Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Missouri Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Missouri Advisory Committee to the Commission will convene at 6:30 p.m. and adjourn at 8:30 p.m. on August 26, 1998, at the Marriott Hotel, 1 Broadway, St. Louis, Missouri. The purpose of the meeting is to plan future projects and hold new member orientation.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, July 24, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–20849 Filed 8–4–98; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–802]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Preserved Mushrooms From Indonesia

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

EFFECTIVE DATE: August 5, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Jenkins or David J. Goldberger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–1756 or (202) 482–4136, respectively.

SUPPLEMENTARY INFORMATION:

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's regulations are to the regulations at 19 CFR Part 351, published at 62 FR 27296 (May 19, 1997).

Preliminary Determination

We preliminarily determine that certain preserved mushrooms (''mushrooms'') from Indonesia are being, or are likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733(b) of the Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since the initiation of this investigation (*Notice of Initiation of Antidumping Investigations: Certain Preserved Mushrooms From Chile, India, Indonesia, and the People's Republic of China* (63 FR 5360, February 2, 1998)), the following events have occurred:

During January through February of 1998, the Department of Commerce (''the Department'') requested information from the U.S. Embassy in Indonesia to identify producers/exporters of the subject merchandise. During the month of February 1998, the Department also requested and received comments from the petitioners and potential respondents regarding model matching criteria.

On February 27, 1998, the United States International Trade Commission (''ITC'') notified the Department of its affirmative preliminary injury determination in this case.

Also on February 27, 1998, the Department issued an antidumping duty questionnaire to the following producers: PT Dieng Djaya (''Dieng''), PT Indo Evergreen Agro Business Company, PT Surya Jaya Abadi Perkasa (''Surya''), PT Tuwuh Agung and PT Zeta Agro Corporation (''Zeta'').

On March 30, 1998, the Department issued a notice setting aside a period for interested parties to raise issues regarding product coverage. *Certain Preserved Mushrooms from Chile, India, Indonesia, and the People's Republic of China: Comments Regarding Product Coverage* (63 FR 16971 (April 7, 1998)). No parties to this investigation filed comments regarding product coverage.

In April 1998, the Department received responses to Section A of the questionnaire from Dieng, PT Indo Evergreen Agro Business Company, Surya, PT Tuwuh Agung and Zeta. Dieng and Surya informed the Department that they were affiliated companies as defined by the Department's regulations; therefore, the two companies submitted a combined response, in accordance with 19 CFR 351.401(f). Dieng/Surya also informed the Department that PT Tuwuh Agung, a related company, was not a manufacturer or exporter of subject merchandise. Dieng/Surya and Zeta reported that their home market and third country markets were not viable during the period of investigation (''POI'') and, therefore, each of the companies would submit constructed value (''CV'') of the subject merchandise.

On April 14, 1998, pursuant to section 777A(c) of the Act, the Department determined that, due to the large number of exporters/producers of the subject merchandise, it would limit the number of mandatory respondents in this investigation. *See* ''Respondent

Selection'' section below. The Department determined that it would analyze the responses of the two largest exporters/producers of the subject merchandise in this investigation. Based on Section A questionnaire responses, the Department selected the two largest companies in Indonesia, Dieng/Surya and Zeta, to be mandatory respondents (*see* Memorandum to Louis Apple, dated April 14, 1998).

We received responses to Sections C and D of the questionnaire from Dieng/Surya and Zeta in April 1998. We issued a supplemental questionnaire for Sections A, C, and D to Dieng/Surya and Zeta in April 1998, and received responses to these questionnaires in June 1998.

On May 1, 1998, pursuant to section 733(c)(1)(A) of the Act, the petitioners made a timely request to postpone the preliminary determination for forty days. We granted this request and, on May 8, 1998, we postponed the preliminary determination until no later than July 27, 1998. *See* 63 FR 27264 (May 18, 1998). Petitioners and respondents provided additional comments on the responses during July 1998.

Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Act, on July 14, 1998, Dieng/Surya and Zeta requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the date of the publication of an affirmative preliminary determination in the **Federal Register**. On July 23, 1998, Dieng/Surya and Zeta amended their request to include a request to extend the provisional measures by not more than six months. In accordance with 19 CFR 351.210(b), because our preliminary determination is affirmative, (2) Dieng/Surya and Zeta account for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the respondents' request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. In addition, we are extending the provisional measures by not more than six months. Suspension of liquidation will be extended accordingly.

Scope of Investigation

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 these investigations 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 2003.10.27, 2003.10.31, 2003.10.37, 2003.10.43, 2003.10.47, 2003.10.53, 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.

Period of Investigation

The POI is January 1, 1997, through December 31, 1997.

Fair Value Comparisons

To determine whether sales of mushrooms from Indonesia to the United States were made at less than fair value, we compared export price (''EP'') to the Normal Value (''NV''), as described in the ''Export Price'' and ''Normal Value'' sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs for comparison to weighted-average NVs.

