



## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-427-833]

#### Certain Preserved Mushrooms from France: Preliminary Affirmative Determination of Sales at Less Than Fair Value

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that certain preserved mushrooms (preserved mushrooms) from France are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is January 1, 2021, through December 31, 2021. Interested parties are invited to comment on this preliminary determination.

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

FOR FURTHER INFORMATION CONTACT: Christopher Williams, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5166.

#### SUPPLEMENTARY INFORMATION:

##### Background

Commerce initiated this investigation on April 20, 2022.<sup>1</sup> Bonduelle Europe Long Life (Bonduelle) and France Champignon are the mandatory respondents in this investigation. For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.<sup>2</sup> A list of topics included in the Preliminary Decision

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<sup>1</sup> *See Certain Preserved Mushrooms from France, the Netherlands, Poland, and Spain: Initiation of Less-Than-Fair-Value Investigations*, 87 FR 24941 (April 27, 2022) (*Initiation Notice*).

<sup>2</sup> *See* Memorandum, “Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Certain Preserved Mushrooms from France,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

### Scope of the Investigation

The products covered by this investigation are preserved mushrooms from France. For a full description of the scope of this investigation, *see* Appendix I.

### Scope Comments

In accordance with the *Preamble* to Commerce's regulations,<sup>3</sup> we set aside a period of time, as stated in the *Initiation Notice*, for parties to raise issues regarding product coverage (*i.e.*, scope).<sup>4</sup> No interested party commented on the scope of the investigation as it appeared in the *Initiation Notice*. Commerce is not modifying the scope language as it appeared in the *Initiation Notice*. *See* the complete description of the scope in Appendix I to this notice.

### Methodology

Commerce is conducting this investigation in accordance with section 731 of the Tariff Act of 1930, as amended (the Act). Pursuant to section 776(a) of the Act, Commerce has preliminarily relied upon facts otherwise available to assign estimated weighted-average dumping margins to the mandatory respondents in this investigation because neither of the respondents submitted a response to Commerce's antidumping duty questionnaire. Further, Commerce preliminarily determines that these mandatory respondents failed to cooperate by not acting to the best of their abilities to comply with a request for information and is using an adverse inference in selecting from among the facts otherwise available (*i.e.*, applying adverse

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<sup>3</sup> *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

<sup>4</sup> *See Initiation Notice*, 87 FR at 24942.

facts available (AFA)) to these respondents, in accordance with section 776(b) of the Act. For a full description of the methodology underlying our preliminary determination, *see* the Preliminary Decision Memorandum.

#### All-Others Rate

Section 733(d)(1)(ii) of the Act provides that, in the preliminary determination, Commerce shall determine an estimated all-others rate for all exporters and producers not individually investigated in accordance with section 735(c)(5) of the Act. Section 735(c)(5)(A) of the Act states that generally the estimated rate for all others shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act. The estimated weighted-average dumping margins in this preliminary determination were calculated entirely under section 776 of the Act. In cases where no weighted-average dumping margins other than zero, *de minimis*, or those determined entirely under section 776 of the Act have been established for individually examined entities, in accordance with section 735(c)(5)(B) of the Act, Commerce typically calculates a simple average of the margins alleged in the petition and applies the results to all other entities not individually examined.<sup>5</sup>

In the Petitions,<sup>6</sup> Giorgio Goods, Inc. (the petitioner) calculated three estimated dumping margins, 124.41 percent, 188.75 percent and 360.88 percent. Therefore, consistent with our practice, for the all-others rate in this investigation, we preliminarily assigned a simple average of the dumping margins alleged in the Petitions, which is 224.68 percent.<sup>7</sup>

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<sup>5</sup> *See, e.g., Thermal Paper from Spain: Final Determination of Sales at Less Than Fair Value*, 86 FR 54162, 54163 (September 30, 2021), and accompanying Issues and Decision Memorandum.

