

Any interested party may request a hearing within 30 days of publication of this notice in accordance with 19 CFR 351.310(c). Interested parties may submit case briefs no later than 30 days after the date of publication of this notice, in accordance with 19 CFR 351.309(c)(1)(i). Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed no later than 5 days after the case briefs, in accordance with 19 CFR 351.309(d)(1). Any hearing, if requested, will be held two days after rebuttal briefs are due, in accordance with 19 CFR 351.310(d)(1). The Department will issue a notice of final results of this reconsideration of the sunset review, which will include the results of its analysis of issues raised in any such briefs, no later than March 9, 2007.

This reconsideration of sunset review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 30, 2006.

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 Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce ("the Department") has preliminarily determined that sales by the respondents in this review, covering the period February 1, 2005, through January 31, 2006, have been made at prices less than normal value ("NV"). If these preliminary results are adopted in the final results of this review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on all appropriate entries. The Department invites interested parties to comment on these preliminary results.

DATES: Effective Date: September 12, 2006.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Terre Keaton, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of

Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-1766 and (202) 482-1280, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 19, 1999, the Department published in the **Federal Register** an amended final determination and antidumping duty order on certain preserved mushrooms from the PRC (64 FR 8308).

On February 1, 2006, the Department published in the **Federal Register** a notice of "Opportunity to Request Administrative Review" of the antidumping duty order on certain preserved mushrooms from the People's Republic of China ("PRC") covering the period February 1, 2005, through January 31, 2006. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 71 FR 5239 (February 1, 2006).

On February 28, 2006, in accordance with 19 CFR 351.213(b), the petitioner¹ requested a review of 13 companies (including Guangxi Eastwing and Primera Harvest which submitted their own requests for review).² In addition, Raoping CFX Foods ("Raoping CFX") (i.e., Guangxi Eastwing's supplier) requested its own review.

On April 5, 2006, the Department published in the **Federal Register** a notice of initiation of this administrative review covering the companies listed in the requests received from the interested parties. *See Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews and Deferral of Administrative Reviews*, 71 FR 17077 (April 5, 2006) ("Initiation Notice").

Prior to the notice of initiation, the Department issued quantity and value ("Q&V") questionnaires to the firms for

which a review had been requested.³ This questionnaire requested the quantity and value for the identified companies that produced and/or exported certain preserved mushrooms from the PRC.⁴

After the notice of initiation, the Department again requested Q&V information and provided additional opportunity for all companies covered by the review to respond to this request. In response, four companies responded that they exported subject merchandise to the United States during the POR: (1) COFCO; (2) Guangxi Hengxian; (3) Primera Harvest; and (4) Guangxi Eastwing. The following five companies filed no-shipment claims: (1) Blue Field; (2) Gerber; (3) Jiufa; (4) Raoping CFX;⁵ and (5) Raoping Yucun. The two remaining companies, Green Fresh and Guangxi Yulin, either did not submit a properly filed Q&V response or did not respond.⁶

Because it was not practicable for the Department to individually examine all of the companies covered by the review, the Department limited its examination for these preliminary results to the largest producers/exporters that could reasonably be examined, accounting for the greatest possible export volume,

³ In two prior administrative reviews of this antidumping duty order, the Department collapsed COFCO with COFCO Zhangzhou, Xiamen Jiahua, Fujian Zishan Group, Co., Ltd. ("Fujian Zishan"), and Fujian Yu Xing Fruits & Vegetable Foodstuff Co., Ltd. ("Yu Xing"). *See Certain Preserved Mushrooms from the People's Republic of China: Final Results of Sixth Antidumping Duty New Shipper Review and Final Results and Partial Rescission of the Fourth Antidumping Duty Administrative Review*, 69 FR 54635, 54637 (September 9, 2004) and accompanying Issues and Decision Memorandum at Comment 1 ("PRC Mushrooms 4th AR"); and *Certain Preserved Mushrooms from the People's Republic of China: Preliminary Results and Partial Rescission of Fifth Antidumping Duty Administrative Review*, 70 FR 10965, 10971 (March 7, 2005) as affirmed in *Certain Preserved Mushrooms from the People's Republic of China: Final Results and Final Rescission, in Part, of Antidumping Duty Administrative Review*, 70 FR 54361 (September 14, 2005) ("PRC Mushrooms 5th AR"). During the POR, COFCO was the only one of the COFCO affiliated companies to export subject merchandise to the United States.

⁴ The Department inadvertently did not issue a Q&V questionnaire to Raoping CFX prior to initiating this review.

⁵ Raoping CFX subsequently withdrew its review request on April 26, 2006.

⁶ With respect to Green Fresh, we issued the initial Q&V questionnaire on March 9, 2006, and follow-up letters on April 20 and 25, and May 4, 2006, to this company informing it that its Q&V response was not properly filed in accordance with the Department's regulations, but Green Fresh failed to correct its filing deficiencies (*see* Memorandum to the File dated May 23, 2006, for further discussion on this matter). With respect to Guangxi Yulin, we issued the initial Q&V questionnaire on March 9, 2006, and re-issued the Q&V questionnaire to it on April 6, and May 5, 2006, but received no response (*see* Memorandum to the File dated May 23, 2006, for further discussion on this matter).

