by the fact that a considerable quantity of mushrooms initially selected for the fresh sales market were eventually canned, and canned whole mushrooms may be re-processed into PNS.

Finally, the Department has accounted for specific cost differences, such as differences in picking costs, supported by our observations that additional time was required to harvest the smaller mushrooms. On this basis, consistent with *Mushrooms from Chile*, we continue to rely upon a weight-based methodology because, while ignoring differences in aesthetics and quality, it reasonably reflects the costs of producing the subject merchandise. *See IPSCO, Salmon from Chile, Flowers from Colombia* as cited in Comment 1.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after August 5,1998 (the date of publication of the preliminary determination in the **Federal Register**). The Customs Service shall continue 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. The suspension of liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Agro Dutch Foods Limited	6.28
Ponds India, Ltd.	14.19
Alpine Biotech Ltd.	243.87
Mandeep Mushrooms Ltd.	243.87
All Others	10.87

Note: The margins based on facts available were not included in the calculation of the All Others rate in accordance with 735(c)(5)(A) of the Act.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: December 18, 1998.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–34703 Filed 12–30–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–851]

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

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

EFFECTIVE DATE: December 31, 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 (April 1998).

Final Determination

We determine that certain preserved mushrooms (''mushrooms'') from the People's Republic of China are being sold in the United States at less than fair value (''LTFV''), as provided in section 735 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 preliminary determination (*Preliminary Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 41794, August 5, 1998), the following events have occurred:

The respondent exporters in this investigation, China Processed Food Import & Export Company (''China Processed'') and its affiliate Xiamen Jiahua Import & Export Trading Company, Ltd. (''Xiamen Jiahua''), Shenzhen Cofry Cereals, Oils, & Foodstuffs Company, Ltd. (''Shenzhen Cofry''), and Tak Fat Trading Corporation Co. (''Tak Fat''), submitted revisions and corrections to their questionnaire responses in August 1998. An importer of the subject merchandise, Gerber Food (Yunnan) Co., Ltd. (''Gerber''), submitted shipment data on August 12, 1998.

On August 7, 1998, the petitioners in this investigation, L.K. Bowman, Inc., Modern Mushroom Farms, Inc., Monterey Mushrooms, Inc., Mount Laurel Canning Corp., Mushroom Canning Company, Southwood Farms, Sunny Dell Foods, Inc., and United Canning Corp., requested a public hearing. An importer of the subject merchandise, Hop Chong Trading Company, Inc. (''Hop Chong''), and the respondents subsequently requested a public hearing on August 17 and August 25, 1998, respectively.

We issued supplemental questionnaires to the respondents, the China Chamber of Commerce of Importers and Exporters of Foodstuffs, Native Produce and Animal By-Products (''China Chamber''), and the PRC Ministry of Foreign Trade and Economic Cooperation (''MOFTEC'') on August 7 and 10, 1998. We received responses to these questionnaires from the respondents and the China Chamber on August 21, 1998, and from MOFTEC on September 2, 1998.

In August and September 1998, we conducted verifications of the respondents' questionnaire responses, including information provided by the producers who supplied the subject merchandise during the POI—Dongya Food Company Ltd. (''Dongya''), Longhai Cannery Inc. (''Longhai''), Mei Wei Foods Industrial Co. Ltd. (''Mei Wei''), Fujian Province Putian Cannery (''Putian Cannery''), Fujian Zhaoan Canned Food Factory (''Zhaoan''); and Fujian Zishan Group Co., Ltd. (''Zishan'')—as well as Zhaoan's affiliated can producer Zhangzhou

Ruida Can Making Co., Ltd. (''Zhangzhou Ruida''). We issued reports on our findings of these verifications during September and October 1998.

The respondents submitted additional surrogate value data on October 1, 1998, and petitioners' responded to this submission on October 13, 1998.

The petitioners, respondents, Hop Chong, and importer Liberty Gold Fruit Co. Inc. (''Liberty Gold'') submitted case briefs on October 23, 1998, and rebuttal briefs on October 30, 1998. We held a public hearing on November 4, 1998.

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 2003.10.0027, 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 (''HTS''). Although the HTS subheadings are provided for convenience and Customs purposes, the Department's 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. For all exporters, this period was July 1 through December 31, 1997.

Nonmarket Economy Country

The Department has treated the PRC as a nonmarket economy (''NME'') country 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*'')). As discussed in the preliminary determination, the respondents claimed that economic changes in the PRC warrant revocation of PRC's NME status. We determined that the information proffered by the respondents provided insufficient support for their claim for market economy status and did not address a number of important factors for determining market economy status (*see* Memorandum from the Team to Lou Apple, dated July 27, 1998). No further information has been provided for the record since the preliminary determination. Therefore, in accordance with section 771(18)(C) of the Act, we have continued to treat the PRC as an NME in this investigation.

Market Oriented Industry Claim

Shortly before the preliminary determination, the respondents claimed that their material inputs were acquired at market prices and that, accordingly, the Department should determine that the PRC mushroom industry is a market-oriented industry (''MOI'') and should rely on the actual PRC prices for valuing these inputs. We did not have sufficient time to analyze this claim for the preliminary determination. Subsequent to the preliminary determination, we obtained additional information from the respondents, China Chamber, and MOFTEC, and conducted verifications that included examination of the respondents' claims. Based on our analysis, as discussed in detail below in Comment 1 of the ''Interested Party Comments'' section of this notice, we have determined that the respondents have failed to establish that the preserved mushrooms industry is a MOI. Therefore, we have continued to calculate normal value using the factors of production methodology, in accordance with section 773(c) of the Act.

Separate Rates

Each respondent exporter 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 determined 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 (''*Honey*'').

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.

As discussed in the preliminary determination, 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*''). We noted that, 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 Honey* at 14727. In this investigation, the involvement of the PRC government under this law is negligible with regard to a determination of separate rates. Accordingly, we determined 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.

During verification, our examination of correspondence and sales documentation revealed no evidence that any of the respondent exporters' export prices are set, or subject to approval, by any governmental authority, other than the export quota system identified above. That these exporters have the authority to negotiate and sign contracts and other agreements independent of any government authority was evident from our examination of correspondence and written agreements and contracts. Finally, we have determined that the responding exporters have autonomy from the central government in making decisions regarding the appointment of management. We also noted that the responding exporters retained proceeds from their export sales and made independent decisions regarding disposition of profits and financing of losses, based on our examination of financial records and purchase invoices (*see, e.g.*, China Processed October 16, 1998, verification report at pages 3–4).

Consequently, we determine that the respondent exporters in this investigation have met the criteria for the application of separate rates.

Margins for Exporters Whose Responses Were Not Analyzed

As discussed in the preliminary determination, 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, we are assigning the weighted-average of the rates of the three fully analyzed exporting 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.

PRC-Wide Rate

As stated in the preliminary determination, 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 the ''Continuation of Suspension of Liquidation'' section of this notice, 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*'').

As explained in the preliminary determination, this PRC-wide antidumping rate is based on adverse facts available, in accordance with Section 776 of the Act. As adverse facts available, we are assigning the highest margin in the petition, 198.63 percent, 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. As discussed in the preliminary determination at 41798, we determined 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 export price (''EP'') to the normal value (''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.

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 constructed export price (''CEP'') methodology was not otherwise indicated. We calculated EP

based on the same methodology applied in the preliminary determination, with the following exceptions:

- We made corrections to the reported billing adjustments on certain China Processed sales, as identified in the September 18, 1998, pre-verification submission.
- We corrected the starting price for certain sales made by Xiamen Jiahua to reflect the price from its affiliated trading company to unaffiliated customers, as identified in the September 14, 1998, submission (*see* Comment 15).

