

## DEPARTMENT OF COMMERCE

## International Trade Administration

[A-570-851]

**Certain Preserved Mushrooms From the People's Republic of China: Final Results and Final Rescission, in Part, of Antidumping Duty Administrative Review**

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

**SUMMARY:** On March 7, 2005, the Department of Commerce ("the Department") published *Certain Preserved Mushrooms From the People's Republic of China: Preliminary Results and Partial Rescission of Fifth Antidumping Duty Administrative Review*, 70 FR 10965 (March 7, 2005) ("*Preliminary Results*"). This review covers twenty-two exporters or producer/exporters, seven of these are active respondents.<sup>1</sup> The active respondents are Gerber Food (Yunnan) Co., Ltd., ("Gerber"), Guangxi Hengxian Pro-Light Foods, Inc. ("Guangxi Hengxian"), Shandong Jiufa Edible Fungus Corporation, Ltd. ("Jiufa"), Xiamen International Trade & Industrial Co., Ltd. ("XITIC"), China Processed Food Import & Export Company ("COFCO"), Green Fresh Foods (Zhangzhou) Co., Ltd. ("Green Fresh"), and Guangxi Yulin Oriental Food Co., Ltd. ("Guangxi Yulin").

We invited interested parties to comment on our *Preliminary Results*. Based on our analysis of the record, including factual information obtained since the *Preliminary Results*, we have made certain changes to our calculations. The final dumping margins for this review are listed in the "Final Results of the Review" section below.

**EFFECTIVE DATE:** September 14, 2005.

**FOR FURTHER INFORMATION CONTACT:** Amber Musser or John Conniff AD/CVD

Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; at (202) 482-1777 and (202) 482-1009, respectively.

**SUPPLEMENTARY INFORMATION:****Background**

On March 7, 2005, the Department published the *Preliminary Results*. The period of review ("POR") is February 1, 2003 through January 31, 2004.

*Since the Preliminary Results the following events have occurred:*

On March 8, 2005, the Department issued a supplemental questionnaire to COFCO. On March 15, 2005, the Department informed Green Fresh that its March 2, 2005, submission was being returned because it consisted of untimely filed information. On March 17, 2005, the Department informed COFCO that it would not accept new information that had been offered for clarification of a previous submission. On March 14, 2005, Jiufa requested a hearing. On March 22, 2005, the Coalition for Fair Preserved Mushroom Trade (collectively, "petitioners") requested a hearing. On April 4, 2005, COFCO and Guangxi Yulin requested a hearing.<sup>2</sup>

The Department conducted verifications of Jiufa on March 14 through March 18, 2005; XITIC on March 21 through March 25, 2005; Gerber on March 29 through April 1, 2005, and Green Fresh on April 5 through April 8, 2005. On March 29, 2005, COFCO submitted its response to the Department's fourth supplemental questionnaire. On May 17, 2005, the Department issued a verification reports for Jiufa and XITIC. On June 7 and 8, 2005, the Department issued verification reports for Gerber and Green Fresh, respectively.

On June 3, 2005, the Department issued a supplemental questionnaire to Guangxi Yulin. On June 24, 2005, Guangxi Yulin informed the Department that it would not respond to the supplemental questionnaire. In a letter dated June 30, 2005, Guangxi Yulin stated that it was withdrawing from the review.

On July 6, 2005, we received case briefs from respondents COFCO, Green Fresh, XITIC, Guangxi Hengxian, and Jiufa. We received rebuttal briefs from petitioners, COFCO, and Jiufa on July 13, 2005.

<sup>2</sup> We note that all of the above parties withdrew their requests for a hearing; thus, no hearing was held in this case.

**Scope of the Order**

The products covered by this order are certain preserved mushrooms, whether imported whole, sliced, diced, or as stems and pieces. The certain preserved mushrooms covered under this order are the species *Agaricus bisporus* and *Agaricus bitorquis*. "Certain Preserved Mushrooms" refers to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heated in containers including, but not limited to, cans or glass jars in a suitable liquid medium, including, but not limited to, water, brine, butter or butter sauce. Certain preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces. Included within the scope of this order are "brined" mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing.

