



A-570-851
AR: 2/1/2013 – 1/31/2014
Public Document
E&C VI: MJH

November 25, 2014

MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for the Preliminary Results in the
Administrative Review: Certain Preserved Mushrooms from the
People's Republic of China; 2013/2014

SUMMARY

In response to requests from interested parties, 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 of review (POR) of February 1, 2013, through January 31, 2014. We preliminarily determine that U.S. sales made by Linyi City Kangfa Foodstuff Drinkable Co., Ltd. (Kangfa) and Zhangzhou Gangchang Canned Foods Co., Ltd. (Gangchang) were below normal value (NV).

If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. We will issue final results no later than 120 days from the date of publication of the preliminary results notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act).

Background

On February 19, 1999, the Department published in the Federal Register the antidumping duty order on certain preserved mushrooms (Mushrooms) from the PRC.¹ On February 3, 2014, the Department published in the Federal Register its notice of opportunity to request an administrative review of the antidumping duty order on Mushrooms from the PRC.² On April 1, 2014, the Department published in the Federal Register a notice of initiation of the antidumping

¹ 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) the Order).

² See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity to Request Administrative Review, 77 FR 6159 (February 3, 2014).



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.³

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. On June 2, 2014, Kangfa and Gangchang also submitted separate rate certifications.⁴ On October 31, 2014, we extended the deadline for issuing our preliminary results by 25 days, until November 25, 2014.⁵

Respondent Selection

Section 777A(c)(1) of the Tariff Act of 1930, as amended (“the Act”), directs the Department to calculate individual dumping margins for each known exporter or producer of the subject merchandise. However, section 777A(c)(2) of the Act gives the Department discretion to limit its examination to a reasonable number of exporters or producers if it is not practicable to examine all exporters or producers involved in the review.

On April 8, 2014, the Department released U.S. Customs and Border Protection (“CBP”) data for entries of the subject merchandise during the period of review (“POR”) under administrative protective order (“APO”) to all interested parties having an APO, inviting comments regarding the CBP data and respondent selection. The Department received comments from Monterrey Mushrooms (a domestic interested party), on April 17, 2014.⁶

Based on the large number of potential exporters or producers involved in this administrative review and, after considering our resources, we determined that it was not practicable to individually examine all 52 companies. Accordingly, on May 23, 2014, we issued a respondent selection memorandum indicating that, pursuant to section 777A(c)(2)(B) of the Act, we could reasonably examine only the two largest exporters of subject merchandise by volume. Therefore, we selected Kangfa and Gangchang as mandatory respondents.⁷

³ See Initiation of Antidumping and Countervailing Duty Administrative Reviews, Request for Revocation in Part, 79 FR 18262 (April 1, 2014) (“Initiation Notice”).

⁴ See Kangfa June 2, 2014 Separate Rate Certification (Kangfa Certification); see also Gangchang June 2, 2014 Separate Rate Certification (Gangchang Certification).

⁵ See Memorandum from Michael J. Heaney to Christian Marsh, regarding “Certain Preserved Mushrooms from the People’s Republic of China: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review,” dated October 29, 2014.

⁶ See Letter from Monterrey Mushrooms to Secretary of Commerce, Re: 15th Administrative Review of the Antidumping Duty Order on Certain Preserved Mushrooms from the People’s Republic of China—Petitioner’s Comments on Respondent Selection and CBP Entry Data, dated April 17, 2014.

⁷ 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.

Information and Comment Submitted in this Review

We issued antidumping questionnaires to Kangfa and Gangchang on May 28, 2014.⁸ On June 2, 2014, Kangfa and Gangchang each filed a separate rate certification.⁹ On July 9, 2014 Kangfa and Gangchang filed their respective Section A responses to the Antidumping Questionnaires.¹⁰ On July 21, 2014, Kangfa and Gangchang filed their respective Section C responses to the Antidumping Questionnaires.¹¹ On July 28, 2014, Kangfa and Gangchang filed their respective Section D responses to Antidumping Questionnaires.¹² On August 4 and August 8, 2014, Monterrey Mushrooms filed comments concerning the completeness of Kangfa and Gangchang's reporting of U.S. sales and the accuracy of Kangfa's reported factors of production.¹³ Additionally, on August 14, 2014 Monterrey Mushrooms filed comments on Kangfa's and Gangchang's Section C and D responses.¹⁴ On August 20, 2014, we issued supplemental questionnaires to Kangfa and Gangchang.¹⁵ On September 15, 2014, Monterrey Mushrooms filed comments regarding surrogate values to be used in this review.¹⁶ Kangfa and Gangchang filed their responses to our August 19, 2014 supplemental questionnaire on September 17,

⁸ See Letter from Robert James to Linyi City Kangfa Foodstuff Drinkable Co., Ltd., dated May 28, 2014; see also Letter from Robert James to Zhangzhou Gangchang Canned Foods Co., Ltd., dated May 28, 2014 (Antidumping Questionnaires).

⁹ See Kangfa Certification; see also Gangchang Certification.

¹⁰ See July 9, 2014 letter from Linyi City Kangfa Foodstuff Drinkable Co., Ltd. to Secretary of Commerce: Re: Certain Preserved Mushrooms the People's Republic of China: Submission of Kangfa's Section A Response (Kangfa Section A response); see also July 9, 2014 letter from Zhangzhou Gangchang Canned Foods Co., Ltd. to Secretary of Commerce: Re: Certain Preserved Mushrooms from the People's Republic of China: Submission of Zhangzhou Gangchang's Section A Response (Gangchang Section A response).