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

² These companies are: (1) Blue Field (Sichuan) Food Industrial Co., Ltd. ("Blue Field");

(2) China National Cereals, Oils & Foodstuffs Import & Export Corporation ("China National"); (3) China Processed Food Import & Export Company ("COFCO"); (4) COFCO (Zhangzhou) Food Industrial Co., Ltd. ("COFCO Zhangzhou"); (5) Gerber Food (Yunnan) Co., Ltd. ("Gerber"); (6) Green Fresh Foods (Zhangzhou) Co., Ltd. ("Green Fresh"); (7) Guangxi Hengxian Pro-Light Foods, Inc. ("Guangxi Hengxian"); (8) Guangxi Eastwing Trading Co., Ltd. ("Guangxi Eastwing"); (9) Guangxi Yulin Oriental Food Co., Ltd. ("Guangxi Yulin"); (10) Primera Harvest (Xiangfan) Co., Ltd. ("Primera Harvest"); (11) Raoping Yucun Canned Foods Factory ("Raoping Yucun"); (12) Shandong Jiufa Edible Fungus Co., Ltd. ("Jiufa"); and (13) Xiamen Jiahua Import & Export Trading Co., Ltd. ("Xiamen Jiahua").

pursuant to section 777A(c)(2)(B) of the Tariff Act of 1930, as amended (“the Act”). Therefore, the Department selected COFCO and Guangxi Hengxian as the mandatory respondents in this review and designated Guangxi Eastwing and Primera Harvest as Section A Respondents. *See Memorandum From Irene Darzenta Tzafolias, Acting Office Director, to Stephen Claeys, Deputy Assistant Secretary, entitled 2005–2006 Antidumping Duty Administrative Review of Certain Preserved Mushrooms from the People’s Republic of China: Selection of Respondents*, dated June 8, 2006. Accordingly, on June 9, 2006, we issued the full antidumping duty questionnaire to COFCO and Guangxi Hengxian and only the section A questionnaire to Guangxi Eastwing and Primera Harvest.

On May 10, 2006, the Department requested documentation from CBP for specific entries of subject merchandise from the PRC into the United States during the POR in order to examine Gerber’s no-shipment claim. On June 16, 2006, the Department received the requested entry documentation from CBP. As a result of reviewing the CBP entry documentation, the Department issued Gerber a letter on June 21, 2006, asking questions regarding its claim that it made no shipments of subject merchandise to the United States during the POR. Specifically, the Department asked Gerber if it had any affiliates in Hong Kong through which it shipped subject merchandise to the United States during the POR. In response to the Department’s June 21, 2006, letter, Gerber stated in its July 11, 2006, submission that it had no affiliates in Hong Kong through which subject merchandise was exported to or imported into the United States during the POR. As a result of conducting further independent research on this matter, the Department issued Gerber a second letter on July 31, 2006, which contained documentation indicating that Gerber indeed had an undisclosed affiliate registered in Hong Kong during the POR. Combined with the fact that this same Hong Kong affiliate also made shipments of subject merchandise to the United States during the POR, the Department’s July 31, 2006, letter asked Gerber to explain why it did not mention this Hong Kong affiliate and why it did not disclose that its affiliate was involved in sales of subject merchandise to the United States during the POR. Gerber did not submit a response to the Department’s July 31, 2006, letter by the specified deadline (*i.e.*, August 14, 2006). Therefore, the

Department issued Gerber another letter on August 15, 2006, which stated that the Department intended to resort to adverse facts available as a result of Gerber’s failure to respond to the Department’s letter of July 31, 2006. Gerber did not respond to the Department’s August 15 letter (*see* September 6, 2006, Memorandum to the File, entitled *Efforts to Provide Gerber Food (Yunnan) Co., Ltd. With the Department’s July 31, 2006, Supplemental Questionnaire*).

On August 17, 2006, in accordance with section 751(a)(3)(A) of the Act, the Department rescinded this review with respect to Blue Field, Raoping CXF, Raoping Yucun, and Shandong Jiufa because these companies did not have shipments of subject merchandise to the United States during the POR, or withdrew their request for a review in a timely manner. *See Certain Preserved Mushrooms from the People’s Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 48911 (August 22, 2006).

The Department is conducting this administrative review in accordance with section 751 of the Act.

Mandatory Respondents

On June 9, 2006, the Department issued the full antidumping duty questionnaire to COFCO and Guangxi Hengxian. On July 21, 2006, COFCO submitted its section A questionnaire response (“section A response”). On August 2, 2006, COFCO submitted its sections C and D questionnaire response (“sections C and D response”). Guangxi Hengxian did not submit a questionnaire response.⁷ The Department issued Guangxi Hengxian a letter on August 7, 2006, which stated that the Department intends to resort to adverse facts available as a result of Guangxi Hengxian’s failure to respond to the Department’s June 8, 2006, antidumping duty questionnaire. Guangxi Hengxian did not respond to the Department’s August 7 letter. *See* September 6, 2006, Memorandum to the File, entitled *Efforts to Provide Guangxi Hengxian Pro-Light Foods, Inc. With the Department’s June 9, 2006, Antidumping Duty Questionnaire*.

On August 2, 2006, the Department issued COFCO a section A supplemental questionnaire and it submitted its response on August 30, 2006

(“supplemental section A response”). On August 10, 2006, the Department issued COFCO a sections C and D supplemental questionnaire and it submitted its response on September 7, 2006. On September 14, 2006, the Department issued COFCO another sections C and D supplemental questionnaire and COFCO submitted its response on September 25, 2006.

Section A Respondents

On June 8, 2006, the Department issued the section A questionnaire to Guangxi Eastwing and Primera Harvest. Guangxi Eastwing and Primera Harvest submitted their section A questionnaire responses on June 13, and July 7, 2006, respectively.

On July 20 and 24, 2006, the Department issued Primera Harvest and Guangxi Eastwing a section A supplemental questionnaire, respectively. Both companies submitted their supplemental responses on August 3, 2006. On August 23, 2006, the Department issued Primera Harvest a second section A supplemental questionnaire, to which it responded on September 7, 2006.

