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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; 2013/2014

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: EFFECTIVE DATE: (INSERT THE PUBLICATION DATE IN THE FEDERAL REGISTER.)

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain preserved mushrooms from the People's Republic of China (PRC) covering the period February 1, 2013, through January 31, 2014. We preliminarily determine that sales made by Linyi City Kangfa Foodstuff Drinkable Co., Ltd. (Kangfa), and Zhangzhou Gangchang Canned Foods Co., Ltd. (Gangchang) were made below normal value (NV). We invite interested parties to comment on these preliminary results.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney, or Robert James AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4475 or (202) 482-0649, respectively.

SUPPLEMENTARY INFORMATION

Scope of the Order

The products covered by this order are certain preserved mushrooms, whether imported whole, sliced, diced, or as stems and pieces. The certain preserved mushrooms covered under

this order are the species Agaricus bisporus and Agaricus bitorquis. “Certain Preserved Mushrooms” refers to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heated in containers including, but not limited to, cans or glass jars in a suitable liquid medium, including, but not limited to, water, brine, butter or butter sauce. Certain preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces. Included within the scope of this order are “brined” mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing. 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.¹

No Shipments Certification

On June 2, 2014, (1) Dezhou Kaihang Agricultural Science Technology Co., Ltd., (Dezhou Kaihang), (2) Fujian Haishan Foods Co., Ltd. (Fujian Haishan), (3) Fujian Pinghe Baofeng Canned Foods (Fujian Pinghe), (4) Fujian Zishan Group Co., Ltd. (Fujian Zishan), (5) Inter-Foods (Dongshan) Co., Ltd. (Inter-Foods), (6) Xiamen Longhuai Import & Export Co., Ltd. (Xiamen Longhuai), (7) Xiamen International Trade & Industrial Co., Ltd. (XITIC), and (8) Zhangzhou Hongda Import & Export Trading Co., Ltd. (Zhangzhou Hongda) submitted no shipment certifications. Both XITIC and Zhangzhou Hongda currently have separate rate status. Accordingly, on October 17, 2014, the Department sent an inquiry to U.S. Customs and Border

¹ See Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review of Certain Preserved Mushrooms from the People’s Republic of China; 2013/2014 from Christian Marsh Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, dated November 25, 2014 (Preliminary Decision Memorandum), issued concurrently with and hereby adopted by this notice.

Protection (CBP) to determine whether CBP entry data is consistent with the no shipments certifications from XITIC and Zhangzhou Hongda. The Department received no information contrary to either XITIC's or Zhangzhou Hongda's claims of no shipments. Based on the no-shipment certifications and our analysis of the CBP information, we preliminarily determine that both XITIC and Zhangzhou Hongda did not have any reviewable transactions during the POR. In addition, for both XITIC and Zhangzhou Hongda, the Department finds that consistent with its recently announced refinement to its assessment practice in non-market economy (NME) cases, it is appropriate not to rescind the review in part in this circumstance but, rather, to complete the review with respect to both XITIC and Zhangzhou Hongda and issue appropriate instructions to CBP based on the final results of the review.² However, since Dezhou Kaihang, Fujian Haishan, Fujian Pinghe, Fujian Zishan, Inter-Foods, and Xiamen Longhuai were part of the PRC-wide entity at the outset of this administrative review, and continue to be part of the PRC-wide entity in this administrative review, we are not making a determination of no shipments with respect to Dezhou Kaihang, Fujian Haishan, Fujian Pinghe, Fujian Zishan, Inter-Foods, and Xiamen Longhuai for the preliminary results of the instant administrative review.

Methodology

The Department conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act). For a full description of the methodology underlying our conclusions, please see the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System

² See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties, 76 FR 65694 (October 24, 2011).

(ACCESS).³ ACCESS is available to registered users at <https://access.trade.gov> and available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn/>. The signed Preliminary Decision Memorandum and electronic versions of the Preliminary Decision Memorandum are identical in content.

