DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–802]

Certain Preserved Mushrooms From Indonesia: Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by the petitioner,[1] the Department of Commerce is conducting an administrative review of the antidumping duty order on certain preserved mushrooms from Indonesia. The respondents are three manufacturers/exporters of the subject merchandise: PT Dieng Djaya and PT Surya Jaya Abadi Perkasa,[2] PT Indo Evergreen Agro Business Corp., and PT Zeta Agro Corporation. The period of review is February 1, 2000, through January 31, 2001.

We preliminarily determine that sales have been made below normal value by PT Dieng Djaya and PT Surya Jaya Abadi Perkasa. Interested parties are invited to comment on these preliminary results. If these preliminary results are adopted in our final results of administrative review, we will instruct the Customs Service to assess antidumping duties on all appropriate entries of the subject merchandise during the period of review.

EFFECTIVE DATE: March 7, 2002.

FOR FURTHER INFORMATION CONTACT: Sophie E. Castro or Rebecca Trainor, Office 2, AD/CVD Enforcement Group I, Import Administration–Room B–099, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone : (202) 482–0588 or (202) 482–4007, respectively.

SUPPLEMENTARY INFORMATION:

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 U.S. Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (2001).

Background

On December 31, 1998, the Department published in the Federal Register (63 FR 72268), the final affirmative antidumping duty determination of sales at less than fair value (LTFV) on certain preserved mushrooms from Indonesia. We published an antidumping duty order on February 19, 1999 (64 FR 8310).

On February 14, 2001, the Department published in the Federal Register a notice advising of the opportunity to request an administrative review of this order for the period February 1, 2000, through January 31, 2001 (66 FR 10269). On February 28, 2001, in accordance with 19 CFR 351.213(b), we received a timely request from the petitioner that the Department conduct an administrative review of exports to the United States by PT Dieng Djaya and PT Surya Jaya Abadi Perkasa (Dieng/Surya), PT Indo Evergreen Agro Business Corp. (Indo Evergreen), and PT Zeta Agro Corporation (Zeta). We published a notice of initiation of the review on March 22, 2001 (66 FR 16037).

On March 30, 2001, the Department issued an antidumping questionnaire to Dieng/Surya, Indo Evergreen, and Zeta. We issued supplemental questionnaires in November 2001. In June 2001 and January 2002, we received timely responses to the Department's original and supplemental questionnaires, respectively.

On July 19, 2001, due to the reasons set forth in the Certain Preserved Mushrooms from India, Indonesia, and the People's Republic of China: Notice of Extension of Time Limit for Preliminary Results in Antidumping Duty Administrative Reviews, 66 FR 37640 (July 19, 2001), we extended the due date for the preliminary results. In accordance with section 751(a)(3)(A) of the Act, we extended the due date for the preliminary results by the maximum 120 days allowable or until February 28, 2002.

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 preserved mushrooms covered under this order 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 this order 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 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 2003.10.0027, 2003.10.0031, 2003.10.0037, 2003.10.0043, 2003.10.0047, 2003.10.0053, and 0711.90.4000 of the Harmonized Tariff Schedule of the United States[3] (HTS). Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this order dispositive.

Fair Value Comparisons

To determine whether sales to the United States of certain preserved mushrooms by Dieng/Surya, Indo Evergreen and Zeta were made at less than normal value, we compared export price to the normal value, as described in the ''Export Price'' and ''Normal Value'' sections of this notice.

Pursuant to section 777A(d)(2) of the Act, we compared the export prices of individual U.S. transactions to the weighted-average normal value of the foreign like product where there were sales made in the ordinary course of trade at prices above the cost of production (COP), as discussed in the ''Cost of Production Analysis'' section below.