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 the same methodology applied in the preliminary determination, with the following exception:

- We included certain sales in our calculations that were excluded in the preliminary determination because they appeared to have been made by another exporter. We determined at verification that, in fact, these sales were made by Tak Fat.

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 the same methodology applied in the preliminary determination, with the following exceptions:

- We recalculated the international freight expenses paid to a market-economy supplier based on our verification findings.
- We made revisions to the reported billing adjustment amounts based on our verification findings.
- As Shenzhen Cofry's supplier, Zhaoan, used its own trucks to transport the finished merchandise to port, according to our verification findings, we made no deduction for foreign inland freight.

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 on Nonmarket Economy Status and Surrogate Country Selection from Jeff May, Director, Office of Policy, to Louis Apple, Office Director, AD/CVD Enforcement Group II, Office 5, dated February 23, 1998). According to the available information on the record and as stated in our preliminary determination, we have determined that both India and Indonesia meet both statutory requirements for an appropriate surrogate country for the PRC. In the final determination, we have continued to rely on India as the surrogate country, based on the quality and contemporaneity of the currently available data. Accordingly, we have calculated NV using Indian surrogate values for the PRC producers' factors of production, except in those instances where an input was sourced from a market economy and paid for in a market economy currency, such as glass jars consumed by Longhai and labels consumed by Mei Wei. We have obtained and relied upon publicly available information (''PAI'') wherever possible.

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 Final Determination Valuation Memorandum from the Team to the File (''Valuation Memorandum''), dated December 18, 1998. In addition, the selection of many of these surrogate values is discussed below in the ''Interested Party Comments'' section.

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. As in the preliminary determination, we calculated NV based on the factors of production reported by the respondents.

To calculate NV, the verified per-unit factor quantities, adjusted where appropriate, were first multiplied by the surrogate values; the resulting products were then summed. We then added amounts for overhead, selling, general, and administrative expenses (including interest) (''SG&A''), and profit, and packing expenses incidental to placing the merchandise in packed condition and ready for shipment to the United States. We calculated NV based on the same methodology used in the preliminary determination with the following exceptions:

For all respondents: we did not value separately the reported factors for salt, ascorbic acid, vitamin C, chlorine, and monosodium glutamate because the surrogate value for factory overhead includes these factors and we were not able to separate these factors from the factory overhead percentage (*see* Comment 5). We have also reclassified labels from a direct material expense to a packing expense (*see* Comment 14).

China Processed/Xiamen Jiahua

- We used corrected factor data reported by Zishan in its September 18, 1998, submission and resubmitted on November 20, 1998.
- We applied revised packing factors for Longhai and Zishan, as reported in the September 18, 1998, submission.
- We applied revised supplier distances for certain Longhai inputs, as reported in the September 18, 1998, submission.
- For Dongya, Longhai, and Zishan, we corrected consumption factor data for various inputs, as identified in each company's verification report. However, we did not use all of the corrected data in our calculations because some of the consumption factors are not classified as part of factory overhead (see Comment 5).

Shenzhen Cofry

- For Zhaoan, we made revisions to the reported electricity, packing material, and packing labor consumption factors based on our verification findings.
- Because Zhaoan used its own trucks to transport cartons and labels from the suppliers to the factory, according to our verification findings, we did not add an input freight value for these factors.

Tak Fat

- We valued paper labels consumed by Mei Wei based on the market economy price paid for this market economy-sourced input by the affiliated exporter Tak Fat.

• We revised several of the packing material weights used in our valuation calculations based on measurements taken at the Mei Wei verification.

C. Surrogate Values

We valued fresh mushrooms using the average of (a) the unit value for fresh mushroom purchases derived from the 1996–1997 annual report from an Indian preserved mushroom producer, and (b) a published September 1996 wholesale price quote for fresh mushrooms (see Comment 3 and the Valuation Memorandum). We were unable to identify an appropriate surrogate value for brined (provisionally preserved) mushrooms; thus, as in 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 (*see* Comment 4). For tin cans and lids, we used values derived from the average unit price paid by an Indian preserved mushrooms producer, Agro Dutch Foods (India) (''Agro Dutch'') (*see* Comment 6). For glass jars, and labels, we used Indian import values from *Monthly Statistics of the Foreign Trade of India* (''*Monthly Statistics*'').

For Longhai, which resold scrap can material, we made a deduction to the surrogate cost of production using an average unit value for tin waste and scrap derived from 1997 U.S. import statistics. As in the preliminary determination, use of this U.S. value was necessary because we were unable to identify an appropriate surrogate value from a surrogate country. As in the preliminary determination, we have not made a deduction for scrap mushrooms not consumed in the canning/jarring process because no party has proffered an appropriate surrogate value and this factor does not appear to have a significant impact on the calculation of NV.

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

As in the preliminary determination, we valued electricity using 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 on the import values from the *Monthly Statistics*. We revised the valuation of diesel fuel to rely on the average of the prices reported in a December 1997 issue of *Economic Times of India* (*see* Comment 9 and the Valuation Memorandum).

We based our calculation of factory overhead (which includes several materials valued separately in the preliminary determination), SG&A expenses, and profit on data contained in the financial reports of Agro Dutch (*see* Comment 5).

As in the preliminary determination, we valued truck freight rates using 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, labels, corrugated paper, wooden pallets, and shrink wrap, we used import values from the *Monthly Statistics*. While we used the same source for the surrogate value for glue, we used a different import category than that used for the preliminary determination (*see* Comment 8).

In addition, we have corrected the POI average exchange rate used to convert all surrogate values in Indian rupees to U.S. dollars because in the preliminary determination we inadvertently used the International Monetary Fund's Special Drawing Rights rate rather than a U.S. dollar rate. For the final determination, we have used the POI average of the Federal Reserve exchange rates for India. The use of the POI average rate for conversion of the surrogate values, rather than the rate on the date of sale under section 773A(a) of the Act, is in accordance with our policy and practice, as discussed in *Final Results of Antidumping Duty Administrative Review and New Shipper Review and Determination not to Revoke Order in Part: Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China*, 63 FR 63842, 63854, November 17, 1998.

Critical Circumstances

We have determined that critical circumstances exist for one of the mandatory respondents, Tak Fat, and the non-responding exporters. With regard to the other two mandatory respondents, Shenzhen Cofry and Xiamen Jiahua, we have determined that critical circumstances do not exist based on our analysis of updated shipment data. Furthermore, we have reversed our preliminary critical circumstances finding with regard to the companies who submitted responses but whose responses were not analyzed due to the Department's own administrative constraints. In accordance with *Final Determination of Sales at Less Than Fair Value: Brake Drums and Brake Rotors from the People's Republic of China*, 62 FR 9160, February 28, 1997 (''*Brake Drums and Brake Rotors*''), and *Notice of Preliminary Critical Circumstances Determination: Honey from the People's Republic of China*, 60 FR 29824, June 6, 1995 (''*Honey* Critical Circumstances''), we do not find critical circumstances for these non-mandatory respondents. For additional discussion, *see* Comment 2, below.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by respondents for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records, and original source documents provided by respondents.