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.<sup>3</sup>

The merchandise subject to this order is classifiable under subheadings: 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, 2003.10.0153 and 0711.51.0000 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

**Partial Rescission of Administrative Review**

In the *Preliminary Results*, the Department issued a notice of intent to rescind this administrative review with respect to Guangxi Yizhou, Minhui, Nanning Runchao, Primera Harvest,

<sup>3</sup> On June 19, 2000, the Department affirmed that "marinated," "acidified," or "pickled" mushrooms containing less than 0.5 percent acetic acid are within the scope of the antidumping duty order. See "Recommendation Memorandum—Final Ruling of Request by Tak Fat, et al. for Exclusion of Certain Marinated, Acidified Mushrooms from the Scope of the Antidumping Duty Order on Certain Preserved Mushrooms from the People's Republic of China," dated June 19, 2000. On February 9, 2005, this decision was upheld by the United States Court of Appeals for the Federal Circuit. See *Tak Fat v. United States*, 39C F.3d 1378 (Fed. Cir. 2005).

<sup>1</sup> The following fifteen companies were part of this review, however did not participate: Dingyuan Import & Export Corporation ("Dingyuan"); Guangxi Yizhou Dongfang Cannery ("Guangxi Yizhou"); Nanning Runchao Industrial Trade Co., Ltd. ("Nanning Runchao"); Primera Harvest (Xiangfan) Co., Ltd. ("Primera Harvest"); Raoping Xingyu ("Raoping Xingyu"), and its affiliate Raoping Yucun Canned ("Raoping Yucun"); Shanghai Superlucky Import & Export Company, Ltd. ("Superlucky"); Shantou Hongda Industrial General Corporation, ("Shantou Hongda"); Shenxian Dongxing Foods Co., Ltd. ("Shenxian Dongxing"); Shenzhen Qunxingyuan Trading Co., Ltd. ("Shenzhen Qunxingyuan"); Tak Fat Trading Co. ("Tak Fat"); Mei Wei Food Industry Co., Ltd. ("Mei Wei"); Xiamen Zhongjia Imp. & Exp. Co., Ltd. ("Zhongjia"); Zhangzhou Hongning Canned Food Factory ("Zhangzhou Hongning"); Zhangzhou Jingxiang Foods Co., Ltd. ("Zhangzhou Jingxiang"); and Zhangzhou Longhai Minhui Industry and Trade Co., Ltd. ("Minhui").

Raoping Xingyu and its affiliate Raoping Yucun, Shenxian Dongxing, Shenzhen Qunxingyuan, Superlucky, Tak Fat and its affiliate Mei Wei, and Zhongjia because the shipment data that was examined by the Department did not show U.S. entries of subject merchandise during the POR for these companies. See *Preliminary Results*. The Department has received no comments on this issue. Therefore, the Department is rescinding this administrative review with respect to each of these companies.

### Separate Rates

Gerber, Green Fresh, Guangxi Yulin, Jiufa, Guangxi Hengxian, COFCO, and XITIC have requested separate, company-specific antidumping duty rates. In our *Preliminary Results*, we found that Gerber was wholly owned by entities located outside of the PRC, and that application of the separate rates analysis was inappropriate. We further found in the *Preliminary Results* that Green Fresh, Guangxi Yulin, Jiufa, Guangxi Hengxian, COFCO, and XITIC had met the criteria for the application of a separate antidumping duty rate. See *Preliminary Results*. We have not received any information since the *Preliminary Results* with respect to Green Fresh, Guangxi Hengxian, Guangxi Yulin, Jiufa, XITIC or COFCO that would warrant reconsideration of our separate-rates results. Therefore, we have assigned individual dumping margins to Green Fresh, Guangxi Hengxian, Guangxi Yulin, Jiufa, XITIC, and COFCO.

