

for the third month (December), there was less than a 15 percent increase in imports from the level of the preceding three months. Therefore, there have not been massive imports over the examined period, and the Department preliminarily does not find that critical circumstances exist for CSN or USIMINAS/COSIPA. See CSN and USIMINAS/COSIPA Analysis Memorandums, February 12, 1999. The Department notes that it has requested company specific shipment information from CSN, USIMINAS, and COSIPA but that we have not received it in time for this preliminary determination. We invite interested parties to comment on the issue of critical circumstances, and we will consider these comments and the company specific data in making our final determination.

**Verification**

As provided in section 782(i) of the Act, the Department will verify all information relied upon in making our final determination.

**Suspension of Liquidation**

In accordance with section 733(d) of the Act, the Department is directing the U.S. Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The Department will instruct the U.S. Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the export price, as indicated below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin
CSN .....	50.66
USIMINAS/COSIPA .....	71.02
All Others .....	58.76

**International Trade Commission Notification**

In accordance with section 733(f) of the Act, the Department has notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether imports of hot-rolled steel are materially injuring, or threaten material injury to the U.S. industry.

**Public Comment**

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than fifty days after the date of publication of this notice, and rebuttal briefs, limited to issues raised in case briefs, no later than fifty-five days after the date of publication of this preliminary determination. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, the Department will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, any hearing will be held fifty-seven days after publication of this notice at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled time.

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, U.S. Department of Commerce, Room 1870, 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 the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief, and may make rebuttal presentations only on arguments included in that party's rebuttal brief. See 19 CFR 351.310(c). If this investigation proceeds normally, we will make our final determination no later than April 28, 1999.

This determination is issued and published in accordance with sections 733(d) and 777(i)(1) of the Act.

Dated: February 12, 1999.

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 99-4197 Filed 2-18-99; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[A-570-851]

**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**

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

**EFFECTIVE DATE:** February 19, 1999.

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

**The Applicable Statute**

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce ("Department") regulations are to the regulations at 19 CFR Part 351 (1998).

**Amendment to the Final Determination**

On December 18, 1998, the Department made its final determination that certain preserved mushrooms from the People's Republic of China (PRC) is being, or is likely to be, sold in the United States at less than fair value. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 72255, December 31, 1998 ("Final Determination"). We disclosed our calculations for the final determination to all interested parties on December 21 and 22, 1998.

On January 8, 1999, we received a submission from the respondent exporters in the investigation, China Processed Food Import & Export Company ("China Processed") and its affiliate Xiamen Jiahua Import & Export Trading Company, Ltd. ("Xiamen Jiahua"), Shenzhen Cofry Cereals, Oils, & Foodstuffs Company, Ltd. ("Shenzhen Cofry"), and Tak Fat Trading Corporation Co. ("Tak Fat"), alleging ministerial errors pertaining to the margin calculations in the Department's final determination. On the same date, we received a submission from the

petitioners<sup>1</sup> alleging ministerial errors pertaining to Shenzhen Cofry's margin calculation. On January 13, 1999, the petitioners submitted comments on the respondents' allegations.

After analyzing the submissions, we have determined, in accordance with 19 CFR 351.224, that ministerial errors were made in the margin calculations for each of the responding exporters. Specifically:

- We inadvertently failed to exclude diesel fuel expenses from the factory overhead expenses used to calculate the surrogate value percentage for factory overhead.

- We inadvertently failed to follow our stated methodology to calculate the surrogate value for tin cans of certain sizes.

- We inadvertently failed to follow our stated methodology to calculate a portion of the fresh mushroom input freight value for one of China Processed's suppliers.

- We inadvertently applied the wrong consumption factor for packing tape used to seal some of the packing cartons shipped by one of Xiamen Jiahua's suppliers.

- We inadvertently applied the surrogate value for tin cans to the weight, rather than the number, of cans consumed by one of Shenzhen Cofry's suppliers.

- We inadvertently applied the surrogate value for can labels to the weight, rather than the number, of labels consumed by both of Shenzhen Cofry's suppliers.

For a detailed discussion of the ministerial errors allegations and the Department's analysis, see Memorandum to Louis Apple from the Team, dated January 22, 1999.

Therefore, in accordance with 19 CFR 351.224(e), we are amending the final determination of the antidumping duty investigation of certain preserved mushrooms from the PRC. The revised weighted-average dumping margins are in the "Antidumping Order" section below.

### Scope of Order

The products covered by this antidumping duty 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 bitorquus*. "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 the investigation 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 investigation 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 investigation is classifiable under subheadings 2003.10.0027, 2003.10.0031, 2003.10.0037, 2003.10.0043, 2003.10.0047, 2003.10.0053, and 0711.90.4000 of the Harmonized Tariff Schedule of the United States ("HTS"). Although the HTS subheadings are provided for convenience and Customs purposes, the Department's written description of the merchandise under the order is dispositive.

### Antidumping Duty Order

On February 12, 1999, in accordance with section 735(d) of the Act, the U.S. International Trade Commission (ITC) notified the Department that a U.S. industry is materially injured by reason of imports of certain preserved mushrooms from the PRC, pursuant to section 735(b)(1)(A) of the Act.

In addition, three ITC Commissioners found that critical circumstances exist with regard to such products, and three Commissioners found that critical circumstances do not exist with regard to such imports from the PRC. Section 771(11) of the Act provides that if the Commissioners voting on a determination "are evenly divided as to whether the determination should be affirmative or negative, the Commission shall be deemed to have made an affirmative determination." We consider that the tie-vote provision in section 771(11) applies to critical circumstances determinations.

