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A-560-802; A-570-851
Sunset Review
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MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh *CM*
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Results of the Expedited Third Sunset Reviews of the Antidumping Duty Orders on Certain Preserved Mushrooms from Chile, India, Indonesia, and the People's Republic of China

Summary

We analyzed the responses of the domestic interested parties in the third sunset reviews of the antidumping duty orders covering certain preserved mushrooms (mushrooms) from Chile, India, Indonesia, and the People's Republic of China (PRC). No respondent interested party submitted a substantive response. Accordingly, we conducted expedited (120-day) sunset reviews. We recommend that you approve the positions described in the Discussion of the Issues section of this memorandum. The following is a list of the issues in these sunset reviews for which we received substantive responses:

1. Likelihood of Continuation or Recurrence of Dumping
2. Magnitude of the Margins Likely to Prevail

Background

On March 2, 2015, the Department of Commerce (the Department) published the notice of initiation of the third sunset reviews of the antidumping duty orders on mushrooms from Chile, India, Indonesia, and the PRC, pursuant to section 751(c) of the Tariff Act 1930, as amended (the Act).¹ On March 17, 2015, we received a notice of intent to participate from L.K. Bowman Company, a division of Hanover Foods Corporation, Monterey Mushrooms, Inc., and The Mushroom Company (formerly Mushroom Canning Company) (collectively "the petitioners").²

¹ See Initiation of Five-Year ("Sunset") Review, 80 FR 11164 (March 2, 2015).

² See March 17, 2015, letter regarding "Five-Year ("Sunset") Review of the Antidumping Duty Orders on Certain



The petitioners claimed interested party status under section 771(9)(C) of the Act, as manufacturers of a domestic like product in the United States. On April 1, 2015, we received adequate substantive responses from the petitioners within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).³ We received no substantive responses from any respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted expedited (120-day) sunset reviews of the antidumping duty orders on mushrooms from Chile, India, Indonesia, and the PRC.

Scope of the Orders

The merchandise subject to the orders is certain preserved mushrooms, whether imported whole, sliced, diced, or as stems and pieces. The preserved mushrooms covered under these orders 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 these orders 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 these orders 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 the orders is classifiable under subheadings: 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, 2003.10.0153, 0711.51.0000, 0711.90.4000, 2003.10.0027, 2003.10.0031, 2003.10.0037, 2003.10.0043 and 2003.10.0047 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of these orders is dispositive.

History of the Orders

Chile

On October 22, 1998, the Department published its final determination in the less-than-fair-value

Preserved Mushrooms from Chile, India, Indonesia, and the People’s Republic of China - Notice of Intent to Participate.

³ See April 1, 2015, letters from the petitioners regarding Five-Year (3rd Sunset) Review of the Antidumping Duty Orders on Certain Preserved Mushrooms from Chile, India, Indonesia, and the People’s Republic of China Substantive Response (Chile Substantive Response, India Substantive Response, (Indonesia Substantive Response and the PRC Substantive Response, respectively).

(LTFV) investigation of mushrooms from Chile.⁴ On December 2, 1998, the Department published the antidumping duty order on mushrooms from Chile.⁵ For Chile, the Department found the following dumping margins:

| | |
|-------------------------------------|--------|
| Nature's Farm Products (Chile) S.A. | 148.51 |
| All-Others Rate | 148.51 |

The Department has twice continued the order as a result of prior sunset reviews.⁶ Since the most recent continuation of the order, the Department has not conducted any reviews of the order. The order remains in effect for all producers/exporters from Chile.

India

On December 31, 1998, the Department published its final determination in the LTFV investigation of mushrooms from India.⁷ On February 19, 1999, the Department published the amended final determination and antidumping duty order on mushrooms from India.⁸ For India, the Department found the following dumping margins:

| | |
|------------------------|--------|
| Agro Dutch Foods Ltd. | 6.28 |
| Ponds (India) Ltd. | 14.91 |
| Alpine Biotech Ltd. | 243.87 |
| Mandeep Mushrooms Ltd. | 243.87 |
| All-Others Rate | 11.30 |

The Department has twice continued the order as a result of prior sunset reviews.⁹ Since the most recent continuation of the order, the Department completed one administrative review of the order covering the period February 1, 2011 through January 21, 2012. In the final results of the administrative review, the Department applied total adverse facts available to Agro Dutch

⁴ See Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from Chile, 63 FR 56613 (October 22, 1998) (Chile Final Determination).