Surrogate Country and Factors

On May 4, 2006, the Department identified five countries, including India, that are comparable to the PRC in terms of overall economic development to use in this review. On July 13, 2006, the Department solicited comments on surrogate country selection from interested parties. The Department received no comments from the interested parties. *See* the “Normal Value” section below for further detail.

On September 15, 2006,⁸ the Department received surrogate-value information from COFCO. For a detailed discussion of the Department’s selection of surrogate values and financial ratios, *see* “Factor Valuation” section below. *See also Memorandum from the Team to the File, Re: 2005–2006 Antidumping Duty Administrative Review of Certain Preserved Mushrooms from the People’s Republic of China—Factors Valuation For the Preliminary Results (“Factor Valuation Memo”)*, dated October 31, 2006, which is on file in CRU.

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*

⁷ The original deadline for the mandatory respondents to submit their response to all sections of the Department’s June 8, 2006, antidumping duty questionnaire was July 17, 2006. However, the Department subsequently extended the section A response deadline until July 21, 2006, and the sections C and D response deadline until August 2, 2006.

⁸ September 5, 2006, was the deadline for submitting surrogate value information for consideration in the preliminary results as specified in the Department’s July 13, 2006, letter.

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.⁹

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.

Adverse Facts Available

Section 776(a)(2) of the Act provides that, if an interested party: (A) Withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested, subject to sections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the

Act, use facts otherwise available in reaching the applicable determination.

Furthermore, section 776(b) of the Act states that if the Department "finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information," the Department, "in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available." See also Statement of Administrative Action ("SAA") accompanying the Uruguay Round Agreements Act ("URAA"), H.R. Rep. No. 103-316 at 870 (1994).

Green Fresh, Guangxi Hengxian, Guangxi Yulin, and Gerber

(A) Facts Available

As stated above, Green Fresh, Guangxi Hengxian, Guangxi Yulin, and Gerber each withheld information requested by the Department by not submitting a response to the Department's questionnaires.

Green Fresh and Guangxi Yulin failed to properly respond to the Department's requests for Q&V information. The information requested in the Department's Q&V questionnaire was critical and necessary for selecting mandatory respondents in the review. Specifically, Green Fresh failed to submit a properly filed Q&V response despite being provided numerous opportunities to do so. Guangxi Yulin did not attempt to file a Q&V response at all.

Guangxi Hengxian did not submit a response to the Department's antidumping duty questionnaire. Because Guangxi Hengxian was selected as a mandatory respondent for this review, the information requested in the Department's antidumping duty questionnaire is critical and necessary to calculate Guangxi Hengxian's margin.

As stated above in the "Background" section, Gerber did not respond to the Department's supplemental questionnaire which further attempted to examine Gerber's claim that it made no shipments of subject merchandise to the United States during the POR. Specifically, based on documentation obtained from CBP, the Department had reason to believe that Gerber exported subject merchandise to the United States through one of its affiliates located in Hong Kong. As a result of this discovery, the Department provided Gerber with an opportunity to explain whether Gerber used its previously undisclosed Hong Kong-based affiliate to make sales of subject merchandise to the U.S. market during the POR. Gerber

failed to respond to the Department's second request for information. Gerber withheld requested information from the Department and impeded this proceeding because of its failure to participate in the instant review.

Therefore, the Department has no choice but to rely on the facts otherwise available in order to determine a margin for Green Fresh, Guangxi Hengxian, Guangxi Yulin, and Gerber pursuant to section 776(a)(2) of the Act because they failed to provide information requested by the Department. See *Stainless Steel Sheet and Strip in Coils From Japan: Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 18369 (April 11, 2005), ("because this company refused to participate in this administrative review, we find that, * * * the use of total facts available is appropriate"); see *Notice of Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances: Wax and Wax/Resin Thermal Transfer Ribbons From Japan*, 68 FR 71072 (December 22, 2003), ("Since UC and DNP withheld information requested by the Department, the Department has no choice but to rely on the facts otherwise available in order to determine a margin for these parties"). Because each of the above-mentioned respondents failed to respond to the Department's questionnaires, the Department could not determine whether Gerber, Green Fresh, Guangxi Hengxian, or Guangxi Yulin is eligible for a separate rate. Accordingly, we are not granting these companies a separate rate and are applying the PRC-wide rate to all four companies.

(B) Adverse Inference

In applying facts otherwise available, section 776(b) of the Act states that if an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the Department, the Department, in reaching the applicable determination under section 776(b) of the Act, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available. In the instant proceeding, we find it appropriate to apply an adverse inference in selecting from among the facts otherwise available for Gerber, Green Fresh, Guangxi Hengxian, and Guangxi Yulin, which are part of the PRC-wide entity. By failing to submit a response to the Department's questionnaires, all four above-mentioned companies have failed to cooperate to the best of their ability in this proceeding. Accordingly, we find

⁹ 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*, 39C F.3d 1378 (Fed. Cir. 2005).

that an adverse inference is warranted. By applying AFA, we ensure that the companies that fail to cooperate will not obtain a more favorable result than those companies that complied fully with the Department's requests in this review.

