

administrative protective orders in accordance with 19 CFR 351.305.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)), and 19 CFR 351.221(c)(1)(i).

Dated: July 22, 2004.

**Holly A. Kuga,**

Senior Office Director, Office 4 for Import Administration.

[FR Doc. 04-17203 Filed 7-27-04; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-351-605]

#### Frozen Concentrated Orange Juice From Brazil; Rescission of Antidumping Duty Administrative Review

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

**ACTION:** Notice of rescission of the Antidumping Duty Administrative Review.

**EFFECTIVE DATE:** July 28, 2004.

**FOR FURTHER INFORMATION CONTACT:** Irina Itkin or Elizabeth Eastwood, Office of AD/CVD Enforcement 2, Group I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482-0656 or (202) 482-3874, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On May 3, 2004, the Department of Commerce (Department) published in the **Federal Register** (69 FR 24117) a notice of opportunity to request an administrative review of the antidumping duty order on frozen concentrated orange juice from Brazil for the period May 1, 2003, through April 30, 2004.

In accordance with 19 CFR 351.213(b)(1), on May 28, 2004, the petitioners (*i.e.*, Florida Citrus Mutual; A. Duda & Sons, Inc. (a.k.a. Citrus Belle); Citrus World, Inc.; and Peace River Citrus Products, Inc.) requested a review of this order with respect to the following producers/exporters: Branco Peres Citrus, S.A. (Branco Peres) and Citrovia Agro Industrial, Ltda. and its affiliated parties Cambuhy MC Industrial Ltda. and Cambuhy Citrus Comercial e Exportadora (collectively "Citrovia").

The Department initiated an administrative review for Branco Peres and Citrovia and issued questionnaires to them on June 8, 2004. *See* 69 FR 39409 (June 30, 2004).

Branco Peres and Citrovia notified the Department that neither they nor any of their affiliates had any sales or exports of subject merchandise during the period of review (POR). The Department confirmed these companies' statements with the U.S. Customs and Border Protection. Accordingly, we notified the petitioners that we intended to rescind this administrative review with respect to both respondents and they did not object. *See* July 16, 2004, memorandum from Alice Gibbons to the file entitled, "Intent to Rescind the Antidumping Duty Administrative Review on Frozen Concentrated Orange Juice from Brazil."

#### Rescission of Review

Because Branco Peres and Citrovia had no shipments of subject merchandise during the POR, in accordance with 19 CFR 351.213(d)(3) and consistent with our practice, we are rescinding this review of the antidumping duty order on frozen concentrated orange juice from Brazil for the period of May 1, 2003, through April 30, 2004. This notice is published in accordance with section 751 of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: July 22, 2004.

**Gary Taverman,**

Acting Deputy Assistant Secretary for Import Administration, Group I.

[FR Doc. 04-17202 Filed 7-27-04; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-851]

#### Certain Preserved Mushrooms From the People's Republic of China: Preliminary Results of the Seventh New Shipper Review

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

**ACTION:** Notice of preliminary results of seventh new shipper review.

**SUMMARY:** The Department of Commerce ("the Department") is currently conducting the seventh new shipper review of the antidumping duty order on certain preserved mushrooms from the People's Republic of China ("PRC") covering the period February 1, 2003,

through July 31, 2003. This review covers one exporter.

We have preliminarily determined that sales have not been made at less than normal value ("NV") with respect to the exporter who participated fully in this review. If the preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection ("CBP") to not assess antidumping duties on entries of merchandise subject to this review.

Interested parties are invited to comment on the preliminary results. We will issue the final results no later than 90 days from the date of publication of this notice.

**EFFECTIVE DATE:** July 28, 2004.

#### FOR FURTHER INFORMATION CONTACT:

Brian C. Smith, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-1766.

#### SUPPLEMENTARY INFORMATION:

##### Background

On August 28 and 29, 2003, the Department received timely requests from (1) Guangxi Hengxian Pro-Light Foods, Inc. ("Guangxi Hengxian"); (2) Nanning Runchao Industrial Trade Company, Ltd. ("Nanning Runchao"); (3) Xiamen International Trade and Industry Company, Ltd. ("XITIC"); (4) Xiamen Zhongjia Import and Export Company, Ltd. ("Zhongjia"); (5) Zhangzhou Longhai Minhui Industry and Trade Co., Ltd., ("Minhui"); and (6) Shanghai Superlucky Import & Export Company, Ltd. ("Superlucky") for a new shipper review in accordance with 19 CFR 351.214(c).