¹¹ See July 9, 2014 letter from Linyi City Kangfa Foodstuff Drinkable Co., Ltd. to Secretary of Commerce: Re: Certain Preserved Mushrooms the People's Republic of China: Submission of Linyi City Kangfa Foodstuff Drinkable Co., Ltd.'s Section C Response (Kangfa Section C response); see also July 9, 2014 letter from Zhangzhou Gangchang Canned Foods Co., Ltd. to Secretary of Commerce: Re: Certain Preserved Mushrooms from the People's Republic of China: Submission of Zhangzhou Gangchang's Section C Response (Gangchang Section C response).

¹² See July 28, 2014 letter from Linyi City Kangfa Foodstuff Drinkable Co., Ltd. to Secretary of Commerce: Re: Certain Preserved Mushrooms the People's Republic of China: Submission of Linyi City Kangfa Foodstuff Drinkable Co., Ltd.'s Section D Response (Kangfa Section D response); see also July 28, 2014 letter from Zhangzhou Gangchang Canned Foods Co., Ltd. to Secretary of Commerce: Re: Certain Preserved Mushrooms from the People's Republic of China: Submission of Zhangzhou Gangchang's Section D Response (Gangchang Section D response).

¹³ See August 4, 2014 letter from Monterrey Mushrooms to Secretary of Commerce Re: 15th Administrative Review of Certain Preserved Mushrooms from the People's Republic of China- Petitioner's Submission of Publicly Available Information in Support of Request to Investigate Discrepancies in Shipment Volumes by Mandatory Respondents; see also August 8, 2014 letter from Monterrey Mushrooms to Secretary of Commerce Re: 15th Administrative Review of Certain Preserved Mushrooms from the People's Republic of China- Petitioner's Submission of New Factual Information to Rebut and Clarify Respondents' Claimed Factors of Production.

¹⁴ See August 14, 2014 letter from Monterrey Mushrooms to Secretary of Commerce Re: 15th Administrative Review of Certain Preserved Mushrooms from the People's Republic of China- Deficiency Questions.

¹⁵ See Letter from Robert James to Linyi City Kangfa Foodstuff Drinkable Co., Ltd., dated August 20, 2014; see also Letter from Robert James to Zhangzhou Gangchang Canned Foods Co., Ltd., dated August 20, 2014 (First Supplemental Antidumping Questionnaires).

¹⁶ See Letter from Monterrey Mushrooms to Secretary of Commerce: Re: Certain Preserved Mushrooms from the People's Republic of China—Petitioner Comments and Information Regarding Surrogate Values (Petitioner Surrogate Value Comments), dated September 15, 2014.

2014.¹⁷ On September 26, 2014 Monterrey Mushrooms submitted comments on Kangfa's and Gangchang's first supplemental responses.¹⁸ On September 30, 2014, the Department issued a second supplemental questionnaire to both Kangfa and Gangchang.¹⁹ Kangfa and Gangchang submitted their response to our September 30, 2014 questionnaire on October 16, 2014 and October 17, 2014 respectively.²⁰ Finally, on November 7, 2014 and November 14, 2014, both Monterrey Mushrooms and Kanga and Gangchang submitted respective comments in advance of the Preliminary Results.²¹

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.²²

¹⁷ See September 17, 2014 letter from Linyi City Kangfa Foodstuff Drinkable Co., Ltd. to Secretary of Commerce: Re: Certain Preserved Mushrooms the People's Republic of China: Submission of Linyi City Kangfa Foodstuff Drinkable Co., Ltd.'s Supplemental Response (Kangfa First Supplemental response); see also September 17, 2014 letter from Zhangzhou Gangchang Canned Foods Co., Ltd. to Secretary of Commerce: Re: Certain Preserved Mushrooms from the People's Republic of China: Submission of Zhangzhou Gangchang's Supplemental Response (Gangchang First Supplemental response).

¹⁸ See September 26, 2014 letter from Monterrey Mushrooms to Secretary of Commerce Re: 15th Administrative Review of Certain Preserved Mushrooms from the People's Republic of China-Petitioner's Comments Regarding Continuing Deficiencies in Respondents Questionnaire Responses.

¹⁹ See Letter from Robert James to Linyi City Kangfa Foodstuff Drinkable Co., Ltd., dated September 30, 2014; see also Letter from Robert James to Zhangzhou Gangchang Canned Foods Co., Ltd., dated September 30, 2014 (Second Supplemental Antidumping Questionnaires).

²⁰ See October 16, 2014 letter from Linyi City Kangfa Foodstuff Drinkable Co., Ltd. to Secretary of Commerce: Re: Certain Preserved Mushrooms the People's Republic of China: Submission of Linyi City Kangfa Foodstuff Drinkable Co., Ltd.'s Supplemental Response (Kangfa Second Supplemental response); see also October 17, 2014 letter from Zhangzhou Gangchang Canned Foods Co., Ltd. to Secretary of Commerce: Re: Certain Preserved Mushrooms from the People's Republic of China: Submission of Zhangzhou Gangchang's Supplemental Response (Gangchang Second Supplemental response).