⁵ See Notice of Antidumping Duty Order: Certain Preserved Mushrooms from Chile, 63 FR 66529 (December 2, 1998).

⁶ See Notice of Final Results of Expedited Sunset Reviews of Antidumping Duty Orders on Certain Preserved Mushrooms from Chile, India, Indonesia, and the People's Republic of China, 69 FR 11384 (March 10, 2004) (First Sunset Final); Continuation of Antidumping Duty Orders on Certain Preserved Mushrooms from Chile, the People's Republic of China, India, and Indonesia, 69 FR 67308 (November 17, 2004) (2004 Continuation Notice); Certain Preserved Mushrooms from Chile, India, Indonesia and the People's Republic of China: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders, 74 FR 67170 (December 18, 2009) (Second Sunset Final); and Certain Preserved Mushrooms from Chile, the People's Republic of China, India, and Indonesia: Notice of Continuation of Antidumping Duty Orders, 75 FR 22369 (April 28, 2010) (2010 Continuation Notice).

⁷ See Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from India, 63 FR 72246 (December 31, 1998).

⁸ See Notice of Amendment of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Preserved Mushrooms from India, 64 FR 8311 (February 19, 1999) (India Amended Final Determination).

⁹ See First Sunset Final; 2004 Continuation Notice; Second Sunset Final; and 2010 Continuation Notice.

Foods Ltd. and found a dumping margin of 114.76 percent.¹⁰ The Department is currently conducting an administrative review covering the period February 1, 2014 through January 31, 2015. The order remains in effect for all producers/exporters from India.

Indonesia

On December 31, 1998, the Department published its final determination in the LTFV investigation of mushrooms from Indonesia.¹¹ On February 19, 1999, the Department published the antidumping duty order on mushrooms from Indonesia.¹² For Indonesia, the Department found the following dumping margins:

| | |
|--|-------|
| PT Dieng Djaya/PT Surya Jaya Abadi Perkasa | 7.94 |
| PT Zeta Agro Corporation | 22.84 |
| All-Others Rate | 11.26 |

The Department has twice continued the order as a result of prior sunset reviews.¹³ Since the most recent continuation of the order, the Department has not conducted any reviews of the order. The order remains in effect for all producers/exporters from Indonesia other than PT Zeta Agro Corporation, which was excluded from the order.¹⁴

PRC

On December 31, 1998, the Department published its final determination in the LTFV investigation of mushrooms from the PRC.¹⁵ On February 19, 1999, the Department published an amended final determination and antidumping duty order on mushrooms from the PRC.¹⁶ For the PRC, the Department found the following dumping margins:

| | |
|---|--------|
| China Processed Food I&E Co./Xiamen Jiahua I&E Trading Company, Ltd. (COFCO) | 121.47 |
| Tak Fat Trading Co. | 162.47 |
| Shenzhen Cofry Cereals, Oils, & Foodstuffs Co., Ltd. | 151.15 |
| Gerber (Yunnan) Food Co. | 142.11 |

¹⁰ See Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 12034 (February 21, 2013).

¹¹ See Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from Indonesia, 63 FR 72268 (December 31, 1998).

¹² See Notice of Antidumping Duty Order: Certain Preserved Mushrooms from Indonesia, 64 FR 8310 (February 19, 1999).

¹³ See First Sunset Final; 2004 Continuation Notice; Second Sunset Final; and 2010 Continuation Notice.

¹⁴ See Certain Preserved Mushrooms from Indonesia: Final Results of Antidumping Duty Administrative Review and Final Determination to Revoke Order in Part, 68 FR 39521 (July 2, 2003).

¹⁵ See Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China, 63 FR 72255 (December 31, 1998).

¹⁶ 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 (February 19, 1999).

| | |
|--|--------|
| Jiangsu Cereals,Oils & Foodstuffs Group Import & Export Corporation | 142.11 |
| Fujian Provincial Cereals, Oils & Foodstuffs I&E Corp. | 142.11 |
| Putian Cannery Fujian Province | 142.11 |
| Xiamen Gulong I&E Co., Ltd. | 142.11 |
| General Canned Foods Factory of Zhangzhou | 142.11 |
| Zhejiang Cereals, Oils & Foodstuffs I&E Corp. | 142.11 |
| Shanghai Foodstuffs I&E Corp. | 142.11 |
| Canned Goods Co. of Raoping | 142.11 |
| PRC-wide Rate | 198.63 |

The Department has twice continued the order as a result of prior sunset reviews.¹⁷ As detailed below, since the most recent continuation of the order, the Department has conducted numerous administrative and new shipper reviews of the order.

