preliminary results of the 2005–2006 administrative review of the antidumping duty order on certain PSF from Taiwan. *See Certain Polyester Staple Fiber from Taiwan: Preliminary Results of Antidumping Duty Administrative Review*, 72 FR 31283 (June 6, 2007). This review covers one manufacturer/exporter of the subject merchandise to the United States, FET. In the preliminary results we stated that we would issue our final results for the antidumping duty administrative review no later than 120 days after the date of publication of the preliminary results (*i.e.*, October 4, 2007).

#### Extension of Time Limit for Final Results

Section 751(a)(3)(A) of the Act requires the Department to issue the final results in an administrative review within 120 days of the publication date of the preliminary results. 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 final results to a maximum of 180 days.

The Department has determined that completion of the final results of this review within the original time period is not practicable due to the complex legal and factual issues that have arisen since the issuance of our preliminary results of review. Specifically, the Department requires additional time to review pending allegations made by the domestic interested parties and the rebuttals filed by the respondent. Thus, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time period for issuing the final results of review by an additional 60 days, until December 3, 2007.

This notice is published pursuant to sections 751(a)(2)(B)(iv) and 777(i)(1) of the Act.

Dated: August 7, 2007.

**Gary Taverman,**

*Acting Deputy Assistant Secretary for Import Administration.*

[FR Doc. E7–16015 Filed 8–14–07; 8:45 am]

BILLING CODE 3510–DS–S

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–570–851]

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

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

**SUMMARY:** The Department of Commerce ("the Department") is currently conducting a new shipper review ("NSR") of the antidumping duty order on certain preserved mushrooms from the People's Republic of China ("PRC") covering the period February 1, 2006, through September 12, 2006. We preliminarily determine that sales have not been made below normal value ("NV") with respect to Guangxi Jisheng Foods, Inc. ("Jisheng"), which participated fully and is entitled to a separate rate in this review. If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on entries of subject merchandise during the period of review ("POR") for which the importer-specific assessment rates are above *de minimis*.

**EFFECTIVE DATE:** August 15, 2007.

**FOR FURTHER INFORMATION CONTACT:** Julia Hancock, 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) 482–1394.

#### SUPPLEMENTARY INFORMATION:

##### Case History

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) ("Order"). On August 21, 2006, we received a timely new shipper review request in accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended ("the Act"), and section 351.214(c) of the Department's regulations, from an exporter and producer, Jisheng. On September 28, 2006, the Department published a notice in the **Federal**

**Register** initiating a NSR for Jisheng. *See Certain Preserved Mushrooms from the People's Republic of China: Initiation of Antidumping Duty New Shipper Review*, 71 FR 56954 (September 28, 2006) ("Initiation Notice").

On March 26, 2007, the Department published a notice in the **Federal Register** of the extension of the preliminary results by 120 days to July 19, 2007. *See Certain Preserved Mushrooms from the People's Republic of China: Extension of Preliminary Results for Tenth Antidumping Duty New Shipper Review*, 72 FR 14076 (March 26, 2007).

On June 20, 2007, we placed the entry package we received from CBP for Jisheng's new shipper sale on the record of this review. *See* "Memorandum to the File from Julia Hancock, Senior Analyst, through Alex Villanueva, Program Manager, Office 9: Certain Preserved Mushrooms from the People's Republic of China: Entry Packages from U.S. Customs and Border Protection ("CBP")," (June 20, 2007). Additionally, on June 22, 2007, the Department issued a memorandum extending the period of review ("POR"), February 1, 2006, to July 31, 2006, through to September 12, 2006. *See* "Memorandum to the File, through Alex Villanueva, Program Manager, Office 9, from Julia Hancock, International Trade Analyst, Office 9, Subject: Expansion of the Period of Review in the New Shipper Review of Certain Preserved Mushrooms from the People's Republic of China," (June 22, 2007).

We issued the general antidumping duty questionnaire, along with the standard importer questionnaire for NSRs on September 26, 2006, and received responses in October and November 2006. We issued supplemental questionnaires from March through May 2006 and received responses to those questionnaires in April and May 2006.

#### Surrogate Country and Values

On December 14, 2006, the Department issued a letter to the interested parties requesting comments on surrogate country selection. No party submitted surrogate country selection comments. On February 5, 2007, Jisheng submitted comments on surrogate values.