²¹ See November 7, 2014 letter from Monterrey Mushrooms to Secretary of Commerce Re: 15th Administrative Review of Certain Preserved Mushrooms from the People's Republic of China-Petitioner's Comments in Advance of Preliminary Results; see also November 14, 2014 letter from Linyi City Kangfa Foodstuff Drinkable Co., Ltd. and Zhangzhou Gangchang Canned Foods Co., Ltd. to Secretary of Commerce: Re: Certain Preserved Mushrooms from China: Pre-preliminary Comments.

²² On June 19, 2000, the Department affirmed that "marinated," "acidified," or "pickled" mushrooms containing less than 0.5 percent acetic acid are within the scope of the antidumping duty order. See Recommendation Memorandum-Final Ruling of Request by Tak Fat, et al. for Exclusion of Certain Marinated, Acidified Mushrooms from the Scope of the Antidumping Duty Order on Certain Preserved Mushrooms from the People's Republic of China," dated June 19, 2000. On February 9, 2005, the United States Court of Appeals for the Federal Circuit upheld this decision. See Tak Fat v. United States, 396 F.3d 1378 (Fed. Cir. 2005).

Excluded from the scope of this order 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 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.

DISCUSSION OF THE METHODOLOGY

Non-Market Economy Country Status

The Department considers the PRC to be a non-market economy (NME) country.²³ In accordance with section 771(18)(C)(i) of the Act any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. Therefore, we continue to treat the PRC as an NME country for purposes of these preliminary results.

Preliminary Determination of No Shipments

As discussed in the “Background” section above, XITIC and Zhangzhou Hongda filed no-shipment certifications indicating that they did not export subject merchandise to the United States during the POR.²⁴ On October 17, 2014, the Department sent an inquiry to CBP to determine whether CBP entry data are consistent with the no-shipment certifications XITIC and Zhangzhou Hongda provided,²⁵ and received no information contrary to those certifications. Because CBP only responds to the Department’s inquiry when there are records of shipments from the company in question²⁶ and because no party submitted comments, we preliminarily determine that XITIC and Zhangzhou Hongda had no shipments during the POR. Based on XITIC’s and Zhangzhou Hongda’s certifications, and our analysis of the CBP information, we preliminarily determine that XITIC and Zhangzhou Hongda did not have any reviewable entries during the POR.

²³ See, e.g., Certain Kitchen Appliance Shelving and Racks From the People’s Republic of China: Preliminary Results of the First Administrative Review, Preliminary Rescission, in Part, and Extension of Time Limits for the Final Results, 76 FR 62765, 62767-8 (October 11, 2011), unchanged in Final Results, 77 FR 21734 (April 12, 2012).

²⁴ See June 2, 2014 letter from Xiamen Trade & Industrial Co., Ltd. to Secretary of Commerce, Re: Certain Preserved Mushrooms from the People’s Republic of China: Statement of No Shipments; see also Letter from Zhangzhou Hongda Import & Export Co., Ltd. to Secretary of Commerce, Re: Certain Preserved Mushrooms from the People’s Republic of China: Statement of No Shipments, dated June 2, 2014.

²⁵ The Department did not inquire to determine if CBP data were consistent with no shipment certifications of the six other firms that filed them because they did not have separate rate status.

²⁶ See Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Flat Products From Brazil: Notice of Rescission of Antidumping Duty Administrative Review, 75 FR 65453, 65454 (October 25, 2010); Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan: Notice of Intent to Rescind Administrative Review, 74 FR 3559, 3560 (January 21, 2009); and Certain In-Shell Raw Pistachios from Iran: Rescission of Antidumping Duty Administrative Review, 73 FR 9292, 9293 (February 20, 2008).

In addition, the Department finds that consistent with its recently announced refinement to its assessment practice in NME cases, it is appropriate not to rescind the review in part in this circumstance.²⁷ The Department's policy is to conduct administrative reviews only where there exists at least one POR entry of subject merchandise, because duties cannot be assessed where there are no suspended entries.²⁸ Because there cannot be a review where there are no entries, companies that certify to no shipments retain their most recently determined separate rate, provided that no information contrary to those claims is presented to, or obtained by, the Department. As a result, XITC and Zhangzhou Hongda retain their most recently determined separate rate status and we preliminarily determine that neither company had shipments during the POR.

The other six firms that submitted no shipments certifications are part of the PRC-wide entity. Absent reviewable sales or entries in this review, we are not making a determination of no shipments with respect to those six firms, and these firms cannot demonstrate eligibility for a separate rate.²⁹

Separate Rates Determination

There is a rebuttable presumption that all companies within the PRC are subject to government control, and thus should be assessed a single antidumping duty rate. In the Initiation Notice, the Department notified parties of the application process by which exporters and producers may obtain separate rates.³⁰ It is the Department's policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (de jure) and in fact (de facto), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in Sparklers, as amplified by Silicon Carbide.³¹ A designation of a country as an NME remains in effect until it is revoked by the Department. See section 771(18)(C) of the Act.

In this administrative review, the Department received complete separate rate information from Kangfa and Gangchang.³² Additionally, Kangfa and Gangchang filed responses to Section A of the Antidumping Questionnaires.

²⁷ See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties, 76 FR 65694 (October 24, 2011).

²⁸ See, e.g., Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation: Notice of Rescission of Antidumping Duty Administrative Review, 77 FR 65532 (October 29, 2012) and accompanying Issues and Decision Memorandum at Issue 2.

²⁹ See Certain Frozen Warmwater Shrimp From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013, 79 FR 57872, 57872, n. 4 (September 26, 2014).

³⁰ See Initiation Notice.

