are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than October 14, 1998, and rebuttal briefs no later than October 21, 1998. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on October 23, 1998, time and room to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by no later than 135 days after the publication of this notice in the **Federal Register**.

This determination is issued and published in accordance with sections 733(d) and 777(i)(1) of the Act.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration .

[FR Doc. 98–20911 Filed 8–4–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–851]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Preserved Mushrooms From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: August 5, 1998.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Kate Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4136 or (202) 482–4929, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce (''Department'') regulations are to the regulations at 19 CFR Part 351, 62 FR 27296 (May 19, 1997).

Preliminary Determination

We preliminarily determine that certain preserved mushrooms (''mushrooms'') from the People's Republic of China are being, or are likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since the initiation of this investigation (*Notice of Initiation of Antidumping Duty Investigations: Certain Preserved Mushrooms from Chile, India, Indonesia, and the People's Republic of China,* (63 FR 5360, February 2, 1998) (''*Notice of Initiation*'')), the following events have occurred:

During January and February 1998, the Department requested information from the U.S. Embassy in the People's Republic of China (''PRC'') to identify producers/exporters of the subject merchandise.

On February 27, 1998, the United States International Trade Commission (''ITC'') notified the Department of its affirmative preliminary injury determination in this case.

Also, on February 27, 1998, the Department issued an antidumping questionnaire to the China Chamber of Commerce for Import & Export of Foodstuffs, Native Produce, and Animal By-Products (the ''Chamber'') and the Ministry of Foreign Trade and Economic Cooperation (''MOFTEC'') with instructions to forward the questionnaire to all producers/exporters of the subject merchandise and that these companies must respond by the due dates. During February and March 1998, we sent courtesy copies of the antidumping duty questionnaire to the following companies identified as possible exporters/producers of the subject merchandise during the POI:

Shanghai Maling Canned Food
Fuzhou Cannery
Chin Huay Food Co. (HK) Ltd.
China Ningbo Canned Food
Zhang Zhou General Canned Food
Xia Men Cannery
Raoping Tinned Food Factory
Ruian Canned Factory
Yue Qin Canned Food Factory
Wenzhou Wanli Food Co. Ltd.
Glory Land Food Industrial Co.
Ning De Cannery
Shansha Cannery
Xin an Jiang Canned Food
Cangxi Cannery
Ba Zhong Cannery
Chongqing Cannery
Tung Chun Company
Nang Jin Cannery
Mei Wei Foods Industry Co. Ltd.
Dongguan Canning Factory
Cangban Canned Food Factory
Cofco (Longhai) Food Inc.
Longhai Senox Food Industry Ltd.
Pinghe Canned Factory
Fujian Tiand Food Drink Co.
Shanghai Foreign Trade Xian You
Fuan Canned Food Factory
Xibin Overseas Chinese Canned
Dongya Food Company
Fujian Zhaoan Canned Food
Zhanghou Xiancheng Canned
Zhang Huaqing Canned Food
Zishan Food Canning Plant
Gerber Food (Yunnan) Food Co.
Jiufa Edible Fungus Co. Ltd.
Xiamen Jiahua Export and Import Trading Co. Ltd.
Xiamen Gulong Import Export Co., Ltd.
Bazhong Canned Food Factory
Beiliu Canned Food Factory
Dangdong Canned Food Import & Export Co.
Dayi Brewery
Dongqing Canned Food Processing Factory
Fu'an Kangcuo Cereals & Oils Management Station
Fujian Changshan Huaqiao Canned Food Processing Factory
Fujian Zhangzhou Canned Food Factory
Hebei Edible Fungus Research Institute
Hunan Changsha Canned Food Factory
Jiangsu Rugao Canned Food Factory
Chifeng Fuyuan Cereals & Oils Co.
Fuzhou Native Produce & Animal By-Products Import and Export Co.
Guangdong Heshan Foodstuffs Import & Export Corp.
Beijing Foreign Trade Food Corp.
China National Processed Food Import & Export Corp.
Chengdu Native Produce Import & Export Corp.
Shantou Foodstuffs Import & Export Corp.
Shanghai Cereals & Oil Trade Co.
Guangdong Maoming Native Produce Import & Export Corp.
Henan Native Produce Import and Export Corp.

Qingdao Cereals, Oils & Foodstuffs Import and Export Corp.

On March 30, 1998, the Department issued a notice setting aside a period for interested parties to raise issues regarding product coverage. (*See Certain Preserved Mushrooms from Chile, India, Indonesia, and the People's Republic of China: Comments Regarding Product Coverage*, 63 FR 16971 (April 7, 1998). No parties to this investigation commented on product coverage.