On September 30, 2003, the Department initiated a new shipper review of Guangxi Hengxian and Nanning Runchao only. (*See Certain Preserved Mushrooms from the People's Republic of China: Initiation of Seventh New Shipper Antidumping Duty Review*, 68 FR 57877 (October 7, 2003) for further discussion.)

On October 15, 2003, we issued the antidumping duty questionnaire to Guangxi Hengxian and Nanning Runchao.

On October 23, 2003, the Department provided the parties an opportunity to submit publicly available information for consideration in the preliminary results.

On November 26, and December 5, 2003, Guangxi Hengxian and Nanning Runchao, respectively, submitted their questionnaire responses. On December

22, 2003, the petitioner<sup>1</sup> submitted comments on these questionnaire responses.

On January 7, 2004, the Department requested from CBP copies of all customs documents pertaining to the entry of certain preserved mushrooms from the PRC exported by each respondent during the period of February 1, 2003, through July 31, 2003 (see January 7, 2004, Memorandum from Louis Apple, Office Director, to Michael S. Craig of CBP). On January 22, 2004, we issued a supplemental questionnaire to both respondents.

On February 5, 2004, the petitioner and Guangxi Hengxian submitted publicly available information ("PAI") to be used in the calculation of normal value. On February 17, 2004, Guangxi Hengxian submitted additional PAI for consideration in the preliminary results.

On February 13, 2004, the Department published in the **Federal Register** a notice of postponement of the preliminary results until no later than July 26, 2004 (69 FR 7200).

On February 20, and 27, 2004, Nanning Runchao and Guangxi Hengxian, respectively, submitted their supplemental questionnaire responses.

On March 3, 2004, the petitioner submitted PAI comments. We issued Nanning Runchao a second supplemental questionnaire on March 12, 2004, and received its response on March 24, 2004. We issued Guangxi Hengxian a second supplemental questionnaire on March 18, 2004, and received its response on April 1, 2004.

On April 1 and 5, 2004, we notified both respondents of our intent to conduct verification of their responses and provided each company with a verification outline for purposes of familiarizing the companies with the verification process. On April 6, 2004, we received documentation from CBP regarding our January 7, 2004, request for information.

On April 7, 2004, the petitioner submitted pre-verification comments on both companies. Also on April 7, 2004, Nanning Runchao's counsel notified the Department that its U.S. shipment of subject merchandise during the period of review ("POR") (*i.e.*, which is the basis for its new shipper review request) was being returned to the PRC because it did not comply with U.S. Food and Drug Administration regulations. As a result, the Department informed Nanning Runchao that it was cancelling the verification which was to occur in April 2004 (see April 7, 2004, Memorandum from Team Leader to the

File). On April 9, 2004, Nanning Runchao withdrew its request for a new shipper review.

On April 19, 2004, the Department rescinded the new shipper review with respect to Nanning Runchao. (*See Certain Preserved Mushrooms from the People's Republic of China: Notice of Partial Rescission of Seventh New Shipper Review*, 69 FR 22004 (April 23, 2004).)

From April 21, through April 24, 2004, the Department conducted verification of the information submitted by Guangxi Hengxian in accordance with 19 CFR 351.307.

On April 21, 2004, Guangxi Hengxian submitted minor corrections to its responses which it presented to the Department's verifiers at the start of verification. On May 18, 2004, Guangxi Hengxian submitted additional PAI comments. On May 19, 2004, we issued the verification report for Guangxi Hengxian ("Guangxi Hengxian verification report").

#### Scope of the Order

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

Excluded from the scope of this order are the following: (1) All other species of mushroom, including straw mushrooms; (2) all fresh and chilled mushrooms, including "refrigerated" or "quick blanched mushrooms"; (3) dried mushrooms; (4) frozen mushrooms; and (5) "marinated," "acidified," or "pickled" mushrooms, which are prepared or preserved by means of vinegar or acetic acid, but may contain oil or other additives.<sup>2</sup>

<sup>2</sup> On June 19, 2000, the Department affirmed that "marinated," "acidified," or "pickled" mushrooms containing less than 0.5 percent acetic acid are within the scope of the antidumping duty order. See "Recommendation Memorandum-Final Ruling of Request by Tak Fat, *et al.* for Exclusion of Certain

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

#### Period of Review

The POR covers February 1, 2003, through July 31, 2003.