³¹ See Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China, 56 FR 20588 (May 6, 1991) (Sparklers) and Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China, 59 FR 22585 (May 2, 1994) (Silicon Carbide).

³² See Kangfa Certification; see also Gangchang Certification.

Absence of De Jure Control

The Department considers the following de jure criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies.³³

The evidence submitted by Kangfa and Gangchang includes government laws and regulations on corporate ownership and control (i.e., the Foreign Trade Law of the People's Republic of China and the Law of the People's Republic of China on Foreign Joint Ventures), its individual business license, and narrative information regarding its operations and selection of management. Additionally, the evidence provided by Kangfa and Gangchang support a preliminary finding of a de jure absence of government control over their export activities. Specifically, record evidence indicates that: (1) there are no controls on exports of subject merchandise, such as quotas applied to, or licenses required for, exports of the subject merchandise to the United States; (2) the government of the PRC has passed legislation decentralizing control of companies; and (3) the government has taken formal measures to decentralize control of companies.³⁴

Absence of De Facto Control

Typically, the Department considers four factors in evaluating whether each respondent is subject to de facto government control of its export functions, which are whether each company: (1) sets its own export prices independent of the government and without the approval of a government authority; (2) retains the proceeds from its export sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) has the authority to negotiate and sign contracts and other agreements; (4) has autonomy from the government regarding the selection of management.³⁵

The Department has determined that an analysis of de facto control is critical in determining whether respondents are, in fact, subject to a degree of government control over export activities which would preclude the Department from assigning separate rates. Kangfa and Gangchang both indicated in their June 2, 2014 Separate Rate Certifications that: (1) each of these two companies sets its own export prices independent of the government and without the approval of a government authority; (2) each of these companies retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) each of these companies have autonomy from the government regarding the selection of management and (4) there are no restrictions on the company's use of export revenues.³⁶ Therefore, we preliminarily find that Kangfa, and Gangchang have established that they each qualify for a separate rate under the criteria established by Silicon Carbide and Sparklers.

³³ See Sparklers, 56 FR at 20589.

³⁴ See Kangfa Certification at 4; see also Gangchang Certification at 4.

³⁵ See Silicon Carbide, 59 FR at 22587; Sparklers, 56 FR at 20589; and Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China, 60 FR 22544, 22545 (May 8, 1995).

³⁶ See Kangfa Certification at 4-5; see also Gangchang Certification at 4-5.

The PRC-Wide Entity

In addition to the separate rate applications discussed above, because the following companies failed to file separate rate applications and because outstanding review requests remain for these companies, we preliminarily determine that Dujiangyan Xingda Foodstuff Co., Ltd., Fujian Golden Banyan Foodstuffs Industrial Co., Ltd., Golden Banyan Foodstuffs Co., Ltd., Guangxi Hengyong Industrial & Commercial Dev. Ltd., Guangxi Jisheng Foods, Inc., Zhangzhou Golden Banyan Foodstuffs Industrial Co., Ltd. will be part of the PRC-wide entity.

As noted above, the Department initiated this review with respect to 52 exporters of subject merchandise, and received two certifications of no shipments from companies with separate rate status, and separate rate applications for the two selected respondents that were deemed to be adequate. 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 respondents, Kangfa and Gangchang. Thus, the Department preliminarily determines the remaining 48 exporters did not demonstrate their eligibility for separate rate status in this review.³⁷ As a result the Department is preliminarily treating these 48 PRC exporters as part of the PRC-wide entity.

The Department's change in policy regarding conditional review of the PRC-wide entity applies to this administrative review.³⁸ Under this policy, the PRC-wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the PRC-wide entity in this review, the entity is not under review and the entity's rate is not subject to change. Further, as explained in the

³⁷ 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.

³⁸ Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings, 78 FR 65963 (November 4, 2013). (November 4, 2013 Notice.)

November 4, 2013 Notice, the Department preliminarily finds the 48 companies that do not qualify for a separate rate for which a review was requested to be part of the PRC-wide entity.³⁹

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base normal value (NV), in most circumstances, on the NME producer's factors of production (FOPs), valued in a surrogate market economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market economy countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.⁴⁰

The Department determined that Bulgaria, Colombia, Ecuador, Indonesia, South Africa, and Thailand are countries comparable to the PRC in terms of economic development.⁴¹ Moreover, it is the Department's practice to select an appropriate surrogate country based on the availability and reliability of data from the countries that are producers of comparable merchandise.⁴² Sources of the surrogate values we have used in this review are discussed under the "Normal Value" section, infra.

In the current segment of the proceeding, Monterrey Mushrooms was the only party to submit comments regarding surrogate country selection. Monterrey Mushrooms argued that Colombia was the most comparable economically to the PRC and was a significant producer of mushrooms during the POR.⁴³ Among the countries identified as economically comparable to the PRC, based on record evidence, we find that Colombia is the most appropriate surrogate country for valuing FOPs because it is a significant producer of comparable merchandise, and we have reliable, publicly-available data from Colombia representing broad-market averages.⁴⁴

Fair Value Comparisons

Pursuant to 19 CFR 351.414(c)(1), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average export prices (EPs) (or constructed export prices (CEPs)) (the average-to-average method) unless the Department determines that another method is appropriate in a particular situation. In AD investigations, the Department examines whether to use the average-to-transaction method as an alternative comparison method using an analysis

³⁹ Id. at 78 FR 65969.