Interested Party Comments

A. General Issues

Comment 1: Preserved Mushrooms as a Market-Oriented Industry

The petitioners contend that the Department should reject the respondents' claim that the preserved mushrooms industry should be treated as a MOI and thus the normal value should be based on constructed value using the producers' costs for the inputs, because the PRC industry has failed to participate sufficiently in the investigation for the Department to determine whether a MOI exists. The petitioners assert that much of the PRC industry has not responded to the Department's questionnaires, given that only 13 exporters responded out of the total of 62 companies to whom the Department issued a questionnaire. As Department practice requires a response from all producers, the petitioners assert that this deficiency is a fatal flaw in the respondents' claim. According to the petitioners, to base the MOI determination solely on the basis of the information provided by the PRC entities that chose to respond, as the petitioners suggest that the respondents

are contending, would change the MOI analysis in such a way as to obviate the usefulness and validity of the test, which rightly requires analysis of the entire industry in question.

In addition, the petitioners contend that the respondents fail to meet any of the MOI criteria. As stated in the *Amendment to Final Determination of Sales at Less than Fair Value and Amendment to Antidumping Duty Order: Chrome-Plated Lug Nuts from the People's Republic of China*, 57 FR 15054, April 24, 1992 (''*Lug Nuts*''), an affirmative MOI finding requires (1) no state controls over pricing or production; (2) an industry characterized by private or collective ownership; and (3) market-determined prices for virtually all inputs. The petitioners' arguments against the respondents' MOI claim address all three criteria as follows:

Pricing

- The PRC government is involved in the industry by maintaining and enforcing, through the China Chamber, a minimum price floor that requires companies to follow the controlled prices.
- The PRC government is also involved through the imposition and enforcement of an export quota, which affects production quantities since the industry is primarily export-oriented.

Ownership

- The Department must determine that the industry is not characterized by private or collective ownership because many producers did not respond to the Department's questionnaire and thus are presumed to be state-controlled.
- The limited ownership data provided by respondents relies on information collected specifically for this proceeding and support documentation selected by the respondents. This information constitutes an inadequate and biased sampling from which to determine that the entire preserved mushroom industry is characterized by private or collective ownership.

Market Prices for Inputs

- The respondents' support for the claim that market-determined prices are paid is inadequate because it lacks objective corroboration or is too narrow in scope to be considered as generally acceptable throughout the PRC.
- Prices for salt, electricity, vitamin C, citric acid, and paper are not market-determined because they are either subject to price controls or are controlled by state-owned enterprises.
- The respondents have failed to establish that prices for chemicals, coal, labor, real estate, and capital markets, which were found not to be market oriented in previous cases, are market oriented.
- The respondents provided no information to indicate that suppliers to the preserved mushroom industry paid market-determined prices for their inputs (*e.g.*, fertilizer and pesticides for mushroom growing), in accordance with the Department's request as part of the fourth administrative review of *Chrome-Plated Lug Nuts from the PRC.*

The respondents hold that the information they have supplied for the record of this investigation to support their MOI claim for the preserved mushrooms industry provides sufficient coverage for virtually the entire industry. The respondents assert that, because the exporters who responded to the Department's questionnaire account for 89 percent of POI exports to the United States and the mandatory respondents cover 57 percent, this information should satisfy the ''virtually entire industry'' test. Moreover, the respondents note that the Department only issued the MOI questionnaire to the mandatory respondents, the producers who supplied the merchandise to them, the China Chamber, and MOFTEC, and these entities responded; thus, they maintain that they cannot be faulted for not supplying additional information regarding industry coverage.

With regard to the MOI test, the respondents claim that they meet all three criteria of this test and point to their submissions and verification findings to support their position. The respondents make the following arguments to demonstrate that the industry is a MOI:

Pricing

- The PRC government is not involved in setting the prices, production quantities, or allocation of preserved mushrooms.
- ''Floor prices'' of preserved mushrooms, to the extent they exist, were not established by the PRC government but by the exporters to prevent market disruption in foreign markets; and notwithstanding this test, examination of the actual sales prices shows that the exporters did not follow the floor prices consistently, and there is no evidence that MOFTEC enforced them.
- Quota allocations are marketable and can be exchanged among the PRC exporters, thus lessening any trade distortions and further demonstrating the market orientation of the industry.

Ownership

- There is no state ownership in the preserved mushroom production or exporting industries, as none of the 52 canneries is currently run by the state and the exporters are all either privately owned or collectively owned.
- The Department verified the respondents to confirm the absence of state control over their operations, and reviewed the business licenses of non-mandatory respondents and producers, thus establishing that there is no ''substantial state ownership'' in the PRC preserved mushrooms industry.
- The Department cannot presume that the industry is state-owned due to the failure of some producers to participate in the investigation because totaling all of the ownership information submitted and reviewed at verification provides sufficient coverage of the entire preserved mushroom industry.

Market Prices for Inputs

- The respondents have placed substantial evidence on the record, verified by the Department, that they pay market-determined prices.
- The disparity in input prices reported by the respondents' suppliers demonstrates the absence of government control in pricing, except for salt and electricity.
- Even though local governments can control salt and electricity prices, these input prices also vary to the same extent as the other inputs and, at any rate, these inputs constitute only an insignificant amount of the total inputs, by value.
- The respondent exporters and producers reported and the Department verified the freedom with which the producers enter and use capital markets, and buy and sell machinery and land rights.
- The petitioners' argument that the input pricing criterion of the MOI test requires evidence that the inputs used to create the inputs to the subject merchandise are market oriented is an expansion of the existing MOI test. If this condition is included as part of the test, no industry in a NME country would be able to establish MOI status because of all the input suppliers the Department would be forced to investigate.

DOC Position:

We disagree with the respondents and have not found the preserved mushrooms industry in the PRC to be a MOI.

As a threshold matter, we agree with the petitioners that the respondents

have not provided information for the record that covers virtually all of the producers of the industry. As the petitioners note, only 13 exporters responded to the Department's questionnaire and provided at least some information about their suppliers. The respondents provided information that there are at least 52 producers of the subject merchandise in the PRC, but there is no information on the record which defines how large the universe of preserved mushrooms producers in the PRC is with any specificity. While the respondents claim that the exporters who responded to the questionnaire account for 89 percent of PRC exports to the United States, there is no information on the record to identify what percentage of preserved mushrooms producers, including those who do not export to the United States, is covered by the respondents' data. In addition, the import data on the record indicate that there are PRC exporters which did not respond to the questionnaire, as noted in the preliminary determination at 41798. Even in those cases where the number of investigated firms is limited by the Department, a MOI allegation must cover all (or virtually all) of the producers in the industry in question (*see Final Determination of Sales at Less Than Fair Value: Freshwater Crawfish Tail Meat from the PRC*, 62 FR 41347, 41353, August 1, 1997). Thus, the record evidence provides only a partial picture of the preserved mushrooms industry.

Putting aside the coverage problem, the record does not support a finding that the preserved mushrooms industry has met all three prongs of the MOI test. As noted above, three conditions must be met for the Department to determine that a MOI exists: (1) no state controls over pricing or production; (2) an industry characterized by private or collective ownership; and (3) market-determined prices for virtually all inputs. The limited picture available from the record is a positive one from the standpoint of the first prong of the MOI test. The PRC preserved mushroom industry appears to consist of a large number of firms of varying size that do not appear constrained by government pricing or output mandates. Ownership of firms in the industry appears diverse, consisting of state-owned enterprises (''SOEs''), joint-ventures, collectives, ''privately run'' enterprises, and stock companies (of unknown type). The six producers we verified appear unconstrained by government pricing, production mandates, or controls that directly interfere with their business operations or efforts to make a profit.