#### Verification

As provided in section 782(i) of the Tariff Act of 1930 ("the Act"), as amended, we verified information provided by Guangxi Hengxian. We used standard verification procedures, including on-site inspection of Guangxi Hengxian's facility and examination of relevant sales and financial records. Our verification results are outlined in the Guangxi Hengxian verification report.

#### Separate Rates

In proceedings involving non-market-economy ("NME") countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate (*i.e.*, a PRC-wide rate).

Guangxi Hengxian is a limited liability company registered in the PRC. Thus, a separate-rates analysis is necessary to determine whether the export activities of this respondent are independent from government control. (*See Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China*, 61 FR 56570 (April 30, 1996).) To establish whether a firm is sufficiently independent in its export activities from government control to be entitled to a separate rate, the Department utilizes a test arising from 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 the *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*"). Under the separate-rates criteria, the Department assigns separate rates in NME cases only if the respondent can

Marinated, Acidified Mushrooms from the Scope of the Antidumping Duty Order on Certain Preserved Mushrooms from the People's Republic of China," dated June 19, 2000. This decision is currently on appeal.

<sup>1</sup> The petitioner is the Coalition for Fair Preserved Mushroom Trade.

demonstrate the absence of both de jure and de facto governmental control over export activities.

### 1. De Jure Control

Evidence supporting, though not requiring, a finding of *de jure* absence of government control over exporter activities includes: (1) An absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies.

In prior cases involving products from the PRC, the Department has examined the following PRC laws for purposes of determining whether there is an absence of *de jure* control with respect to a respondent's export functions: the 1994 "Foreign Trade Law of the People's Republic of China;" the "Company Law of the PRC," effective as of July 1, 1994; and "The Enterprise Legal Person Registration Administrative Regulations," promulgated on June 13, 1988. (See July 22, 2004, Memorandum to the File which places the above-referenced laws on the record of this proceeding segment.)

As in prior cases, we have analyzed these laws and have found them to establish sufficiently an absence of *de jure* control of limited liability companies absent proof on the record to the contrary. (See, e.g., *Final Determination of Sales at Less than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544 (May 8, 1995) ("*Furfuryl Alcohol*"), and *Preliminary 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 29571 (June 5, 1995).)

### 2. 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*, 59 FR at 22587, and *Furfuryl Alcohol*, 60 FR at 22544.) Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether the respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices

are set by, or subject to the approval of, a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses. (See *Silicon Carbide*, 59 FR at 22587 and *Furfuryl Alcohol*, 60 FR at 22545.)

Guangxi Hengxian has asserted the following: (1) It establishes its own export prices; (2) it negotiates contracts without guidance from any governmental entities or organizations; (3) it makes its own personnel decisions; and (4) it retains the proceeds of its export sales, uses profits according to its business needs, and has the authority to sell its assets and to obtain loans. We examined documentation at verification which substantiated Guangxi Hengxian's claims as noted above (see pages 4 through 12 of the Guangxi Hengxian verification report). As a result, there is a sufficient basis to determine preliminarily that this respondent has demonstrated a *de facto* absence of government control of its export functions and is entitled to a separate rate. Consequently, we have preliminarily determined that Guangxi Hengxian has met the criteria for the application of separate rates.

#### Normal Value Comparisons

To determine whether the sale of the subject merchandise by Guangxi Hengxian to the United States was made at a price below NV, we compared the export price to NV, as described in the "Export Price" and "Normal Value" sections of this notice, below.

#### Export Price

We used export price ("EP") methodology in accordance with section 772(a) of the Act because the subject merchandise was first sold prior to importation by the exporter outside the United States directly to an unaffiliated purchaser in the United States, and constructed export price was not otherwise indicated.

We calculated EP based on the packed U.S. port price to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight and foreign brokerage and handling charges in the PRC, international freight, U.S. brokerage and handling charges, and U.S. customs duties (including

merchandise processing and harbor maintenance fees) in accordance with section 772(c) of the Act. Based on our verification findings, we revised (1) the inland freight distance Guangxi Hengxian reported from its factory to the port of exportation; and (2) the reported per-unit packed weight used to derive PRC movement expenses (see pages 3 and 16 of the Guangxi Hengxian verification report).

Because foreign inland freight and foreign brokerage and handling fees were provided by PRC service providers or paid for in renminbi, we based those charges on surrogate rates from India (see "Surrogate Country" section below for further discussion of our surrogate-country selection).

