

inquiry and does not provide an end date. Accordingly, the *Preliminary Determination* should be corrected to indicate that, pursuant to section 773(d) of the Act, we will: (1) direct CBP to suspend liquidation and to require a cash deposit of estimated duties, at the PRC-wide rate, on all unliquidated entries of tissue paper produced by Quijiang that were entered, or withdrawn from warehouse, for consumption on or after September 5, 2006, the date of initiation of the circumvention inquiry, with the exception described in the *Preliminary Determination*; and (2) remove any mention of an end date of such suspension from our cash deposit instructions.

This correction to the affirmative preliminary circumvention determination is published in accordance with section 781(b) of the Act and 19 CFR 351.225.

Dated: May 13, 2008.

David M. Spooner,

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: Preliminary Results of the Antidumping Duty New Shipper Review

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

EFFECTIVE DATE: May 23, 2008.

SUMMARY: The Department of Commerce (the "Department") is currently conducting a 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, 2007, through July 31, 2007. We preliminarily determine that the sale made by Dujiangyan Xingda Foodstuff Co., Ltd. ("Xingda"), was not made below normal value ("NV"). 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 any importer-specific assessment rates that are above *de minimis*.

FOR FURTHER INFORMATION CONTACT: Zev Primor at (202) 482-4114; AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: 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 30, 2007, 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 19 CFR 351.214(c), from exporter and producer, Xingda. On September 27, 2007, the Department published a notice in the **Federal Register** initiating a new shipper review for Xingda. See *Certain Preserved Mushrooms from the People's Republic of China: Initiation of New Shipper Antidumping Duty Review*, 72 FR 54899 (September 27, 2007).

On March 19, 2008, the Department published a notice in the **Federal Register** of the extension of the preliminary results by 60 days to May 19, 2008. See *Certain Preserved Mushrooms From the People's Republic of China: Extension of Preliminary Results for Eleventh Antidumping Duty New Shipper Review*, 73 FR 14771 (March 19, 2008).

We issued the standard antidumping duty questionnaire, along with the standard importer questionnaire for new shipper reviews, on September 27, 2007, and received responses in October and November 2007. We issued supplemental questionnaires covering sections A, C, and D of the original questionnaire on January 29, 2008, and received timely responses to those questionnaires. We also issued additional section D supplemental questionnaires on April 18, and April 21, 2008, respectively, and received timely responses from Xingda.

Period of Review

The POR covers February 1, 2007, through July 31, 2007.

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 bitorquus*. "Certain Preserved Mushrooms" refers 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.¹

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 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.

Bona Fide Analysis

Consistent with the Department's practice, we investigated the *bona fide* nature of the sale made by Xingda for this new shipper review. In evaluating whether or not a single sale in a new shipper review 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)

¹ 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).

whether the transaction was made on an arm's-length basis. See *Tianjin Tiancheng Pharm. Co., Ltd. v. United States*, 366 F. Supp. 2d 1246, 1250 (CIT 2005). Accordingly, the Department considers a number of factors in its bona fide 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).

We preliminarily found that the U.S. sale made by Xingda during the POR was made on a bona fide basis. Specifically, we found that: (1) The timing of the sale does not indicate that the sale might not be bona fide; (2) the price and quantity of the sale were within the range of the prices and quantities of other entries of subject merchandise from the PRC into the United States during the POR, based upon the Department's review of data obtained from CBP; (3) Xingda and its customer did not incur any extraordinary expenses arising from the transaction; (4) the sale was resold at a profit; and (5) the sale was made between unaffiliated parties at arm's-length.²

Based on our review of the record evidence concerning the bona fide nature of this sale, as well as Xingda's eligibility for a separate rate (see "Separate Rates Determination" section, below) and the Department's determination that the seller was not affiliated with any exporter or producer that had previously shipped subject merchandise to the United States, we preliminarily determine that Xingda has met the requirements to qualify as a new shipper during the POR. Therefore, for purposes of these preliminary results, we are treating the sale of subject merchandise to the United States as an appropriate transaction for this new shipper review.