Notwithstanding the issue of PRC industry coverage, even if we were to assume that such operational independence exists for the industry as a whole, so that the first prong of the MOI test were met, the extent of private and collective ownership in the industry, under the second prong of the MOI test, is unclear. First, while the industry is, indeed, characterized by diverse ownership interests, the number of private enterprises and collectives in the industry, and the share of total industry production capacity they account for, is quite small. By contrast, the largest mushroom cannery in the PRC is a SOE, *i.e.*, a company owned ''by all the people,'' accounting for almost 7 percent of total industry production capacity accounted for by the producers identified by the respondents, and two of the three largest mushroom canneries are SOEs, accounting for over 12 percent of this production capacity. The eight SOEs together account for approximately 20 percent of total industry production capacity accounted for by the identified producers (*see* Exhibit 6–A of the China Chamber's August 21, 1998, submission).

Second, the vast majority of firms in the industry are classified as ''shareholding'' enterprises. Shareholding enterprises in the PRC are the result of corporatization and other past and current efforts by the government to ''invigorate'' SOEs and increase their productive efficiency, but in the absence of a system of well-defined, enforceable private property rights (and the social and legal institutions necessary to support such a system). In the absence of such rights and the necessary supporting legal and social institutions, it is not at all clear to what extent effective ownership of these ''new'' (or what respondents refer to as ''former'') SOEs has changed and how it has changed. *See Forging Reform in China: The Fate of State-Owned Industry*, Edward S. Steinfeld, 1998 (relevant pages included in the record as part of a December 18, 1998, memorandum to the file). In any case, these shareholding enterprises in effect remain SOEs; only their labels have changed.

The status of these shareholding enterprises under the second prong of the MOI test is therefore unclear. Where shareholders are predominantly private individuals, private enterprises, collectives, or foreign-invested enterprises, the shareholding enterprise arguably should be classified as equivalent to a private enterprise or collective for purposes of the second prong of the MOI test. However, where the shareholders are predominantly SOEs (either ''new'' or ''old''), the shareholding enterprise arguably should remain classified as an SOE for purposes of the second prong of the MOI test.

In this case, the evidence on the record leaves unclear the ownership status of the large number of shareholding enterprises in the industry and the Department therefore cannot determine that the second prong of the MOI test has been met.

With respect to the third prong of the MOI test, the Department remains fundamentally concerned about the price of certain key inputs, land and capital, used to produce the subject merchandise. Fresh mushrooms are the primary raw material input used to make preserved mushrooms, making the price of fresh mushrooms an important determinant of the cost and, therefore, the price of the subject merchandise. Since the price of land is an important determinant of the cost and, therefore, price of agricultural products, like mushrooms, whether the price of land in the PRC is market-determined is important from the standpoint of the third prong of the MOI test.

As stated in respondents' August 21, 1998, MOI questionnaire responses, land cannot be privately owned in the PRC. That is, there is no system of well-defined, enforceable, private property rights to protect the interest of individuals who would sell (lease) and buy (rent) it with best use and profit in mind. The respondents cite to the existence of land-use rights in the PRC, how they are negotiable, how terms and conditions of their transfer are negotiated between buyer and seller, and how transfer of these rights are not subject to government limitation so long as they are registered with the government and the relevant land tax is paid. It may be argued that a system of well-defined, enforceable land-use rights that are complete and fully transferable is sufficient to generate market-based outcomes in the terms of land use and land values. However, in the PRC, at least, despite the respondents' suggestions, no such system appears to exist.

We note that local trade in land-use rights may be helping to put the PRC's scarce land resources to better use, and the preserved mushroom producers may, in fact, benefit from such trade. We also note the development of secondary land-use rights markets in the PRC, but this situation should not obscure the fact that non-market factors still play a significant role in determining how and by whom land in the PRC is used. That is, land-use rights in the PRC continue

to be formulated and allocated in large part on an administrative basis by village/township/local leaders who have both personal and social objectives in mind, *e.g.*, personal income, grain quotas and tax collections. The administrative bases upon which land use-rights are determined are inconsistent, are not well defined and differ by time and place, from village to village and township to township. *See* Scott Rozelle and Guo Li, ''Village Leaders and Land-Rights Formation in China,'' *American Economic Review*, May 1998 (included in the record as part of a December 18, 1998, memorandum to the file).

Based on the above, we conclude that, even though the allocation of land may, in some cases and in some sense, be consistent with a market-based outcome, the price or rent paid for the land (or its use) is not. For example, local leaders of a township might decide that it is better for their own personal gain (or better for the township) to use a large plot of land to build a factory than it is to continue farming the land. It is possible that the use of the large plot of land in this manner is consistent with the outcome that would arise in a market economy context in which a businessperson approached a private landowner with an offer to buy or lease the same large plot of land. The difference, however, is that in the PRC, there is no true landowner (protected by well-defined enforceable private property rights) who, in looking out for his or her best interest as a landowner, seeks to receive the best possible price. Instead, there is only the local leader who controls use rights over the land and who therefore can unilaterally modify and transfer those rights from the farmer to him- or herself or to the township at what essentially is an arbitrarily determined price. Thus, we determine that the price of land, an important factor in calculating the cost of producing the subject merchandise, is not sufficiently market-based under the third prong of the MOI test.

With respect to capital costs, we note that preserved mushroom producers typically invest in different types of equipment that cut/slice, cook, sterilize, and can mushrooms, as identified in the production process descriptions included in the questionnaire responses of the producers. Two respondents also reported meeting a substantial share of their working capital needs through bank loans. Capital costs are, therefore, not insignificant in the production of preserved mushrooms. The respondents reported similar working capital loan rates, which one respondent explained are set, with upper and lower limits, by the central government. These rates apply directly to the loans that banks extend to the producers and other enterprises in the PRC, and while the central government sets these rates with inflation in mind, there is no basis to believe that such administratively-set rates are market-based. In fact, the World Bank has identified the PRC's interest rate setting practices as one of several key areas of ongoing, but still incomplete, reform in the banking and finance sectors. *See* ''Monetary and Exchange Rate System Reform in China: An Experiment in Gradualism,'' *IMF*, Occasional Paper 141, September 1996 (included in the record as part of a December 18, 1998, memorandum to the file). Thus, we determine that the cost of capital, an important factor in calculating the cost of producing the subject merchandise, is not sufficiently market-based under the third prong of the MOI test.

Because we have determined that the preserved mushrooms industry is not a MOI for the reasons discussed above, we are not using the costs reported by the respondents in calculating NV. Therefore, the issue raised by the petitioners—that the cost information is inadequate—is moot.

Comment 2: Critical Circumstances

The respondents argue that, because the last antidumping case on the subject merchandise resulted in a negative determination (1983 canned mushrooms case), there is no history of dumping in the United States and therefore there is no reasonable basis to believe or suspect that critical circumstances exist under section 733(e)(1) of the Act. Further, the respondents contend that the Department should examine the imports of the subject merchandise with a seasonal-trends analysis. Finally, respondents and importers Liberty Gold and Hop Chong argue that the Department should not extend its findings to companies which responded but are not being examined. For those companies, these parties contend that the Department should either examine the available company-specific shipment data on the record or follow the practice set forth in *Brake Drums and Brake Rotors* and not find critical circumstances.

Hop Chong further argues that it has been denied due process in this proceeding because it has not had the opportunity to provide shipment data for review by the Department, nor to comment on the import data that may be used eventually by the Department in its final analysis.

The petitioners contend that critical circumstances exist based on an established history of dumping—a Brazilian antidumping duty order—and a massive surge in imports. Because critical circumstances apply to all of the examined exporters and the import statistics also show a massive surge in subject merchandise imports, the petitioners assert that critical circumstances should continue to apply to all exporters, including those who provided data to the Department that were not examined. The petitioners claim that the situation in *Brake Drums and Brake Rotors* and *Honey* Critical Circumstances do not apply in this case because in those cases, the Department did not find critical circumstances for most of the examined exporters, whereas here, the Department has found critical circumstances for all of the examined exporters and has also observed a massive surge in the import statistics.