[1] The petitioner is the Coalition for Fair Preserved Mushroom Trade which includes the American Mushroom Institute and the following domestic companies: L.K. Bowman, Inc., Nottingham, PA; Modern Mushrooms Farms, Inc., Toughkernamon, PA; Monterrey Mushrooms, Inc., Watsonville, CA; Mount Laurel Canning Corp., Temple, PA; Mushrooms Canning Company, Kennett Square, PA; Southwood Farms, Hockessin, DE; Sunny Dell Foods, Inc., Oxford, PA; United Canning Corp., North Lima, OH.

[2] In accordance with 19 CFR 351.401(f), PT Dieng Djaya and PT Surya Jaya Abadi Perkasa were determined to be affiliated companies in the original less–than–fair–value investigation.

[3] As of January 1, 2002, the HTS codes are as follows: 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, 2003.10.0153, 0711.51.0000

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by Dieng/Surya, Indo Evergreen and Zeta, covered by the description in the ''Scope of the Order'' section, above, sold by the respondents in the home or third country markets during the period of review (POR), to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home or third country markets within the contemporaneous window period, which extends from three months prior to the U.S. sale until two months after the sale. Where there were no sales of identical merchandise in the home or third country markets made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. Where there were no sales of identical or similar merchandise made in the ordinary course of trade in the home or third country markets to compare to U.S. sales, we compared U.S. sales to the constructed value (CV) of the product.

In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondents in the following order: preservation method, container type, mushroom style, weight, grade, container solution and label type. See ''Normal Value'' section below for further discussion.

Export Price

For all three respondents we used export price calculation methodology, in accordance with section 772(a) of the Act, because the subject merchandise was sold directly by the producer/exporter in Indonesia to the first unaffiliated purchaser in the United States prior to importation and constructed export price (CEP) treatment was not otherwise indicated.

We calculated export price based on the packed FOB seaport prices charged to the first unaffiliated customer in the United States. We made deductions, where appropriate, for foreign inland freight, foreign inland insurance, and brokerage and handling, in accordance with section 772(c)(2)(A) of the Act.

Normal Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating normal value, we compared each of the respondents' volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1) of the Act.

Evergreen and Zeta's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise. Therefore, we determined that the home market provides a viable basis for calculating normal value for both Evergreen and Zeta, in accordance with section 773(a)(1)(B)(ii)(II) of the Act.

Dieng/Surya reported that its aggregate volume of home market sales was less than five percent of its aggregate volume of U.S. sales of the subject merchandise. However, sales to one of its third country markets were above the five percent threshold and we attempted to use Dieng/Surya's third country market sales, pursuant to section 773(a)(1)(C) of the Act. As discussed below in the ''Cost of Production Analysis'' section of this notice, we were ultimately unable to use Dieng/Surya's third country sales to calculate normal value. As a result, we used the CV of the product as the basis for calculating normal value for Dieng/Surya, in accordance with section 773(a)(4) of the Act.

Arm's–Length Sales

Indo Evergreen and Zeta each reported sales of the foreign like product to affiliated customers. To test whether these sales to affiliated customers were made at arm's length, where possible, we compared the prices of sales to affiliated and unaffiliated customers, net of all movement charges, direct selling expenses, discounts, and packing. Where the price to the affiliated party was on average 99.5 percent or more of the price to the unaffiliated parties, we determined that the sales made to the affiliated party were at arm's length. See Antidumping Duties; Contervailing Duties; Final Rule, 62 FR 27296, 27355 (May 19, 1997) (preamble to the Department's regulations). Consistent with 19 CFR 351.403(c), we excluded from our analysis those sales where the price to the affiliated parties was less than 99.5 percent of the price to the unaffiliated parties.

Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate normal value based on sales at the same level of trade (LOT) as the export price or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). See 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. Id.; see also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa, 62 FR 61731, 61732 (November 19, 1997) (Cut-to-Length Plate from South Africa). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (i.e., the ''chain of distribution''), including selling functions, class of customer (''customer category''), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for export price and comparison market sales (i.e., normal value based on either home market or third country prices[4]), we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. See Micron Technology, Inc. v. United States, 243 F. 3d 1301, 1314–1315 (Fed. Cir. 2001).