⁴⁰ See Import Administration Policy Bulletin 04.1, "Non-Market Economy Surrogate Country Selection Process," (March 1, 2004) (Policy Bulletin) available at <http://enforcement.trade.gov/policy/bull04-1.html>.

⁴¹ See Memorandum from Carole Showers, Director, Office of Policy, to Richard Weible, Director, Office VI; Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Certain Preserved Mushrooms ("Mushrooms") from the People's Republic of China ("China"), dated June 9, 2014 (Surrogate Country List). The Department notes that these six countries are part of a non-exhaustive list of countries that are at a level of economic development comparable to the PRC in terms of per capita gross national income.

⁴² See Policy Bulletin.

⁴³ See Monterrey Mushrooms Surrogate Value Comments, at 1-3.

⁴⁴ See 773(c)(4) of the Act; see also Memorandum to the File, "Administrative Review of Certain Preserved Mushrooms the People's Republic of China: Surrogate Values for the Preliminary Results" (Surrogate Values Memorandum) at Attachment 1, dated concurrently with this notice.

consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in AD investigations.⁴⁵ In recent investigations and reviews, the Department applied a "differential pricing" analysis to determine whether application of average-to-transaction comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.⁴⁶ The Department finds the differential pricing analysis used in those recent investigations and reviews may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differs significantly among purchasers, regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported customer names. Regions are defined using the reported destination code (*i.e.*, city name, zip code, *etc.*) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region and time period, that the Department uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

⁴⁵ See Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum at Comment 1.

⁴⁶ See Xanthan Gum from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 78 FR 2252 (January 10, 2013), unchanged in Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 33351 (June 4, 2013); see also Hardwood and Decorative Plywood From the People's Republic of China: Antidumping Duty Investigation, 78 FR 25946 (May 3, 2013), unchanged in Hardwood and Decorative Plywood From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 58273 (September 23, 2013); see also Certain Steel Threaded Rod From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 21101 (April 9, 2013), unchanged in Certain Steel Threaded Rod From the People's Republic of China: Final Results of Third Antidumping Duty Administrative Review; 2011-2012, 78 FR 66330 (November 5, 2013); see also Certain Lined Paper Products From the People's Republic of China: Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review; 2011-2012, 78 FR 34640 (June 10, 2013) unchanged in Certain Lined Paper Products From the People's Republic of China: Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review; 2011-2012, 78 FR 65274 (October 31, 2013).

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen’s *d* test is applied when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen’s *d* coefficient is calculated to evaluate the extent to which the net prices to a particular purchaser, region or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen’s *d* test: small, medium or large. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant if the calculated Cohen’s *d* coefficient is equal to or exceeds the large (i.e., 0.8) threshold.

Next, the “ratio test” assesses the extent of the significant price differences for all sales as measured by the Cohen’s *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test account for 66 percent or more of the value of total sales, then the identified pattern of EPs that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen’s *d* test as an alternative to the average-to-average method, and application of the average-to-average method to those sales identified as not passing the Cohen’s *d* test. If 33 percent or less of the value of total sales passes the Cohen’s *d* test, then the results of the Cohen’s *d* test do not support consideration of an alternative to the average-to-average method.

If both tests in the first stage (i.e., the Cohen’s *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, we examine whether using only the average-to-average method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative method, based on the results of the Cohen’s *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average-to-average method only. If the difference between the two calculations is meaningful, this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if 1) there is at least a 25 percent relative change in the weighted-average dumping margin between the average-to-average method and the appropriate alternative method where both rates are above the de minimis threshold, or 2) the resulting weighted-average dumping margin moves across the de minimis threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.

Results of the Differential Pricing Analysis

For both Kangfa and Gangchang, the percentage of sales passing the Cohen's *d* test was more than 33 percent and less than 66 percent of the value of total sales.⁴⁷ Also, for each respondent, the average-to-average margin and the mixed method margin were above de minimis and the relative change in the weighted-average dumping margin between the average-to-average method and the mixed method was at least 25 percent. Accordingly, the Department used the mixed method to calculate the weighted-average dumping margin for both Kangfa and Gangchang.

U.S. Price

In accordance with section 772(a) of the Act, we based Kangfa and Gangchang's U.S. prices on EPs, because their first sales to an unaffiliated purchaser were made before the date of importation and the use of CEPs was not otherwise warranted by the facts on the record. As appropriate, we deducted foreign inland freight and foreign brokerage and handling from the starting price (or gross unit price), in accordance with section 772(c)(2) of the Act. These services were provided by NME vendors for Kangfa's and Gangchang's U.S. sales. Therefore, we based the deduction of these movement charges on surrogate values.⁴⁸

We determined the best available information for valuing both truck freight and brokerage and handling to be from the World Bank's *Doing Business 2014: Colombia* report.⁴⁹ This World Bank report gathers information concerning the distance and cost to transport products in a 20-foot container from the largest city in Colombia to the nearest seaport. We calculated the per-unit inland freight costs using the distance from Colombia's largest city, Bogota, to the nearest seaport, Buenaventura. We calculated a per-kilogram/per-kilometer surrogate inland freight rate of 0.000299 U.S. dollars per kilometer/per kilogram based on using the full capacity of a 20-foot container, as reported in the World Bank report.⁵⁰

⁴⁷ See Memorandum to the File from Michael J. Heaney "Analysis of Data Submitted by Linyi City Kangfa Foodstuff Drinkable Co., Ltd. in the Preliminary Results of Administrative Review of the Antidumping Duty Order on Certain Preserved Mushrooms from the People's Republic of China (PRC)" dated October 31, 2014 (Kangfa Analysis Memorandum) at Attachment II, p 42.; see also Memorandum to the File from Michael J. Heaney "Analysis of Data Submitted by Zhangzhou Gangchang Canned Foods Co., Ltd. (Gangchang) in the Preliminary Results of Administrative Review of the Antidumping Duty Order on Certain Preserved Mushrooms from the People's Republic of China (PRC)" dated October 31, 2014 (Gangchang Analysis Memorandum) at Attachment II, p 40.