The PRC Entity

As mentioned, four exporters named in the notice of initiation did not respond to the Department's request for information. The PRC-wide rate applies to all entries of subject merchandise except for entries from PRC exporters that have their own calculated rate. Companies that have not demonstrated their entitlement to a separate rate are appropriately considered to be part of the PRC-wide entity. Therefore, we determine it is necessary to review the PRC-wide entity because these four PRC exporters are subject to the instant proceeding. Pursuant to section 776(a)(1) of the Act, the Department determines that it must use facts otherwise available for the PRC-wide entity because necessary information is not available on the record of this proceeding due to the failure of the PRC-wide entity, including the four PRC exporters mentioned, to provide responses to the Department's requests for information in this proceeding. Because the PRC-wide entity did not respond to requests for information in the form or manner requested, we find it necessary, under section 776(a)(2) of the Act, to use facts otherwise available as the basis for the preliminary results of review for the PRC-wide entity. In addition, pursuant to section 776(b) of the Act, we find that the PRC-wide entity failed to cooperate by not acting to the best of its ability to comply with a request for information. As noted above, the PRC-wide entity failed to respond to the Department's requests for information, despite repeated requests that it do so. Thus, because the PRC-wide entity refused to participate fully in this proceeding, we find it appropriate to use an inference that is adverse to the interests of the PRC-wide entity in selecting from among the facts otherwise available. By doing so, we ensure that the companies that are part of the PRC-wide entity will not obtain a more favorable result by failing to cooperate than had they cooperated fully in this review. An adverse inference may include reliance on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record. See section 776(b) of the Act. It is the Department's practice to assign the highest rate from any segment of the

proceeding as total AFA when a respondent fails to cooperate to the best of its ability. See *Honey from the People's Republic of China; Final Results and Final Rescission In Part of Antidumping Duty Administrative Review*, 70 FR 38873 (July 6, 2005). Specifically, as AFA, we have assigned to the PRC-entity 198.63 percent, which is the current PRC-wide rate. See the "Corroboration" section below for a discussion of the probative value of the PRC-wide 198.63 percent rate.

Corroboration of AFA Rate for PRC-Wide Entity, Including Gerber, Green Fresh, Guangxi Hengxian and Guangxi Yulin

Section 776(c) of the Act requires that the Department corroborate, to the extent practicable, the information it applies as facts available. To be considered corroborated, information must be found to be both reliable and relevant. We are applying as AFA the PRC-wide rate, which is the highest rate from any segment of this administrative proceeding, and is the highest rate from the petition in the less-than-fair-value ("LTFV") investigation. 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, 8310 (February 19, 1999). This AFA rate has not changed since the original LTFV determination.

For purposes of corroboration, the Department will consider whether the AFA rate is both reliable and relevant. The AFA rate we are applying for the current review was found to be reliable in reviews subsequent to the LTFV investigation, including the two most recently completed reviews. See *Certain Preserved Mushrooms from the People's Republic of China: Partial Rescission and Preliminary Results of Sixth Administrative Review*, 71 FR 11183, 11186 (March 6, 2006) and affirmed in *Certain Preserved Mushrooms From the People's Republic of China: Final Results and Final Partial Rescission of Sixth Administrative Review*, 71 FR 40477, 40478 (July 17, 2006) ("PRC Mushrooms 6th AR"); and *PRC Mushrooms 5th AR*, 70 FR at 10969 (to corroborate the AFA margin of 198.63 percent, in the 5th review the Department compared the AFA margin to calculated margins for certain respondents and found that 198.63 percent was within the range of margins for individual sales of identical and/or similar products). Furthermore, no information has been presented in the current review that calls into question

the reliability of the currently-applied PRC-wide rate.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers from Mexico: Final Results of Antidumping Administrative Review*, 61 FR 6812 (February 22, 1996), the Department disregarded the highest margin in that case as adverse best information available (the predecessor to "facts available") because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin. Similarly, the Department does not apply a margin that has been discredited. See *D&L Supply Co. v. United States*, 113 F.3d 1220, 1221 (Fed. Cir. 1997) (the Department will not use a margin that has been judicially invalidated). The information used in calculating this margin was based on sales and production data submitted by the respondents in the LTFV investigation, together with the most appropriate surrogate value information available to the Department chosen from submissions by the parties in the LTFV investigation, as well as gathered by the Department itself. Furthermore, the calculation of this margin was subject to comment from interested parties in the proceeding. Moreover, as there is no information on the record of this review that demonstrates that this rate is not appropriately used as AFA, we determine that this rate has relevance.

Based on our analysis as described above, we find that the margin of 198.63 percent is reliable and has relevance. As the rate is both reliable and relevant, we determine that it has probative value. Accordingly, we determine that the calculated rate of 198.63 percent, which is the current PRC-wide rate, is in accordance with the requirement of section 776(c) of the Act that secondary information be corroborated (that it have probative value). Consequently, we have assigned this AFA rate to exports of the subject merchandise from all companies subject to the PRC-wide rate, including Gerber, Green Fresh, Guangxi Hengxian, and Guangxi Yulin.

Affiliation—COFCO

To the extent that section 771(33) of the Act does not conflict with the Department's application of separate rates and enforcement of the non-market economy ("NME") provision, section

773(c) of the Act, the Department will determine that exporters and/or producers are affiliated if the facts of the case support such a finding.¹⁰ For the reasons discussed below, we find that this condition has not prevented us from examining whether certain exporters and/or producers are affiliated with COFCO in this administrative review.

In prior administrative reviews involving COFCO, the Department has found COFCO to be affiliated with Yu Xing as a result of its direct ownership and control in Yu Xing and affiliated with Fujian Zishan through its parent company, China National, and Xiamen Jiahua. Moreover, the Department has also found in prior reviews that COFCO is affiliated with another preserved mushroom producer, COFCO Zhangzhou. *See PRC Mushrooms 5th AR*, 70 FR at 10969.