NME Country Status

In every case conducted by the Department involving the PRC, the PRC has been treated as a non-market economy ("NME") country. See *Brake Rotors From the People's Republic of China: Final Results and Partial*

Rescission of the 2004/2005 Administrative Review and Notice of Rescission of 2004/2005 New Shipper Review, 71 FR 66304 (November 14, 2006). 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. None of the parties to this proceeding have contested such treatment. Accordingly, we calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

Separate Rates Determination

A designation of a country as an NME remains in effect until it is revoked by the Department. See section 771(18)(C) of the Act. Accordingly, there is a rebuttable presumption that all companies within the PRC are subject to government control and, thus, should be assessed a single antidumping duty rate. It is the Department's standard policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in the *Final Determination of Sales at Less than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991), ("Sparklers") as amplified by the *Notice of Final Determination of Sales at Less than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) ("*Silicon Carbide*").

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, Xingda submitted a complete response to the separate rates section of the Department's questionnaire. The evidence submitted in the instant review by Xingda includes government laws and regulations on corporate ownership and control, business

licenses, and narrative information regarding the company's operations and selection of management. The evidence provided by Xingda supports a preliminary 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) legislative enactments exist decentralizing control of companies. See Xingda's Section A Response at Exhibits 2-7 (October 26, 2007).

Absence of De Facto Control

The absence of *de facto* government control over exports generally 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 22586-87; *Sparklers*, 56 FR at 20589; *Final Determination of Sales at Less than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

In its questionnaire responses, Xingda 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 Xingda established *prima facie* that it qualifies for a separate rate under the criteria established by *Silicon Carbide* and *Sparklers*.

Surrogate Country

When the Department investigates 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 factors of production

² See Calculation Memorandum from Zev Primor, Sr. International Trade Compliance Analyst, to The File via Mark Manning, Program Manager, Office 4, "Bona Fide Sales Analysis for Dujiangyan Xingda Foodstuff Co., Ltd.," dated concurrently with this notice.

(“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 new shipper review are discussed under the “Normal Value” section, below. On January 29, 2008, the Department determined that India, Indonesia, the Philippines, Colombia, and Thailand are countries comparable to the PRC in terms of economic development, and requested comments from interested parties on selecting the appropriate surrogate country for this review. See Letter to All Interested Parties, RE: New Shipper Review of Certain Preserved Mushrooms from the People’s Republic of China: Dujiangyan Xingda Foodstuffs Co., Ltd., dated March 19, 2008. No party submitted surrogate country selection comments.

On April 21, 2008, the Department examined the export levels³ of subject merchandise from the above–mentioned countries and found that India and Indonesia are significant producers of comparable merchandise. See Memorandum from Zev Primor, Sr. International Trade Compliance Analyst, to Abdelali Elouaradia, Director, “Antidumping Duty New Shipper Review of Certain Preserved Mushrooms from the People’s Republic of China: Selection of a Surrogate Country,” dated April 21, 2008, (“Surrogate Country Memorandum”) at 4. However, since India has exports in both of the HTS subheadings identified for subject merchandise, while Indonesia has exports under only one of the HTS subheadings, we found that the Indian export data are more comprehensive and representative of subject merchandise than Indonesian export data. *Id.* at 5. In selecting the appropriate surrogate country, the Department examines the availability and reliability of data from the countries deemed to be economically comparable and significant producers of subject merchandise. For a description of our practice, see Department Policy Bulletin No. 04.1: Non–Market Economy Surrogate Country Selection Process

(March 1, 2004). India has been the primary surrogate country in numerous past segments for this proceeding. In those past segments, the Department found India’s import statistics to be an available and reliable source for surrogate values. *Id.* at 4. Therefore, since India: (1) is a significant producer of comparable merchandise, whose production of subject merchandise is more comprehensive than Indonesia’s production; (2) is at a similar level of economic development as the PRC; and (3) has publicly available and reliable data, which the Department has relied upon for numerous segments of this proceeding, the Department selected India as the surrogate country, pursuant to section 773(c)(4) of the Act. See Surrogate Country Memorandum at 5.