Background

On April 1, 2014, the Department published in the Federal Register, a notice of initiation of the antidumping duty administrative review of mushrooms from the PRC for the period February 1, 2013, through January 31, 2014, with respect to the 52 companies named in the review requests submitted by interested parties.⁴ The Department has selected Kangfa and Gangchang as mandatory respondents,⁵ and the separate rates calculated for both of these exporters are listed infra. Additionally, the Department has preliminarily determined that both XITIC and Zhangzhou Hongda did not have any reviewable transactions during the POR. As a result of our preliminary determination of no shipments for XITIC and Zhangzhou Hongda, these companies retain their most recently determined separate rate, as do the two selected mandatory respondents, Kangfa and Gangchang. The Department preliminarily determines that the remaining 48 exporters did not demonstrate their eligibility for separate rate status in this

³ On November 24, 2014, Enforcement and Compliance's AD and CVD Centralized Electronic Service System ("IA ACCESS") to AD and CVD Centralized Electronic Service System ("ACCESS"). The website location was changed from <http://iaaccess.trade.gov> to <http://access.trade.gov>. The Final Rule changing the references to the Regulations can be found at 79 FR 69046 (November 20, 2014).

⁴ See Initiation of Antidumping and Countervailing Duty Administrative Reviews, Request for Revocation in Part, 79 FR 18262 (April 1, 2014) ("Initiation Notice").

⁵ See Memorandum to Richard Weible, Director, AD/CVD Operations, Office VI, from Mike Heaney and Tyler Weinhold, AD/CVD Operations, Office VI, Subject: "Administrative Review of the Antidumping Duty Order on Certain Preserved Mushrooms from the People's Republic of China: Respondent Selection Memorandum," dated May 23, 2014.

review.⁶ As a result, the Department is preliminarily treating these 48 PRC exporters as part of the PRC-wide entity.

Preliminary Results of the Review

The Department preliminarily determines that the following dumping margin exists for the period February 1, 2013, through January 31, 2014:

Manufacturer/Exporter	Weighted-Average Margin (Percent)
Linyi City Kangfa Foodstuff Drinkable Co., Ltd.	78.69
Zhangzhou Gangchang Canned Foods Co., Ltd.	102.87

Disclosure and Public Comment

The Department intends to disclose to parties to this proceeding the calculations performed in reaching the preliminary results within five days of the date of publication of these preliminary results.⁷ Interested parties may submit case briefs no later than 30 days after the date

⁶ These 48 exporters are: (1) Ayecue (Liaocheng) Foodstuff Co., Ltd., (2) Blue Field (Sichuan) Food Industrial Co., Ltd., (3) China National Cereals, Oils & Foodstuffs Import & Export Corp., (4) China Processed Food Import & Export Co., (5) Dalian J&N Foods Co., Ltd., (6) Dezhou Kaihang Agricultural Science Technology Co., Ltd., (7) Dujiangyan Xingda Foodstuff Co., Ltd., (8) Fujian Dongshan Changlong Trade Co., Ltd., (9) Fujian Golden Banyan Foodstuffs Industrial Co., Ltd., (10) Fujian Haishan Foods Co., Ltd., (11) Fujian Pinghe Baofeng Canned Foods, (12) Fujian Tongfa Foods Group Co., Ltd., (13) Fuzhou Sunshine Imp. & Exp. Co., Ltd., (14) Fujian Yuxing Fruits and Vegetables Foodstuffs Development Co., Ltd., (15) Fujian Zishan Group Co., Ltd., (16) Golden Banyan Foodstuffs Co., Ltd., (17) Guangxi Eastwing Trading Co., Ltd., (18) Guangxi Hengyong Industrial & Commercial Dev. Ltd., (19) Guangxi Jisheng Foods, Inc., (20) Inter-Foods (Dongshan) Co., Ltd., (21) Longhai Guangfa Food Co., Ltd., (22) Longhai Jiasheng Food Co., Ltd., (23) Primera Harvest (Xiangfan) Co., Ltd., (24) Qingdao Canned Foods Co., Ltd., (25) Shandong Fengyu Edible Fungus Corporation Ltd., (26) Shandong Jiufa Edible Fungus Corporation, Ltd., (27) Shandong Yinfeng Rare Fungus Corporation, Ltd., (28) Synehon (Xiamen) Trading Co., Ltd., (29) Sun Wave Trading Co., Ltd., (30) Xiamen Carre Food Co., Ltd., (31) Xiamen Choice Harvest Imp., (32) Xiamen Greenland Import & Export Co., Ltd., (33) Xiamen Gulong Import & Export Co., Ltd., (34) Xiamen Gulong Import Export Co. Ltd., (35) Xiamen Jiahua Import & Export Trading Co., Ltd., (36) Xiamen Longhuai Import & Export Co., Ltd., (37) Xiamen Sungiven Import & Export Co., Ltd., (38) Xiamen Yubang Import Export Trading Co. Ltd., (39) Zhangzhou Golden Banyan Foodstuffs Industrial Co., Ltd., (40) Zhangzhou Lixing Imp. & Exp. Trade Co., Ltd., (41) Zhangzhou Long Mountain Foods Co., Ltd., (42) Zhangzhou Tan Co., Ltd., (43) Zhangzhou Tianbaolong Food Co., Ltd., (44) Zhangzhou Tongfa Foods Industry Co., Ltd., (45) Zhangzhou Yuxing Imp. & Exp. Trading Co., Ltd., (46) Zhangzhou Xiangcheng Rainbow & Greenland Food Co., Ltd., (47) Zhejiang Iceman Food Co., Ltd., and (48) Zhejiang Iceman Group Co., Ltd.