During the period March through June 1998, the Department received questionnaire responses from (1) China Processed Food Import & Export Company (''China Processed'');

(2) Jiangsu Cereals, Oils & Foodstuffs Group Import & Export Corporation (''Jiangsu'');

(3) Shenzhen Cofry Cereals, Oils, & Foodstuffs Company, Ltd. (''Shenzhen Cofry''); (4) Gerber (Yunnan) Food Co.; (5) Fujian Provincial Cereals, Oils & Foodstuffs Import & Export Corp.;

(6) Putian Cannery Fujian Province, Xiamen Gulong Import & Export Co., Ltd.; (7) General Canned Foods Factory of Zhangzhou; (8) Zhejiang Cereals, Oils & Foodstuffs Import & Export Corp.; (9) Shanghai Foodstuffs Import & Export Corp.; (10) Canned Goods Co. of Raoping; and

(11) Xiamen Jiahua Import & Export Trading Company, Ltd. (''Xiamen Jiahua''). In addition, the Department received letters from Beilu Canned Food Factory and Longhai Senox, Ltd., each stating that it did not sell the subject merchandise to the United States during the second half of 1997.

On April 13, 1998, the Department invited interested parties to provide publicly available information (''PAI'') for valuing the factors of production and for surrogate country selection. We received responses from the interested parties on May 27, 1998, and additional comments on June 4, 1998.

On April 14, 1998, pursuant to section 777A(c) of the Act, the Department determined that, due to the large number of exporters/producers of the subject merchandise, it would limit the number of mandatory respondents in this investigation. *See* ''Respondent Selection'' section below.

On April 20, 1998, Gerber requested that it be considered a voluntary respondent in this investigation. On April 28, 1998, we informed Gerber that, due to administrative resource constraints, we would not accept voluntary respondents unless one of the designated mandatory respondents elected not to respond to the Department's questionnaire.

On May 1, 1998, pursuant to section 733(c)(1)(A) of the Act, the petitioners made a timely request to postpone the preliminary determination for forty days. We granted this request and, on May 8, 1998, we postponed the preliminary determination until no later than July 27, 1998. (*See* 63 FR 27264, May 18, 1998).

On June 5, 1998, the respondents requested that the PRC be treated as a market economy in this investigation, and that the PRC mushroom industry be considered a market-oriented industry (''MOI''). The Department issued a MOI questionnaire to the PRC respondents on June 19, 1998, and the respondents submitted their responses on July 17, 1998. Treatment of both of these claims for the preliminary determination is discussed below under ''Nonmarket Economy Country and Market-Oriented Industry Status.''

On June 17, 1998, the petitioners alleged that critical circumstances exist with respect to imports of mushrooms from the PRC. Accordingly, pursuant to section 732(e) of the Act, on June 19, 1998, the Department requested information regarding shipments of mushrooms for the period January 1996 to July 1998 from all mandatory respondents participating in this investigation. We received the requested information on July 6, 1998. The critical circumstances analysis for the preliminary determination is discussed below under ''Critical Circumstances.''

Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Act, on July 16, 1998, the mandatory PRC respondents requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the date of the publication of an affirmative preliminary determination in the **Federal Register**. On July 27, 1998, these parties amended their request to agree to extend the provisional measures to not more than six months. In accordance with 19 CFR 351.210(b), because (1) our preliminary determination is affirmative, (2) the requesting exporters account for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the respondents' request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

Scope of Investigation

For purposes of this investigation, the products covered are certain preserved mushrooms whether imported whole, sliced, diced, or as stems and pieces. The preserved mushrooms covered under this investigation 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 the investigation 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 this investigation 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 investigation is classifiable under subheadings 2003.10.27, 2003.10.31, 2003.10.37, 2003.10.43, 2003.10.47, 2003.10.53, and 0711.90.4000 of the Harmonized Tariff Schedule of the United States (''HTS''). Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of this investigation (''POI'') comprises each exporter's two most recent fiscal quarters prior to the filing of the petition.

Respondent Selection

The Department determined that the resources available to it for this investigation and the three companion mushroom investigations limited our ability to analyze any more than the responses of the three largest exporters/producers of the subject merchandise in this investigation. Based on Section A questionnaire responses, the Department selected the three largest exporters to be the mandatory respondents in this proceeding: China Processed (including its affiliated

exporter, Xiamen Jiahua), Jiangsu, and Shenzhen Cofry. (*See* ''Memorandum from the Team to Louis Apple dated April 14, 1998).