Fair Value Comparisons

To determine whether Xingda’s sale of subject merchandise to the United States was made at a price below NV, we compared its U.S. price to NV, as described in the “U.S. Price” and “Normal Value” sections of this notice, below.

U.S. Price

In accordance with section 772(a) of the Act, we based U.S. price on the export price (“EP”) of the sale to the United States by Xingda because the first sale to an unaffiliated party was made before the date of importation and the use of constructed export price was not otherwise warranted. We calculated EP based on the free–on–board price to the first unaffiliated purchaser in the United States. For this EP sale, we deducted foreign inland freight and foreign brokerage and handling from the starting price (or gross unit price), in accordance with section 772(c) of the Act. For Xingda’s U.S. sale, 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. We valued foreign inland freight with the surrogate value for truck freight, which we obtained from www.infreight.com. This source provides daily rates per truck load from six major points of origin to five different destinations in India. See Memorandum from Zev Primor, Sr. International Trade Compliance Analyst, through Mark Manning, Program Manager, to the File, “12th New Shipper Review of Certain Preserved Mushroom from the People’s Republic of China: Surrogate Values for the Preliminary Results” (“Surrogate Values Memorandum”) at Exhibit 6. We valued foreign brokerage and handling with the publicly summarized brokerage

and handling expense reported in the U.S. sales listing of Indian mushroom producer, Agro Dutch Industries, Ltd. (“Agro Dutch”), in the 2004–2005 administrative review of Certain Preserved Mushrooms from India. *Id.* at Exhibit 7.

Normal Value

1. Methodology

Section 773(c)(1)(B) of the Act provides that the Department shall determine the NV using an FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home–market prices, third–country prices, or constructed value under section 773(a) of the Act. The Department bases NV on FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under the Department’s normal methodologies. See *Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind in Part*, 70 FR 39744 (July 11, 2005), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People’s Republic of China: Final Results of 2003–2004 Administrative Review and Partial Rescission of Review*, 71 FR 2517 (January 17, 2006).

We calculated NV by adding together the value of the FOPs, general expenses, profit, and packing costs. The FOPs for subject merchandise include: (1) quantities of raw materials employed; (2) hours of labor required; (3) amounts of energy and other utilities consumed; (4) representative capital and selling costs; and (5) packing materials. We used the FOPs reported by Xingda for materials, energy, labor, and packing, and valued those FOPs by multiplying the amount of the factor consumed in producing subject merchandise by the average unit surrogate value of the factor.

In accordance with 19 CFR 351.408(c)(1), when a producer sources an input from a market–economy country and pays for it in a market–economy currency, the Department will normally value the FOP using the actual price paid for the input. See 19 CFR 351.408(c)(1); see also *Lasko Metal Products v. United States*, 43 F.3d 1442, 1445–1446 (Fed. Cir. 1994) (affirming the Department’s use of market–based prices to value certain FOPs). The Department has instituted a rebuttable

³ The Department was unable to find world production data for subject merchandise and relied on export data as a substitute for overall production.

presumption that market economy input prices are the best available information for valuing an input when the total volume of the input purchased from all market economy sources during the period of investigation or review is 33 percent or greater of the total volume of the input purchased from all sources during the period. In these cases, unless case-specific facts provide adequate grounds to rebut the Department's presumption, the Department will use the weighted-average market economy purchase price to value the input. Alternatively, when the volume of an NME firm's purchases of an input from market economy suppliers during the period is below 33 percent of its total volume of purchases of the input during the period, but where these purchases are otherwise valid and there is no reason to disregard the prices, the Department will weight-average the weighted-average market economy purchase price with an appropriate surrogate value according to their respective shares of the total volume of purchases, unless case-specific facts provide adequate grounds to rebut the presumption. When an NME firm has made market economy input purchases that may have been dumped or subsidized, are not bona fide, or are otherwise not acceptable for use in a dumping calculation, the Department will exclude them from the total quantity of all market economy purchases to ensure a fair determination of whether valid market economy purchases meet the 33 percent threshold. *See Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments*, 71 FR 61716 (October 19, 2006). In this case, Xingda reported that it did not purchase any inputs from market economy sources.