COFCO claims that it is no longer affiliated with Fujian Zishan because Xiamen Jiahua sold all of its ownership shares in Fujian Zishan at the beginning of this POR (*see* page A-5 of COFCO's section A response). The Department has examined whether COFCO and the entities noted above are still affiliated for purposes of determining whether they should be collapsed in this review. For further discussion on this matter, *see* Memorandum From James P. Maeder, Jr., Office Director, to Stephen Claeys, Deputy Assistant Secretary, entitled *Certain Preserved Mushrooms from the People's Republic of China: Whether To Continue To Collapse COFCO with Some or All of its Affiliated Companies*, dated October 31, 2006 ("*Affiliation/Collapsing Memo*").

Based on our analysis, we preliminarily find that during this POR, COFCO, China National, COFCO Zhangzhou, Xiamen Jiahua, and Yu Xing were affiliated through the common control of COFCO's parent company, pursuant to sections 771(33)(F) and (G) of the Act. However, with respect to Fujian Zishan, we find that during the POR, Fujian Zishan was no longer affiliated with the above-mentioned companies based on the facts discussed above. *See Affiliation/Collapsing Memo* for further discussion.

Collapsing—COFCO

Pursuant to 19 CFR 351.401(f), the Department will collapse producers and treat them as a single entity where (1) those producers are affiliated, (2) the producers have production facilities for producing similar or identical products that would not require substantial retooling of either facility in order to

restructure manufacturing priorities, and (3) there is a significant potential for manipulation of price or production. We also note that the rationale for collapsing, to prevent manipulation of price and/or production (*see* 19 CFR 351.401(f)), applies to both producers and exporters, if the facts indicate that they are able to manipulate price or production as a result of control over the production and sales activities of affiliates whose operations are intertwined.

To the extent that this provision does not conflict with the Department's application of separate rates and enforcement of the NME provision, section 773(c) of the Act, the Department will collapse two or more affiliated entities in a case involving a NME country if the facts of the case warrant such treatment. Furthermore, we note that the factors listed in 19 CFR 351.401(f)(2) are not exhaustive, and in the context of a NME investigation or administrative review, other factors unique to the relationship of business entities within the NME may lead the Department to determine that collapsing is either warranted or unwarranted, depending on the facts of the case. *See Hontex Enterprises, Inc. v. United States*, 248 F. Supp. 2d 1323, 1342 (CIT 2003) (noting that the application of collapsing in the NME context may differ from the standard factors listed in the regulation).

In summary, if there is evidence of significant potential for manipulation between or among affiliates which produce and/or export similar or identical merchandise, whether or not all such merchandise is exported to the United States, the Department may find such evidence sufficient to apply the collapsing criteria in a NME context in order to determine whether all or some of those affiliates should be treated as one entity (*see Certain Hot-Rolled Carbon Steel Flat Products from the People's Republic of China, Preliminary Determination of Sales at Less Than Fair Value*, 66 FR 22183 (May 3, 2001); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products from the People's Republic of China*, 66 FR 49632 (September 28, 2001) ("*Certain Hot-Rolled Carbon Steel Flat Products*"); and *Anshan Iron & Steel Co. v. United States*, Slip. Op. 03-83 at 32-33 (CIT 2003) ("*Anshan*").

We find that the first and second collapsing criteria are met with respect to COFCO's affiliated producers COFCO Zhangzhou and Yu Xing because these producers have production facilities for producing similar or identical products, such that no retooling at any of the three

facilities is required in order to restructure manufacturing priorities. *See* factors of production data submitted by each company in COFCO's section D response. We find that the third collapsing criterion is also met with respect to COFCO Zhangzhou and Yu Xing because COFCO and China National, which wholly owns COFCO, have significant ownership in and control over the operations of COFCO Zhangzhou and Yu Xing. They also have shared management and intertwined operations. Therefore, we find that there is a significant potential for manipulation of price or production between these two affiliated producers of the subject merchandise. We also note that during the POR COFCO and Zhangzhou and Yu Xing were legally merged into a single company. *See Affiliation/Collapsing Memo* for further discussion.

In addition, based on the reasons mentioned in the *Affiliation/Collapsing Memo* and the guidance of 19 CFR 351.401(f), we have preliminarily collapsed COFCO, China National, Xiamen Jiahua and COFCO Zhangzhou/YuXing because there is a significant potential for manipulation of sales decisions between these parties that are exporters of the subject merchandise or have the ability to export. Xiamen Jiahua, a preserved mushroom exporter, is also owned, in part, by China National which wholly owns COFCO. Yu Xing, which is treated as a single entity with the producer COFCO Zhangzhou, also has export rights and has directly exported since obtaining those export rights. Consequently, we have considered COFCO and the four affiliates mentioned above as a single entity for purposes of determining whether or not the collapsed entity as a whole is entitled to a separate rate. With respect to Fujian Zishan, as mentioned we find this company to be no longer affiliated with COFCO and it is, therefore, not part of the collapsed entity.¹¹ This decision is specific to the facts presented in this review and is based on several considerations, including the structure of the collapsed entity, the level of control between and among affiliates, and the level of participation by each affiliate in the proceeding. Given the unique relationships which arise in NMEs between individual companies and the government, a separate rate will be granted to the collapsed entity only if

¹¹ Accordingly, Fujian Zishan is not subject to this review and the Department has not conducted a separate rates analysis on this company. Fujian Zishan, therefore, is not entitled to a separate rate in this review.

¹⁰ *See PRC Mushrooms 5th AR*, 70 FR at 10969.

the facts, taken as a whole, support such a finding (see "Separate Rates" section below for further discussion).

Separate-Rates Determination

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to governmental control and, thus, should be assessed a single antidumping duty deposit rate (*i.e.*, a PRC-wide rate). One respondent in this review, Primera Harvest, is wholly owned by a company located outside the PRC. Therefore, an additional separate-rates analysis is not necessary to determine whether Primera Harvest's export activities are independent from government control. (See *e.g.*, *Polyethylene Retail Carrier Bags from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 54021 (September 13, 2006), which cites to *Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People's Republic of China*, 64 FR 71104, 71105 (December 20, 1999) (where the respondent was wholly owned by persons located in Hong Kong)).

