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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-851

Certain Preserved Mushrooms from the People's Republic of China: Preliminary Rescission of 2015 Antidumping Duty New Shipper Review

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

SUMMARY: The Department of Commerce (the Department) is conducting a new shipper review (NSR) of the antidumping duty order on certain preserved mushrooms from the People's Republic of China (PRC). The NSR covers merchandise exported by Linyi Yuqiao International Trade Co., Ltd. (Yuqiao) and produced by Linyi City Kangfa Drinkable Co., Ltd. The period of review (POR) is February 1, 2015 through July 31, 2015. The Department preliminarily determines that Yuqiao did not make a *bona fide* sale during the POR. Because any weighted average dumping margin must be based solely on *bona fide* sales, we are preliminarily rescinding this NSR. Interested parties are invited to comment on the preliminary results of this review.

DATES: Effective [Insert date of publication in the *Federal Register*]

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney or Robert James, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4475 and (202) 482-0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 8, 2015, the Department published a notice of initiation of a new shipper review of the antidumping duty order on certain preserved mushrooms from the PRC.¹ The Department subsequently issued an antidumping duty questionnaire, and supplemental questionnaires, to Yuqiao and received timely responses thereto.

The Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal government because of Snowstorm “Jonas.” Thus, all of the deadlines in this segment of the proceeding have been extended by four business days. The revised deadline for the preliminary results of this review, after the four business-day extension, was April 4, 2016.² However, on March 28, 2016, the Department extended the time period for issuing the preliminary results of this NSR by 120 days, until August 2, 2016.³

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

¹ See *Certain Preserved Mushrooms From the People’s Republic of China: Initiation of Antidumping Duty New Shipper Review*, 80 FR 60883 (October 8, 2015) (*Initiation Notice*).

² See Memorandum to the Record from Ron Lorentzen, Acting Assistant Secretary for Enforcement & Compliance, regarding “Tolling of Administrative Deadlines as a Result of the Government Closure during Snowstorm Jonas,” dated January 27, 2016.

³ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Certain Preserved Mushrooms from the People’s Republic of China: Extension of Deadline for the Preliminary Results of Antidumping Duty New Shipper Review,” dated March 28, 2016.

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.⁴

Methodology

The Department is conducting this review in accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum, which is hereby adopted by this notice. 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 (ACCESS). ACCESS is available to registered users at <http://access.trade.gov> and is available in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

⁴ For a complete description of the scope of the order, *see* “Decision Memorandum for the Preliminary Rescission of the 2015 Antidumping Duty New Shipper Review of Certain Preserved Mushrooms from the People’s Republic of China,” from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance (Preliminary Decision Memorandum), dated concurrently with this notice.

Preliminary Rescission of the Antidumping New Shipper Review of Yuqiao

As discussed in the *Bona Fide Sales Analysis Memorandum*,⁵ the Department preliminarily finds that the sale made by Yuqiao is not a *bona fide* sale. The Department reached this conclusion based on its consideration of the totality of the circumstances surrounding the reported sale, including the timing of Yuqiao's one U.S. sale, the importer's lateness in paying Yuqiao, and other elements relating to the atypical behavior of all parties in the transaction chain. These factors indicate that Yuqiao's single U.S. sale is not representative of normal business practices and, thus, is not a *bona fide* sale.⁶ Because the factual information used in our *bona fides* analysis of Yuqiao's sale involves business proprietary information, for a full discussion of the basis for our preliminary determination *see* the *Bona Fide Sales Analysis Memorandum*.

Public Comment

Interested parties may submit case briefs no later than 30 days after the date of publication of the preliminary results of review.⁷ Rebuttals to case briefs may be filed no later than five days after the due date for the case briefs.⁸ All rebuttal comments must be limited to comments raised in the case briefs.⁹

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement & Compliance, U.S. Department of Commerce, within 30

⁵ See Memorandum to Scot Fullerton, Director, Office VI, AD/CVD Operations, from Michael J. Heaney, Senior International Trade Analyst, Office VI, AD/CVD Operations, entitled "2015 Antidumping Duty New Shipper Review of Certain Preserved Mushrooms From the People's Republic of China: Preliminary *Bona Fide* Sales Analysis for Linyi Yuqiao International Trade Co., Ltd." (*Bona Fide Sales Analysis Memorandum*), dated concurrently with this notice.

⁶ See, generally, *Bona Fide Sales Analysis Memorandum*.

⁷ See 19 CFR 351.309(c)(1)(ii).

⁸ See 19 CFR 351.309(d)(1).

⁹ See 19 CFR 351.309(d)(2).

days after the date of publication of this notice.¹⁰ Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. Oral argument presentations will be limited to issues raised in the briefs. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a date and time to be determined.¹¹ Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

All submissions, with limited exceptions, must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5 p.m. Eastern Time (ET) on the due date. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with the APO/Dockets Unit in Room 18022, and stamped with the date and time of receipt by 5 p.m. ET on the due date.¹²

Unless extended, the Department intends to issue the final results or final rescission of this NSR, which will include the results of its analysis of issues raised in any briefs received, no later than 90 days after the date these preliminary results of review are issued pursuant to section 751(a)(2)(B)(iii) of the Act.

Assessment Rates

If the Department proceeds to a final rescission of Yuqiao's NSR, the assessment rate to which Yuqiao's shipments will be subject will not be affected by this review. However, the Department initiated an administrative review of the antidumping duty order on certain preserved

¹⁰ See 19 CFR 351.310(c).

¹¹ See 19 CFR 351.310(d).

¹² See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011).

mushrooms from the PRC covering numerous exporters, including Yuqiao, for the period of February 1, 2015 through January 31, 2016, which overlaps with the period covered by this NSR.¹³ Thus, if the Department proceeds to a final rescission, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend subject merchandise exported by Yuqiao and entered into the United States during the period February 1, 2015 through January 31, 2016 until CBP receives instructions relating to the administrative review of this order covering that period.

If the Department does not proceed to a final rescission of this new shipper review, pursuant to 19 CFR 351.212(b)(1), we will calculate an importer-specific (or customer-specific) assessment rate based on the final results of this review. However, pursuant to the Department's refinement to its assessment practice in non-market economy cases,¹⁴ for entries that were not reported in the U.S. sales database submitted by Yuqiao, the Department will instruct CBP to liquidate such entries at the PRC-wide rate.

Cash Deposit Requirements

Effective upon publication of the final rescission or the final results of this NSR, the Department will instruct CBP to discontinue the option of posting a bond or security in lieu of a cash deposit for entries of Yuqiao's subject merchandise. If the Department proceeds to a final rescission of this NSR, the cash deposit rate will continue to be the PRC-wide rate for Yuqiao, because the Department will not have determined an individual margin of dumping for Yuqiao. If the Department does not proceed to a final rescission in this NSR, the Department will instruct CBP to collect cash deposits, effective upon the publication of the final results, at the rate established therein.

¹³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 20324, 20338-20240 (April 7, 2016).

¹⁴ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694-95 (October 24, 2011).

Notification to Importers

This notice also 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 Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

August 2, 2016
Date

Appendix I

List of Sections in the Preliminary Decision Memorandum

1. Summary
2. Background
3. Scope of the Order
4. Discussion of the Methodology
5. Conclusion

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