Subsequently, Jiangsu reported in its questionnaire responses that it purchases the subject merchandise from Mei Wei Foods Industrial Co. Ltd. (''Mei Wei'') and resells the merchandise to Tak Fat Trading Company (''Tak Fat''), a Hong Kong trading company, which owns Mei Wei. In submissions separate from Jiangsu, Tak Fat and Mei Wei provided the same information. According to the questionnaire responses and Tak Fat's letters, Tak Fat negotiates the sales prices with the ultimate U.S. customer, and controls the production of Mei Wei, its wholly-owned PRC affiliate. Jiangsu acts only as an intermediary in order to facilitate the export of the merchandise from the PRC and arrange the shipment of the subject merchandise from the PRC. Under these circumstances, we find that Tak Fat is the actual exporter and appropriate respondent. Thus, our analysis for purposes of the preliminary determination was based on Tak Fat's sales during the POI, which included the sales initially reported by Jiangsu sourced from Mei Wei, and the other mandatory exporters and their respective suppliers. As the supplemental questionnaire responses include consolidated data from Tak Fat and Jiangsu, the Department was able to analyze Tak Fat's sales based on submitted data.

Nonmarket Economy Country and Market Oriented Industry Status

The Department has treated the PRC as a nonmarket economy country (''NME'') in all past antidumping investigations (*see, e.g., 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*'') and *Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China,* 60 FR 22545 (May 8, 1995) (''*Furfuryl Alcohol*'')). A designation as an NME remains in effect until it is revoked by the Department (see section 771(18)(C) of the Act).

On June 5, 1998, the respondents made a claim that economic changes in the PRC warrant revocation of PRC's NME status. Because the respondents' submission does not provide sufficient support for their claim for market economy status and does not address a number of important factors for determining market economy status (*see,* Memorandum from the Team to Lou Apple, dated July 27, 1998), we have preliminarily determined to continue to treat the PRC as an NME.

In addition, the respondents have claimed that their material inputs are acquired at market prices and that, accordingly, the Department should determine that the PRC mushroom industry is a MOI and should rely on the actual PRC prices for valuing these inputs. Because the supporting information for this claim was submitted by respondents on July 17, 1998, less than two weeks prior to the preliminary determination, we did not have adequate time to analyze the information for purposes of the preliminary determination. However, we will examine the respondents' MOI claim for purposes of the final determination.

Separate Rates

Each respondent has requested a separate company-specific rate. China Processed is wholly owned by China National Cereals, Oils, & Foodstuffs Import & Export Corp., which in turn is owned by ''the whole people.'' Its affiliated exporter Xiamen Jiahua is a domestic joint venture between China National Cereals, Oils & Foodstuffs Corp., and Xiamen Special Economic Trade Group Cereals, Oils, & Foodstuffs Import & Export Company. Both of these companies are also owned by ''the whole people.'' Shenzhen Cofry is a limited liability company owned by the China Ocean Helicopter Company and the Anhui Cereals, Oils, & Foodstuffs Import & Export Group, which, in turn, are both owned by ''the whole people.'' Tak Fat is a Hong Kong trading company which is wholly-owned by Hong Kong entities. Therefore, we determine that no separate rates analysis is required for this exporter.

As stated in *Silicon Carbide* and *Furfuryl Alcohol,* ownership of the company by ''all the people'' does not require the application of a single rate. Accordingly, the above-mentioned companies named as mandatory respondents as well as the companies who submitted a Section A response are eligible for consideration of a separate rate.

The Department's separate rate test is not concerned, in general, with macroeconomic/border-type controls, *e.g.,* export licenses and quotas and minimum export prices, particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. See *Certain Cut-to-Length Carbon Steel Plate from Ukraine: Final Determination of Sales at Less than Fair Value,* 62 FR 61754, 61757, (November 19, 1997); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 62 FR 61276, 61279, November 17, 1997; and *Honey from the People's Republic of China: Preliminary Determination of Sales at Less than Fair Value,* 60 FR 14725, 14726, (March 20, 1995).

To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588 (May 6, 1991) and amplified in *Silicon Carbide.* Under the separate rates criteria, the Department assigns separate rates in NME cases only if respondents can demonstrate the absence of both de jure and de facto governmental control over export activities.

1. Absence of De Jure Control

The respondents have placed on the record a number of documents to demonstrate absence of de jure control, including the ''Foreign Trade Law of the People's Republic of China'' and the ''Law of the People's Republic of China on Industrial Enterprises Owned By the Whole People.''

In prior cases, the Department has analyzed these laws and found that they establish an absence of de jure control. (*See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Partial-Extension Steel Drawer Slides with Rollers from the People's Republic of China,* 60 FR 54472 (October 24, 1995); *see* also *Furfuryl Alcohol.*) We have no new information in this proceeding which would cause us to reconsider this determination.