In the *Preliminary Results* we also found that Dingyuan and Zhangzhou Jingxiang did not respond in a complete and timely manner to the Department's requests for information, and that Shantou Hongda withdrew from the review after an initial response; hence these companies do not qualify for a separate rate. The Department did not receive comments on this issue prior to these final results. See also "The PRC-Wide Rate and Application of Facts Otherwise Available" section below.

On March 29, 2005, the Department commenced a verification of the facts submitted by Gerber in its responses to the Department's questionnaires. On April 1, 2005, the fourth day of verification, Gerber withdrew from verification, reclaiming its verification exhibits, and indicating acceptance that withdrawal would result in total AFA.<sup>4</sup>

The Department was unable to complete the verification of the information submitted by Gerber, including verification of information pertaining to Gerber's eligibility for a separate rate. Therefore, as a result, the Department finds that Gerber does not qualify for a separate rate.

### Analysis of Comments Received

All issues raised in the post-preliminary comments by parties in this review are addressed in the *Issues and Decision Memorandum*, dated September 6, 2005, which is hereby adopted by this notice. A list of the issues which parties raised and to which we responded in the Decision Memo is attached to this notice as an Appendix. The Decision Memorandum is a public document which is on file in the Central Records Unit ("CRU"), room B-099 in the main Department building, and can be accessed directly on the Web at <http://ia.ita.doc.gov/frn/index.html>. The paper copy and electronic version of the *Issues and Decision Memorandum* are identical in content.

### Changes Since the Preliminary Results

Based on the comments received from the interested parties, the Department has made changes to the margin calculation for Guangxi Hengxian, Jiufa, XITIC, COFCO, and Green Fresh. Based on information submitted since the *Preliminary Results*, some surrogate values have changed and some new values have been added. The surrogate value for soil, salt, labels, gypsum, water, cans and lids, and labor have changed. See *Issues and Decision Memorandum* at comment 1 and 2. The surrogate values for caustic soda, sodium hypochlorite, dope, banding, banding clips, ink, borax, epoxy, amylum, amyl acetate, and staples have been introduced. See *Issues and Decision Memorandum* at comment 4.

For the final results, the calculation of surrogate financial ratios for factory overhead and selling, general and administrative expenses ("SG&A") have been changed to better reflect 2003 and 2004 information, and to more closely reflect past Department policy. The Department corrected the amount of "Consumption of Raw Material" when using Agro Dutch's financial Profit and Loss Statement for calculation of SG&A. The Department also added "job work" expenses to labor to calculate a total labor cost, consistent with prior practice. The Department excluded

discounts and rebates, also consistent with past practice. The Department corrected a clerical error in calculating depreciation, an element of factory overhead. See *Issues and Decision Memorandum* at comment 2.

For Guangxi Hengxian, we have made the following changes. First, as Guangxi Hengxian self-produces a significant portion of its cans, we have valued the factors of production for the cans that it produces and calculated a weighted average between the value of the can based on the can-making factors and the surrogate value of the finished can that would reflect Guangxi Hengxian's ratio of finished can purchases to its can production.<sup>5</sup> Second, in order to capture the most accurate reflection of growing FOPs, the Department has only considered the FOPs in the first growing period in its entirety and has not considered any portion of the FOPs in the second growing period.

With regard to Jiufa, we have determined that Jiufa and Yantai Muping Packing Materials Co., Ltd. ("Jiufa Packing") are part of the same group and have used the factors of production reported for Jiufa Packing.<sup>6</sup> With regard to COFCO, we determine that COFCO has provided enough information to establish a reasonable link between the free jars received and the jarred merchandise sold to the U.S. customer. Therefore, we have adjusted the amount of the U.S. price for the expenditures paid by the U.S. customer for the jars.

### The PRC-Wide Rate and Application of Facts Otherwise Available

The PRC-wide rate will apply to all entries of subject merchandise except for entries from PRC producers/exporters that have their own calculated rate. See "Separate Rates" section above.