When the Department is unable to find sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing export price or CEP sales at a different LOT in the comparison market, where available data make it practicable, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if a normal value LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the difference in LOTs between normal value and CEP affected price comparability (i.e., no LOT adjustment was practicable), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. See Cut-to-Length Plate from South Africa, 62 FR 61731 (November 19, 1997).

We obtained information from Indo Evergreen, Zeta and Dieng/Surya regarding the marketing stages involved in making the reported home market (for Indo Evergreen and Zeta) and third country market (for Dieng/Surya) and U.S. sales, including a description of the selling activities performed by Indo Evergreen, Zeta and Dieng/Surya for

[4] Where normal value is based on constructed value, we determine the normal value LOT based on the LOT of the sale from which we derive selling, general and administrative (SG&A) expenses and profit for constructed value, where possible.

each channel of distribution. Company-specific LOT findings are summarized below.

Indo Evergreen: All of Indo Evergreen's sales in the home market are through distributors who resell the merchandise to wholesalers for distribution, with the exception of a small amount of sales to its employees for consumption. We examined those two channels of distribution and the selling activities associated with home market sales through these channels of distribution, and determined that there was little difference in the relevant selling functions provided by Indo Evergreen. Specifically, Indo Evergreen does not provide inventory maintenance, after sale services, technical advise, advertising, or sales support for any of its home market customers. Indo Evergreen does incur some sales activity related to pre-delivery inspection. Indo Evergreen stated that these services are provided to all home-market customers regardless of the channels of distribution or customer categories. Because Indo Evergreen has the same selling functions for both channels of distribution (i.e., pre-delivery inspections), we find that both channels of distribution constitute one LOT.

In the U.S. market, Indo Evergreen made only export price sales through two channels of distribution: (1) Through trading companies, and (2) through distributors who resold the merchandise to wholesalers for distribution either to supermarket chains or food service distributors. Similar to the home market LOT, Indo Evergreen does not provide inventory maintenance, after sale services, technical advise, advertising, or sales support in selling to its U.S. customers. In addition, Indo Evergreen does incur some sales activity related to pre-delivery inspection. Indo Evergreen stated that these services are provided equally to all customers regardless of the channels of distribution or customer categories. Accordingly, there is only one LOT for U.S. sales.

We compared the export price LOT to the home market LOT and concluded that the selling functions performed for home market customers are the same as those performed for U.S. customers (i.e., pre-delivery inspection). Accordingly, we consider the export price and home market LOTs to be the same. Consequently, we are comparing export price sales to sales at the same LOT in the home market.

Zeta: Zeta reported sales in the home market through two channels of distribution: (1) Unaffiliated distributors, and (2) unaffiliated end-users. We examined the chain of distribution and the selling activities associated with home market sales through these channels of distribution, and determined that there was little difference in the relevant selling functions provided by Zeta. Specifically, Zeta provided only delivery arrangements for distributors and trading companies. Zeta does not maintain inventory or provide technical advice, warranty service or advertising for home market sales. Zeta did not indicate that there are any differences with respect to freight and delivery services between these channels of distribution or customer categories. Therefore, we find that the home market channels of distribution do not differ significantly from each other with respect to selling activities and, therefore, constitute one LOT.

In the U.S. market, Zeta made only export price sales through one channel of distribution: sales to distributors shipped directly to the United States. Zeta incurred freight costs in delivering the product to the port. Zeta provided no technical advice or warranty services in the U.S. market, nor did it provide inventory maintenance, advertising, or sales support in selling to its U.S. customers. Accordingly, there is only one LOT for U.S. sales.

We compared the export price LOT to the home market LOT and concluded that the selling functions performed for home market customers are the same as those performed for U.S. customers (i.e., freight/delivery services). Accordingly, we consider the export price and home market LOTs to be the same. Consequently, we are comparing export price sales to sales at the same LOT in the home market.