DOC Position:

We continue to find critical circumstances for mandatory respondent Tak Fat as well as all non-responding PRC exporters covered by the PRC-wide rate. However, in the final determination, we did not find critical circumstances with respect to mandatory respondents Shenzhen Cofry and China Processed/Xiamen Jiahua based on updated shipment data, as described below. In addition, we agree with the respondents, Hop Chong and Liberty Gold with respect to excluding the non-mandatory respondents from any affirmative critical circumstances finding, in accordance with our past practice, as described below.

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

As discussed in the preliminary determination, the first critical circumstances criterion is satisfied for this investigation based on the fact that 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 determine that there is a

history of dumping of mushrooms elsewhere by PRC producers/exporters and thus the first statutory criterion is met (*see* section 733(e)(1)(A)(i) of the Act), contrary to the respondents' assertions.

Because we have 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 normally will not consider the imports to have been ''massive.'' To determine whether or not imports of subject merchandise have been massive over a relatively short period for the final determination, we compared each mandatory respondent's export volume for the seven months subsequent to the filing of the petition (January-July 1998) to that during the seven months prior to the filing of the petition (June-December 1997). These periods were selected based on the Department's practice of using the longest period for which information is available from the filing of the petition through the effective date of the preliminary determination.

Based on our analysis, we find that the increase in imports was greater than 15 percent with respect to Tak Fat. However, with respect to Shenzhen Cofry and China Processed/Xiamen Jiahua, we find that the increase in imports was less than 15 percent. Although the respondents have claimed that these imports should be examined in the context of a seasonal trend analysis, we are unable to discern a seasonal pattern for Tak Fat, based on the information on the record.

As both of the statutory criteria for finding critical circumstances have been met for respondent Tak Fat, we therefore determined that critical circumstances exist for this exporter. Because we determined that imports were not massive for Shenzhen Cofry and China Processed/Xiamen Jiahua, both of the statutory criteria for finding critical circumstances have not been met for these exporters and, accordingly, we did not find critical circumstances. For those companies subject to the PRC-wide rate (*i.e.*, companies which did not respond to the Department's questionnaire), we determined, based on the facts available, and making the adverse inference permitted under section 776(b) of the Act because these entities did not respond to our questionnaires, that there were massive imports of preserved mushrooms with respect to these companies. Therefore, we determined that critical circumstances exist with regard to these companies, consistent with *Brake Drums and Brake Rotors.* With regard to the respondents who were not analyzed in this investigation, we have reconsidered our preliminary determination finding of critical circumstances. For the final determination, we are following the practice set forth in *Brake Drums and Brake Rotors* at 9165 and *Honey* Critical Circumstances. Therefore, because the Department did not analyze company-specific data for the non-mandatory respondents due to the Department's own administrative constraints, we do not believe it is appropriate to find critical circumstances with regard to these companies.

B. Surrogate Value Issues

Comment 3: Valuation of Fresh Mushrooms

The respondents claim that the fresh mushroom surrogate value used in the preliminary determination—average unit value derived from three Indian producers' annual reports—is inappropriate because the growing method used by the Indian producers is completely different from that used by the PRC growers. Thus, the respondents argue that the Indonesian value they placed on the record is more appropriate because it reflects a growing method closer to that of the PRC producers and no Indian fresh mushroom price is of the same quality in that regard. If the Department nevertheless relies on Indian data for valuing fresh mushrooms, the respondents propose a September 1996 wholesale price for mushrooms quoted in the Indian publication *Business Line.* The respondents contend that this price is a more appropriate surrogate value because the value used in the preliminary determination, derived from the financial statements of three Indian producers, was based on transfer prices of vertically-integrated Indian producers and there is no information on the record indicating that these values reflect arms-length market prices.

The petitioners contend that India remains the appropriate surrogate country and thus, consistent with the Department's regulations and practice, Indian values should be used except where Indian values are unreliable or inappropriate. The petitioners argue that the respondents have failed to demonstrate that the Indian values are inappropriate and, therefore, the Department should continue to use the value derived from the Indian producers because it represents the experience of Indian producers over an annual period that is at least partly contemporaneous with the POI. The petitioners reject the respondents' characterization of the Indonesian growers' techniques as ''low tech'' and assert that attributing differences in Indian and Indonesian surrogate values solely to growing techniques is oversimplified and faulty. The petitioners state that the Indian value proposed by the respondents is inferior because it reflects experience in North India, away from the primary Indian mushroom growing area in South India, and because it is a single price observed prior to the POI.

DOC Position:

We disagree with the respondents with respect to the use of Indonesian fresh mushroom prices over Indian prices for the fresh mushroom surrogate value. Because we have already determined that India is the appropriate surrogate country, we would use data from Indonesia only if the Indonesian surrogate value is superior in terms of specificity, quality, and contemporaneity. The Indonesian mushroom price proposed by the respondents is not superior in any respect. The respondents claim that the Indonesian value is more specific to the PRC factor than the Indian prices because the Indonesian mushrooms allegedly are produced in a manner more similar to that of the PRC mushrooms. However, the factor to be valued here is fresh mushrooms, and based on the information on the record, there is no physical difference among the mushrooms grown in India, Indonesia, and the PRC, regardless of the means used to produce them. In other words, there is no distinguishing physical characteristic that makes an Indonesian mushroom more similar to a PRC mushroom than an Indian mushroom.

Even if the Department were to consider the production method of an input as a factor in determining the appropriate surrogate value, the available evidence does not support the respondents' argument that Indonesian production methods are ''low tech''

compared to Indian production methods and thus more similar to PRC production methods. The respondents rely on the statements in the Indonesian respondents' April 3, 1998, questionnaire responses that their mushrooms are grown in ''sheds'' and on other information indicating that the ambient climate is a factor for the location of Indonesian farms to conclude that such operations are equivalent to the PRC grower's ''huts'' which lack climate control (*see* Respondents' May 28, 1998, submission at pages 5–7 and Exhibit 2). However, the information on the public record of the companion investigation of certain preserved mushrooms from Indonesia indicates that the Indonesian growers are *not* like the PRC growers and, in fact, are more like the ''high tech'' Indian growers, as noted by the petitioners at pages 11–12 and Exhibit 1 of their June 3, 1998, submission. For example, while the PRC growers used a fixed bed system (May 28, 1998, submission at page 5), the Indonesian respondents used a tray system (*see* P.T. Dieng Djaya/Surya Jaya Abadi Perkasa's (''Dieng/Surya Jaya'') and P.T. Zeta Agro Corporation's April 23, 1998, responses at pages 51 and 22, respectively [1]). Contrary to the respondents' assertions, the Indonesian growers employ a climate control system (*see, e.g.*, Dieng/Surya Jaya's June 22, 1998, response at pages 7–9, respectively). Accordingly, there is no basis to reject the Indian surrogate values in favor of the Indonesian surrogate values.

With regard to the Indian mushroom prices, we have analyzed further the average unit values from the three Indian producers to derive the surrogate value in the preliminary determination. We found that two of the unit values are based on the producer's sales of fresh mushrooms to unspecified domestic customers, while the unit value for the third company, Premier Mushrooms Farms (''Premier''), is based on its purchases of fresh mushrooms for its canning operations. As the factor to be valued is fresh mushrooms consumed as an input for preserved mushrooms, we find the unit value derived from Premier's fresh mushrooms purchases during 1996–1997 to be more specific for the factor being valued than the value derived from the other two producers' fresh mushroom sales.