Final margins from the amended final results covering the February 1, 2009 through January 31, 2010, period of review were:¹⁸

| | |
|--|--------|
| Blue Field (Sichuan) Food Industrial Co., Ltd. | 2.17 |
| Guangxi Jisheng Foods, Inc. | 266.13 |
| Xiamen International Trade & Industrial Co., Ltd. | 5.76 |
| Ayecue (Liaocheng) Foodstuff Co., Ltd. | 76.12 |
| Fujian Golden Banyan Foodstuffs Industrial Co., Ltd. | 74.14 |
| Shandong Jiufa Edible Fungus Corporation, Ltd. | 76.12 |
| Zhejiang Iceman Group Co., Ltd.. | 74.14 |

Final margins from the amended final results covering the February 1, 2010 through January 31, 2011, period of review were¹⁹

| | |
|--|--------|
| Blue Field | 82.04 |
| Dujiangyan Xingda Foodstuffs Co., Ltd. | 223.74 |
| Ayecue | 304.89 |
| Golden Banyan | 304.89 |

¹⁷ See First Sunset Final; 2004 Continuation Notice; Second Sunset Final; and 2010 Continuation Notice.

¹⁸ See Certain Preserved Mushrooms From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Rescission in Part, 76 FR 28732 (September 14, 2011); Certain Preserved Mushrooms from the People's Republic of China: Amended Final Results of Antidumping Duty Administrative Review, 76 FR 70112, 70113 (November 10, 2011); and Certain Preserved Mushrooms from the People's Republic of China: Notice of Court Decision Not in Harmony with Final Results and Notice of Amended Final Results of the Antidumping Duty Administrative Review: 2009-2010, 79 FR 54961, 54962 (September 15, 2014).

¹⁹ See Certain Preserved Mushrooms From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 77 FR 55808 (September 11, 2012); and Certain Preserved Mushrooms from the People's Republic of China: Notice of Court Decision Not in Harmony with Final Results and Notice of Amended Final Results of the Antidumping Duty Administrative Review: 2010-2011, 79 FR 32219, 32220 (June 4, 2014).

| | |
|--|--------|
| Shandong Jiufa | 304.89 |
| PRC-wide rate (Includes Zhangzhou Golden Banyan Foodstuffs Industrial Co., Ltd.) | 198.63 |

Final margins from the February 1, 2011 through January 31, 2012, period of review were:²⁰

| | |
|---|---------|
| Blue Field (Sichuan) Food Industrial Co., Ltd. | 102.11 |
| PRC-wide entity (including Dujiangyan Xingda Foodstuffs Co., Ltd., Zhejiang Iceman Group Co., Ltd., Ayecue (Liaocheng) Foodstuffs Co., Ltd., and Shandong Jiufa Edible Fungus Corporation, Ltd.) | -308.33 |

Final margins from the February 1, 2012 through January 31, 2013, period of review were:²¹

| | |
|---|--------|
| PRC-wide entity (includes Blue Field (Sichuan) Food Industrial Co., Ltd. (Blue Field)) | 308.33 |
|---|--------|

Final margins from the February 1, 2013 through January 31, 2014, period of review were:²²

| | |
|--|-------|
| Zhangzhou Gangchang Canned Foods Co., Ltd. (Gangchang) | 99.71 |
| Linyi City Kangfa Foodstuff Drinkable Co., Ltd. (Kangfa) | 75.67 |

In both of the new shipper reviews completed since the most recent continuation of the order, the Department found margins of zero.²³

Scope Inquiries, Changed Circumstances Reviews, and Duty Absorption

The Department has not conducted any scope inquiries, changed circumstances reviews, or duty absorption inquiries since the most recent continuation of these orders.

Legal Framework

In accordance with section 751(c)(1) of the Act, the Department is conducting these sunset reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making this determination, the Department shall consider both the weighted-average dumping margins

²⁰ See Certain Preserved Mushrooms From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 34037 (June 6, 2013).

²¹ See Certain Preserved Mushrooms From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013, 79 FR 12150 (March 4, 2014).

²² See Certain Preserved Mushrooms From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013-2014; and Partial Rescission of Review, 80 FR 32355 (June 8, 2015).