We note that critical circumstances decisions are referred to as both "determinations" and "findings" in the

statute. Moreover, while the legislative history will sometimes refer to the Commission's critical circumstances "findings" (see, e.g., H.R. Rep. No. 96-317, at 69 (1979)), these decisions are more often identified as "determinations." See, e.g., S. Rep. No. 96-249, at 74 (1979); H.R. Rep. No. 103-826, at 50 (1994). Since the terms "findings" and "determinations" are used interchangeably in the statute and legislative history, the use of one or the other does not preclude the application of section 771(11) to the Commission's consideration of the critical circumstances issue.

Congress promulgated the critical circumstances provision in order "to provide prompt relief to domestic industries suffering from large volumes of, or a surge over a short period of, imports and to deter exporters whose merchandise is subject to an investigation from circumventing the intent of the law by increasing their exports to the United States during the period between initiation of an investigation and a preliminary determination by the [Department]." H.R. Rep. 96-317, at 63 (1979). In amending the critical circumstances provisions in 1988, Congress developed "an improved critical circumstances procedure [that] will significantly strengthen antidumping and countervailing duty procedures by revitalizing a provision that has up to now been ineffective." H.R. Rep. No. 100-576, at 611 (1988). Considering this legislative history, we conclude that Congress did not intend to limit the availability of retroactive relief in cases such as this one to only those instances where two-thirds of the Commission votes to grant such relief. Therefore, we consider the Commission to have made an affirmative critical circumstances determination. The Department's finding in this regard is consistent with the Department's treatment of this issue in *Notice of Antidumping Order: Coumarin from the People's Republic of China*, 60 FR 7751 (February 9, 1995).

Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct the United States Customs Service to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price or constructed export price of the merchandise for all relevant entries of certain preserved mushrooms from the PRC. These antidumping duties will be assessed on all unliquidated entries of imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after August 5, 1998,

<sup>1</sup>L.K. Bowman, Inc., Modern Mushroom Farms, Inc., Monterey Mushrooms, Inc., Mount Laurel Canning Corp., Mushroom Canning Company, Southwood Farms, Sunny Dell Foods, Inc., and United Canning Corp.

the date of publication of the preliminary determination in the **Federal Register**, except for subject merchandise exported by Tak Fat or other companies not specifically named below. For merchandise exported by Tak Fat or by other companies not specifically named below, we are directing the Customs Service to assess antidumping duties on all unliquidated entries of the subject merchandise that

are entered, or withdrawn from warehouse, for consumption on or after May 7, 1998, the date 90 days prior to the date of publication of the preliminary determination in the **Federal Register**, in accordance with the critical circumstances finding in the final determination.

On or after the date of publication of this notice in the **Federal Register**, U.S. Customs officers must require, at the

same time as importers would normally deposit estimated duties, the cash deposits listed below for the subject merchandise. The "PRC-wide Rate" applies to all exporters of certain preserved mushrooms not specifically listed below.

The revised final weighted-average margins are as follows:

Exporter/manufacturer	Original final margin percentage	Revised final margin percentage
China Processed Food I&E Co./Xiamen Jiahua I&E Trading Company, Ltd .....	154.71	121.47
Tak Fat Trading Co .....	178.59	162.47
Shenzhen Cofry Cereals, Oils, & Foodstuffs Co., Ltd .....	126.16	151.15
Gerber (Yunnan) Food Co .....	158.79	142.11
Jiangsu Cereals, Oils & Foodstuffs Group Import & Export Corporation .....	158.79	142.11
Fujian Provincial Cereals, Oils & Foodstuffs I&E Corp .....	158.79	142.11
Putian Cannery Fujian Province .....	158.79	142.11
Xiamen Gulong I&E Co., Ltd .....	158.79	142.11
General Canned Foods Factory of Zhangzhou .....	158.79	142.11
Zhejiang Cereals, Oils & Foodstuffs I&E Corp .....	158.79	142.11
Shanghai Foodstuffs I&E Corp .....	158.79	142.11
Canned Goods Co. of Raoping .....	158.79	142.11
PRC-wide Rate .....	198.63	198.63

This notice constitutes the antidumping duty order with respect to certain preserved mushrooms from the PRC, pursuant to section 736(a) of the Act. Interested parties may contact the Central Records Unit, Room B-099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act and 19 CFR 351.211.

Dated: February 16, 1999.

**Richard W. Moreland,**  
Acting Assistant Secretary for Import Administration.

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**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[A-560-802]

**Notice of Antidumping Duty Order: Certain Preserved Mushrooms From Indonesia**

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

**EFFECTIVE DATE:** February 19, 1999.

**FOR FURTHER INFORMATION CONTACT:** David J. Goldberger or Mary Jenkins, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W.,

Washington, D.C. 20230; telephone: (202) 482-4136 or (202) 482-1756, respectively.

**The Applicable Statute**

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce ("Department") regulations are to the regulations at 19 CFR Part 351 (1998).

**Scope of Order**

For purposes of this investigation, the products covered are certain preserved mushrooms whether imported whole, sliced, diced, or as stems and pieces. The preserved mushrooms covered under this investigation 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 the investigation 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 investigation 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 investigation is classifiable under subheadings 2003.10.0027, 2003.10.0031, 2003.10.0037, 2003.10.0043, 2003.10.0047, 2003.10.0053, and 0711.90.4000 of the Harmonized Tariff Schedule of the United States ("HTS"). Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

**Antidumping Duty Order**

On February 12, 1999, in accordance with section 735(d) of the Act, the U.S. International Trade Commission (ITC) notified the Department that a U.S. industry is "materially injured," within the meaning of section 735(b)(1)(A) of the Act, by reason of imports of certain preserved mushrooms from Indonesia. Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct the United States Customs