The other Section A respondent, Guangxi Eastwing is a limited liability company, whereas the mandatory respondent, COFCO, is owned by its affiliate China National, which is owned by "all of the people." COFCO also owns, in part, two preserved mushroom producers, COFCO Zhangzhou and Yu Xing. As discussed above in the "Collapsing" section of this notice, we have preliminarily considered COFCO, China National, Yu Xing, COFCO Zhangzhou, and Xiamen Jiahua a collapsed entity.

Thus, a separate-rates analysis is necessary to determine whether the export activities of Guangxi Eastwing and COFCO's collapsed entity are independent from government control. To establish whether a respondent is sufficiently independent from governmental control of its export activities so as to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*) at Comment 1, and amplified in the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585, 22587 (May 2, 1994) (*Silicon Carbide*). In accordance with the separate-rates criteria, the Department

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

1. Absence of De Jure Control

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

The COFCO collapsed entity and Guangxi Eastwing have placed on the administrative record the following documents to demonstrate absence of *de jure* control: The 1994 "Foreign Trade Law of the People's Republic of China;" the "Company Law of the PRC," effective as of July 1, 1994; and "The Enterprise Legal Person Registration Administrative Regulations," promulgated on June 13, 1988. In other cases involving products from the PRC, respondents have submitted the following additional documents to demonstrate absence of *de jure* control, and the Department has placed these additional documents on the record as well: The "Law of the People's Republic of China on Industrial Enterprises Owned by the Whole People," adopted on April 13, 1988 ("the Industrial Enterprises Law"); and the 1992 "Regulations for Transformation of Operational Mechanisms of State-Owned Industrial Enterprises" ("Business Operation Provisions"). (See October 31, 2006, memorandum to the file which places the above-referenced laws on the record of this proceeding segment.)

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

2. Absence of De Facto Control

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not

been implemented uniformly among different sectors and/or jurisdictions in the PRC. See *Silicon Carbide*, 56 FR at 22587 (May 2, 1994). Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

The Department typically considers the following four factors in evaluating whether a respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by, or subject to the approval of, a governmental agency; (2) whether the respondent has the authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses. See *Silicon Carbide*, 59 FR at 22586–87 and *Furfuryl Alcohol*, 60 FR 22545.

The affiliates in COFCO's collapsed entity (where applicable) and Guangxi Eastwing have asserted the following: (1) Each establishes its own export prices; (2) each negotiates contracts without guidance from any governmental entities or organizations; (3) each makes its own personnel decisions; and (4) each retains the proceeds of its export sales, uses profits according to its business needs, and has the authority to sell its assets and to obtain loans. Additionally, each respondent's questionnaire responses indicate that each respondent's pricing practices during the POR does not suggest coordination among exporters. As a result, there is a sufficient basis to preliminarily determine that each respondent listed above (including the COFCO collapsed entity as a whole) has demonstrated a *de facto* absence of government control of its export functions and is entitled to a separate rate. Moreover, with respect to the affiliates included in the COFCO collapsed entity, we have assigned to all of them the same antidumping rate in these preliminary results for the above-mentioned reasons.

Fair-Value Comparisons

To determine whether the respondents' sales of subject merchandise were made at less than NV, we compared the export price (EP) to NV, as described in the "Export Price"

and "Normal Value" sections of this notice, below.

Export Price

In accordance with section 772(a) of the Act, the Department calculated EPs for sales by COFCO to the United States because the subject merchandise was sold directly to unaffiliated customers in the United States (or to unaffiliated resellers outside the United States with knowledge that the merchandise was destined for the United States) prior to importation, and constructed export-price methodology was not otherwise indicated. In accordance with 19 CFR 351.401(c), we made deductions from the net sales price for foreign inland freight and foreign brokerage and handling. Each of these services was provided by a NME vendor and, thus, as explained in the "Normal Value" section below, we based the deductions for these movement charges on values from a surrogate country.

For the reasons stated in the "Normal Value" section below, we selected India as the primary surrogate country. To value brokerage and handling, the Department used an average of the publicly summarized data from the following two sources which we have placed on the record of this review: (1) Data reported in the U.S. sales listing in the February 28, 2005, submission from Essar Steel Ltd. ("Essar Steel") in the antidumping duty administrative review of Certain Hot-Rolled Carbon Steel Flat Products from India, A-533-820 (covering December 2003–November 2004), and (2) data reported in Pidilite Industries' March 9, 2004, public version response submitted in the antidumping duty investigation of Carbazole Violet Pigment 23 from India, A-533-838 (covering the period November 2002–September 2003). We identify the source used to value foreign inland freight in the "Normal Value" section of this notice, below. We adjusted these values, as appropriate, to account for inflation or deflation between the effective period and the POR. We calculated the inflation or deflation adjustments for these values using the wholesale price indices ("WPI") for India as published in the *International Financial Statistics Online Service* maintained by the Statistics Department of the International Monetary Fund at the Web site <http://www.imfstatistics.org> ("IFS").

COFCO claims that its affiliated producer, Yu Xing, did not incur an expense for the glass jars and caps used to export subject merchandise to the United States during the POR because its U.S. customers provided these items to Yu Xing free-of-charge. In response to

the Department's supplemental questionnaire, COFCO provided documentation which sufficiently supported its claim that (1) its U.S. customers contracted with PRC glass jar and cap producers and that these producers had indeed delivered these items to Yu Xing in a certain quantity on a certain date, free-of-charge; and (2) that these free-of-charge glass jars and caps were used in the required quantities for certain subject merchandise sold to its applicable U.S. customers during the POR.