Dieng/Surya: As stated above, where normal value is based on CV, we determine the normal value LOT based on the LOT of the sales from which we derive SG&A and profit for CV, where possible. In the case of Dieng/Surya, because we are basing normal value on CV and using the SG&A expenses of Dieng/Surya in the calculation of CV, we conducted our LOT analysis in part based on the information provided by Dieng/Surya concerning its third country and U.S. marketing stages, including selling activities performed for each channel of distribution. In addition, because we are basing Dieng/Surya's profit for CV calculation purposes on the experience of the other two respondents in this review (see ''Calculation of Constructed Value'' section below), we also conducted our LOT analysis in part based on the information provided by the other two respondents.

Dieng/Surya sold the foreign like product directly to trading companies in the third country. We examined the chain of distribution and the selling activities associated with third country sales through this channel of distribution, and determined that there was little difference in the relevant selling functions provided by Dieng/Surya to its third country customers. Specifically, Dieng/Surya provided only delivery services to these customers. Dieng/Surya does not maintain inventory or provide technical advice, warranty service or advertising for its third country sales. Therefore, we find that all of Dieng/Surya's third country sales were made at the same LOT.

In the U.S. market, Dieng/Surya made only export price sales through an affiliated company located in the Netherlands, which in turns sold to three different customers in the United States: 1) distributors, 2) wholesalers and 3) trading companies. For its U.S. sales, Dieng/Surya incurs freight costs in delivering the product to the port. Dieng/Surya provided no technical advice or warranty services in the U.S. market, nor did it provide inventory maintenance, advertising, or sales support in selling to its U.S. customers. Accordingly, we find that there is only one LOT for U.S. sales.

We compared the export price LOT to the third country LOT and concluded that the selling functions performed for third country market customers are the same as those performed for U.S. customers (i.e., freight/delivery services). Accordingly, we consider the export price and third country market LOTs to be the same. Consequently, no LOT adjustment to normal value (i.e., CV) is warranted based on a comparison of Dieng/Surya's third country and U.S. marketing stages.

Furthermore, as discussed above, we found the home market and export price LOTs to be the same for the other two respondents in this review, the data of which were used to derive Dieng/Surya's profit rate. Consequently, no LOT adjustment to normal value is warranted on this basis either.

Cost of Production Analysis

Because we disregarded sales that failed the cost test for Dieng/Surya, Indo Evergreen and Zeta in the last completed segment of the proceeding (see Certain Preserved Mushrooms From Indonesia: Final Results of Antidumping Duty Administrative Review, 66 FR 36754 (July 13, 2001)), we had reasonable grounds to believe or suspect that the respondents' sales of the foreign like product under consideration for the determination of

normal value in this review may have been made at prices below the COP, as provided by section 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of home market sales made by Indo Evergreen and Zeta, and third country sales made by Dieng/Surya.

A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of Dieng/Surya's, Indo Evergreen's and Zeta's cost of materials and fabrication for the foreign like product, plus amounts for SG&A, interest expenses, and the cost of all expenses incidental to placing the foreign like product in condition packed ready for shipment. We relied on the home (for Indo Evergreen and Zeta) and third country (for Dieng/Surya) market sales, and COP information the respondents provided in their questionnaire responses, except for the following adjustments:

For Indo Evergreen, we adjusted the general and administrative (G&A) expense rate by including Indo Evergreen's foreign exchange losses on accounts payable. For Zeta, we adjusted the reported production quantities by deducting waste production quantities. We also reclassified foreign exchange gains and losses to G&A expense. In addition, we decreased Zeta's claimed offset to material costs by excluding scrap revenue attributable to non-subject merchandise sales. For further details, see Preliminary Calculation Memorandum from Sophie Castro, Financial Analyst, to Irene Darzenta Tzafolias, Program Manager, Office 2, AD/CVD Enforcement Group I, Import Administration, dated February 28, 2002, for Zeta and Indo Evergreen, respectively.