²³ See Certain Preserved Mushrooms From the People's Republic of China: Final Results of Antidumping Duty New Shipper Reviews, 76 FR 67146, 67148 (October 31, 2011); and Certain Preserved Mushrooms From the People's Republic of China: Final Results of Antidumping Duty New Shipper Review; 2013-2014, 80 FR 32355 (June 8, 2015).

determined in the investigations and subsequent reviews, and the volume of imports of the subject merchandise for the period before and after the issuance of the orders.

In accordance with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically the Statement of Administrative Action, H.R. Doc. 103-316, vol. 1 (1994) (SAA), the House Report, H. Rep. No. 103-826, pt. 1 (1994) (House Report), and the Senate Report, S. Rep. No. 103-412 (1994) (Senate Report), the Department's determinations of likelihood will be made on an order-wide, rather than company-specific, basis.²⁴ In addition, the Department normally determines that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping when: (a) dumping continued at any level above de minimis after the issuance of the order; (b) imports of the subject merchandise ceased after issuance of the order; or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.²⁵

In addition, as a base period of import volume comparison, it is the Department's practice to use the one-year period immediately preceding the initiation of the investigation, rather than the level of pre-order import volumes, as the initiation of an investigation may dampen import volumes and, thus, skew the comparison.²⁶ Also, when analyzing import volumes for second and subsequent sunset reviews, the Department's practice is to compare import volumes during the year preceding initiation of the underlying investigation to import volumes since the issuance of the last continuation notice.²⁷

Further, section 752(c)(3) of the Act states that the Department shall provide to the ITC the magnitude of the margin of dumping likely to prevail if the orders were revoked. Generally, the Department selects the dumping margins from the final determination in the original investigation, as these rates are the only calculated rates that reflect the behavior of exporters without the discipline of an order in place.²⁸ However, in certain circumstances, a more recently calculated rate may be more appropriate (e.g., "if dumping margins have declined over the life of an order and imports have remained steady or increased, {the Department} may conclude that exporters are likely to continue dumping at the lower rates found in a more recent review.")²⁹

In February 2012, the Department announced it was modifying its practice in sunset reviews

²⁴ See SAA at 879, and House Report at 56.

²⁵ See SAA at 889-90, House Report at 63-64, and Senate Report at 52 for a description of our practice; see also Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871, 18872 (April 16, 1998) (Sunset Policy).

²⁶ See, e.g., Stainless Steel Bar from Germany; Final Results of the Sunset Review of the Antidumping Duty Order, 72 FR 56985 (October 5, 2007), and accompanying Issues and Decision Memorandum at Comment 1.

²⁷ See Ferrovanadium from the People's Republic of China and the Republic of South Africa: Final Results of the Expedited Second Sunset Reviews of the Antidumping Duty Orders, 79 FR 14216 (March 13, 2014), and accompanying Issues and Decision Memorandum.

²⁸ See SAA at 890; see also Persulfates from the People's Republic of China: Notice of Final Results of Expedited Second Sunset Review of Antidumping Duty Order, 73 FR 11868 (March 5, 2008), and accompanying Issues and Decision Memorandum at Comment 2.

²⁹ See SAA at 890-91.

such that it will not rely on weighted-average dumping margins that were calculated using the methodology found to be World Trade Organization (WTO)-inconsistent.³⁰ In the Final Modification for Reviews, the Department stated that “only in the most extraordinary circumstances” would it rely on margins other than those calculated and published in prior determinations.³¹ The Department further stated that apart from the “most extraordinary circumstances,” it would “limit its reliance to margins determined or applied during the five-year sunset period that were not determined in a manner found to be WTO-inconsistent” and that it “may also rely on past dumping margins that were not affected by the WTO-inconsistent methodology, such as dumping margins recalculated pursuant to Section 129 proceedings, dumping margins determined based on the use of total adverse facts available, and dumping margins where no offsets were denied because all comparison results were positive.”³²

Finally, pursuant to section 752(c)(4)(A) of the Act, a dumping margin of zero or de minimis shall not by itself require the Department to determine that revocation of an antidumping duty order would not be likely to lead to a continuation or recurrence of sales at LTFV.³³

Discussion of the Issues

1. Likelihood of Continuation or Recurrence of Dumping

Petitioners’ Comments

The petitioners argue that just as in prior sunset reviews of these orders the Department should determine that revocation of the antidumping duty orders on mushrooms from Chile, India, Indonesia, and the PRC would likely lead to a continuation or recurrence of dumping.