According to the respondents, exports of mushrooms are also affected by quota allocations under a December 17, 1997, *Notice Regarding Printing and Distributing ''List of Commodities Subject Export License Administration and Issuance of Licenses at Different Levels'' and Relevant Issues* issued by MOFTEC (''*Notice*''). The respondents claim that, although the export license and quota allocation regulations and procedures which applied to sales of the subject merchandise during the POI were promulgated in 1996, they are, for all intents and purposes, the same as those set forth in the 1997 version. Under the Notice, 143 items are subject to export licensing controls with three categories of control—(1) ''controlled''; (2) ''less controlled,'' and (3) the ''least

controlled'' merchandise. Mushrooms fall under the ''least controlled'' category.

The respondents describe the quota process as follows. MOFTEC distributes quota amounts to the provinces and municipalities and exporters (except those located in Beijing, which are supposed to apply to MOFTEC directly). The quota process is administered through export licenses required for the export of the subject merchandise. Neither the quota allocation process nor the export licensing process involve any PRC government participation in the setting of export prices.

Global quota amounts are determined by MOFTEC based on (1) international market demand/supply; (2) the previous year's exports; (3) Chamber proposals; and (4) the suggestions of PRC Provincial Trade Commissions which take into account the requests of mushroom exporters and their previous year's exports as well as requests of other PRC exporters who wish to export, but have not previously received a quota. The Commissions are comprised of local government authorities involved with foreign trade of their provinces. They are separate from MOFTEC, receiving neither funding nor administration from MOFTEC. Once a quota is received, a company may obtain an export license from the applicable Commissions' Trade Administration Import and Export Divisions after it has a commitment from a foreign buyer. Copies of the quotas are sent to MOFTEC and the Chamber.

The Commissions grant the export licenses based on the quotas allocated to each company. Records are kept of each individual company's quota and the quantities it has exported so that the Commissions can determine when an individual company has reached its allocated quota.

Furthermore, according to the respondents, the concept of the ''minimum price'' floor referenced in the *Memorandum on Minimum Price for Export of Canned Mushroom Products* is an agreed minimum price only. The exporters claim to have the autonomy to set the price at whatever level they wish without government interference. The memorandum referenced above did not set forth minimum prices established by the Chamber or the PRC government but, rather, established minimum prices that were discussed among, and agreed to, by the member companies of the Chamber that were involved in the canned mushroom business.

The respondents describe the process for establishing the minimum prices as follows: (1) member companies request the Chamber convene a meeting of all the exporters; (2) the Chamber provides information on domestic productivity and international markets during this meeting; and (3) the member companies then agree to minimum prices and memorialize the agreement in the minutes to the meeting. Therefore, according to the respondents, the minimum price is an agreement among the exporters and a means by which exporters can insure that no exporter is selling subject merchandise lower than what they, as an industry, consider to be the fair market price. In addition, the minimum price is considered a means of ''self-regulation'' among the industry to prevent unfair competition.

The quota system in the instant investigation operates on the basis of transparent and well-defined rules. Companies are free to independently negotiate export prices with their customers above the floor price, which the exporting companies themselves set. MOFTEC has claimed that it does not involve itself in the price-setting of companies that export mushrooms. Thus, the allocation of the export quota is arrived at in a competitive forum, and separate prices are set by each enterprise with industry input regarding the floor price and in open competition with respect to the final price.

In past cases, the Department has determined that there is an absence of government control over export pricing and marketing decisions of firms even though there may be some government involvement with respect to the export of products subject to investigation. *See Preliminary Determination of Sales at Less Than Fair Value: Honey from the People's Republic of China,* 60 FR 14725, March 20, 1995.

Accordingly, we preliminarily determine that, within the preserved mushroom industry, there is an absence of de jure government control over exporting pricing and marketing decisions of firms.

2. Absence of De Facto Control

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. (See *Silicon Carbide* and *Furfuryl Alcohol*.) Therefore, 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 governmental control which would preclude the Department from assigning separate rates.

The Department typically considers four factors in evaluating whether each respondent is subject to de facto governmental control of its export functions: (1) whether the export prices are set by, or subject to, the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts, and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of its management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses (see *Silicon Carbide* and *Furfuryl Alcohol*).

China Processed/Xiamen Jiahua and Shenzhen Cofry each asserted the following: (1) it establishes its own export prices; (2) it negotiates contracts without guidance from any governmental entities or organizations; (3) it makes its own personnel decisions; and (4) it retains the proceeds of their export sales, uses profits according to its business needs, and has the authority to sell its assets and to obtain loans. Additionally, the three respondents' questionnaire responses indicate that company-specific pricing during the POI does not suggest coordination among exporters. This information supports a preliminary finding that there is an absence of de facto governmental control of the export functions of these companies. Consequently, we preliminarily determine that these exporters have met the criteria for the application of separate rates.