### Adverse Facts Available

Section 776(a) of the Tariff Act of 1930, as amended, ("the Act") provides that, when (1) necessary information is not available on the record, the Department may use the facts otherwise available to make a results. 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;

<sup>4</sup> See Memorandum Discussing the On Site Meetings to Verify the Response of Gerber Foods (Yunnan) Co., Ltd. ("Gerber") in the Fifth Antidumping Duty Review of Certain Preserved Mushrooms from the People's Republic of China ("PRC") dated June 13, 2005, from Amber Musser,

International Trade Compliance Analyst, through James C. Doyle, Director, Office 9, to the File, ("Gerber Memo") for a discussion of the events that occurred at verification prior to Gerber's withdrawal.

<sup>5</sup> We note that we have introduced additional surrogate values for these factors where needed.

<sup>6</sup> See Jiufa comment 9.

(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 Department shall, subject to section 782(d) of the Act, use the facts otherwise available in reaching the applicable results under this title. Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department shall promptly inform the party submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that party with an opportunity to remedy or explain the deficiency. Section 782(d) further states that, if the party submits further information that is unsatisfactory or untimely, the administering authority may, subject to subsection (e), disregard all or part of the original and subsequent responses. Section 782(e) of the Act provides that the Department shall not decline to consider information that is submitted by an interested party and is necessary to the results but does not meet all the applicable requirements established by the administering authority if (1) the information is submitted by the deadline established for its submission, (2) the information can be verified, (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable results, (4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the administering authority with respect to the information, and (5) the information can be used without undue difficulties.

Section 776(b) of the Act provides that, in selecting from among the facts available, the Department may use an inference that is adverse to the interests of the respondent if it determines that a party has failed to cooperate to the best of its ability. Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." See *Statement of Administrative Action* ("SAA") accompanying the URAA, H. Doc. No. 316, 103d Cong., 2d Session at 870 (1994). In determining whether a party failed to cooperate to the best of its ability, the Department considers whether a party could comply with the request for information, and whether a party paid insufficient attention to its statutory duties. See *Tung Mung Dev. Co. v. United States*, 223 F. Supp. 2d 1336, 1342 (August 6, 2002). Furthermore, the Department also

considers the accuracy and completeness of submitted information, and whether the respondent has hindered the calculation of accurate dumping margins. See *Certain Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review*, 62 FR 53808, 53819–53820 (October 16, 1997). The focus of 776(b) of the Act is respondent's failure to cooperate to the best of its ability, rather than its failure to provide requested information. See *Nippon Steel Corp. v. United States*, 337 F. 3d 1373, 1382 (Fed. Cir. 2003). An adverse inference may include reliance on information derived from the petition, the final results in the investigation, any previous review, or any other information placed on the record. See section 776(b) of the Act.

#### Gerber

Section 776(a) of the Act provides that the Department may make a facts available ("FA") determination if a party withholds information requested by the Department, significantly impedes a proceeding, and/or provides unverifiable information in a proceeding. Through its withdrawal from verification, Gerber withheld requested information from the Department, impeded this proceeding, and precluded the Department from verifying information placed on the record in this case. Consistent with Section 776(a) of the Act, the Department has determined to apply total facts available to Gerber for the final results. The application of total facts available is warranted in this case because Gerber's withdrawal from verification made it impossible for the Department to verify all of the information on the record.

The Department further finds that by withdrawing from verification, Gerber has failed to cooperate to the best of its ability in this proceeding. Therefore, pursuant to section 776(b) of the Act, we find it appropriate to use an inference that is adverse to the interests of Gerber in selecting from among the facts otherwise available with respect to its request for a separate rate. By doing so, we ensure that the companies that fail to cooperate will not obtain a more favorable result than those companies that complied fully with the Department's requests in this review. Furthermore, as noted above, because we were unable to verify Gerber's separate rates information, as adverse facts available ("AFA"), Gerber's request for a separate rate will be denied. Accordingly, as AFA, we are applying the PRC-wide rate to Gerber. See below

for a discussion of the probative value of the 198.63 percent rate.