On July 19, 2007, the Department selected India as the surrogate country. *See* "Memorandum to the File from Julia Hancock, Senior Analyst, through Alex Villanueva, Program Manager, Office 9, and Jim Doyle, Director, Office 9: Antidumping Duty New Shipper Review of Certain Preserved Mushrooms

from the People's Republic of China: Selection of a Surrogate Country" (July 19, 2007) ("Surrogate Country Memo").

#### Period of Review

The POR covers February 1, 2006, through September 12, 2006.

#### 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 certain preserved mushrooms covered under this order are the species *Agaricus bisporus* and *Agaricus bitorquis*. "Certain 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. Certain 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 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.<sup>1</sup>

The merchandise subject to this order is 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.

#### Verification

Following the publication of these preliminary results, we intend to verify, as provided in section 782(i)(3) of the Act, sales and cost information submitted by respondents, as appropriate. At that verification, we will use standard verification procedures, including on-site inspection of the manufacturer's facilities, the examination of relevant sales and financial records, and the selection of original source documentation containing relevant information. We will prepare verification reports outlining our verification results and place these reports on file in the Central Records Unit, room B099 of the main Commerce building.

#### Bona Fide Analysis

Consistent with the Department's practice, we investigated the *bona fide* nature of the sale made by Jisheng for this NSR. In evaluating whether or not a single sale in a NSR is commercially reasonable, and therefore *bona fide*, the Department considers, *inter alia*, such factors as: (1) the timing of the sale; (2) the price and quantity; (3) the expenses arising from the transaction; (4) whether the goods were resold at a profit; and (5) whether the transaction was made on an arm's-length basis. See *Tianjin Tiancheng Pharmaceutical Co., Ltd. v. United States*, 366 F. Supp. 2d 1246, 1250 (CIT 2005). Accordingly, the Department considers a number of factors in its *bona fides* analysis, "all of which may speak to the commercial realities surrounding an alleged sale of subject merchandise." See *Hebei New Donghua Amino Acid Co., Ltd. v. United States*, 374 F. Supp. 2d 1333, 1342 (CIT 2005) (citing *Fresh Garlic From the People's Republic of China: Final Results of Antidumping Administrative Review and Rescission of New Shipper Review*, 67 FR 11283 (March 13, 2002) and accompanying Issues and Decision Memorandum: New Shipper Review of Clipper Manufacturing, Ltd.).

We preliminarily found that the new shipper sale made by Jisheng was made on a *bona fide* basis. Specifically, we found that: (1) the price and quantity of Jisheng's sale was within the range of the prices and quantities of other entries of subject merchandise from the PRC into the United States during the POR; (2) Jisheng and its customer did not incur any extraordinary expenses arising from the transaction; (3) Jisheng's sale was made between unaffiliated parties at arm's length; (4) there is no record evidence that indicates that Jisheng's sale was not made based on commercial principles;

(5) the sale was resold at a profit; and (6) the timing of Jisheng's sale is not an indicator of a sale made on a non-*bona fide* basis.<sup>2</sup> Based on our investigation into the *bona fide* nature of this sale, the questionnaire responses submitted by Jisheng, as well as Jisheng's eligibility for a separate rate (see Separate Rates Determination section below) and the Department's determination that Jisheng was not affiliated with any exporter or producer that had previously shipped subject merchandise to the United States, we preliminarily determine that Jisheng has met the requirements to qualify as a new shipper during the POR. Therefore, for purposes of these preliminary results, we are treating Jisheng's sale of subject merchandise to the United States as an appropriate transaction for this NSR.

#### Separate Rates Determination

The Department has treated the PRC as a non-market economy ("NME") country in all previous antidumping cases. See *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 19690 (April 19, 2007). In accordance with 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. There is no evidence on the record suggesting that this determination should be changed. Therefore, we treated the PRC as an NME country for purposes of this review and calculated NV by valuing the factors of production ("FOP") in a surrogate country. It is the Department's policy to assign all exporters of the merchandise subject to review, located in NME countries, a single antidumping duty rate unless an exporter can demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to its export activities. To establish whether an exporter is sufficiently independent of government control to be entitled to a separate rate, the Department analyzes the exporter using the criteria established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("Sparklers"), as adopted and amplified in the *Final Determination of Sales at*

<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. On February 9, 2005, this decision was upheld by the United States Court of Appeals for the Federal Circuit. See *Tak Fat v. United States*, 396 F.3d 1378 (Fed. Cir. 2005).