B. Test of Home and Third Country Market Prices

We compared the weighted-average, per-unit COP figures for the POR to home (for Indo Evergreen and Zeta) and third country (for Dieng/Surya) market sales of the foreign like product, as required by section 773(b) of the Act, in order to determine whether these sales were made at prices below the COP. In determining whether to disregard home market sales made at prices below the COP, we examined whether: (1) Within an extended period of time, such sales were made in substantial quantities; and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP, consisting of the COM, G&A, and interest, to the home market or third country prices, less any applicable movement charges, rebates, discounts and direct and indirect selling expenses. We adjusted Zeta's reported home market indirect selling expenses to exclude certain misclassified expenses. For further details, see Zeta's Preliminary Calculation Memorandum.

3. Results of COP Test

Pursuant to section 773(b)(2)(C), where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where twenty percent or more of a respondent's sales of a given product during the POR were at prices less than the COP, we disregarded the below–cost sales where such sales were found to be made at prices which would not permit the recovery of all costs within a reasonable period of time (in accordance with section 773(b)(2)(D) of the Act).

For Dieng/Surya, our cost test indicated that all third country sales made by Dieng/Surya, over an extended period of time, were at prices below COP and would not permit full recovery of all costs within a reasonable period of time. In accordance with section 773(b)(1) of the Act, we excluded these below-cost sales and based normal value on CV.

The results of our cost tests for Indo Evergreen and Zeta indicated for certain home market products that less than twenty percent of the sales of the model were at prices below COP. We therefore retained all sales of these models in our analysis and used them as the basis for determining normal value.

Our cost tests also indicated, for both Indo Evergreen and Zeta, that for certain other home market products more than twenty percent of home market sales within an extended period of time were at prices below COP and would not permit the full recovery of all costs within a reasonable period of time. In accordance with section 773(b)(1) of the Act, we excluded these below–cost sales from our analysis and used the remaining sales as the basis for determining normal value.

Price-to-Price Comparisons

For Indo Evergreen and Zeta, we based normal value on the price at which the foreign like product is first sold for consumption in the exporting country, in the usual commercial quantities and in the ordinary course of trade, and at the same LOT as the export price, as defined by section 773(a)(1)(B)(i) of the Act.

Home market prices were based on either ex-factory or delivered prices. We reduced normal value for home market movement expenses, where appropriate, in accordance with section 773(a)(6)(B)(ii). We also reduced normal value for packing costs incurred in the home market, in accordance with section 773(a)(6)(B)(i), and increased normal value to account for U.S. packing expenses in accordance with section 773(a)(6)(A). We also made adjustments for differences in circumstances of sale (COS) in accordance with 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410, by deducting home market direct selling expenses (i.e., credit) and adding U.S. direct selling expenses (i.e., credit, U.S. warranty and bank charges), where applicable.

Finally, we made adjustments to normal value, where appropriate, for differences in costs attributable to differences in the physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411.

Calculation of Constructed Value

We calculated CV for Dieng/Surya in accordance with section 773(e) of the Act, which indicates that CV shall be based on the sum of the respondent's cost of materials and fabrication for the subject merchandise, plus amounts for SG&A, profit, and U.S. packing costs. For Dieng/Surya, we relied on the submitted CV information except for the following adjustments:

For Dieng/Surya, because of the absence of comparable third country sales during the POR, we derived profit in accordance with section 773(e)(2)(B)(ii) of the Act and the Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 103–316, Vol. 1 at 839–841 (1994). Section 773(e)(2)(B)(ii) of the Act allows the Department to use the weighted average of the actual profit amounts realized by other exporters or producers that are subject to the review in connection with the production and sale of a foreign like product in the ordinary course of trade, for consumption in the foreign country. See 19 CFR 351.405(b)(2) (stating that under section 773(e)(2)(B) of the Act, ''foreign country''≥ means the country in which the merchandise is produced).