Moreover, in comparing the Premier mushrooms purchase price to the *Business Line* quote, we found no basis to conclude that either price is superior to the other in terms of quality, specificity, and contemporaneity. Both prices are equally specific—a wholesale trade level price to canners of fresh mushrooms grown in India. Both prices are essentially from the same time period—the price quote is from September 1996, while the Premier annual report covers the period of April 1996 through March 1997. Neither source is from the POI, and the price quote corresponds to the mid-point of the annual report's time period. Both prices are based on PAI and there is no basis to determine that one is more reliable than the other. Thus, we find that these surrogate values are equally valid. Accordingly, we have based the surrogate value for fresh mushrooms on the simple average of these two sources for the final determination.

With regard to petitioners' arguments on the price quote, we find no basis to determine that a surrogate value is inferior simply on the grounds that it is from a part of the surrogate country that is not the purported principal production area of the subject merchandise. The petitioners have provided no evidence that this price is unacceptable for that reason.

Comment 4: Valuation of Brined (Provisionally Preserved) Mushrooms

The petitioners contend that the Department should value brined mushrooms used as a material input for the subject merchandise by adjusting the brined mushroom consumption factor to a fresh mushroom equivalent, as applied in the preliminary determination. The petitioners state that this methodology is reasonable because it accounts for the higher yield and costs associated with brined mushroom inputs, and there is no alternative surrogate value for brined mushrooms on the record.

The respondents assert that the Department has already accounted for the costs of using brined rather than fresh mushrooms as an input through the higher consumption factors of labor and water used to debrine mushrooms before canning. The respondents contend that the increased consumption of these factors serves as an adjustment factor for the brined mushroom input. Thus, the respondents argue that, if the Department continues to adjust the brined mushroom factor to a fresh mushroom factor, it must reduce the labor and water consumption factors to avoid double-counting these values.

DOC Position:

In the absence of a better methodology, we agree with petitioners and continue to adjust the brined mushroom input factor to a fresh mushroom equivalent in the same manner as that in the preliminary determination. We made the adjustment by applying an industry standard ratio to the brined mushroom factor. Furthermore, we find no basis on which to conclude that the alleged increased labor and water factors for brined mushrooms served as an adjustment factor. There is no information on the record to demonstrate that brined mushroom inputs had different labor and water factors associated with them. Our review of the factors shows no relatively higher consumption factor corresponding to subject merchandise produced from brined mushrooms. Accordingly, we have no basis to assume that these factors are double-counted through the brined mushroom adjustment methodology employed.

Comment 5: Valuation of Overhead, SG&A and Profit

The respondents contend that the ratios used to calculate factory overhead, SG&A, and profit in the preliminary determination, as derived from the annual reports of three Indian producers of preserved mushrooms, are inappropriate for calculating the surrogate values for these factors. According to the respondents, these Indian producers are large, vertically integrated, technologically advanced farms/canneries, while the PRC producers who supply the respondent exporters are canners who purchase mushrooms from low technology farms. Thus, the respondents continue, these Indian ratios are based on production costs reflecting growing costs. The respondents contend that a more appropriate source for these ratios is the data provided by respondents from the Indonesian vegetable and fruit canning industry, since this information reflects the experience of a surrogate country food canning industry. In the alternative, the respondents state that if the data from Indian annual reports are to be used, the Department should rely only on the Agro Dutch Annual Report because the other two companies' reports reflect a disproportionate amount of non-subject merchandise.

The petitioners respond that the respondents have provided no evidence that the Indonesian figures are based on data that are more representative than the Indian data. The petitioners note that the Indonesian data include data from the production of non-subject merchandise and there is no evidence that these data relate solely to canning operations. According to the petitioners, the Indonesian data may also include fully integrated producers (*i.e.* producers who grow the product as well as can it) since the Indonesian

[1] Relevant pages from the public versions of the Indonesian responses have been included in the Valuation Memorandum.

producers of preserved mushrooms are also mushroom growers. In addition, while the petitioners concede that one of the three Indian companies' financial data may be distortive due to a disproportionate amount of non-subject merchandise, they assert that the other two, Agro Dutch and Saptarishi Agro, are predominantly producers of preserved mushrooms. The petitioners argue that, as the respondents have failed to identify any significant difference in the quality and representativeness of the data contained in the financial statements of these latter two companies, the Department should use this financial data to value the surrogate value percentages.

DOC Position:

We agree with the petitioners with respect to the selection of Indian financial statement data. As we discussed above, we have determined that India is the appropriate surrogate country. Thus, we rely on Indian data unless alternate data is superior in terms of specificity, quality, and contemporaneity. In this instance, the Indonesian data offered by the respondents are not superior in any respect. While both sets of financial data are equivalent in terms of time period, the Indian data are more specific to the industry under investigation. While the Department would take into consideration whether the Indian data included a high proportion of mushroom growing production over canning operations, we note that there is no basis on which to conclude that the Indonesian canned vegetable producer data do not also include growing production data—a point conceded by the respondents at the Department's hearing (*see* Transcript of November 4, 1998, hearing at page 77).

However, we have revised our preliminary determination methodology to base the surrogate values for factory overhead, SG&A, and profit solely on the data from the Agro Dutch 1996–1997 financial statement. Although we used the data from all three Indian producers for the preliminary determination, we have concluded based on further analysis of the data that only the Agro Dutch data are appropriate for use in the final determination. As noted by both the respondents and the petitioners, the Transchem data are based on a higher proportion of nonsubject merchandise than those of the other two producers. However, we also note that Saptarishi Agro has accounted for its raw materials in a manner inconsistent with this investigation. As discussed in more detail in the Valuation Memorandum, Saptarishi Agro's materials total is comprised of raw materials and packing materials. The packing material amount is almost as large as the raw materials amount. The raw materials schedule does not include cans or jars in the listing of the major raw materials. Accordingly, we have made the reasonable assumption that Saptarishi Agro included the costs of containers in the packing materials amount, and we are unable to break out this amount further. In turn, we cannot calculate a materials total consistent with our methodology that would enable us to properly calculate factory overhead, SG&A, and profit ratios from Saptarishi Agro's data. Therefore, we have relied solely on the Agro Dutch data.

We also note that the factory overhead ratio calculated using Agro Dutch's financial statement appears to include the costs for materials such as salt, water, chlorine, and ascorbic acid (vitamin C). As discussed in more detail in the Valuation Memorandum, according to the public versions of Agro Dutch's questionnaire responses in the companion certain preserved mushrooms from India investigation, raw materials costs in the financial statement include mushroom growing costs and cans, but not the other factors. The unspecified materials appear to be included under ''consumables,'' since water is specifically identified as being part of this category (*see* Agro Dutch's April 21, 1998, public version response at page 59, also included in the Valuation Memorandum). Consumables are included in the factory overhead calculation and we have no further information from Agro Dutch's public responses to break out this information further. Accordingly, we have also revised our preliminary determination methodology to value raw materials other than fresh mushrooms and containers as part of factory overhead, and have not valued them separately so as to avoid double-counting.

Because we are including the valuation of all factors other than mushrooms and containers in factory overhead, the specific valuation and factor consumption issues raised by the parties concerning chlorine, salt, vitamin C, and citric acid are moot.

Comment 6: Valuation of Cans

The respondents contend that the Department should value tin cans based on the domestic prices for Indian tin cans, as placed on the record by respondents. The respondents argue that these values, derived from Agro Dutch's Annual Report, are appropriate because (a) they match the fact that the PRC producers obtain all of their tin cans from domestic sources, (b) they are consistent with the Department's preference for domestic surrogate values, as stated in *Brake Drums and Brake Rotors* at 9163, and (c) they are more specific than the Import Statistics value used in the preliminary determination, which was based on a ''basket'' HTS category for tin containers of 50 liters or less.