In addition, we added freight costs to the surrogate costs that we calculated for material inputs. We calculated freight costs by multiplying surrogate freight rates by the shorter of the reported distance from the domestic supplier to the factory that produced the subject merchandise or the distance from the nearest seaport to the factory that produced the subject merchandise, as appropriate. Where there were multiple domestic suppliers of a material input, we calculated a weighted-average distance after limiting each supplier's distance to no more than the distance from the nearest seaport to Xingda. This adjustment is in accordance with the decision by the Court of Appeals for the Federal Circuit in *Sigma Corp. v. United States*, 117

F.3d 1401, 1407-1408 (Fed. Cir. 1997). We increased the calculated costs of the FOPs for surrogate general expenses and profit. *See Surrogate Values Memorandum*.

2. Selection of Surrogate Values

In selecting surrogate values, we followed, to the extent practicable, the Department's practice of choosing public values which are non-export averages, representative of a range of prices in effect during the POR, or over a period as close as possible in time to the POR, product-specific, and tax-exclusive. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004). We also considered the quality of the source of surrogate information in selecting surrogate values. *See Manganese Metal From the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 63 FR 12440 (March 13, 1998). Where we could only obtain surrogate values that were not contemporaneous with the POR, we inflated (or deflated) the surrogate values using, where appropriate, the Indian Wholesale Price Index as published in *International Financial Statistics* by the International Monetary Fund. *See Surrogate Values Memorandum at Exhibit 1*.

In calculating surrogate values from import statistics, in accordance with the Department's practice, we disregarded statistics for imports from NME countries and countries deemed to maintain broadly available, non-industry-specific subsidies which may benefit all exporters to all export markets (*e.g.*, Indonesia, South Korea, and Thailand). *See, e.g., Final Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields From The People's Republic of China*, 67 FR 6482 (February 12, 2002) and accompanying Issues and Decision Memorandum at Comment 1. *See also Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of*

China, 68 FR 66800, 66808 (November 28, 2003), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 69 FR 20594 (April 16, 2004). Additionally, we excluded from our calculations imports that were labeled as originating from an unspecified country because we could not determine whether they were from an NME country.

We valued production material inputs (mushroom spawn, rice straw, and manure) using the fiscal year ("FY") 2006-2007 (April 2006 through March 2007) financial statements of Agro Dutch or Flex Foods Ltd. ("Flex Foods"), Indian producers of mushrooms and vegetables, as follows. To value the input of mushroom spawn, we used data from the FY 2006-2007 financial statement of Agro Dutch because Agro Dutch's mushroom spawn value is specific to the species *Agaricus bisporus*, which is the species used to produce subject merchandise. To value the input of rice straw, we used the rice straw value from the FY 2006-2007 financial statement of Flex Foods because this value is specific to the input. Similarly, to value the input of manure, we used the manure value from the FY 2006-2007 financial statement of Flex Foods because this value is specific to the input. *See Surrogate Values Memorandum at Exhibit 2*.

We valued processing and canning material inputs (phosphate, calcium carbonate, rapeseed, mill cake, urea, gypsum powder, salt, citric acid, tin plate, copper wire, and sealing glue) using weighted-average Indian import values derived from the World Trade Atlas online ("WTA"), for the period February 2007 through July 2007. *See Surrogate Values Memorandum at Exhibits 2 and 3*. In addition, we valued packing material inputs (cartons, labels, tape, kraft paper and glue) with weighted-average Indian import values derived from the WTA for the period February 2007 through July 2007. *Id.* at Exhibit 5. 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 section 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.