Because Indo Evergreen and Zeta both have a viable home market, and actual company-specific profit data are available, we calculated Dieng/Surya's profit as a weighted average of the profit amounts experienced by Indo Evergreen and Zeta. For further details, see Preliminary Calculation Memorandum

from Rebecca Trainor, Case Analyst, to Irene Darzenta Tzafolias, Program Manager, dated February 28, 2002, for Dieng/Surya.

For Dieng/Surya's selling expenses, we used the company's actual selling expenses incurred on sales to its third country market because this data reflects Dieng's/Surya's actual experience in selling the foreign like product. See Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from Chile, 63 FR 56613, 56615 (October 22, 1998).

Price-to-Constructed Value Comparisons

For Dieng/Surya, we based normal value on CV, in accordance with section 773(a)(4) of the Act. For price-to-CV comparisons, we made adjustments to CV for COS differences, in accordance with 773(a)(8) of the Act, and 19 CFR 351.410. We made COS adjustments by deducting third country market direct selling expenses (comprised of imputed credit) and adding U.S. direct selling expenses (comprised of imputed credit, warranties and bank charges).

Currency Conversion

We made currency conversions in accordance with section 773A of the Act based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the weighted-average dumping margins for the period February 1, 2000, though January 31, 2001, are as follows:

Manufacture/exporter	Margin (percent)
PT Dieng Djaya and PT Surya Jaya Abadi Perkasa	0.59%
PT Indo Evergreen Agro Business Corp.	0.09% (de minimis)
PT Zeta Agro Corporation	0.27% (de minimis)

We will disclose calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice. See 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of publication. See 19 CFR 351.310(c). If requested, a hearing will be held 44 days after the date of publication of this notice, or the first work day thereafter.

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, Room B–099. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. See 19 CFR 351.310(c).

Issues raised in the hearing will be limited to those raised in the respective case briefs and rebuttal briefs. Case briefs from interested parties and rebuttal briefs, limited to the issues raised in the respective case briefs, may be submitted not later than 30 days and 37 days, respectively, from the date of publication of these preliminary results. See 19 CFR 351.309(c) and (d). Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the date of publication of this notice.

Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of this review. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties. We will instruct the Customs Service to assess antidumping duties on all appropriate entries covered by this review if any importer–specific assessment rate calculated in the final results of this review is above de minimis (i.e., less than 0.50 percent). See 19 CFR 351.106(c)(1). For assessment purposes, we intend to calculate importer-specific assessment rates for the subject merchandise by aggregating the dumping margins calculated for all U.S. sales examined and dividing this amount by the total entered value of the sales examined. In order to estimate the entered value, we will subtract applicable movement expenses from the gross sales value.

Cash Deposit Requirements.

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies will be those established in the final results of this review, except if the rate is less than 0.50 percent, and therefore, de minimis within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company–specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 11.26 percent, the ''All Others'' rate made effective by the LTFV investigation. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are published ign accordance with sections 751(a)(1) of the Act and 19 CFR 351.221.

February 28, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–5474 Filed 3–6–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–813]

Certain Preserved Mushrooms from India: Preliminary Results of Antidumping Duty Administrative Review

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

SUMMARY: In response to timely requests by four manufacturer/exporters and the petitioner,[1] on March 22, 2001, the Department of Commerce published a notice of initiation of an administrative review of the antidumping duty order on certain preserved mushrooms from India with respect to twelve companies. The period of review is February 1, 2000, through January 31, 2001.

We preliminarily determine that sales have been made below normal value. Interested parties are invited to comment on these preliminary results. If these preliminary results are adopted in our final results of administrative review, we will instruct the Customs Service to assess antidumping duties on all appropriate entries.