#### PRC-Wide Rate (Dingyuan, Shantou Hongda, Zhangzhou Jingxiang)

In the *Preliminary Results*, we determined that Dingyuan, Shantou Hongda, and Zhangzhou Jingxiang would be subject to the PRC-wide rate. Specifically, Dingyuan and Zhangzhou Jingxiang did not respond to the Department's questionnaires, and Shantou Hongda withdrew from the review after filing an initial questionnaire response. We received no comments regarding our preliminary finding to deny the companies a separate rate. Accordingly, as AFA, we have continued to apply the PRC-wide rate of 198.63 percent to Dingyuan, Shantou Hongda, and Zhangzhou Jingxiang. See below for a discussion of the probative value of this figure.

#### Guangxi Yulin

At verification, the Department discovered Guangxi Yulin's name in Gerber's records.<sup>7</sup> On June 3, 2005, the Department issued a supplemental questionnaire to Guangxi Yulin allowing it a chance to clarify and explain its relationship with Gerber. Guangxi Yulin was granted an extension to respond to this supplemental, but on June 30, 2005, its counsel informed the Department that it would not participate any further in this review or the ongoing sixth review of this case. Guangxi Yulin acknowledged that it risked a Department finding that it failed to cooperate to the best of its ability under section 776(b) of the Act.

Guangxi Yulin's refusal to respond to the Department's final supplemental questionnaire leaves the record incomplete. The Department finds that due to the circumstances surrounding the issuance of the supplemental questionnaire, the information was critical and necessary to the Department's review of Guangxi Yulin's production and sales during the POR. Therefore, pursuant to sections 776(a)(1) and 776(a)(2)(A) and (B) of the Act, the Department finds the lack of this critical information on the record warrants the application of total facts available to Guangxi Yulin's calculations.

Furthermore, pursuant to section 776(b) of the Act, the Department has determined that the application of an

<sup>7</sup> See Memorandum Discussing the On Site Meetings to Verify the Response of Gerber Foods (Yunnan) Co., Ltd. in the Fifth Antidumping Duty Review of Certain Preserved Mushrooms from the People's Republic of China ("PRC") dated June 13, 2005, from Amber Musser, International Trade Compliance Analyst, through James C. Doyle, Director, Office 9, to the File.

adverse inference is warranted. Guangxi Yulin refused to respond to the Department's final supplemental questionnaire which related to information covering the entire POR. Therefore, the Department finds that Guangxi Yulin failed to cooperate to the best of its ability.

As AFA, we have applied the PRC-wide rate of 198.63 percent to Guangxi Yulin. See below for a discussion of the probative value of the 198.63 percent rate.

#### Corroboration

In accordance with the Department's practice, we have assigned to the PRC-wide entity (including Dingyuan, Shantou Hongda, Zhangzhou Jingxiang, and Gerber) and Guangxi Yulin the rate of 198.63 percent as AFA. See, e.g., *Rescission of Second New Shipper Review and Final Results and Partial Rescission of First Antidumping Duty Administrative Review: Brake Rotors from the People's Republic of China*, 64 FR 61581, 61584 (November 12, 1999).

In selecting a rate for adverse facts available, the Department selects a rate that is sufficiently adverse "as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner." See *Final Results of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998). Pursuant to section 776(c) of the Act, this rate is the highest dumping margin from any segment of this proceeding and was established in the less-than-fair-value investigation based on information contained in the petition, and corroborated in the final results of the first administrative review. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 72255 (December 31, 1998); *Certain Preserved Mushrooms from the People's Republic of China: Preliminary Results of First Antidumping Duty Administrative*

*Review*, 65 FR 66703 (November 7, 2000); and reinforced in *Certain Preserved Mushrooms from the People's Republic of China: Final Results of First Antidumping Duty Administrative Review*, 66 FR 31204 (June 11, 2001). For the reasons stated in the *Preliminary Results*, the Department continues to find this rate to be both reliable and relevant, and, therefore, to have probative value in accordance with the *Statement of Administrative Action*, H.R. Doc. 103-316 ("SAA"). See SAA at 870, see also *Preliminary Results* at 70 FR 10965. The Department received no comments on the Department's preliminary analysis of this rate for purposes of these final results. Therefore, the Department determines that the rate of 198.63 is still reliable, relevant, and, has probative value within the meaning of section 776(c) of the Act.