<sup>2</sup> See "Memorandum from Julia Hancock, Senior Case Analyst, Office 9, through Alex Villanueva, Program Manager, Office 9, to James C. Doyle, Director, Office 9: Bona Fide Nature of the Sale in the Antidumping Duty New Shipper Review of Certain Preserved Mushrooms: Guangxi Jisheng Foods, Inc." (July 19, 2007).

*Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585, 22586–87

(May 2, 1994) (“*Silicon Carbide*”). Under the separate rates criteria established in these cases, the Department assigns separate rates to NME exporters only if they can demonstrate the absence of both *de jure* and *de facto* government control over their export activities.

#### Absence of *De Jure* Control

Evidence supporting, though not requiring, a finding of *de jure* absence of government control over export 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. See *Sparklers*, 56 FR at 20589.

In the instant review, Jisheng submitted a complete response to the separate rates section of the Department's questionnaire. The evidence submitted in the instant review by Jisheng includes government laws and regulations on corporate ownership and control, business licenses, and narrative information regarding the company's operations and selection of management. See Jisheng's Section A Response (October 26, 2006). The evidence provided by Jisheng supports a finding of a *de jure* absence of government control over its export activities because: (1) there are no controls on exports of subject merchandise, such as quotas applied to, or licenses required for, exports of the subject merchandise to the United States; and (2) the subject merchandise does not appear on any government list regarding export provisions or export licensing.

#### Absence of *De Facto* Control

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

In its questionnaire responses, Jisheng submitted evidence demonstrating an absence of *de facto* government control over its export activities. Specifically, this evidence indicates that: (1) the company sets its own export prices independent of the government and without the approval of a government authority; (2) the company retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) the company has a general manager with the authority to negotiate and bind the company in an agreement; (4) the general manager is selected by the shareholders' meeting, and the general manager appoints the manager of each department; and (5) there is no restriction on the company's use of export revenues. Therefore, we have preliminarily found that Jisheng has established *prima facie* that it qualifies for a separate rate under the criteria established by *Silicon Carbide* and *Sparklers*.

#### Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's FOPs, valued in a surrogate market–economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market–economy countries that are at a level of economic development comparable to that of the NME country and are significant producers of comparable merchandise. The sources of the surrogate values we have used in this investigation are discussed under the “Normal Value” section below.

The Department determined that India, Sri Lanka, Indonesia, the Philippines, and Egypt are countries comparable to the PRC in terms of economic development. See “Memorandum from Ron Lorentzen, Director, Office of Policy, to Alex Villanueva, Program Manager, Office 9; New Shipper Review of Certain Preserved Mushrooms from the People's Republic of China (PRC): Request for a List of Surrogate Countries” (December 1, 2006). Because of India's and Indonesia's relative levels of production, and consistent with worldwide characteristics of certain preserved mushrooms, these countries were selected as significant producers of comparable merchandise. See Surrogate Country Memo at 4. The Department selects an appropriate surrogate country

based on the availability and reliability of data from the countries. See Department Policy Bulletin No. 04.1: Non–Market Economy Surrogate Country Selection Process (March 1, 2004). In this case, we have found that India is a significant producer of comparable merchandise, is at a similar level of economic development pursuant to section 773(c)(4) of the Act, and has publicly available and reliable data. See Surrogate Country Memo.

#### U.S. Price

In accordance with section 772(a) of the Act, we calculated the export price (“EP”) for sales to the United States for Jisheng because the first sale to an unaffiliated party was made before the date of importation and the use of constructed EP was not otherwise warranted. We calculated EP based on the delivered price to the first unaffiliated purchaser in the United States. For this EP sale, we also deducted foreign inland freight, foreign brokerage and handling, and international ocean freight from the starting price (or gross unit price), in accordance with section 772(c) of the Act. For Jisheng, each of these services was either provided by an NME vendor or paid for using an NME currency. Thus, we based the deduction of these movement charges on surrogate values. See “Memorandum to the File from Julia Hancock, Senior Analyst, through Alex Villanueva, Program Manager, Office 9; New Shipper Review of Certain Preserved Mushrooms from the People's Republic of China: Surrogate Values for the Preliminary Results” (July 19, 2007) (“Surrogate Values Memo”) for details regarding the surrogate values for movement expenses. Additionally, we made adjustments to the gross unit price for U.S. customs duties, which was paid for in U.S. dollars.