⁴⁸ See Surrogate Values Memorandum at Attachment 12.

⁴⁹ The *Doing Business 2014: Colombia* report is attached at Exhibit 30 of Monterrey Mushroom's Surrogate Value Comments.

⁵⁰ See Monterrey Mushrooms Surrogate Value Comments at Exhibit 30; see also Surrogate Values Memorandum at Attachment 12.

We valued brokerage and handling using a price list of export procedures necessary to export a standardized cargo of goods in Colombia. The price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by ocean transport in Colombia that is published in the World Bank's *Doing Business 2014: Colombia*.⁵¹ In 2012, the Department announced a change of methodology with respect to the calculation of EP and CEP to include an adjustment of any un-refunded value-added taxes (VAT) in certain non-market economies in accordance with section 772(c)(2)(B) of the Act.⁵² The Department explained that when an NME government imposes an export tax, duty, or other charge on subject merchandise, or on inputs used to produce subject merchandise, from which the respondent was not exempted, the Department will reduce the respondent's EP and CEP prices accordingly, by the amount of the tax, duty or charge paid, but not rebated.⁵³ Where the irrecoverable VAT is a fixed percentage of EP or CEP, the Department explained that the final step in arriving at a tax-neutral dumping comparison is to reduce the U.S. EP or CEP downward by this same percentage.⁵⁴

The Department's methodology, as explained above and applied in this review, essentially amounts to performing two basic steps: (1) determining the amount (or rate) of the irrecoverable VAT tax on subject merchandise, and (2) reducing U.S. price by the amount (or rate) determined in step one. Kangfa and Gangchang reported the difference of a 17 percent VAT rate and 15 percent VAT refund rate on the FOB values of export sales of the subject merchandise to calculate the amount for irrecoverable VAT.⁵⁵ For the purposes of these preliminary results, therefore, we removed from U.S. price the difference between the VAT rate and the rebate rate of two percent, which is the irrecoverable VAT, as defined under Chinese tax law and regulation.⁵⁶

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using an FOP methodology if the merchandise under review is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on FOPs because the presence of government controls on various aspects of the NME economy renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies.⁵⁷

⁵¹ Id.

⁵² See Methodological Change for Implementation of Section 772(c)(2)(B) of the Tariff Act of 1930, as Amended, In Certain Non-Market Economy Antidumping Proceedings, 77 FR 36481, 36483-84 (June 19, 2012) (Methodological Change).

⁵³ Id.; see also Chlorinate Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 79 FR 4875 (January 30, 2014) and accompanying Issues and Decision Memorandum at Comment 5.A.

⁵⁴ See Methodological Change at 36483.

⁵⁵ See Kangfa July 21, 2014 Section C Response at C-30-C-31; see also Gangchang July 21, 2014 Section C Response at C-32.

⁵⁶ See Kangfa Analysis Memorandum at Attachment 1, lines 765-766; see also Gangchang Analysis Memorandum at Attachment 1, lines 759-760.

⁵⁷ See, e.g., Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind in Part, 70

Factors Valuation

In accordance with section 773(c) of the Act, we calculated NV by adding the value of the FOPs, general expenses, profit, and packing costs reported by Kangfa and Gangchang. The Department relied on Colombian import data and other publicly available Colombian and Philippine sources in order to calculate SVs for the two respondents' FOPs.⁵⁸ To calculate NV, the Department multiplied the reported per-unit FOP quantities by publicly available SVs for each respondent. The Department's practice when selecting the best available information for valuing FOPs is to select, to the extent possible, SVs which are product-specific, representative of a broad market average, publicly available, contemporaneous with the POR, and exclusive of taxes and duties.⁵⁹

The FOPs for subject merchandise include: (1) quantities of raw materials employed; (2) hours of labor required; (3) amounts of energy and other utilities consumed; (4) representative capital and selling costs; and (5) packing materials.⁶⁰ We valued the FOPs that Kangfa and Gangchang reported by multiplying the amount of the factor consumed in producing subject merchandise by the average unit surrogate value of the factor derived from the surrogate values selected.

In accordance with section 773(c) of the Act, for merchandise produced by Kangfa and Gangchang, the Department calculated NV based on the FOPs reported by the two respondents for the POR. The Department used Colombian import statistics to value the raw material and packing material inputs that Kangfa and Gangchang used to produce the merchandise under review except where listed below. We used data from the Colombian import statistics in the Global Trade Atlas (GTA), published by Global Trade Information Services, Inc. The GTA reports import statistics for Colombia in the original reporting currency and thus these data correspond to the original currency value reported by each country. The record shows that data in the Colombian import statistics, as well as those from the other Colombian sources, are contemporaneous with the POR, product-specific, and tax-exclusive.⁶¹

As appropriate, we added freight costs to the surrogate values that we calculated for Kangfa's and Gangchang's material inputs to make these prices delivered prices. We calculated these freight costs by multiplying surrogate freight rates by the shorter of the reported distance from the domestic supplier to the factory that produced the subject merchandise or the distance from the nearest seaport to the factory that produced the subject merchandise, as appropriate. Where there were multiple domestic suppliers of a material input, we calculated a weighted-average distance after limiting each supplier's distance to no more than the distance from the nearest seaport to Kangfa or Gangchang. This adjustment is in accordance with the decision by the Court of Appeals for the Federal Circuit in Sigma Corp. v. United States, 117 F.3d 1401, 1407-

FR 39744 (July 11, 2005), unchanged in Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of 2003-2004 Administrative Review and Partial Rescission of Review, 71 FR 2517 (January 17, 2006).