#### Final Results of Review

We determine that the following antidumping duty margins exist:<sup>8</sup>

Exporter	Percent
China Processed Food Import & Export Company .....	1.50
Green Fresh Foods (Zhangzhou) Co., Ltd. ....	167.72
Guangxi Hengxian Pro-Light Foods (Zhangzhou) Co., Ltd. ....	22.27
Shandong Jiufa Edible Fungus Corporation Ltd. ....	3.97
Xiamen International Trade & Industrial Co., Ltd. ....	0.24 ( <i>de minimis</i> )
Guangxi Yulin Oriental Food Co.; Ltd. ....	198.63
PRC-Wide Rate .....	198.63

For details on the calculation of the antidumping duty weighted-average margin for each company, see the respective company's *Analysis Memorandum for the Final Results of the Fifth Administrative Review of the Antidumping Duty Order on Certain Preserved Mushrooms from the People's Republic of China*, dated September 6, 2005, on file in the CRU.

#### Assessment of Antidumping Duties

The Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of the final results of this review.<sup>9</sup> For assessment purposes, where possible, we calculated importer-specific assessment rates for *Certain Preserved Mushrooms* from the PRC on a per-unit

basis.<sup>10</sup> Specifically, we divided the total dumping margins (calculated as the difference between normal value and export price or constructed export price) for each importer by the total quantity of subject merchandise sold to that importer during the POR to calculate a per-unit assessment amount. In this and future reviews, we will direct CBP to assess importer-specific assessment rates based on the resulting per-unit (*i.e.*, per-kilogram) rates by the weight in kilograms of each entry of the subject merchandise during the POR.

#### Cash Deposits

For this and all subsequent review segments, we will establish and collect a per-kilogram cash deposit amount which will be equivalent to the company-specific dumping margin published in each review. The following cash-deposit requirements will be effective upon publication of these final

results for shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results, as provided by section 751(a)(2)(c) of the Act: (1) For subject merchandise exported by COFCO, Green Fresh, Guangxi Hengxian, Jiufa, Guangxi Yulin, and XITIC, we will establish a cash deposit rate which will be equivalent to the company-specific cash deposit established in this review; (2) the cash deposit rate for PRC exporters who received a separate rate in a prior segment of the proceeding will continue to be the rate assigned in that segment of the proceeding (except for Gerber, Guangxi Yulin and Shantou Hongda, whose cash-deposit rates have changed in this review to the PRC-wide entity rate, as noted below); (3) for all other PRC exporters of subject merchandise which have not been found to be entitled to a separate rate (including

<sup>8</sup> The PRC-wide rate includes Gerber, Guangxi Yizhou, Nanning Runchao, Raoping Yucun, Superlucky, Shenzhen Qunxingyuan, Mei Wei, Zhongjia, Shantou Hongda, Dingyuan, Zhangzhou Jingxiang, Minhui, and Zhangzhou Hongning.

<sup>9</sup> In accordance with 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to

antidumping duties all entries of subject merchandise during the POR for which the importer-specific assessment rate is zero or *de minimis* (*i.e.*, less than 0.50 percent).

<sup>10</sup> In our *Preliminary Results*, for those respondents who reported an entered value, we

divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales for each applicable importer to calculate an *ad valorem* assessment rate.

Gerber, Dingyuan, Shantou Hongda and Zhangzhou Jingxiang), or in the case of Guangxi Yulin, have been assigned the PRC-wide rate, the cash-deposit rate will be the PRC-wide rate of 198.63 percent; (4) for all non-PRC exporters of subject merchandise, the cash-deposit rate will be the rate applicable to the PRC supplier of that exporter.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

#### Notification to Interested Parties

This notice also serves as the final 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 in the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the return/destruction or conversion to judicial protective order of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

These results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: September 6, 2005.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