⁷ See 19 CFR 351.224(b).

of publication of the preliminary results.⁸ Rebuttals to case briefs may be filed no later than five days after the deadline for filing case briefs and all rebuttal comments must be limited to comments raised in the case briefs.⁹ Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹⁰ Case and rebuttal briefs must be filed electronically via ACCESS.¹¹

Any interested party may request a hearing within 30 days of publication of this notice.¹² Hearing requests should contain the following information: (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 case briefs. If a request for a hearing is made, parties will be notified of the date and time for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.¹³

The Department intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any briefs, within 120 days after the publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Assessment Rates

Upon issuing the final results of the review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.¹⁴ The Department intends to issue assessment instructions to CBP 15 days after the date of publication

⁸ See 19 CFR 351.309(c)(ii).

⁹ See 19 CFR 351.309 (d).

¹⁰ See 19 CFR 351.309(c)(2) and (d)(2).

¹¹ See 19 CFR 351.303(b).

¹² See 19 CFR 351.310(c).

¹³ See 19 CFR 351.310(d).

¹⁴ See 19 CFR 351.212(b).

of the final results of review. For any individually examined respondents whose weighted-average dumping margin is above de minimis, we will calculate, where appropriate, either an ad valorem or per-unit assessment rate for each importer (or customer).¹⁵ The per-unit assessment rate will be based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered quantity of those same sales. The ad valorem assessment rate will be based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales.

We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate calculated in the final results of this review is above de minimis. Where either the respondent's weighted-average dumping margin is zero or de minimis, or an importer-specific assessment rate is zero or de minimis, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

On October 24, 2011, the Department announced a refinement to its assessment practice in NME cases.¹⁶ Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the NME-wide rate. In addition, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (i.e., at that exporter's rate) will be liquidated at the PRC-wide rate.¹⁷

¹⁵ In these preliminary results, the Department applied the assessment rate calculation method adopted in Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification, 77 FR 8101 (February 14, 2012).

¹⁶ For a full discussion of this practice, see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties, 76 FR 65694 (October 24, 2011).

¹⁷ See id.

The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

Cash Deposit Requirements

The following cash deposit requirements, when imposed, will apply to all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rates for Kangfa and Gangchang, which both have a separate rate, will be the cash deposit rate established in the final results of this review (except, if the rate is zero or de minimis, then zero cash deposit will be required); (2) for any previously reviewed or investigated PRC and non-PRC exporter not listed above that received a separate rate in a previous segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all PRC exporters that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the PRC-wide entity (i.e., 303.80 percent); and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied the non-PRC exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping

duties occurred and the subsequent assessment of double antidumping duties. We are issuing and publishing these preliminary results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h)(1).

Dated: November 25, 2014.

Ronald K. Lorentzen,
Acting Assistant Secretary
for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

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