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. Since the value of land rent was not contemporaneous with the POR, the Department adjusted the value for inflation. See Surrogate Values Memorandum at Exhibit 2.

To value electricity, the Department used the 2000 electricity price in India reported in *Energy Prices & Taxes, Second Quarter 2003*, published by the International Energy Agency. See Surrogate Values Memorandum at Exhibit 4, containing information obtained from data.iea.org. Since the electricity rates were not contemporaneous with the POR, the Department adjusted the value for inflation. See Surrogate Values Memorandum at Exhibit 4.

To value natural gas, the Department used information from the Natural Gas Authority of India, from February 2005. Because the information was not contemporaneous with the POR, we adjusted the average cost of natural gas for inflation. See Surrogate Values Memorandum at Exhibit 4.

To value water, the Department used data from the Maharashtra Industrial Development Corporation (www.midcindia.org) for June 2003, which we found to be the best available information since it includes a wide range of industrial water rates. Since the water rates were not contemporaneous with the POR, the Department adjusted the value for inflation. See Surrogate Values Memorandum at Exhibit 4.

To value inland freight expenses incurred for transporting raw materials and finished subject merchandise, we used data from www.infreight.com. This source provides daily rates per truck load from six major points of origin to five different destinations in India, for the period February through July 2005. Since these freight rates are not contemporaneous with the POR, the Department adjusted the value for inflation. See Surrogate Values Memorandum at Exhibit 6. 19 CFR 351.408(c)(3) requires the use of a regression-based wage rate. Therefore, to value labor, the Department used the regression-based wage rate for the PRC published on the Import Administration website. See the IA website:

<http://ia.ita.doc.gov/wages/05wages/05wages-041608.html>, and see *Corrected 2007 Calculation of Expected Non-Market Economy Wages*, 73 FR 27795 (May 14, 2008).

To value brokerage and handling, the Department used the publicly

summarized average brokerage and handling expenses reported in the U.S. sales listings of Agro Dutch's May 24, 2005, submission in the sixth antidumping duty review of certain preserved mushrooms from India. See Surrogate Values Memorandum at Exhibit 7.

To value the surrogate financial ratios for factory overhead ("OH"), selling, general & administrative ("SG&A") expenses, and profit, the Department used the 2006–2007 financial statements of Agro Dutch and Flex Foods.⁴ The Department notes that Agro Dutch is a producer of mushrooms, and Flex Foods is a producer of mushrooms and vegetable products. Therefore, Agro Dutch's and Flex Foods' financial ratios for OH and SG&A are comparable to Xingda's financial ratios because Agro Dutch's and Flex Foods' production experience is comparable to Xingda's production experience by virtue of each company's production of subject merchandise. 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 broader spectrum of the Indian mushroom industry, than the financial statement of a single mushroom producer. See Surrogate Values Memorandum at Exhibit 8.

Currency Conversion

We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. These exchange rates can be accessed at the website of Import Administration at <http://ia.ita.doc.gov/exchange/index.html>.

Combination Rate

In new shipper reviews, the Department may, pursuant to 19 CFR 351.107(b), establish a combination cash deposit rate for each combination of the exporter and its supplying producer(s). See *Fresh Garlic from the People's Republic of China: Final Results of Antidumping Duty New Shipper Review*, 67 FR 72139 at 72140 (December 4, 2002), *Notice of Final Results of Antidumping Duty New Shipper Review: Certain In-Shell Raw Pistachios from Iran*, 68 FR 353 at 354 (January 3, 2003), and *Certain Forged Stainless Steel Flanges from India: Final Results of Antidumping Duty New Shipper Review*, 68 FR 351 (January 3, 2002). The

⁴ Both Agro Dutch and Flex Foods have a fiscal year of April to March.