#### Appendix I

##### List of Issues

##### General Issues

- Comment 1—Can Valuation
- Comment 2—Surrogate Values
  - A. Soil
  - B. SG&A
  - C. Labor
  - D. Water
  - E. Gypsum
  - F. Salt
  - G. Label

##### Company-Specific Issues

##### Hengxian

- Comment 3—Clerical Errors in Program
- Comment 4—Valuation of Can Making Factors of Production
- Comment 5—Allocation of Growing Factors of Production
- Comment 6—Valuation of Scrap Mushrooms
- XITIC
- Comment 7—Clerical Errors in Program

##### Jiufa

- Comment 8—Clerical Errors in Program
- Comment 9—Valuing Jiufa's Affiliated Producer's FOPs for Self-produced Cans, Lids and Cartons
- Comment 10—Verification Changes
- COFCO
- Comment 11—Clerical Error in Program
- Comment 12—AFA on Soil
- Comment 13—Jars Provided Free of Charge by U.S. Customer
- Comment 14—Conversion Rate for Spawn
- Comment 15—Copper Wire Inclusion in COM
- Comment 16—FOPs for Brined Mushrooms Produced by Fujian Zishan
- Comment 17—Weight Averaging the Factor of Production for the Affiliates

##### Green Fresh

- Comment 18—AFA on CEP Sales
- Comment 19—Verification Changes

##### Gerber

- Comment 20—Withdraw From Verification
- Guangxi Yulin
- Comment 21—Failure To Participate

[FR Doc. E5-5016 Filed 9-13-05; 8:45 am]

**BILLING CODE 3510-DS-P**

#### DEPARTMENT OF COMMERCE

##### International Trade Administration

##### National Animal Disease Center; Notice of Decision on Application for Duty-Free Entry of Electron Microscope

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Suite 4100W, Franklin Court Building, U.S. Department of Commerce, 1099 14th Street, NW., Washington, DC.

**Docket Number:** 05-030. Applicant: National Animal Disease Center, U.S. Department of Agriculture. Instrument: Electron Microscope, Model Technai G<sup>2</sup> 12 TWIN/BioTWIN. Manufacturer: FEI Company, Czech Republic. Intended Use: See notice at 70 FR 43125, July 26, 2005. Order Date: August 16, 2004.

**Comments:** None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as the instrument is intended to be used, was being manufactured in the United States at the time the instrument was ordered. Reasons: The foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to

these purposes, which was being manufactured in the United States either at the time of order of the instrument OR at the time of receipt of the application by U.S. Customs and Border Protection.

**Gerald A. Zerdy,**

*Program Manager, Statutory Import Programs Staff.*

[FR Doc. E5-5017 Filed 9-13-05; 8:45 am]

**BILLING CODE 3510-DS-P**

#### DEPARTMENT OF COMMERCE

##### International Trade Administration

##### Oregon Health and Science University, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Suite 4100W, Franklin Court Building, U.S. Department of Commerce, 1099 14th Street, NW., Washington, DC.

**Comments:** None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

**Docket Number:** 05-018. Applicant: Oregon Health and Science University, Beaverton, OR 97006. Instrument: TriMScope Beam Multiplexor System. Manufacturer: La Vision Bio Tech, GmbH, Germany. Intended Use: See notice at 70 FR 36117, June 22, 2005. Reasons: The foreign instrument provides pulsed, near infrared light >700 nm which is safer for living biological tissue than visible light and is not damaging to living brain tissue. It also allows deeper penetration into the brain (to <100 µm below the surface). Advice received from: The National Institutes of Health.

**Docket Number:** 05-024. Applicant: Massachusetts Institute of Technology, Plasma Science and Fusion Center, 150 Albany Street, Cambridge, MA 02139. Instrument: Diagnostic Neutral Beam Injector. Manufacturer: Budker Institute of Nuclear Physics. Intended Use: See notice at 70 FR 43125, July 26, 2005. Reasons: The foreign instrument provides: (1) Beam voltage of 55 kV max, 50 kV nominal and operating range of 20-55 kV, (2) extracted ion current of 7 A max, (3) pulse duration of 1.5 s constant and 3 s with on/off