In this proceeding, none of the respondents had a viable home market or third country market. Therefore, as the basis for NV, we used CV when making comparisons, in accordance with section 773(a)(4) of the Act.

Export Price

For both Dieng/Surya and Zeta we used EP methodology, in accordance with section 772(a) of the Act, because the merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise indicated. For all respondents, we calculated EP based on packed prices charged to the first unaffiliated customer in the United States.

Dieng/Surya

We based EP on the packed FOB seaport prices to unaffiliated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight, foreign inland insurance, and brokerage and handling, in accordance with 772(c)(2)(A) of the Act. In addition, we made an adjustment to U.S. price for a refund in the form of a tax credit made to Dieng/Surya by the Indonesian government for excise tax paid on imported glass jars and tops that were eventually used for exported merchandise, in accordance with 772(c)(2)(B) of the Act.

Zeta

We based EP on the packed FOB prices to unaffiliated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight, foreign inland insurance, and brokerage and handling, in accordance with section 772(c)(2)(A) of the Act.

Normal Value

After testing (1) home market viability, we calculated NV as noted in the ''Price-to-CV Comparisons'' section of this notice.

Home Market or Third Country Viability

In order to determine whether there is a sufficient volume of sales in the home market or third country to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market or third country sales of the foreign like product are equal to or greater than five percent of the aggregate volume of U.S. sales), we compared the respondents' volume of home market and third country sales, respectively, of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with sections 773(a)(1)(B) and (C) of the Act. Because each respondent reported that the aggregate volume of home market and/or third country sales of the foreign like product was less than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined for each respondent that the home and third country markets were not viable. Therefore, we used CV as a basis for calculating NV for both respondents, in

accordance with section 773(a)(4) of the Act.

Calculation of CV

We calculated CV for each respondent in accordance with section 773(e)(1) of the Act, which indicates that CV shall be based on the sum of each respondent's cost of materials and fabrication for the foreign like product, plus amounts for selling, general, and administrative expenses (SG&A), profit, and U.S. packing costs.

We made the following adjustments for Zeta: Zeta allocated fresh mushroom costs between fresh and canned products based on the relative sale values of all mushroom products. This methodology is appropriate only in certain situations involving the allocation of joint-product costs (*i.e.*, where a single production process yields simultaneously two or more products). In this case, the identical mushrooms are inputs into fresh and canned mushrooms products. Therefore, we recalculated the allocation of mushroom growing costs (*i.e.*, material, direct labor, variable overhead, and fixed overhead incurred at the farm) between fresh mushrooms and canned mushrooms based on the respective quantity of fresh mushrooms used for each product.

In its April 20, 1998, submission, Zeta claimed a startup adjustment under section 773(f)(1)(C)(ii) of the Act. In order to make a startup adjustment, the statute requires that (I) a producer is using new production facilities or producing a new product that requires substantial additional investment, and (II) production levels are limited by technical factors associated with the initial phase of production. Preliminarily, we determine that Zeta's canning factory is a new production facility. However, Zeta failed to identify suitable technical factors; therefore, we did not accept Zeta's startup adjustment. The technical factor identified by Zeta related to the lack of raw material supply because mushrooms were not grown until the cannery was built, which, in turn, resulted in a shortage of mushrooms at the beginning of the cannery's operation. We do not consider shortage of raw materials to be a technical factor associated with the canning facility.

Because there are no viable comparison markets for Dieng/Surya and Zeta and, hence, no actual company-specific profit and SG&A data available for the respondents, we calculated profit and selling expenses in accordance with section 773(e)(2)(B)(iii) of the Act and the Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 316, 103d Cong, 2d Sess (1994), (SAA) at 841.

Specifically, the SAA provides that where, due to the absence of data, the Department cannot determine amounts for profit under alternatives (i) or (ii) of section 773(e)(2)(B) of the Act or a ''profit cap'' under alternative (iii) of section 773(e)(2)(B) of the Act, the Department may apply alternative (iii) on the basis of the facts available. In this case, we are unable to determine an amount for profit under alternatives (i) or (ii), or a ''profit cap'' under alternative (iii) because none of the respondents has viable home markets. See 19 CFR 351.405(b)(2) of the Department's regulations (clarifying that under section 773(e)(2)(B) of the Act, ''foreign country'' means the country in which the merchandise is produced), (62 FR 27296, 27412–13 (May 19, 1997)). The statute directs us to use an amount which reflects profit in connection with sales for consumption in the foreign country of the same general category of products as the subject merchandise *See* section 773(e)(2) of the Act. Because none of the respondents had a viable home market, the profit and selling expenses shown on their financial statements do not reflect profit and selling expenses realized in the home market. Therefore, we did not rely on the profit or selling expense data in the respondents' financial statements in calculating CV.

Instead, we applied alternative (iii) and determined profit and selling expense on the basis of the facts available consistent with the SAA (*See Shop Towels from Bangladesh; Final Results of Antidumping Duty Administrative Review*, 61 FR 55957, October 30, 1996). As facts available, we calculated Zeta's and Dieng/Surya's profit and selling expenses for CV based on the weighted-average selling expenses and profit contained in PT Indofood Sukses Makmur's 1996 financial statements. PT Indofood Sukses Makmur is a large Indonesian processor of food products. For G&A expenses, we used the actual expenses contained in the respondents' financial statements.