Therefore, for the reasons mentioned above, the Department has adjusted the U.S. price of certain preserved mushroom transactions reported by COFCO by assigning Indian surrogate values to the glass jar and caps used in those preserved mushroom transactions to reflect its U.S. customers' expenditures for these items. This preliminary decision on this matter is consistent with the Department's decision in *PRC Mushrooms 5th AR*, 70 FR at 10973.

Normal Value

For exports from NME countries, section 773(c)(1) of the Act provides that the Department shall determine NV using a factors-of-production ("FOP") methodology if the subject merchandise is exported from an NME country and available 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. Section 351.408 of the Department's regulations sets forth the methodology the Department uses to calculate the NV of merchandise exported from NME countries. The Department has treated the PRC as a NME country in every proceeding involving the PRC. Because none of the parties to this proceeding contested such treatment, we calculated NV in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c).

In accordance with section 773(c)(3) of the Act, the FOPs which COFCO's suppliers used in producing certain preserved mushrooms include, but are not limited to, the following inputs: (1) Hours of labor required, (2) quantities of raw materials employed, (3) amounts of energy and other utilities consumed, and (4) representative capital costs, including depreciation. In accordance with section 773(c)(4) of the Act, the Department valued the FOPs, to the extent possible, using the costs of the FOP in one or more market-economy countries that are at a level of economic development comparable to that of the PRC and are significant producers of comparable merchandise. We

determined that India is comparable to the PRC in terms of per capita gross national product and the national distribution of labor. Furthermore, India is a significant producer of comparable merchandise. See *Memorandum from Ron Lorentzen, Director, Office of Policy, to Irene Darzenta Tzafolias, Acting Office Director, Office 2*, dated May 4, 2006, regarding potential surrogate countries, which is available in the CRU—Public File.

Section 773(c)(3) of the Act states that "the factors of production utilized in producing merchandise include, but are not limited to, the quantities of raw materials employed." Therefore, the Department is required under the Act to value all inputs (including inputs which the respondent claims were provided to it purportedly free of charge). As explained in the "Export Price" section above, COFCO sufficiently supported its claim that each of its applicable U.S. customers provided its affiliated supplier, Yu Xing, the glass jars and caps, which were used for the preserved mushrooms sold to those same U.S. customers free-of-charge. For this reason, we have adjusted, where applicable, COFCO's reported U.S. prices to include the value of glass jars and caps for certain sales of preserved mushrooms in these preliminary results. In addition to making the above-referenced adjustment to COFCO's U.S. prices reported for sales of the subject merchandise which contained glass jars and caps, section 773(c)(3) of the Act requires the Department to value each factor of production used to produce the subject merchandise. Accordingly, for these preliminary results, the Department has valued the glass jars and caps usage amounts reported by COFCO for specific preserved mushrooms by using an Indian surrogate value for each input (*see Factor Valuation Memo*).

In accordance with section 773(c)(1) of the Act, for purposes of calculating NV, we attempted to value the FOPs using surrogate values that were in effect during the POR. If we were unable to obtain surrogate values that were in effect during the POR, we adjusted the values, as appropriate, to account for inflation or deflation between the effective period and the POR. We calculated the inflation or deflation adjustments for all factor values, as applicable, except labor, using the WPI for the appropriate surrogate country as published in the *IFS*. We valued the FOPs as follows:

(1) Except for rice straw, cow manure, and steam coal, we valued all reported material inputs using Indian import data from the World Trade Atlas ("WTA")

for February 2005 through January 2006, in accordance with the Department's established practice in this case (see e.g., *PRC Mushroom 6th AR*, 71 FR at 40477, and accompanying *Issues and Decision Memorandum* at Comments 1 through 6).

(2) We valued rice straw using data from the 2005–2006 financial statement of Flex Foods Limited ("Flex Foods"), an Indian producer of the subject merchandise.

(3) We valued cow manure using data from the 2004–2005 financial statement of Agro Dutch Industries Limited ("Agro Dutch"), an Indian producer of the subject merchandise.

(4) We valued electricity using rates from *Energy Prices and Taxes: Second Quarter 2003 (Energy Prices)*, published by the International Energy Agency. We valued water using data from the Maharashtra Industrial Development Corporation. We valued steam coal using the *Teri Energy Data Directory & Yearbook* (2004).

(5) We valued labor, consistent with 19 CFR 351.408(c)(3), using the PRC

regression-based wage rate as reported on Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in November 2005, and posted to Import Administration's Web site at <http://ia.ita.doc.gov/wages>. The source of this wage rate data is the Yearbook of Labour Statistics 2003, International Labour Office, (Geneva: 2003), Chapter 5B: Wages in Manufacturing (<http://laborsta.ilo.org>). The years of the reported wage rates range from 1998 to 2003. Because this regression-based wage rate does not separate the labor rates into different skill levels or types of labor, we have applied the same wage rate to all skill levels and types of labor reported by the respondent.

(6) We derived ratios for factory overhead, selling, general and administrative ("SG&A") expenses, and profit using the 2004–2005 and 2005–2006 financial statements of Agro Dutch and Flex Foods. From this information, we were able to calculate factory overhead as a percentage of direct

materials, labor, and energy expenses, SG&A expenses as a percentage of the total cost of manufacturing, and profit as a percentage of the sum of the total cost of manufacturing and SG&A expenses.

(7) We used truck rates published at <http://www.infreight.com> to value freight services provided to transport (a) the finished product to the port; and (b) direct materials, packing materials, and coal from the suppliers of the inputs to the producers.