Margins for Exporters Whose Responses Were Not Analyzed

For the responding companies that provided all the questionnaire responses requested of them and otherwise fully cooperated with the Department's investigation, but nonetheless, were not fully analyzed by the Department due to limited resources (see ''Respondent Selection'' section above), including Jiangsu, we are assigning the weighted-average of the rates of the three fully analyzed companies, or a non-adverse facts available rate. Companies receiving this rate are identified by name in the ''Suspension of Liquidation'' section of this notice.

The parties who responded but were not analyzed have applied for separate rates, and provided information for the Department to consider in this request. Although the Department is unable, due to administrative constraints, to consider the requests for separate rates status, and to calculate a separate rate for each of these named parties, there has been no failure on the part of these

firms to provide requested information. Because it would not be appropriate for the Department to refuse to consider a request for an examination of separate rates status, and assign to the cooperative firms the rate for the noncooperative firms (which in this case is an adverse margin based on facts available), the Department has assigned a single calculated rate for these firms, which is a weighted-average of the rates of the three analyzed companies.

China-Wide Rate

U.S. import statistics indicate that the total quantity and value of U.S. imports of mushrooms from the PRC is greater than the total quantity and value of mushrooms reported by all PRC exporters that submitted responses in this investigation. Given this discrepancy, it appears that not all exporters of PRC mushrooms responded to our questionnaire. Accordingly, we are applying a single antidumping deposit rate—the PRC-wide rate—to all exporters in the PRC, other than those specifically identified below under ''Suspension of Liquidation,'' based on our presumption that the export activities of the companies that failed to respond to the Department's questionnaire are controlled by the PRC government (*see, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Bicycles from the People's Republic of China*, 61 FR 19026, April 30, 1996) (''*Bicycles from the PRC*'').

As explained below, this PRC-wide antidumping rate is based on adverse facts available. Section 776(a)(2) of the Act provides that ''if an interested party or any other person—(A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority * * * shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.''

Section 776(b) of the Act provides that adverse inferences may be used when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. The exporters that decided not to respond in any form to the Department's questionnaire failed to act to the best of their ability in this investigation. Further, absent a response, we must presume government control of these and all other PRC companies for which we cannot make a separate rates determination. Thus, the Department has determined that, in selecting from among the facts otherwise available, an adverse inference is warranted.

As adverse facts available, we are assigning the highest margin in the petition, 198.63%, because the margins in the petition (as recalculated by the Department at initiation) were higher than any of the calculated margins.

Section 776(c) of the Act provides that where the Department selects from among the facts otherwise available and relies on ''secondary information,'' such as the petition, the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2d Sess. (1994) (hereinafter, the ''SAA''), states that ''corroborate'' means to determine that the information used has probative value. See SAA at 870.

The petitioners methodology for calculating (''EP'') and normal value (''NV'') is discussed in the *Notice of Initiation*. To corroborate the petition's EP calculations, we compared the prices in the petition for three of the products to the prices submitted by respondents for the same mushroom style and container size. To corroborate the petitioners' NV calculations, we compared the petitioners' factor consumption and surrogate value data for those same three products to the data reported by the respondents for the most significant factors—fresh mushrooms, cans, factory overhead, and selling, general, and administrative expenses, and the surrogate values for these factors in the petition to the values selected for the preliminary determination, as discussed below. Our analysis showed that the petitioners' data was either reasonably close to the data submitted by the respondents and the surrogate values chosen by the Department, or conservative (*see* Memorandum to the File dated July 27, 1998 (''Corroboration Memo''). Therefore, we find that the calculations set forth in the petition have probative value.

Fair Value Comparisons

To determine whether sales of the subject merchandise by China Processed/Xiamen Jiahua, Tak Fat, and Shenzhen Cofry to the United States were made at LTFV, we compared the EP to the NV, as described in the ''Export Price'' and ''Normal Value'' sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average EPs to weighted-average NVs. To value foreign brokerage and handling incurred in the PRC, we relied on the value used in the *Bicycles from the PRC* investigation.

Export Price

China Processed/Xiamen Jiahua

We used EP methodology in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to unaffiliated customers in the United States prior to importation and CEP methodology was not otherwise indicated. We calculated EP based on packed FOB or C&F prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for billing adjustments, inland freight from the plant/warehouse to port of exit, brokerage and handling in the PRC, and ocean freight. Because domestic brokerage and handling and inland freight were provided by NME companies, we based those charges on surrogate rates from India. (*See* ''Normal Value'' section for further discussion). As China Processed and Xiamen Jiahua reported using market economy carriers for ocean freight, we valued this expense using the actual reported costs.