Price-to-CV Comparisons

For price-to-CV comparisons, we made adjustments to CV pursuant to section 773(a)(8) of the Act. Dieng/Surya did not provide costs to be used as CV for comparison for one product. As facts available, we have applied the costs from a comparable product.

In their July 6, l998, submission, the petitioners argue that the Department should use two averaging periods in its margin calculations to account for the effect of the devaluation of the Indonesian rupiah. The petitioners contend that CV differs significantly and dramatically over the course of the POI when exchange rates are taken into account. To support their argument, petitioners cite *Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from Taiwan*, 61 FR 14106, March 29, 1996, (''*PVA from Taiwan*''), where the Department established two averaging periods because of a ''distinct dividing line'' between price trends in the home market. Accordingly, the petitioners contend that the Department should calculate the weighted-average EP for two averaging periods—January through June 1997 and July through December 1997—in order to avoid distorting dumping margins.

We have examined the prices and selling practices of the two respondents in this investigation and find that the respondents' selling practices have been constant. We find no evidence that there has been a significant change in the respondents' pricing or marketing during the POI. This situation contrasts with *PVA from Taiwan*, where the respondent changed the way it conducted business with its principal home market customers, including its price structure, while at the same time, U.S. prices and input cost trends moved in tandem. Thus, contrary to the petitioners' assertions, this case is not analogous to *PVA from Taiwan*. Therefore, we find no basis to depart from our practice of calculating the weighted-average EPs for the entire POI.

Currency Conversion

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank, in accordance with section 773A of the Act.

Verification

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

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the 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**. We will instruct the 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 in the chart 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 percentage
PT Dieng Djaya/PT Surya Jaya Abadi Perkasa	11.24
PT Zeta Agro Corporation	29.58
All Others	15.35

ITC Notification

In accordance with section 733(f) of the Act, we have 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 these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than October 16, 1998, and rebuttal briefs no later than October 23, 1998. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on October 27, 1998, time and room to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place 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 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. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by no later than 135 days after the publication of this notice in the **Federal Register**.

This determination is issued and published in accordance with sections 773(d) and 777(i)(1) of the Act.

Dated: July 27, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–20909 Filed 8–4–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–337–804]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms From Chile

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

EFFECTIVE DATE: August 5, 1998.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Katherine Johnson, 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) 482–4929, 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, 62 FR 27296 (May 19, 1997).

Preliminary Determination

We preliminarily determine that certain preserved mushrooms (''mushrooms'') from Chile are being, or are likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since the initiation of this investigation (*Notice of Initiation of Antidumping Investigations: Certain Preserved Mushrooms From Chile, India, Indonesia, and the People's Republic of China* (63 FR 5360, February 2, 1998)), the following events have occurred:

During January and February 1998, the Department requested information from the U.S. Embassy in Chile to identify producers/exporters of the subject merchandise. During February 1998, the Department also requested and received comments from the petitioners and potential respondents regarding the model matching criteria.

On February 27, 1998, the United States International Trade Commission (''ITC'') notified the Department of its affirmative preliminary injury determination in this case.

Also on February 27, 1998, the Department issued an antidumping duty questionnaire to Nature's Farm Products (Chile), S.A. (''NFP''), the sole exporter of the subject merchandise from Chile.

In March 1998, the Department received a response to Section A of the questionnaire from NFP. NFP reported that its home market was not viable during the period of investigation (POI), but that its sales to Brazil during the POI constituted a viable third country market.

On March 30, 1998, the Department issued a notice identifying a period for interested parties to raise issues regarding product coverage. (*See Certain Preserved Mushrooms from Chile, India, Indonesia, and the People's Republic of China: Comments Regarding Product Coverage*, 63 FR 16971 (April 7, 1998). NFP submitted comments on April 30, 1998, stating that product coverage should include fresh mushrooms as well as preserved mushrooms.

On April 1, 1998, the petitioners in this investigation, L.K. Bowman, Inc., Modern Mushroom Farms, Inc., Monterey Mushrooms, Inc., Mount Laurel Canning Corp., Mushroom Canning Company, Sunny Dell Foods, Inc., and United Canning Corp., submitted a timely allegation pursuant to section 773(b) of the Act that NFP had made sales in the third country market at less than the cost of production (''COP''). Our analysis of the allegation indicated that there were reasonable grounds to believe or suspect that NFP sold mushrooms in the third country market at prices less than the COP. Accordingly, we initiated a COP investigation with respect to NFP pursuant to section 773(b) of the Act (*See* Memorandum from Team to Louis Apple, Office Director, dated April 8, 1998).

On April 30, 1998, the Department requested comments as to whether it should consider ''whole mushroom size'' as a physical characteristic for its model matching methodology. On May 14, 1998, NFP responded to the Department's request for information.