The petitioners assert that the Department should continue to value cans based on the Indian import statistics average unit value because it more accurately reflects the experience of the Indian industry, which imports the overwhelming majority of the cans used in the production of the subject merchandise. Alternatively, if the Department uses Agro Dutch's purchase data to value cans, petitioners contend that the Department should calculate the value using both domestic and imported cans, since the purchases from both sources reflect the commercial environment of the surrogate country. The petitioners add that this value should also be adjusted to reflect the different rates of consumption based on can size, using data supplied by the petitioners.

DOC Position:

We agree with the respondents with regard to the source of the surrogate value and, therefore, have revised our preliminary determination methodology to value tin cans based on the unit values derived from the 1996–1997 Agro Dutch Annual Report, since this information is more specific to the input being valued than the import statistics. However, we agree with the petitioners that there is no reason to base this value solely on the domestic purchase value. There is no basis in Department practice or precedent to select only the domestic surrogate value when the overwhelming majority of that input consumed by a producer in the surrogate country is imported. In selecting the appropriate surrogate value, the Department is attempting to reflect the purchase experience of a producer in the surrogate country, not necessarily to mimic the purchase pattern of the producer in the NME.

In addition, we have adjusted the Agro Dutch unit price data for can size according to the weight-based methodology outlined by the respondents (*see* Valuation Memorandum). We note that the petitioners' adjustment methodology is based on a single price quote offered to an unidentified party. Because we have no further information to test the representativeness or reliability of this quote, we determined that this information is insufficient for our price adjustment purposes. Therefore, we

have relied on the weight-based alternative which, as noted by the respondents, was used by the petitioners in their calculations for the antidumping duty petition.

Comment 7: Valuation of Water Inputs

The respondents claim that the Department erred in valuing separately the water placed in the container with the mushrooms. Citing such cases as *Final Determination of Sales at Less Than Fair Value: Persulfates from the PRC,* 62 FR 27222, May 19, 1997, and *Final Determination of Sales at Less Than Fair Value: Saccharin from the PRC,* 59 FR 58818, November 15, 1994, the respondents state that it is the Department's practice to presume that water consumption is included in the factory overhead ratio calculation and that, in this investigation, there is no evidence on the record to reject this presumption. Without such evidence, the respondents allege that the separate water valuation results in double-counting of the water input.

The petitioners contend that water is a direct input for particular segments of the preserved mushrooms production process and, thus, water consumed in that process should be treated as a direct material valued separately from factory overhead. The petitioners argue that the respondents have misstated the Department's practice in that the Department's presumption that water consumption is part of factory overhead is dependent on whether the input is classified as an indirect material in the production process. In this instance, petitioners continue, the water in the can is a required input in the production process and thus a direct material. As such, the petitioners contend that the presumption should be that water is not part of factory overhead, consistent with *Final Results of Administrative Review: Helical Spring Lock Washers from the PRC,* 62 FR 61794, November 19, 1997.

DOC Position:

We agree with petitioners in principle that water packed in the can or jar with the preserved mushrooms is a direct material. However, as discussed above under Comment 7, we have determined that all water consumed by the Indian producer Agro Dutch is recorded in its financial statement as part of ''consumables,'' which are a component of factory overhead. It is not possible to break out this water consumption from the rest of the ''consumables'' included in the financial statement. Accordingly, since all water consumption, for whatever purpose, is included in factory overhead, we have not valued water separately so as to avoid double counting.

Comment 8: Valuation of Glue

The respondents argue that the Department's selection of a surrogate value for glue consumed in the packing process, which was derived from Indian import statistics, was incorrect because the value used was based on retail-level size containers. According to the respondents, the verifications demonstrated that the PRC producers obtain glue in larger size containers, and thus the respondents contend that glue should be valued based on a value exclusive of glue sales in containers of one kilogram or less. For this surrogate value, the respondents advocate use of the Indonesian import statistics value that they placed on the record of this investigation.

DOC Position:

Based on further analysis of the surrogate value data on the record, we have revised our selection of the Indian surrogate value to rely on a different set of Indian import statistics than that used for the preliminary determination. The imports statistics we have used in the final determination correspond to a type of glue more similar to that employed by the respondents, which is covered by the HTS category for glue that the respondents proposed in their May 28, 1998, submission (*see* Valuation Memorandum). We have made this change to the surrogate value selected because the revised value appears to be more specific to the type of glue consumed by the producers, and not because of the size of the containers associated with the glue.

Comment 9: Valuation of Diesel Fuel

The petitioners contend that diesel fuel should be valued using prices reported in the Indian publication *Economic Times of India* (''*Times*''). The petitioners claim that the Times value is superior to the unit value derived from Indian import statistics used in the preliminary determination because it is based on domestic sources, more product-specific, and more contemporaneous than the import statistics value.

DOC Position:

We agree with the petitioners with regard to the source of the surrogate value at issue. This source is contemporaneous with the POI, while the import statistics values are based on 1995–1996 values. For the final determination, we have applied the average of the ''old'' prices listed in the *Times* value for diesel fuel. We used the ''old'' prices rather than the ''new'' prices published in the *Times* because, according to the published report, the latter did not take effect until the very end of the POI. Thus, it is a reasonable assumption that the ''old'' prices were in effect during the POI.

C. Production Factor Issues

Comment 10: Allocation Methodology for Input Factors

The petitioners argue that the consumption factors for three producers, Longhai, Putian, and Zishan, should be recalculated to allocate over the different can sizes based on drained-weight of the mushrooms, rather than net or packed weight. The petitioners contend that to allocate factors on a basis other than drained weight is distortive because per-unit EP is based on drained weight.

The respondents reply that the petitioners are mistaken and, in fact, the producers reported consumption factors on a drained-weight basis. The respondents state that the producers in question all record production on a net-weight basis, but they all converted production factors to drained weight using net weight as the allocation basis.

DOC Position:

We agree with the respondents. Our verification reports for Longhai, Putian, and Zishan confirm that the consumption factors have been reported on a drained-weight basis (*see, e.g.,* Longhai verification report of October 13, 1998, at pages 4–5) and therefore no recalculation is necessary.

Comment 11: Treatment of Cans and Jars as Direct Materials or Packing Materials

The respondents claim that the Department erred in classifying containers (*i.e.* tin cans and glass jars) as direct materials and instead should consider these items to be packing materials. The respondents contend that section 773(c)(1)(B) of the Act specifies that the cost of containers shall be added to NV after accounting for the factors of production utilized in producing the merchandise. According to the respondents, the containers are simply a means of transporting preserved mushrooms and are not an integral part of the product. As such, the respondents continue, valuation of container materials should not be included in the valuation of the cost of manufacturing. The respondents distinguish the facts in the instant case from those in *Washington Red Raspberries Commission* v. *United States,* 859 F.2d 898 (Fed. Cir. 1988) (''*Red Raspberries*''), in which the Department's treatment of containers as an integral part of the subject merchandise was affirmed by the Court

of Appeals for the Federal Circuit. In this respect, the respondents argue that the containers case do not preserve the mushrooms but serve merely as a vessel in which to ship them.

The petitioners state that the containers are properly treated as part of the direct materials factors as they are an integral part of the production process and subject merchandise. The petitioners also cite the decision in *Red Raspberries* to support the position that, where the materials are not incidental to the cost of the merchandise, but rather the product cannot exist in its natural form but for the container, that container cost may be included in direct materials.