Tak Fat

We used EP methodology in accordance with section 772(a) of the Act because the subject merchandise was sold directly to unaffiliated customers in the United States prior to importation and CEP methodology was not otherwise indicated. We calculated EP based on packed FOB or C&F prices, to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for inland freight from the plant/warehouse to port of exit, brokerage and handling in the PRC, and international freight, in accordance with section 772(c) of the Act. Because domestic brokerage and handling and inland freight were provided by NME companies, we based those charges on surrogate rates from India. As Tak Fat reported using market economy carriers for ocean freight, we valued this expense using the actual reported costs.

Shenzhen Cofry

We used EP methodology in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to unaffiliated customers in the United States prior to

importation and CEP methodology was not otherwise indicated. We calculated EP based on packed FOB or C&F prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for billing adjustments, inland freight from the plant/warehouse to port of exit, brokerage and handling in the PRC, and ocean freight. Because domestic brokerage and handling and inland freight were provided by NME companies, we based those charges on surrogate rates from India. As Shenzhen Cofry reported using market economy carriers for ocean freight, we valued this expense using the actual reported costs.

Normal Value

A. Surrogate Country

Section 773(c)(4) of the Act requires the Department to value the NME producer's factors of production, to the extent possible, in one or more market economy countries that: (1) are at a level of economic development comparable to that of the NME, and (2) are significant producers of comparable merchandise. The Department has determined that India, Pakistan, Sri Lanka, Egypt, and Indonesia are countries comparable to the PRC in terms of overall economic development (*see* Memorandum dated February 23, 1998). According to the available information on the record, we have determined that both India and Indonesia meet the statutory requirements for an appropriate surrogate country for the PRC. For purposes of the preliminary determination, we have selected India as the surrogate country, based on the quality and contemporaneity of the currently available data. Accordingly, we have calculated NV using Indian values for the PRC producers, factors of production, except, as noted below, in certain instances where an input was sourced from a market economy and paid for in a market economy currency. We have obtained and relied upon PAI wherever possible.

B. Factors of Production

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by the companies in the PRC which produced mushrooms for the exporters which sold mushrooms to the United States during the POI. To calculate NV, the reported unit factor quantities were multiplied by publicly available Indian values, where possible.

For Longhai Food, Inc. (''Longhai''), which supplied some of the merchandise sold by China Processed, Mei Wei, and Zhaoan Canned Food Factory (''Zhaoan''), which supplied some of the merchandise sold by Shenzhen Cofry, we recalculated the reported mushroom consumption factor for preserved mushroom produced from brined mushrooms, to an amount equivalent to consumption of fresh mushrooms, based on the difference between each producer's reported consumption of both types of mushrooms. We made this adjustment because we were unable to identify a surrogate value for brined mushrooms (*see* below).

For those inputs (*e.g.*, glass jars used by Longhai) that were sourced (either partially or totally) from a market economy and paid for in market economy currency, we used the actual price paid for the input to calculate the factors-based NV, in accordance with 19 CFR 351.408(a)(1). As appropriate, for these imported materials, we calculated PRC brokerage and inland freight from the port to the factory using surrogate rates from India. We valued the remaining factors using PAI from India, except where noted below. Where a producer did not report the distance between the material supplier and the factory, as facts available, we used either the distance to the nearest seaport (if an import value was used as the surrogate value for the factor) or the farthest distance reported for a supplier, as facts available.

Mei Wei claimed it obtained labels from a market economy source and paid market economy prices for this factor, but did not provide the necessary price data. Therefore, we have valued Mei Wei's label consumption based on the Indian surrogate value for labels. Dongya Food Co., Ltd., a supplier to Xiamen Jiahua, claimed that it consumed chlorine purchased from a market economy source. According to the single invoice submitted to support this claim, the material, sodium hypochloride, was purchased in November 1995—over one and a half years prior to the beginning of the POI. Given this long period between purchase and the POI, we have no basis to assume that the material in question was actually used during the POI, nor is it clear from the record that the sodium hypochloride purchased is the same as the chlorine reported as consumed. Therefore, we have not valued this input based on the submitted market economy price and, instead, relied on the surrogate value.

The selection of the surrogate values applied in this determination was based on the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices to make them delivered prices. For those values not contemporaneous with the POI and quoted in a foreign currency, we adjusted for inflation using wholesale price indices published in the International Monetary Fund's International Financial Statistics. For a complete analysis of surrogate values, see the Preliminary Determination Valuation Memorandum from the team to the File (''Preliminary Determination Valuation Memorandum''), dated July 27, 1998.