The petitioners argue that since the imposition of the orders, imports of subject merchandise from these countries have either ceased or dramatically declined with continued dumping, and in many instances dumping has continued at levels higher than initially determined.³⁴ According to the petitioners, the record histories of the orders demonstrate that if the orders were revoked it is likely that dumping could continue or recur because the foreign producers and exporters are unable to sell subject merchandise in the United States without dumping.³⁵ With respect to Chile and Indonesia, the petitioners note that, the record of these proceedings remains essentially

³⁰ See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification, 77 FR 8101, 8103 (February 14, 2012) (Final Modification for Reviews).

³¹ Id.

³² Id. at 8109.

³³ See Folding Gift Boxes from the People’s Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order, 72 FR 16765 (April 5, 2007), and accompanying Issues and Decision Memorandum at Comment 1.

³⁴ See Chile Substantive Response at page 10; India Substantive Response at pages 20 and 21; Indonesia Substantive Response at page 12; and the PRC Substantive Response at pages 41 and 42.

³⁵ See Chile Substantive Response at pages 5 - 10; India Substantive Response at pages 5 - 20; Indonesia Substantive Response at pages 5 - 12; and the PRC Substantive Response at pages 7 - 41.

unchanged since the prior two sunset review periods. With respect to India and the PRC, the petitioners note that since the completion of the most recent sunset reviews, the Department has continued to find dumping margins as Indian and Chinese producers and exporters continue to sell at LTFV. In addition, the petitioners point out that the Chilean and Chinese producers and exporters are also subject to antidumping duty orders on mushrooms in other markets.³⁶ The petitioners maintain that such findings of unfair trade practices in other markets by these producers and exporters further support their argument that dumping will likely continue or recur in the United States if the orders are revoked.

Citing to the Department's Sunset Policy, the petitioners conclude that the Department should determine that revocation of an antidumping duty order is inappropriate where: 1) dumping continued at any level above de minimis after the issuance of the order; 2) imports of the subject merchandise ceased after issuance of the order; or 3) dumping was eliminated after the issuance of the order, and import volumes for the subject merchandise declined significantly. In sum, when applying the Sunset Policy guidelines in these reviews, the petitioners argue that record evidence strongly supports the conclusion that dumping of mushrooms by producers and exporters from Chile, India, Indonesia, and the PRC would be likely to continue or recur if the orders were to be revoked.

Department's Position

Consistent with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically the SAA, the House Report, and the Senate Report, the Department's determinations of likelihood will be made on an order-wide basis.³⁷ In addition, the Department normally will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above de minimis after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.³⁸ According to the SAA, "{d}eclining import volumes accompanied by the continued existence of dumping margins after the issuance of an order may provide a strong indication that, absent an order, dumping would be likely to continue, because the evidence would indicate that the exporter needs to dump to sell at pre-order volumes."³⁹

As noted above, when analyzing import volumes for second and subsequent sunset reviews, the Department's practice is to compare import volumes during the year preceding initiation of the underlying investigation (i.e., 1997 for these sunset reviews) to import volumes since the issuance of the last continuation notice. The last continuation notice for these sunset reviews was issued in April 2010.⁴⁰ Therefore, for these sunset reviews we examined import volumes in

³⁶ See Chile Substantive Response at page 14, and the PRC Substantive Response at page 45.

³⁷ See SAA at 879, and House Report at 56.

³⁸ See SAA at 889-90, House Report at 63-64, and Senate Report at 52; see also Sunset Policy, 63 FR at 18872.

³⁹ See SAA at 889.

⁴⁰ See 2010 Continuation Notice.

1997 as compared to import volumes during the sunset review period (i.e., 2010-2014).⁴¹ Furthermore, the Department examined the weighted-average dumping margins in effect to determine whether dumping continued at above de minimis levels during the sunset review period. As noted above, in accordance with the Final Modification for Reviews, the Department did not rely on weighted-average dumping margins that were calculated using a WTO-inconsistent methodology.

Chile: Subsequent to the imposition of the antidumping duty order, imports from Chile ceased and have never resumed.⁴² The complete withdrawal by Chilean producers/exporters from the U.S. market indicates that they are not able to sell subject merchandise in any volumes in the U.S. market under the discipline of the order. In addition, we note that the margins (i.e., 148.51 percent) established in the LTFV investigation remain in effect for all Chilean producers/exporters. Further, we note that the calculation of these margins was WTO-consistent. That is, the calculation was not affected by zeroing because all of the comparison results for the respondent were positive and, therefore, we did not deny offsets when aggregating these results.⁴³ Moreover, the margin calculated for the sole respondent was also assigned as the All-Others rate. Accordingly, pursuant to section 752(c)(1) of the Act, the Department determines that dumping is likely to recur if the order is revoked.