To value foreign inland trucking charges, we used truck freight rates published in *Indian Chemical Weekly* ("*Chemical Weekly*") and distance information obtained from the following Web sites: <http://www.infreight.com> and <http://www.sitaindia.com/Packages/CityDistance.php>.

To value foreign brokerage and handling expenses, we relied on October 1999-September 2000 information reported in the public U.S. sales listing submitted by Essar Steel Ltd. in the antidumping investigation of *Certain Hot-Rolled Carbon Steel Flat Products from India: Final Determination of Sales at Less than Fair Value*, 67 FR 50406 (October 3, 2001). For international freight (*i.e.*, ocean freight), we used the reported expenses because Guangxi Hengxian used only a market-economy freight carrier and paid for those expenses in a market-economy currency (see, e.g., *Brake Rotors from the People's Republic of China: Final Results of Antidumping Duty New Shipper Review*, 64 FR 9972, 9974 (March 1, 1999)).

#### Normal Value

##### A. Non-Market-Economy Status

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. Pursuant to section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. (See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Preliminary Results 2001-2002 Administrative Review and Partial Rescission of Review*, 68 FR 7500 (February 14, 2003).) None of the parties to this review has contested such treatment. Accordingly, we calculated NV in

accordance with section 773(c) of the Act, which applies to NME countries.

#### B. Surrogate Country

Section 773(c)(4) of the Act requires the Department to value an 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 country, and (2) are significant producers of comparable merchandise. India was among the countries comparable to the PRC in terms of overall economic development (see October 7, 2003, Memorandum from the Office of Policy to Irene Darzenta Tzafolias). In addition, based on publicly available information placed on the record (e.g., world production data), India is a significant producer of the subject merchandise. Accordingly, we considered India the surrogate country for purposes of valuing the factors of production because it meets the Department's criteria for surrogate-country selection (see Memorandum Re: 7th Antidumping Duty New Shipper Review on Certain Preserved Mushrooms from the People's Republic of China: Selection of a Surrogate Country, dated July 22, 2004, for further discussion).

#### C. Factors of Production

In accordance with section 773(c) of the Act, we calculated NV based on the factors of production which included, but were not limited to: (A) Hours of labor required; (B) quantities of raw materials employed; (C) amounts of energy and other utilities consumed; and (D) representative capital costs, including depreciation. We used the factors reported by Guangxi Hengxian which produced the preserved mushrooms it exported to the United States during the POR. To calculate NV, we multiplied the reported unit factor quantities by publicly available Indian values.

Based on our verification findings, we revised the following data in Guangxi Hengxian's response: (1) The per-unit factors reported for labels, tape, glue, and water (used in the mushroom growing stage); (2) the per-unit factors reported for unskilled growing, harvesting, processing, and packing labor; (3) the per-unit factor reported for electricity; and (4) the supplier distances reported for straw, citric acid, cans, cartons, tape, and labels (see pages 3, 4, 24, and 27 of the verification report).

The Department's 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 POR and quoted in a foreign currency or in U.S. dollars, we adjusted for inflation using wholesale price indices ("WPIs") published in the International Monetary Fund's *International Financial Statistics* ("IFS"). (See July 22, 2004, Memorandum Re: Factors Valuation For the Preliminary Results, from the Team Leader to the File, for a detailed explanation of the methodology used to calculate surrogate values.)

Guangxi Hengxian produced (rather than purchased) the fresh mushrooms which it used in the mushroom canning process during the POR. Therefore, we valued the inputs which this company used to produce the fresh mushrooms which were canned during the POR.

To value spawn, cow manure, and straw, we used an average price based on data contained in the 2002–2003 financial report of Flex Foods Ltd. ("Flex Foods") and the 2002–2003 financial report of Agro Dutch Foods, Ltd. ("Agro Dutch") (i.e., two Indian producers of the subject merchandise).

Guangxi Hengxian purchased all of the cans which it used to sell preserved mushrooms to the U.S. market during the POR. Therefore, for tin cans we used can-size-specific purchase price data from the May 21, 2001 public version response submitted by Agro Dutch in the 2nd antidumping duty administrative review of certain preserved mushrooms from India, and derived per-unit, can-size-specific prices using the petitioner's methodology contained in its February 5, 2004 PAI submission.

Guangxi Hengxian reported that it resold mushroom scrap during the POR (i.e., a by-product from its canned mushroom production). However, we did not make an offset deduction to the surrogate cost of production because we were unable to identify an appropriate surrogate value for this material (see *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Synthetic Indigo From the People's Republic of China*, 64 FR 69723, 69728 (December 14, 1999)).