We valued fresh mushrooms using the average unit value derived from the 1996–1997 annual reports from three Indian preserved mushroom producers for their purchases of fresh mushrooms. We were unable to identify an appropriate surrogate value for brined (provisionally preserved) mushrooms; thus, as facts available for the preliminary determination, we used the fresh mushroom value to value brined mushroom consumption but adjusted the reported brined mushroom consumption factor to an amount equivalent to a fresh mushroom consumption factor using an industry standard ratio. For salt and citric acid, we used a domestic price published in the commodity section of *The Financial Express.* For monosodium glutamate (''MSG''), vitamin C (ascorbic acid), tin cans and lids, glass jars, and labels, we used Indian import values from *Monthly Statistics of the Foreign Trade of India (''Monthly Statistics'').* To value chlorine, we used a value from the *Final Determination of Sales at Less Than Fair Value: Coumarin from the PRC,* (59 FR 66895, December 28, 1994), as found in the Department's *Index of Factor Values for Use in Antidumping Duty Investigations Involving Products from the People's Republic of China.* To value water consumed in the production process (i.e., water packed in cans or jars with the mushrooms), we relied on the publicly available tariff rates reported in the *Second Water Utilities Data Book.*

Longhai, Zishan Cannery Canned Food Factory (''Zishan''), which also produced merchandise sold by China Processed, and Zhaoan Canned Food Factory (''Zhaoan''), which produced some of the merchandise sold by Shenzhen Cofry, reported that they resold scrap can material. For Longhai and Zishan, we made an offset deduction to the surrogate cost of production using an average unit value derived from 1997 U.S. import statistics. We used this U.S. value as facts available because we were unable to identify an appropriate surrogate value from a surrogate country. We were not able to make the same offset deduction

for Zhaoan because it did not report the necessary factor data. Longhai, Zishan, and Zhaoan, reported that they resold scrap mushrooms not consumed in the canning/jarring process. We were unable to identify an appropriate surrogate value for this material. As this factor does not appear to have a significant impact on the calculation of NV, we have not made an offset for scrap mushrooms in the preliminary determination.

We valued labor based on a regression-based wage rate, in accordance with 19 CFR 351.408(c)(3).

To value electricity, we used the 1996 electricity rates reported in an article ''All Charged Up Over the Cost of Power in India'' published in *Business World* in August 1996. We based the value of coal and diesel fuel on the import values from the *Monthly Statistics.*

We based our calculation of factory overhead (which includes water consumed for rinsing and blanching mushrooms), SG&A expenses, and profit on data contained in the financial reports of three Indian producers of the subject merchandise (*i.e.,* Agro Dutch Foods (India), Saptarishi Agro Industries, Ltd., and Transchem, Ltd.).

To value truck freight rates, we used a 1994 rate from *The Times of India.* As we were unable to identify a surrogate value for inland water transportation, we valued boat and barge transportation using the surrogate value for truck freight. With regard to rail freight, we based our calculation on information from the *Indian Railway Conference Association.*

The CAFC's decision in *Sigma Corp.* v. *United States,* 117 F. 3d 1401 (CAFC 1997) requires that we revise our calculation of source-to-factory surrogate freight for those material inputs that are based on CIF import values in the surrogate country. Therefore, we have added to CIF surrogate values from India a surrogate freight cost using the shorter of the reported distances from either the closest PRC port to the factory, or from the domestic supplier to the factory on an import-specific basis.

For the following reported packing materials: glue, tape, corrugated paper, wooden pallets, and shrink wrap, we used import values from the *Monthly Statistics.*

Critical Circumstances

On June 17, 1998, the petitioners alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of mushrooms from the PRC. In accordance with 19 CFR 351.206(c)(2)(i), since this allegation was filed earlier than the deadline for the Department's preliminary determination, we must issue our preliminary critical circumstances determination not later than the preliminary determination.

Section 733(e)(1) of the Act provides that if a petitioner alleges critical circumstances, the Department will determine whether there is a reasonable basis to believe or suspect that:

(A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or

(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and

(B) there have been massive imports of the subject merchandise over a relatively short period.

In this investigation, the first criterion is satisfied. Brazil has levied antidumping duties against preserved mushrooms from the PRC. Brazil's antidumping duty order will be in force until January 2003. Therefore, we preliminarily determine that there is a history of dumping elsewhere of mushrooms by PRC producers/exporters. Because there is a history of dumping, it is not necessary to address whether the importer had knowledge that dumping was occurring and material injury was likely.

Because we have preliminarily found that the first statutory criterion is met, we must consider the second statutory criterion: whether imports of the merchandise have been massive over a relatively short period. According to 19 CFR 351.206(h), we consider the following to determine whether imports have been massive over a relatively short period of time: (1) volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by the imports.