India: The Department examined the ITC Dataweb statistics for the relevant period which shows that imports of mushrooms from India fluctuated between 581,365 kilograms and 11,595,261 kilograms after the completion of the sunset review in 2009.⁴⁴ Although for most of this sunset review period import volumes increased from pre-order levels,⁴⁵ we note that the order remains in effect for all Indian producers/exporters of mushrooms. With the exception of the margin applicable to Agro Dutch Foods Limited, which was subject to the most recently completed review, the margins determined in the underlying investigation remain in effect. Further, we note that the highest of these margins was based on the highest rate in the petition as adverse facts available and, as such, did not involve the denial of offsets. The margin for Agro Dutch established in the most recently completed review also did not involve the denial of offsets. Given that dumping margins continued to exist at levels above de minimis since the last sunset review, the Department finds that dumping would likely continue or recur if the order were revoked, pursuant to section 752(c)(1) of the Act.

Indonesia: The Department examined the ITC Dataweb statistics for the relevant period which shows that imports of mushrooms from Indonesia fluctuated between 4,779,460 kilograms and 2,537,832 kilograms after the completion of the sunset review in 2009.⁴⁶ During this sunset review period, import volumes have steadily declined and are significantly below pre-order

⁴¹ See Attachment.

⁴² Id.

⁴³ See the memorandum entitled "LTFV Investigation Final Determination Margin Calculation," dated concurrently with this determination; and Final Modification for Reviews, 77 FR at 8103.

⁴⁴ See Attachment.

⁴⁵ Id.

⁴⁶ Id.

volumes.⁴⁷ We examined the dumping margins established in the LTFV investigation and subsequent administrative reviews and found that all of these rates were calculated using the zeroing methodology. As explained earlier, the Department normally will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.⁴⁸ Here, the continued decline in import volumes since the imposition of the order demonstrates that Indonesian respondents have not been able to sell at pre-order volumes without dumping. Accordingly, pursuant to section 752(c)(1) of the Act, the Department determines that dumping is likely to continue or recur if the order were revoked.

PRC: The Department examined the ITC Dataweb statistics for the relevant period which shows that imports of mushrooms from the PRC fluctuated between 4,034,406 kilograms and 30,576,016 kilograms after the completion of the second sunset review in 2009.⁴⁹ Although during this sunset review period import volumes remained significantly above pre-order levels for most of the years,⁵⁰ we note that with the exception of COFCO, Tak Fat Trading Co., Gerber (Yunnan) Food Co., and the PRC-wide entity (the rate of which has increased over time), the margins from the underlying investigation remain in effect for the investigated companies. Additionally, we note that the calculation of the PRC-wide rate during the investigation was based on the highest margin alleged in the petition and thus did not involve the denial of offsets. The rate currently assigned to the PRC-wide entity, although assigned as an AFA rate, was based on a company-specific calculation that was not affected by zeroing because all of the comparison results were positive and, therefore, we did not deny offsets when aggregating these results.⁵¹ Finally, in the most recently completed review, which was conducted after the Final Modification for Reviews became effective, the Department continued to calculate above de minimis margins. Therefore, given that dumping margins continued to exist at levels above de minimis since the last sunset review period, the Department finds that dumping would likely continue or recur if the order were revoked, pursuant to section 752(c)(1) of the Act.

2. Magnitude of the Margins Likely to Prevail

Petitioners' Comments

The domestic interested parties request that the Department report to the ITC the dumping margins that were determined in the investigation, as amended, in accordance with the Policy Bulletin. These margins represent the best evidence of the behavior of these producers and exporters without the discipline of the order.

⁴⁷ Id.

⁴⁸ See SAA at 889-90, House Report at 63-64, and Senate Report at 52; see also Sunset Policy, 63 FR at 18872.

⁴⁹ See Attachment.

⁵⁰ Id.

⁵¹ See the memorandum entitled "2010-2011 AR Margin Calculation," dated concurrently with this determination; and Final Modification for Reviews, 77 FR at 8103. See also 2013-2014 Final Results and Partial Rescission.

Department's Position

Pursuant to section 752(c)(3) of the Act and the SAA at 890, the Department normally will provide to the ITC the company-specific margins from the investigation. In non-market-economy (NME) cases, for companies not investigated specifically and which were not found to be eligible for a separate rate, or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the NME-entity rate from the investigation.⁵² The Department's preference for selecting a margin from the LTFV investigation is based on the fact that it is the only calculated rate that reflects the behavior of manufacturers, producers, and exporters without the discipline of an order or suspension agreement in place. Under certain circumstances, however, the Department may select a more recently calculated margin to report to the ITC.