DOC Position:

Consistent with our approach in the three other preserved mushrooms investigations, including *Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from Chile*, 63 FR 56613, October 22, 1998, we have treated the containers (*i.e.*, cans or jars) as part of the subject merchandise. We note that preserved mushrooms include the container as an integral part of the product, as noted above in the ''Scope of Investigation'' section of this notice, and the product does not exist as the subject merchandise without the container. This treatment is also consistent with our rationale in *Red Raspberries* and our methodology in similar cases involving preserved products, such as the *Final Determination of Sales at Less Than Fair Value: Canned Pineapple Fruit from Thailand*, 60 FR 29553, June 5, 1995.

Comment 12: Accounting for Water Loss

The petitioners contend that the Department should adjust the reported water input consumed by the PRC producers (*i.e.* the water packed in the cans or jars) to account for water lost during production. According to the petitioners, most of the producers reported a theoretical factor for this water input which failed to account for water lost. As Putian accounted for this input loss through a theoretical water waste ratio, the petitioners contend that the Department should apply Putian's water waste ratio to the other producers as facts available.

The respondents state that the petitioners have misunderstood the producers' reporting. According to the respondents, the reporting methodology accounts for all water consumed by the producers and thus includes any water that was allegedly lost. They add that while Putian's methodology was different than that employed by the other producers, it provided the same results.

DOC Position:

We agree with the respondents. The verification reports indicate that the producers have accounted adequately for water consumption. However, as noted above in our responses to Comment 5 and Comment 7, all water consumed is included in factory overhead and we have not included a separate value for water in the final determination. Thus, since all water factors consumed have been valued as part of factory overhead, this issue is moot.

Comment 13: Facts Available for Can Supplier Input Factors

The petitioners contend that the Department should apply facts available for the factors of production reported by Zhaoan's affiliated can supplier, Zhangzhou Ruida, because the Department was unable to verify these factors. Citing Zhangzhou Ruida's verification report, the petitioners assert that the factors could not be verified because the manufacturer had used a cost-based allocation methodology rather than a quantity-based allocation methodology. As facts available for these inputs, the petitioners claim that the Department should apply the surrogate value selected for cans.

DOC Position:

We agree with the petitioners. As discussed in the verification report, Zhangzhou Ruida was unable to support its response and therefore we cannot rely on its information for the final determination. Accordingly, we have applied the surrogate value for cans, as identified in Comment 6 above, to Zhaoan's can consumption factors.

Comment 14: Treatment of Labels as Packing Materials

As discussed above under Comment 11, the respondents assert that the containers used for preserved mushrooms should be treated as packing materials rather than direct materials. Similarly, the respondents contend that the labels affixed to the containers should also be considered packing materials.

DOC Position:

We agree with respondents with respect to labels. While cans are an integral part of the subject merchandise (*see* Comment 11), cans may or may not have labels, which serve more as a packaging component to identify and market the finished product. Therefore, we have valued labels as part of packing materials in the final determination.

D. Company-Specific Issues

Comment 15: Xiamen Jiahua's Sales Prices

Xiamen Jiahua contends that certain U.S. sales prices should be revised to reflect the price charged by Xiamen Jiahua's affiliated trading company to unaffiliated customers, as Xiamen Jiahua reported at the commencement of verification, rather than the previously reported prices, which reflect the sale from Xiamen Jiahua to the affiliated trading company.

DOC Position:

We agree and have revised the sales data pursuant to Xiamen Jiahua's September 14, 1998, submission, which we verified. This revision is in accordance with the statutory requirement of section 772(a) of the Act to base EP on the price to the first unaffiliated customer.

Comment 16: Dongya Firewood Consumption

The petitioners state that the Department should include a valuation for firewood consumed by Dongya to start the boilers used in production of the subject merchandise in the Dongya NV calculation. The petitioners note that consumption of this input was not reported by Dongya in the questionnaire response.

Dongya responds that the firewood is used as kindling to ignite coal used to generate steam in the production process. As such, Dongya contends that this input is properly regarded as part of factory overhead rather than a separate factor of production.

DOC Position:

We agree with Dongya and treated firewood as part of factory overhead, rather than valuing it separately.

Comment 17: Zishan Scrap Factors

The petitioners argue that, as Zishan was unable to support the sale and receipt of payment for scrap materials at verification, the Department should not adjust Zishan's NV to account for the sale of these by-products.

Zishan states that it demonstrated to the Department at verification that it sells its by-product. While it did not provide support for one particular month requested by the Department, Zishan claims that nevertheless, it established the fact for another month examined at verification and thus is entitled to an adjustment in the calculation of its NV.

DOC Position:

We agree with the petitioners and have rejected Zishan's by-product adjustment to its NV because Zishan was unable to document sales of its by-

products during the POI. The by-product sales shown at verification occurred several months prior to the POI. December was the only month of the POI where there was subject merchandise production and since Zishan could not support by-product sales for that month or any other month of the POI, we have no basis to conclude that it in fact sold its by-products during the POI.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after August 5, 1998, the date of publication of the preliminary determination in the **Federal Register** except for subject merchandise exported by Tak Fat or other companies not specifically named below. For merchandise exported by Tak Fat or by other companies not specifically named below, we are directing the Customs Service to continue to suspend liquidation of all imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after May 7, 1998, the date 90 days prior to the date of publication of the preliminary determination in the **Federal Register**, in accordance with our critical circumstances finding. Furthermore, we will instruct the Customs Service to refund all bonds and cash deposits posted on subject merchandise exported by all the companies specifically named below, except Tak Fat, that was entered or withdrawn from warehouses for consumption prior to August 5, 1998.

The Customs Service shall continue 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..	154.71	No
Tak Fat Trading Co.	178.59	Yes
Shenzhen Cofry Cereals, Oils, & Foodstuffs Co., Ltd..	126.16	No
Gerber (Yunnan) Food Co..	158.79	No
Jiangsu Cereals, Oils & Foodstuffs Group Import & Export Corporation.	158.79	No
Fujian Provincial Cereals, Oils & Foodstuffs I&E Corp..	158.79	No
Putian Cannery Fujian Province.	158.79	No
Xiamen Gulong I&E Co., Ltd..	158.79	No
General Canned Foods Factory of Zhangzhou.	158.79	No
Zhejiang Cereals, Oils & Foodstuffs I&E Corp..	158.79	No
Shanghai Foodstuffs I&E Corp..	158.79	No
Canned Goods Co. of Raoping.	158.79	No
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 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: December 18, 1998.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–34704 Filed 12–30–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–802]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from Indonesia

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

EFFECTIVE DATE: December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Mary J. Jenkins or David J. Goldberger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–1756 or (202) 482–4136, 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 (April 1998).

FINAL DETERMINATION:

We determine that certain preserved mushrooms (''mushrooms'') from Indonesia are being sold in the United States at less than fair value (''LTFV''), as provided in section 735 of the Act. The estimated margins are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since the amended preliminary determination (*Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from Indonesia*, 63 FR 46776, September 2, 1998, the following events have occurred:

In September 1998, respondents submitted to the Department the 1997 annual reports for PT Indofood Sukses Makmur Tbk (''Indofood'') and PT IndoEvergreen Agro Business Corp. (''IndoEvergreen''). PT Zeta Agro Corporation (Zeta) provided the Department with supplemental information regarding its start-up adjustment claim.

PT Dieng Djaya (Dieng) and PT Surya Jaya Abadi Perkasa (Surya Jaya) (Dieng/Surya Jaya) and Zeta submitted to the Department on September 24, 1998, and