When examining volume and value data, the Department typically compares the export volume for equal periods immediately preceding and following the filing of the petition. Under 19 CFR 351.206(h), unless the imports in the comparison period have increased by at least 15 percent over the imports during the base period, we will not consider the imports to have been ''massive.'' The Department examines shipment information submitted by the respondent or import statistics when respondent-specific shipment information is not available.

To determine whether or not imports of subject merchandise have been massive over a relatively short period, we compared each of the mandatory respondent's export volume for the five months subsequent to the filing of the petition (January-May 1998) to that during the five months prior to the filing of the petition (August-December 1997). These periods were selected based on the Department's practice of using the longest period for which information is available from the month that the petition was submitted through the effective date of the preliminary determination. For the non-mandatory PRC exporters, we performed this analysis using import statistics and then subtracted the figures of the mandatory respondents. For all other producers/exporters, we performed the analysis using import statistics.

Based on our analysis, we preliminarily find that the increase in imports was greater than 15 percent with respect to the named respondents, the non-mandatory PRC exporters, and all other producers/exporters.

With regard to the seasonality issue, we were unable to discern a seasonal pattern for any of the mandatory respondents, or any other company, based on the information on the record. Furthermore, we were unable to consider the share of domestic consumption accounted for by the imports, pursuant to 351.206(h)(iii), because the available data did not permit such analysis.

However, because there is a history of dumping of such or similar merchandise, and imports of mushrooms from the mandatory respondents, the respondents who were not analyzed, and the respondents who failed to submit a response have been massive over a relatively short period of time, we preliminarily determine that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to mushrooms from the all mandatory respondents in this investigation as well as the non-mandatory respondents and all other producers/exporters.

We will make a final determination concerning critical circumstances when we make our final determination of sales at LTFV in this investigation.

Verification

As provided in section 782(i) of the Act, we will verify all information relied upon in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all

imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after 90 days prior to the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice.

Exporter/manufacturer	Weighted-average margin percentage	Critical circumstances
China Processed Food I&E Co./Xiamen Jiahua I&E Trading Company, Ltd	168.72	Yes.
Tak Fat Trading Co	180.63	Yes.
Shenzhen Cofry Cereals, Oils, & Foodstuffs Co., Ltd	189.61	Yes.
Gerber (Yunnan) Food Co	176.78	Yes.
Jiangsu Cereals, Oils & Foodstuffs Group Import & Export Corporation	176.78	Yes.
Fujian Provincial Cereals, Oils & Foodstuffs I&E Corp	176.78	Yes.
Putian Cannery Fujian Province	176.78	Yes.
Xiamen Gulong I&E Co., Ltd	176.78	Yes.
General Canned Foods Factory of Zhangzhou	176.78	Yes.
Zhejiang Cereals, Oils & Foodstuffs I&E Corp	176.78	Yes.
Shanghai Foodstuffs I&E Corp	176.78	Yes.
Canned Goods Co. of Raoping	176.78	Yes.
PRC-wide Rate	198.63	Yes.

The PRC-wide rate applies to all entries of subject merchandise except for entries from exporters/factories that are identified individually above.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than October 16, 1998, and rebuttal briefs, no later than October 23, 1998. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on October 28, 1998, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by 135 days after the publication of this notice in the **Federal Register**.

This determination is issued and published in accordance with sections 733(d) and 777(i)(1) of the Act.

Dated: July 27, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–20912 Filed 8–4–98; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–601]

Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Notice of Intent Not To Revoke the Antidumping Duty Order in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of intent not to revoke the antidumping duty order in part.

SUMMARY: This notice serves as a supplement to the Department of Commerce's July 10, 1998, notice of preliminary results of administrative review and new shipper review of tapered roller bearings and parts thereof, finished and unfinished, from the People's Republic of China (*see*, 63 FR 37339). In those preliminary results of review, we neglected to include our decision as to whether there is a reasonable basis to believe that the requirements for revocation have been met by Luoyang Bearing Factory. Therefore, we are now publishing our intent not to revoke the order with respect to tapered roller bearings and parts thereof, finished and unfinished, from the People's Republic of China produced and/or exported by Luoyang Bearing Factory. Interested parties are invited to comment on the Department's intent not to revoke the order in part.

EFFECTIVE DATE: August 5, 1998.

FOR FURTHER INFORMATION CONTACT: Zak Smith, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482–1279.

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, all references to the Department of Commerce's (''the Department's'') regulations are to 19 CFR 353 (April 1997).

Background

On May 27, 1987, the Department published in the **Federal Register** (52 FR 19748) the antidumping duty order on tapered roller bearings and parts thereof, finished and unfinished