As indicated in the "Legal Framework" section above, the Department's current practice is to not rely on weighted-average dumping margins calculated using the zeroing methodology, consistent with the Final Modification for Reviews. Instead, we may rely on other rates that may be available, or we may recalculate weighted-average dumping margins using our current offsetting methodology in extraordinary circumstances.⁵³ In addition, the Department determines that the rate assigned to the PRC-wide entity which was based on the margin from the petition and did not involve the denial of offsets, is another available rate that we may report to the ITC.

Chile and India: After considering the dumping margins determined in the LTFV investigations and the subsequent administrative reviews, we find that it is appropriate to provide the ITC with the margins determined in the LTFV investigations for the magnitude of the margins likely to prevail because these margins best reflect the behavior of manufacturers, producers, and exporters without the discipline of an order in place. As noted above, the calculations were either not affected by zeroing because all of the comparison results for the respondents were positive and, therefore, we did not deny offsets when aggregating, or were based on rates in the petition as adverse facts available which did not involve the denial of offsets. As a result, we will report to the ITC the margins of dumping likely to prevail listed in the "Final Results of Review" section below.

PRC: After considering the dumping margins determined in the LTFV investigation and the subsequent administrative reviews, we find that it is appropriate to provide the ITC with the margins determined in the LTFV investigation for the magnitude of the margins likely to prevail because these margins best reflect the behavior of manufacturers, producers, and exporters without the discipline of an order in place.⁵⁴ Specifically, the rate assigned to the PRC-wide entity in the investigation was based on the margin from the petition and did not involve the

⁵² See, e.g., Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order, 73 FR 39656 (July 10, 2008), and accompanying Issues and Decision Memorandum at Comment 2.

⁵³ See Final Modification for Reviews, 77 FR at 8103.

⁵⁴ See SAA 890.

denial of offsets. As a result, we will report to the ITC the margins of dumping likely to prevail listed in the “Final Results of Sunset Reviews” section below.

Indonesia: After considering the dumping margins determined in the LTFV investigation and the subsequent administrative reviews, we find that it is appropriate to provide the ITC with the margins determined in the LTFV investigation for the magnitude of the margins likely to prevail because these margins best reflect the behavior of manufacturers, producers, and exporters without the discipline of an order in place. As noted above, the margins were calculated using the zeroing methodology. Therefore, the Department has determined that the rates from the LTFV investigation should be recalculated without using the zeroing methodology. Upon recalculating the rates without zeroing, the Department found above de minimis margins up to 16.24 percent.⁵⁵ As a result, we will report to the ITC the margins of dumping likely to prevail listed in the “Final Results of Review” section below.

Final Results of Sunset Reviews

We determine that revocation of the antidumping duty orders on mushrooms from Chile, India, Indonesia and the PRC would likely lead to continuation or recurrence of dumping and that the magnitude of the dumping margins likely to prevail would be weighted-average margins up to the following percentages:

| <u>Country</u> | <u>Weighted-Average Margin (Percent)</u> |
|----------------|--|
| Chile | 148.51 |
| India | 243.87 |
| Indonesia | 16.24 |
| PRC | 198.63 |

⁵⁵ See the memorandum entitled “Recalculation of the LTFV Investigation Final Margins,” dated concurrently with this determination; and Final Modification for Reviews, 77 FR at 8103.

Recommendation

Based on our analysis of the responses received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of the sunset reviews in the Federal Register.

Agree _____

Disagree _____



Paul Piquado
Assistant Secretary
for Enforcement and Compliance

30 JUNE 2015

(Date)

Attachment

Mushrooms: First Unit of Quantity by Country Name, HTS Number and First Unit of Quantity for Chile, China, India and Indonesia