EFFECTIVE DATE: March 7, 2002.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger, Kate Johnson, or Margarita Panayi, Office 2, AD/CVD Enforcement Group I, Import Administration-Room B099, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4136, (202) 482–4929, or (202) 482–0049, respectively.

SUPPLEMENTARY INFORMATION:

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's (the Department's) regulations are to 19 CFR Part 351 (April 2001).

Background

On February 19, 1999, the Department published in the Federal Register an amended final determination and antidumping duty order on certain preserved mushrooms from India (64 FR 8311).

On February 14, 2001, the Department published a notice advising of the opportunity to request an administrative review of the antidumping duty order on certain preserved mushrooms from India (66 FR 10269). In response to timely requests by four manufacturer/exporters, Agro Dutch Foods Ltd. (Agro Dutch), Himalya International Ltd. (Himalya), Hindustan Lever Ltd. (formerly Ponds India Ltd.) (HLL), and Weikfield Agro Products, Ltd. (Weikfield), and the petitioner, the Department published a notice of initiation of an administrative review with respect to twelve companies: Agro Dutch, Alpine Biotech Ltd. (Alpine Biotech), Dinesh Agro Products Ltd. (Dinesh Agro), Flex Foods Ltd. (Flex Foods), Himalya, HLL, Mandeep Mushrooms Ltd. (Mandeep), Premier Mushroom Farms (Premier), Saptarishi Agro Industries Ltd. (Saptarishi), Techtran Agro Industries Limited (Techtran), Transchem Ltd.(Transchem), and Weikfield (66 FR 16037, March 22, 2001). The period of review (POR) is February 1, 2000, through January 31, 2001.

On March 30, 2001, the Department issued antidumping duty questionnaires to the above-mentioned twelve companies. We received responses to the original questionnaire during the period May through July 2001. We issued supplemental questionnaires in August 2001 and January 2002, and received responses during the period August through September 2000 and February 2002.

On April 23, 2001, we received a timely submission from HLL to withdraw its request for an administrative review. On April 24, 2001, we received a timely submission from the petitioner to withdraw its request for administrative reviews of HLL and Transchem.

In June 2001, counsel for Saptarishi informed the Department that the company would no longer participate in the 2000–2001 administrative review. On June 14, 2001, we received a timely submission from the petitioner to withdraw its request for administrative review of Alpine Biotech, Dinesh Agro, Flex Foods, Mandeep, Premier, and Techtran. On July 13, 2001, the Department published a notice of partial recission of the antidumping duty administrative review with respect to Alpine Biotech, Dinesh Agro, Flex Foods, HLL, Mandeep, Premier, and Techtran, and Transchem (66 FR 36753). Therefore, the Department is reviewing only Agro Dutch, Himalya, Saptarishi and Weikfield in this administrative review.

On July 11, 2001, the Department received an allegation from the petitioner that Himalya sold certain preserved mushrooms in India at prices below the cost of production (COP). On August 9, 2001, the Department initiated a cost investigation of Himalya's home-market sales of this merchandise. See August 9, 2001, Memorandum to Louis Apple from The Team Regarding ''Allegation of Sales Below the Cost of Production for Himalya International Limited (Himalya).'' On July 19, 2001, the Department extended the time limit for the preliminary results in this review until February 28, 2002. See Certain Preserved Mushrooms from India, Indonesia, and the People's Republic of China: Notice of Extension of Time Limit for Preliminary Results in Antidumping Duty Administrative Reviews, 66 FR 37640.

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 preserved mushrooms covered under this order 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 this order 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 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

[1] The petitioner is the Coalition for Fair Preserved Mushroom Trade which includes the American Mushroom Institute and the following domestic companies: L.K. Bowman, Inc., Modern Mushroom Farms, Inc., Monterey Mushrooms, Inc., Mount Laurel Canning Corp., Mushrooms Canning Company, Southwood Farms, Sunny Dell Foods, Inc., and United Canning Corp.