Department has preliminarily determined that a combination rate is appropriate in this case, as Xingda is both the producer and exporter of the subject merchandise. Therefore, the Department will include in its cash deposit instructions to CBP appropriate language to enforce the final results of this review on the basis of a combination rate involving Xingda as both the producer and exporter of the subject merchandise.

Preliminary Results of Review

We preliminarily determine that the following margin exists during the period February 1, 2007, through July 31, 2007:

Exporter/Manufacturer	Weighted-Average Margin (Percentage)
Dujiangyan Xingda Foodstuff Co., Ltd.	0.00

Public Comment

The Department will disclose to parties to this proceeding the calculations performed in reaching the preliminary results within five days of publication of these preliminary results. Interested parties may submit written comments (case briefs) within 30 days of publication of the preliminary results and rebuttal comments (rebuttal briefs) within five days after the time limit for filing case briefs. Rebuttal briefs must be limited to issues raised in the 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.

Any interested party may request a hearing within 30 days of publication of this notice. See 19 CFR 351.310(c). Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration within 30 days of 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 briefs.

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.

Assessment Rates

Upon issuing the final results of the review, the Department shall determine, and CBP shall assess, antidumping duties 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*. However, 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 these reviews and for future deposits of estimated duties, where applicable.

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 exported by Xingda 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 manufactured and exported by Xingda, the cash-deposit rate will be that established in the final results of this review; (2) for subject merchandise exported by Xingda but not manufactured by Xingda, the cash deposit rate will continue to be the PRC-wide rate (*i.e.*, 198.63 percent); and (3) for subject merchandise manufactured by Xingda but exported by any party, the cash deposit rate will be the rate applicable to the exporter. If the cash deposit rate calculated for Xingda in the final results is zero or *de minimis*, a zero cash deposit will be required for entries of subject merchandise both produced and exported by Xingda. 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 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(h)(i).

Dated: May 19, 2008.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

(A-549-502)

Circular Welded Carbon Steel Pipes and Tubes from Thailand: Rescission of Antidumping Duty Administrative Review

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

SUMMARY: On March 31, 2008, Saha Thai Steel Pipe (Public) Company, Ltd. (Saha Thai), a Thai manufacturer/exporter, requested that the U.S. Department of Commerce (the Department) conduct an administrative review of its sales during the POR. On April 25, 2008, the Department published a notice of initiation of an administrative review of the antidumping duty order on circular welded carbon steel pipes and tubes from Thailand. The review covers one manufacturer/exporter, Saha Thai. The period of review (POR) is March 1, 2007 through February 29, 2008. Saha Thai withdrew its request on April 23, 2008.

EFFECTIVE DATE: May 23, 2008.

FOR FURTHER INFORMATION CONTACT: Jacqueline Arrowsmith or Myrna Lobo, AD/CVD Operations, Office 6, Import Administration, International Trade, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-5255 or (202) 482-2371, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The products covered by this antidumping order are certain welded carbon steel pipes and tubes from Thailand. The subject merchandise has an outside diameter of 0.375 inches or more, but not exceeding 16 inches. These products, which are commonly referred to in the industry as "standard pipe" or "structural tubing" are hereinafter designated as "pipes and tubes." The merchandise is classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) item numbers 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085 and 7306.30.5090. Although the HTSUS subheadings are provided for the convenience and purposes of customs and border protection (CBP), our written description of the scope is dispositive.

Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review under this section, in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. Saha Thai's request was the sole basis for initiating this administrative review. Saha Thai withdrew its request in a timely fashion. Therefore, in response to Saha Thai's withdrawal of its request for an administrative review pursuant to 19 CFR 351.213(d)(1) of the Department's regulations, the Department hereby rescinds the administrative review of the antidumping duty order on circular welded carbon steel pipes and tubes from Thailand. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of this rescission of administrative review.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective disorder is hereby requested. Failure to comply with the regulations and terms of APO is a sanctionable violation.

This notice is published in accordance with the sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).