For further discussion of the surrogate values we used for these preliminary results of review, see *Memorandum From Terre Keaton Regarding Factors-of-Production Valuation for Preliminary Results* (October 31, 2006), which is on file in the CRU—Public File.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following margins exist for the period February 1, 2005, through January 31, 2006:

| Manufacturer/exporter | Margin (percent) |
|--|------------------|
| China Processed Food Import & Export Company (which includes its affiliates China National Cereals, Oils & Foodstuffs Import & Export Corporation, COFCO (Zhangzhou) Food Industrial Co., Ltd., Xiamen Jiahua Import & Export Trading Co., Ltd., and Fujian Yu Xing Fruit & Vegetable Foodstuff Development Co.) ¹² | 195.85 |
| Primera Harvest Co., Ltd | 195.85 |
| Guangxi Eastwing Co., Ltd | 195.85 |
| PRC-Wide Rate (which applies to the following companies that failed to qualify for a separate rate in this review: Gerber, Green Fresh, Guangxi Hengxian and Guangxi Yulin) | 198.63 |

As stated above in the "Separate-Rates Determination" section of this notice, Guangxi Eastwing and Primera Harvest both qualify for a separate rate in this review. Moreover, as stated above in the "Background" section of this notice, we limited this review by selecting the largest exporters. As section A respondents, Guangxi Eastwing and Primera Harvest will be assigned the weighted-average dumping margin based on the calculated margins of mandatory respondents which are not *de minimis* or based on AFA, in accordance with Department practice. See e.g., *Notice of Final Determinations of Sales at Less Than Fair Value: Brake Drums and Brake Rotors from the People's Republic of China*, 62 FR 9160, 9174 (February 28, 1997). Accordingly, we have assigned these two respondents the dumping margin assigned to the COFCO collapsed entity.

In accordance with 19 CFR 351.224(b), the Department will disclose

to interested parties within five days of the date of publication of this notice the calculations it performed for the preliminary results. An interested party may request a hearing within 30 days of publication of the 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. We will issue a memorandum identifying the date of a hearing, if one is requested. Unless the deadline is extended pursuant to section

751(a)(3)(A) of the Act, the Department will issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days of publication of the preliminary results.

Assessment Rates

Upon completion of this administrative review, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. For the COFCO collapsed entity, we have calculated customer-specific antidumping duty assessment amounts for subject merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total quantity of sales examined. We calculated these assessment amounts because there is no information on the record which identifies entered values or the importers of record for the COFCO collapsed entity's reported U.S. sales transactions. For Guangxi Eastwing and Primera Harvest (*i.e.*, respondents which are being assigned the margin calculated for the COFCO

¹² For this review, we consider COFCO, COFCO Zhangzhou, Xiamen, Jiahua, and Yu Xing to constitute a single entity.

collapsed entity), we will instruct CBP to assess antidumping duties on these company's entries equal to the margin these companies receive in the final results, regardless of the importer or customer.

The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. If these preliminary results are adopted in the final results of review, we will direct CBP to assess the resulting assessment amounts, calculated as described above, on each of the applicable entries during the review period.

Cash Deposit Requirements

The following deposit requirements will apply to all shipments of certain preserved mushrooms from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies named above will be the rates for those firms established in the final results of this administrative review; (2) for any previously reviewed or investigated PRC or non-PRC exporter, not covered in this review, with a separate rate, the cash deposit rate will be the company-specific rate established in the most recent segment of this proceeding; (3) for all other PRC exporters, the cash deposit rate will be the PRC-wide rate established in the final results of this review; and (4) the cash deposit rate for any non-PRC exporter of subject merchandise from the PRC will be the rate applicable to the PRC exporter that supplied that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Interested Parties

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.

We are issuing and publishing the preliminary results determination in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: October 31, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6-18662 Filed 11-3-06; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-813]

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

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

SUMMARY: In response to timely requests by Agro Dutch Industries, Ltd. (Agro Dutch) and the petitioner,¹ the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain preserved mushrooms from India with respect to Agro Dutch. The period of review (POR) is February 1, 2005, through January 31, 2006.

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

DATES: *Effective Date:* November 6, 2006.

FOR FURTHER INFORMATION CONTACT:

Terre Keaton Stefanova or David J. Goldberger AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-1280 or (202) 482-4136, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 19, 1999, the Department published in the **Federal Register** an amended final determination and antidumping duty order on certain preserved mushrooms from India. See *Notice of Amendment of Final Determination of Sales at Less Than*

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

Fair Value and Antidumping Duty Administrative Order: Certain Preserved Mushrooms from India, 64 FR 8311 (February 19, 1999).

In response to timely requests by a manufacturer/exporter, Agro Dutch, and the petitioner, the Department published a notice of initiation of an administrative review with respect to the following companies: Agro Dutch and Himalya International, Ltd. (Himalya), 71 FR 17077 (April 5, 2006). The POR is February 1, 2005, through January 31, 2006.

On April 5, 2006, the Department issued antidumping duty questionnaires to the above-mentioned companies. We received responses to these questionnaires in May 2006.

On July 10, 2006, the petitioner withdrew its request for review with respect to Himalya. Accordingly, we published a *Notice of Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 42801 (July 28, 2006), with respect to this company.

We issued supplemental questionnaires to Agro Dutch in July and September 2006, and received responses in July, August and October 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 preserved mushrooms covered under this order are the species *Agaricus bisporus* and *Agaricus bitorquis*. "Preserved mushrooms" refer to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heated in containers including but not limited to cans or glass jars in a suitable liquid medium, including but not limited to water, brine, butter or butter sauce. Preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces. Included within the scope of this order are "brined" mushrooms, which are 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.