⁵⁸ See Surrogate Values Memorandum.

⁵⁹ See, e.g., Electrolytic Manganese Dioxide From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR 48195 (August 18, 2008), and accompanying Issues and Decision Memorandum at Comment 2.

⁶⁰ See section 773(c)(3) of the Act.

⁶¹ See Surrogate Values Memorandum.

1408 (Fed. Cir. 1997). We increased the calculated costs of the FOPs for surrogate general expenses and profit.⁶²

Other inputs consisted of manure, straw, electricity, water, steam, and land rent. To value cow manure, we relied on the valuation methodology for manure published by FeedCattle.com which values cow manure using the nitrogen, phosphate and potassium contained in the manure.⁶³ We based our valuation of the nitrogen, phosphate and potassium contained in cow manure upon Colombian GTA values for these production inputs.⁶⁴

To value straw, we used a North Dakota State University (NDSU) study on the relative value of hay as opposed to straw.⁶⁵ We then used the value of hay published by the Colombian newspaper Vanguardia, to determine the value of straw.⁶⁶

We valued electricity using the tariffs for industrial end users published by *Empresas Publicas de Medellin* (EPM) a Colombian utility company.⁶⁷ We used the tariff schedule provided by EPM to value water.⁶⁸

To value steam, and consistent with the methodology detailed in the Certain Steel Wheels SV Memorandum,⁶⁹ we used the tariff rate for EPM and the conversion formulas for steam usage derived from natural gas employed in Certain Steel Wheels.⁷⁰

⁶² See Surrogate Values Memorandum at Attachment 14.

⁶³ See Monterrey Mushroom's Surrogate Value Comments at Exhibit 2A for the Feedcattle.com study; see also Monterrey Mushroom Surrogate Value Comments at Exhibits 2B, 2C, and 2D for respective values of nitrogen, phosphate, and potassium; see also Surrogate Values Memorandum at Attachment 3 for Colombian surrogate values of nitrogen, phosphate and potassium.

⁶⁴ See Surrogate Values memorandum at Attachment 3. We note that in Blue Field (Sichuan) Food Industrial Co., Ltd v. United States, 949 F. Supp. 2d 1311, 1331-32 (CIT 2013) (Blue Field), the Court held that the Department's use of Colombian GTA data for manure (HTS category 3101.00) was not reasonable and did not sufficiently explain possible aberrations. In Blue Field, the Court also questioned whether the Colombian GTA value for manure was specific to the production input used by Blue Field. See Blue Field at 1333.

⁶⁵ See Monterrey Mushroom Surrogate Value Comments at Exhibit 4A.

⁶⁶ See Monterrey Mushroom Surrogate Value Comments at Exhibit 4B; see also Surrogate Values Memorandum at Attachment 6. We note that in Blue Field, the Court held that the Department's use of Colombian GTA data for the HTS category for straw (HTS category 1213.00 "Cereal straw and husks, unprepared, whether or not chopped, ground, pressed or in the form of pellets") was not reasonable or specific, and did not explain possible aberrations within the HTS category. See Blue Field at 1331.

⁶⁷ The applicable EPM tariff schedules are set forth at Exhibit 17 of Monterrey Mushroom's Surrogate Value Comments.

⁶⁸ See Monterrey Mushroom Surrogate Value Comments at Exhibit 16; see also Surrogate Values Memorandum at Attachment 7.

⁶⁹ See Memorandum to the File from Andrew Medley "Antidumping Duty Investigation of Certain Steel Wheels from the People's Republic of China: Preliminary Determination Surrogate Value Memorandum dated October 26, 2011 (Steel Wheels SV Memorandum) issued in Certain Steel Wheels from the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, Partial Affirmative Determination of Critical Circumstances, and Postponement of Final Determination, 76 FR 67703 (November 2, 2011), unchanged in Certain Steel Wheels from the People's Republic of China: Notice of Final Determination of Sales at Less Than Fair Value, and Partial Affirmative Determination of Critical Circumstances 77 FR 17021 (March 23, 2012) (Certain Steel Wheels). The Steel Wheels SV Memorandum is attached at exhibit 18B of Monterrey Mushroom's Surrogate Value Comments.

⁷⁰ See Monterrey Mushroom Surrogate Value Comments at exhibit 18C; see also Surrogate Values Memorandum at Attachment 9.