#### Normal Value

##### Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on FOPs reported by Jisheng for the POR. To calculate NV, we valued the reported FOP by multiplying the per–unit factor quantities by publicly available Indian surrogate values. In selecting surrogate values, we considered the quality, specificity, and contemporaneity of the available values. As appropriate, we adjusted the value of material inputs to account for delivery costs. We calculated these inland freight costs using the shorter of the reported distances from the PRC port to the PRC factory, or from the domestic supplier to the factory. This adjustment is in

accordance with the United States Court of Appeals for the Federal Circuit's decision in *Sigma Corp. v. United States*, 117 F.3d 1401, 1407–1408 (Fed. Cir. 1997). For a detailed explanation of all surrogate values used for Jisheng, see Surrogate Values Memo.

Except where discussed below, we valued raw material inputs using February 2006–July 2006 weighted-average Indian import values derived from the *World Trade Atlas* online (“WTA”). See Surrogate Values Memo. The Indian import statistics obtained from the WTA were published by the Indian Directorate General of Commercial Intelligence and Statistics, Ministry of Commerce of India and are contemporaneous with the POR. As the Indian surrogate values were denominated in rupees, in accordance with 773A(a) of the Act, they were converted to U.S. dollars using the official exchange rate for India recorded on the date of sale of subject merchandise in this case. See <http://www.ia.ita.doc.gov/exchange/index.html>. Where we could not obtain publicly available information contemporaneous with the POR with which to value factors, we adjusted the publicly available information for inflation or deflation using Indian wholesale price indices as published in the International Monetary Fund's *International Financial Statistics*. See Surrogate Values Memo.

In instances where we relied on Indian import data to value inputs, in accordance with the Department's practice, we excluded imports from South Korea, Thailand, and Indonesia from the surrogate country import data due to generally available export subsidies. See *China Nat'l Mach. Import & Export Corp. v. United States*, CIT 01–1114, 293 F. Supp. 2d 1334 (CIT 2003), *aff'd* 104 Fed. Appx. 183 (Fed. Cir. 2004) and *Certain Cut-to-Length Carbon Steel Plate from Romania: Notice of Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 70 FR 12651 (March 15, 2005), and accompanying Issues and Decision Memorandum at Comment 4. Furthermore, we disregarded prices from NME countries. Finally, imports that were labeled as originating from an “unspecified” country were excluded from the average value because the Department could not be certain that they were not from either an NME country or a country with general export subsidies.

#### Surrogate Valuations

The Department's practice when selecting the “best available information” for valuing FOPs, in

accordance with section 773(c)(1) of the Act, is to select, to the extent practicable, surrogate values which are: publicly available, product-specific, representative of a broad market average, tax-exclusive and contemporaneous with the POR. See *Final Determination of Sales at Less Than Fair Value: Certain Artist Canvas from the People's Republic of China*, 71 FR 16116 (March 30, 2006), and accompanying Issues and Decision Memorandum at Comment 2; *Final Antidumping Duty Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 37116 (June 23, 2003), and accompanying Issues and Decisions Memorandum at Comment 14 (“*LTFV FFF Final Determination*”). Below is a discussion of certain surrogate valuations. All other surrogate valuations are described in more detail in the Surrogate Values Memo.

To value the input of mushroom spawn, we used data from the fiscal year (“FY”) 2004–2005 financial statement of an Indian mushroom producer, Agro Dutch Industries, Ltd. (“Agro Dutch”). While Jisheng submitted Harmonized Tariff Schedule (“HTS”) 0602.90.10 as the HTS classification for mushroom spawn, the HTS is a basket category for mushroom spawn that is not specific to the input, which is mushroom spawn for the species of subject merchandise, *Agaricus bisporus* and *Agaricus bitorquis*. See *Order*, 64 FR at 8309; Jisheng's Second Supplemental Response (May 14, 2007) at Exhibit SSC–5. In contrast, the Department notes that Agro Dutch's mushroom spawn value from the FY 2004–2005 financial statement is specific to the species of subject merchandise. The Department has obtained publicly available information from Agro Dutch's website, <http://www.agro-dutch.com/letter.htm>, that states that Agro Dutch cultivates and produces button mushrooms or *Agaricus bisporus*. See “Memorandum to the File, from Julia Hancock, Senior Case Analyst, RE: Certain Preserved Mushrooms from the People's Republic of China: Additional Information” (July 19, 2007) at Attachment 1 (“Additional Information Memo”). Accordingly, the Department finds that Agro Dutch's mushroom spawn value from FY 2004–2005 financial statement is specific to the input, mushroom spawn of *Agaricus bisporus*, that is used to produce subject merchandise.