<sup>6</sup> *See* Petitioner's Letter, "Certain Preserved Mushrooms from France, the Netherlands, Poland, and Spain – Petition for the Imposition of Antidumping Duties," dated March 31, 2022 (Petitions), at Volume II; *see also* Checklist, "AD Investigation Initiation Checklist: Certain Preserved Mushrooms from France," dated April 20, 2022 (Initiation Checklist); and Petitioner's Letter, "Certain Preserved Mushrooms from France, Netherlands, Poland, and Spain – Petitioner's Supplement to Volume II Relating to Request for the Imposition of Antidumping Duties on imports from France," dated April 8, 2022 (Petition Supplemental).

<sup>7</sup> *See* Petitions at Volume II; *see also* Initiation Checklist; and Petition Supplemental.

### Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist during the period January 1, 2021, through December 31, 2021:

<b>Exporter/Producer</b>	<b>Weighted-Average Dumping Margin (percent)</b>
Bonduelle Europe Long Life	360.88
France Champignon	360.88
All Others	224.68

### Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of preserved mushrooms from France, as described in the “Scope of the Investigation” in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*.

We will also instruct CBP, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), to require a cash deposit equal to the margins indicated in the chart above. These suspension of liquidation instructions will remain in effect until further notice.

### Verification

Because the mandatory respondents in this investigation did not act to the best of their abilities to provide information requested by Commerce, and Commerce preliminarily determines each of the mandatory respondents to be uncooperative, we will not conduct verifications.

### Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with a preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of preliminary determination in the *Federal Register*, in accordance with 19 CFR 351.224(b).

However, because Commerce preliminarily applied AFA to each of the mandatory respondents in this investigation, and applied an AFA rate based on the Petitions, there are no calculations to disclose.

### Public Comment

Interested parties are invited to comment on this preliminary determination no later than 30 days after the date of publication of this preliminary determination.<sup>8</sup> Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.<sup>9</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), 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. Commerce has modified certain of its requirements for serving documents containing business proprietary information until further notice.<sup>10</sup>

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice in the *Federal Register*. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants and whether any participant is a foreign national; and (3) a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

### Final Determination

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<sup>8</sup> See 19 CFR 351.309(c)(1)(i); *see also* 19 CFR 351.303 (for general filing requirements).

<sup>9</sup> See 19 CFR 351.309(d); *see also* 19 CFR 351.303 (for general filing requirements).

<sup>10</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

Section 735(a)(1) of the Act and 19 CFR 351.210(b)(1) provide that Commerce will issue the final determination within 75 days after the date of its preliminary determination. Accordingly, Commerce will make its final determination no later than 75 days after the signature date of this preliminary determination.

#### U.S. International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of our affirmative preliminary 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.

#### Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: September 7, 2022.

Lisa W. Wang,  
Assistant Secretary  
for Enforcement and Compliance.

## **Appendix I**

### **Scope of the Investigation**

The merchandise covered by this investigation is certain preserved mushrooms, whether imported whole, sliced, diced, or as stems and pieces. The preserved mushrooms covered under this investigation are the genus *Agaricus*. “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 heat sterilized in containers each holding a net drained weight of not more than 12 ounces (340.2 grams), 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.

Excluded from the scope are “marinated,” “acidified,” or “pickled” mushrooms, which are prepared or preserved by means of vinegar or acetic acid, but may contain oil or other additives. To be prepared or preserved by means of vinegar or acetic acid, the merchandise must be a minimum 0.5 percent by weight acetic acid.

The merchandise subject to this investigation is classifiable under subheadings 2003.10.0127, 2003.10.0131, and 2003.10.0137 of the Harmonized Tariff Schedule of the United States (HTSUS). The subject merchandise may also be classified under HTSUS subheadings 2003.10.0143, 2003.10.0147, and 2003.10.0153. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

## **Appendix II**

### **List of Topics Discussed in the Preliminary Decision Memorandum**

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Application of Facts Available, Use of Adverse Inference, and Calculation of All-Others Rate
- V. Recommendation

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