We found no available factors of production information from Bulgaria, Colombia, Ecuador, Indonesia, South Africa, or Thailand to value land rent. Therefore, consistent with the methodology employed in the 2011-2012 review of this proceeding,⁷¹ we used the national rental values of farmland for vegetable farming in the Philippines, as compiled by the Philippine Bureau of Agricultural statistics to value land rent.⁷²

Both Kangfa and Gangchang reported that scrap compost is produced in the production process of mushrooms. Additionally, both Kangfa and Gangchang gather the compost, weight it, and subsequently resell the material as a natural fertilizer to an unaffiliated outside party.⁷³ Therefore, we offset Kangfa's and Gangchang's material costs for revenue generated from the sale of recovered compost.⁷⁴

To value the surrogate financial ratios for factory overhead (OH), selling, general & administrative (SG&A) expenses, and profit, the Department used the 2013 financial statements of Setas Colombianas S.A (Setas). Setas is a Colombian producer of preserved mushrooms, and is therefore appropriate to use its financial statements since Setas like Kangfa and Gangchang is a producer of comparable merchandise. Moreover, Setas' financial ratios for OH, SG&A, and profit are comparable to the financial ratios of Kangfa and Gangchang by virtue of Setas' status as a producer of Colombian preserved mushrooms.⁷⁵

In accordance with the legislative history of the Omnibus Trade and Competitiveness Act, the Department continues to disregard surrogate values if it has a reason to believe or suspect the inputs reflected in the source data may be subsidized.⁷⁶ In this regard, the Department has previously found that it is appropriate to disregard prices based upon exports from India, Indonesia, and South Korea because we have determined that these countries maintain broadly available, non-industry specific export subsidies. Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POR, the Department finds that it is reasonable to infer that all exporters from India, Indonesia, and South Korea may have benefitted from these subsidies.⁷⁷ Additionally, we

⁷¹ See Certain Preserved Mushrooms From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 15683 (March 12, 2013) unchanged in 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).

⁷² See Monterrey Mushroom Surrogate Value Comments at exhibit 6; see also Surrogate Values Memorandum at Attachment 8.

⁷³ See Kangfa July 28, 2014 Section D response at D-18; see also Gangchang July 28, 2014 Section D response at D-15.

⁷⁴ See Surrogate Values Memorandum at 11.

⁷⁵ See Monterrey Mushrooms Surrogate Value Comments at Exhibits 18B and 18C; see also Surrogate Values Memorandum at Attachment 1.

⁷⁶ See Omnibus Trade and Competitiveness Act of 1988, Conf. Report to Accompany H.R. 3, H.R. Rep. No. 576, 100th Cong., 2nd Sess. (1988) at 590.

⁷⁷ See, e.g., Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia: Final Results of Expedited Sunset Review, 70 FR 45692 (August 8, 2005), and accompanying Issues and Decision Memorandum at 4; Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review, 74 FR 2512 (January 15, 2009), and accompanying Issues and Decision Memorandum at 17, 19-20; and Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review

disregarded prices from NME countries. Finally, we excluded imports that were labeled as originating from an “unspecified” country from the average value, because the Department could not be certain that they were not from either an NME country or a country with general export subsidies.⁷⁸

On June 21, 2011, the Department announced its new methodology to value the cost of labor in NME countries.⁷⁹ In Labor Methodologies, the Department determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country. Additionally, the Department determined that the best data source for industry-specific labor rates is Chapter 6A: Labor Cost in Manufacturing, from the International Labor Organization (ILO) Yearbook of Labor Statistics (Yearbook).

As announced above, the Department’s methodology is to use data reported under Chapter 6A by the ILO. In keeping with the Department’s preference to use industry-specific wage data, we filtered the ILO data for sub-classification 15, “Manufacture of Food products and Beverages,” in Chapter 6A of the ILO Yearbook. We inflated the 2005 amounts to POR values using the Colombian Wholesale Price Index. This results in a calculated labor rate of 12,666.16 Colombian pesos per hour.⁸⁰ Based on the reporting of financial ratios in this review, we find that the facts and information on the record of this review, we find that the facts and information on the record do not warrant or permit an adjustment to the surrogate financial ratios.⁸¹ Accordingly, we made no offset to the surrogate financial statements in this review.⁸²

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. These exchange rates are available on Enforcement and Compliance’s Web site at <http://ia.ita.doc.gov/exchange/index.html>.

of the Countervailing Duty Order, 75 FR 13257 (March 19, 2010), and accompanying Issues and Decision Memorandum at 4-5.

⁷⁸ See Fresh Garlic from the People’s Republic of China: Preliminary Results of New Shipper Review, 75 FR 24578, 24582 (May 5, 2010), unchanged in Fresh Garlic From the People’s Republic of China: Final Results of New Shipper Review, 75 FR 61130 (October 4, 2010).

⁷⁹ See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor, 76 FR 36092 (June 21, 2011) (Labor Methodologies). This notice followed the Federal Circuit’s decision in Dorbest Ltd. v. United States, 604 F.3d 1363, 1372 (CAFC 2010), which held that “{regression-based} method for calculating wage rates {as stipulated by 19 CFR 351.408(c)(3)} uses data not permitted by {the statutory requirements laid out in section 773 of the Act (i.e., 19 U.S.C. § 1677b(c))}.”

⁸⁰ See Surrogate Values Memorandum, at Attachment 11.

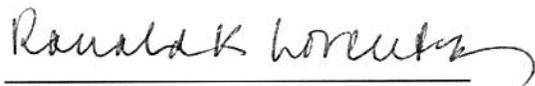
⁸¹ See Labor Methodologies, 76 FR at 36094.

⁸² See Surrogate Value Memorandum at Attachment 11.

Conclusion

We recommend the above methodology for these preliminary results.

Agree Disagree



Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

November 25, 2014
Date