Although the record contains Agro Dutch's FY 2005–2006 financial statement, which is more

contemporaneous with the POR, the Department is not using this to value mushroom spawn because Agro Dutch's financial statement does not contain an individual mushroom spawn value. The Department notes that Agro Dutch's FY 2005–2006 financial statement lists a combined value for mushroom spawn and tin plate and thus, the Department cannot distinguish the specific amount for mushroom spawn. See Additional Information Memo, at Attachment 2. Because Agro Dutch's mushroom spawn value from the FY 2004–2005 financial statement is not contemporaneous with the POR, the Department adjusted this value for inflation. See Surrogate Values Memo, at Exhibit 2.

To value rice straw, we used a straw value from an Indian producer of mushrooms and vegetables, Flex Foods Ltd. (“Flex Foods”), FY 2005–2006 financial statement. Although Jisheng stated that rice straw is comparable to wheat straw data from Agro Dutch's FY 2004–2005 financial statement, the Department finds that there is no record evidence that shows that wheat straw is comparable or similar to rice straw. See Jisheng's April 25, 2007, Supplemental Section D Submission, at 8; Jisheng's February 5, 2007, Factor Value Submission, at Exhibit 3. Additionally, while Jisheng submitted that rice straw should be classified under HTS 1213.00, described as “Cereal, Straw, Husks,” the Department finds that this HTS is not specific to the input because it contains several items not comparable to straw. However, the Department has obtained a straw value from Flex Foods' FY 2005–2006 financial statement that is specific to the input, rice straw, because the value is for a type of straw used by a producer of comparable merchandise from the selected surrogate country. Additionally, this value is contemporaneous with the POR because Flex Foods' fiscal year covers two months of the POR.

To value the input of cattle manure, we used data from the FY 2004–2005 financial statement of Agro Dutch. The cattle manure value from Agro Dutch's FY 2004–2005 financial statement is specific to the input and from a producer of subject merchandise from the selected surrogate country. Since the value of cattle manure was not contemporaneous with the POR, the Department adjusted Agro Dutch's cattle manure value for inflation. See Surrogate Values Memo, at Exhibit 2.

To value the surrogate financial ratios for factory overhead (“OH”), selling, general & administrative (“SG&A”) expenses, and profit, the Department

used the 2005–2006 (4/05–3/06)<sup>3</sup> financial statements of Agro Dutch and Flex Foods. The Department notes that, as discussed above, Agro Dutch is a processor of mushrooms and Flex Foods is an Indian producer of mushrooms and vegetable products. Therefore, Agro Dutch's and Flex Foods' financial ratios for OH and SG&A are comparable to Jisheng's financial ratios because Agro Dutch's and Flex Foods' production experience is comparable to Jisheng's production experience. Additionally, the financial statements of these two companies are contemporaneous for two months of the POR. Moreover, an average of the financial statements of Agro Dutch and Flex Foods represents a more broader spectrum of the Indian mushroom industry, instead of the financial statement of a single mushroom producer. See Surrogate Values Memo, at Exhibit 8.

To value land rent, the Department used data from the 2001 Punjab State Development Report, administered by the Planning Commission of the Government of India. See Additional Information Memo, at Attachment 3. Since the value of land rent was not contemporaneous with the POR, the Department adjusted the value for inflation. See Surrogate Values Memo, at Exhibit 2.

To value electricity, the Department used electricity rates for India from the Key World Energy Statistics 2003, published by the International Energy Agency. See [data.iaea.org](http://data.iaea.org). Since the electricity rates were not contemporaneous with the POR, the Department adjusted the value for inflation. See Surrogate Values Memo, at Exhibit 4.

To value water, the Department used data from the Maharashtra Industrial Development Corporation ([www.midcindia.org](http://www.midcindia.org)) to be the best available information since it includes a wide range of industrial water rates. Since the average of the water rates was not contemporaneous with the POR, the Department adjusted the value for inflation. See Surrogate Values Memo, at Exhibit 4.