U.S. Imports for Consumption

Annual x Year-To-Date Data from Jan - Feb

| Country | HTS Number | QTY | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2014 YTD | 2015 YTD | | |
|------------------|------------|-----------|------------|------------|------------|------------|------------|-----------|------------|------------|------------|------------|------------|------------|-----------|-----------|-----------|------------|-----------|-----------|-----------|----------|----------|---|---|
| Chile | 2003100037 | Mushrooms | 91,980 | 0 | 26,455 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| | 2003100047 | Mushrooms | 11,221 | 0 | 173,587 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| Total QTY | | | 103,201 | 0 | 199,937 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| China | 711510000 | Mushrooms | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| | 711594000 | Mushrooms | 346,650 | 26,217 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| | 2003100017 | Mushrooms | 441,357 | 662,706 | 350,334 | 42,996 | 195,997 | 186,173 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2003100011 | Mushrooms | 3,849,344 | 4,610,223 | 2,104,090 | 0 | 196,704 | 789,565 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2003100013 | Mushrooms | 7,290,879 | 8,197,417 | 6,732,718 | 23,207 | 825,858 | 4,993,665 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2003100043 | Mushrooms | 465,316 | 847,416 | 656,037 | 25,211 | 202,785 | 166,438 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2003100047 | Mushrooms | 2,334,940 | 1,823,100 | 2,588,237 | 30,502 | 291,763 | 223,077 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2003100127 | Mushrooms | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2003100131 | Mushrooms | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2003100143 | Mushrooms | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2003100147 | Mushrooms | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2003100153 | Mushrooms | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Total QTY | | | 147,848 | 181,670 | 124,141 | 12,818 | 172,835 | 585,585 | 934,157 | 218,544 | 276,687 | 27,403 | 209,460 | 357,911 | 378,296 | 386,753 | 407,616 | 282,723 | 280,442 | 625,318 | 407,406 | 600,19 | 17,907 | | |
| India | 71194000 | Mushrooms | 13,223 | 0 | 2,776 | 0 | 22,296 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| | 2003100017 | Mushrooms | 195,082 | 300,612 | 275,979 | 185,272 | 596,635 | 360,731 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| | 2003100011 | Mushrooms | 597,753 | 913,913 | 986,159 | 1,670,912 | 1,769,971 | 1,381,298 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2003100013 | Mushrooms | 578,548 | 774,677 | 1,096,778 | 3,422,992 | 2,415,859 | 1,507,293 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2003100043 | Mushrooms | 0 | 95,041 | 132,747 | 999,428 | 1,039,586 | 354,927 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2003100047 | Mushrooms | 150,527 | 647,002 | 332,495 | 2,114,922 | 3,182,615 | 2,782,164 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2003100127 | Mushrooms | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2003100131 | Mushrooms | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2003100137 | Mushrooms | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2003100143 | Mushrooms | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2003100147 | Mushrooms | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2003100153 | Mushrooms | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Total QTY | | | 1,535,203 | 2,232,231 | 2,231,544 | 4,303,528 | 9,027,182 | 6,386,400 | 10,824,159 | 12,251,659 | 15,281,986 | 12,298,626 | 13,207,449 | 12,469,847 | 9,246,717 | 6,040,056 | 7,149,148 | 11,595,281 | 4,240,066 | 1,085,475 | 581,288 | 204,232 | 23,346 | | |
| Indonesia | 71194000 | Mushrooms | 0 | 0 | 48,912 | 8,028 | 0 | 12,418 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| | 2003100017 | Mushrooms | 719,252 | 972,665 | 532,732 | 687,295 | 969,139 | 465,419 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| | 2003100011 | Mushrooms | 2,732,106 | 3,708,764 | 3,338,679 | 3,215,678 | 2,813,586 | 3,343,232 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| | 2003100013 | Mushrooms | 7,808,567 | 6,704,749 | 7,237,594 | 7,471,438 | 6,579,984 | 5,600,963 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| | 2003100043 | Mushrooms | 20,488 | 16,545 | 0 | 17,418 | 68,576 | 69,466 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| | 2003100047 | Mushrooms | 23,307 | 50,376 | 74,728 | 167,315 | 38,351 | 47,609 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| | 2003100127 | Mushrooms | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| | 2003100131 | Mushrooms | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| | 2003100137 | Mushrooms | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| | 2003100143 | Mushrooms | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| | 2003100147 | Mushrooms | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| | 2003100153 | Mushrooms | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| Total QTY | | | 11,243,893 | 10,953,099 | 11,231,284 | 11,573,119 | 12,219,606 | 9,744,641 | 10,245,246 | 10,883,310 | 10,781,608 | 10,848,054 | 6,972,089 | 4,586,231 | 9,221,152 | 8,176,588 | 4,779,460 | 3,613,555 | 2,728,961 | 2,713,486 | 2,577,823 | 316,660 | 372,522 | | |

Source: Data on the site have been compiled from HTS and trade data from the U.S. Department of Commerce and the U.S. International Trade Commission.