To value freight expenses for both raw materials and subject merchandise, we used data from [www.infreight.com](http://www.infreight.com). This source provides daily rates per truck load from six major points of origin to five different destinations in India. Since the average of the freight rates was not contemporaneous with the POR, the Department adjusted the value for inflation. See Surrogate Values Memo, at Exhibit 6.

19 CFR 351.408(c)(3) requires the use of a regression-based wage rate. Therefore, to value the labor, the Department used the regression-based wage rate for the PRC published on the Import Administration website. See <http://ia.ita.doc.gov/wages/04wages/04wages-010907.html>.

To value brokerage and handling ("B&H"), the Department used the publicly summarized version of the average value for B&H expenses reported in the U.S. sales listings in Agro Dutch Industries Ltd.'s March 2, 2006, submission in the antidumping duty review of Certain Preserved Mushrooms From India.

The Department valued all other FOPs using WTA data, which are described in full detail in the Surrogate Values Memo.

#### Preliminary Results of Review

We preliminarily determine that the following margin exists during the period February 1, 2006, through September 12, 2006:

#### CERTAIN PRESERVED MUSHROOMS FROM THE PRC

| Exporter/Manufacturer            | Weighted-average margin (percent) |
|----------------------------------|-----------------------------------|
| Guangxi Jisheng Foods, Inc. .... | 0.00                              |

#### Public Comment

The Department will disclose to parties to this proceeding the calculations performed in reaching the preliminary results within ten days of the date of announcement of these preliminary results. An interested party may request a hearing within 30 days of publication of these preliminary results. See 19 CFR 351.310(c). Interested parties may submit written comments (case briefs) within 30 days of publication of the preliminary results and rebuttal comments (rebuttal briefs), which must be limited to issues raised in the case briefs, within five days after the time limit for filing case briefs. See 19 CFR 351.309(c)(1)(ii) and 19 CFR 351.309(d). Parties who submit arguments are requested to submit with the argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Further, the Department requests that parties submitting written comments provide the Department with a diskette containing the public version of those comments. Unless the deadline is extended pursuant to section 751(a)(2)(B)(iv) of the Act, the Department will issue the final results of this new shipper review, including

the results of our analysis of the issues raised by the parties in their comments, within 90 days of publication of these preliminary results. The assessment of antidumping duties on entries of merchandise covered by this review and future deposits of estimated duties shall be based on the final results of this review.

#### Assessment Rates

Upon issuing the final results of the review, the Department shall determine, and CBP shall assess antidumping duties and liquidate on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of 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

The following cash deposit requirements, when imposed, will be effective upon publication of the final results of this new shipper review for all shipments of subject merchandise from Jisheng entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) for subject merchandise produced and exported by Jisheng, the cash-deposit rate will be that established in the final results of this review; (2) for subject merchandise exported by Jisheng but not manufactured by Jisheng, the cash deposit rate will continue to be the PRC-wide rate (*i.e.*, 198.63 percent); and (3) for subject merchandise manufactured by Jisheng but exported by any other party, the cash deposit rate will be the rate applicable to the exporter.

If the cash deposit rate calculated for Jisheng in the final results is zero or *de minimis*, no cash deposit will be required for subject merchandise both produced and exported by Jisheng. These cash deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR

<sup>3</sup> Both Agro Dutch and Flex Foods have a fiscal year of April to March.

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)(1), 751(a)(2)(B), and 777(i) of the Act and 19 CFR 351.214(h)(i).

Dated: July 19, 2007.

**Joseph A. Spetrini,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. E7-15672 Filed 8-14-07; 8:45 am]

BILLING CODE 3510-DS-S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XC01

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery off the South Atlantic States; Amendment 16

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of intent (NOI) to prepare a draft environmental impact statement (DEIS); notice of scoping meetings; request for comments.

**SUMMARY:** The South Atlantic Fishery Management Council (Council) intends to prepare a DEIS to assess the impacts on the natural and human environment of the management measures proposed in its draft Amendment 16 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP).

**DATES:** Written comments on the scope of issues to be addressed in the DEIS will be accepted through September 14, 2007, at 5 p.m.

**ADDRESSES:** Comments should be sent to Jack McGovern, NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701; phone: 727-824-5305; fax: 727-824-5308; e-mail: [John.McGovern@noaa.gov](mailto:John.McGovern@noaa.gov).

**FOR FURTHER INFORMATION CONTACT:** Kim Iverson, Public Information Officer, South Atlantic Fisheries Management Council, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone: 843-571-4966, toll free 1-866-

SAFMC-10; fax: 843-769-4520; e-mail: [kim.iverson@safmc.net](mailto:kim.iverson@safmc.net).

**SUPPLEMENTARY INFORMATION:** The snapper-grouper fishery off the South Atlantic region in the economic exclusive zone is managed under the FMP. Following Council preparation, the FMP was approved and implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) in March of 1983.

A stock assessment for gag and an update of a 2003 stock assessment for vermilion snapper were completed through the Southeast Data, Assessment, and Review (SEDAR) process in 2007. The stock assessments were reviewed by the Council's Scientific and Statistical Committee at their June 2007 meeting and were determined to be based on the best available science. The stock assessments have revealed both species are experiencing overfishing conditions and gag is approaching an overfished condition. Model projections show the gag stock becoming overfished in 2007. Furthermore, the vermilion snapper stock assessment update indicates recent management measures implemented in 2006 (1.1 million lb (499,000 kg) quota and increase in recreational size limit to 12 inches (30 cm) total length) are not adequate to end overfishing.

It is anticipated that the regulations designed to reduce fishing mortality developed in Amendment 16 will be in place by January 1, 2009. By reducing fishing mortality beginning in 2009, the Council intends to end overfishing of vermilion snapper and gag and allow biomass of gag to increase to a level produced when fishing at a rate that would produce the optimum yield. Thus, the potential adverse biological, economic, and social impacts associated with further decline of these stocks would be avoided with implementation of these management measures.

To prevent overfishing, the Magnuson-Stevens Act provides national standards that must be satisfied within the FMPs. The national standards require parameters, including maximum sustainable yield (MSY), optimum yield (OY), minimum stock size threshold (MSST), and maximum fishing mortality rate threshold (MFMT), which are used to avoid overfished and overfishing situations. Currently, static spawning potential ratio proxies are used to define MSY, OY, and MFMT. In Amendment 16, the Council intends to specify the required parameters for gag and vermilion

snapper, based on results from recent SEDAR assessments.

This NOI is intended to inform the public of the preparation of a DEIS in support of an amendment to the snapper-grouper FMP. The DEIS will specify the required parameters for gag and vermilion snapper, consider alternatives to establish a shallow-water grouper unit to minimize bycatch of shallow-water grouper species, and consider alternatives to end overfishing of gag and vermilion snapper.

To end overfishing, the Council must reduce fishing mortality. The Council, at its September 2007 meeting, will consider various management measures that will end overfishing. Possible management measures the Council could consider include (but are not limited to): recreational and commercial catch limits; allocations; quotas; seasonal closures (both recreational and commercial); changes to recreational bag limits; and changes to size limits. Following publication of this NOI, the Council will conduct public scoping meetings to determine the range of issues to be addressed in the DEIS and the associated Amendment 16 at the following locations: (1) September 4, 2007, Hilton Wilmington Riverside, 301 North Water Street, Wilmington, NC 28401, phone: 910-763-5900; (2) September 4, 2007, Sombrero Cay Clubs, 19 Sombrero Boulevard, Marathon, FL 33050, phone: 305-743-2250; (3) September 5, 2007, Sheraton Atlantic Beach, 2717 West Fort Macon Road, Atlantic Beach, NC 28512, phone: 252-240-1155; (4) September 6, 2007, Hampton Inn Daytona Speedway, 1715 West International Speedway Boulevard, Daytona Beach, FL 32114, phone: 386-257-4030; (5) September 10, 2007, Holiday Inn Charleston Airport and Convention Center, 5624 International Boulevard, North Charleston, SC 29418, phone: 843-576-0300; and (6) September 17, 2007, Avista Resort, 300 North Ocean Boulevard, North Myrtle Beach, SC 29582, phone: 843-249-2521.

All scoping meetings will start at 6 p.m. The meetings will be physically accessible to people with disabilities. Requests for information packets and for sign language interpretation or other auxiliary aids should be directed to the South Atlantic Fisheries Management Council, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone: 843-571-4966, toll free 1-866-SAFMC-10; fax: 843-769-4520. Requests may also be sent by e-mail to [kim.iverson@safmc.net](mailto:kim.iverson@safmc.net).

Following consideration of public comments, the Council plans to prepare the draft Snapper-Grouper Amendment