To value coal and tin plate scrap, we used February 2003–July 2003 average Indian import values downloaded from the *World Trade Atlas Trade Information System (Internet Version 4.3e)* ("World Trade Atlas"). We also added an amount for loading and additional transportation charges associated with delivering coal to the factory based on June 1999 Indian price

data contained in the periodical *Business Line*.

To value salt, we used an average import price based on February 2002–January 2003 data contained in the *World Trade Atlas* because we were unable to obtain a more current value.

To value citric acid and calcium carbonate, we used an average import price based on February 2003–July 2003 data contained in the *World Trade Atlas* and February 2003–July 2003 Indian domestic price data contained in *Chemical Weekly*, consistent with our past practice (see *Certain Preserved Mushrooms from the People's Republic of China: Final Results of Third New Shipper Review and Final Results and Partial Rescission of Second Antidumping Duty Administrative Review*, 67 FR 46173 (July 12, 2002) and accompanying Decision Memorandum at Comment 7). For those prices obtained from *Chemical Weekly*, where appropriate, we also deducted an amount for excise taxes based on the methodology applied to values from the same source in a prior review involving the subject merchandise from the PRC. (See page 4 of the May 31, 2001, *Preliminary Results Valuation Memorandum for the Preliminary Results of New Shipper Review: Certain Preserved Mushrooms from the People's Republic of China*, 66 FR 30695 (June 7, 2001) which has been placed on the record of this proceeding.) To value urea (i.e., carbamide), we used an average price based on February 2003–July 2003 data contained in *World Trade Atlas* and *Chemical Weekly*, as well as data contained in Flex Foods' 2002–2003 financial report.

To value water, we used 1995–1996 and 1996–1997 Indian price data from the *Second Water Utilities Data Book*. Because this value was not contemporaneous with the POR, we adjusted it for inflation based on Indian WPIs published in the International Monetary Fund's *IFS*.

To value electricity, we used 2001 Indian price data from the International Energy Agency's ("IEA") report, "Electricity Prices for Industry," contained in the *2002 Key World Energy Statistics from the IEA*. Because this value was not contemporaneous with the POR, we adjusted it for inflation based on U.S. wholesale price indices published in the International Monetary Fund's *IFS*.

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

To value factory overhead and selling, general, and administrative ("SG&A") expenses, we used the 2002–2003 financial data of Agro Dutch and the

2002–2003 financial data of Flex Foods, both Indian producers of the subject merchandise. To value profit, we used only the 2002–2003 financial data of Flex Foods because Agro Dutch experienced a loss during the above-mentioned period. Therefore, in accordance with the Department’s practice, we have excluded the financial data of Agro Dutch from the surrogate profit calculation. (See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Ball Bearings and Parts Thereof from the People’s Republic of China*, 68 FR 10685 (March 6, 2003) and accompanying Decision Memorandum at Comment 1).

Guangxi Hengxian leased the farm land which it used to grow fresh mushrooms canned during the POR. Consistent with recent PRC case practice, we determined that the cost of land is an important component in the cost build-up of NV and is not specifically reflected in the surrogate financial ratios calculated from the financial statements of Agro Dutch and Flex Foods (see *Notice of Preliminary Determination of Sales at Less Than Fair Value, Partial Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp from the People’s Republic of China*, 69 FR 42654, 42666 (July 16, 2004) (“*Warmwater Shrimp*”). Accordingly, for purposes of the preliminary results of this review, we applied a land-lease cost to our calculation of NV using the methodology established in the recently-completed preliminary results of new shipper review of the order on fresh garlic from the PRC covering the period November 1, 2002, through October 31, 2003 (see *Fresh Garlic from the People’s Republic of China: Preliminary Results of Antidumping Duty New Shipper Review*, 69 FR 40607 (July 6, 2004) (*Fresh Garlic*)).

Specifically, to value land, we used cost data contained in the 2001 Punjab State Development Report administered by the Planning Commission of the Government of India (“Punjab Report”). We did not use the surrogate land value from a 1996 policy notification issued by the State of Rajasthan (in which the state government set an annual lease rent for cultivable wasteland) which was used in *Warmwater Shrimp* and *Fresh Garlic* because we found that the “Punjab Report” contains more relevant and contemporaneous information pertaining to the Indian land-lease market for agrarian farmland. Hence, the subject of the “Punjab Report” is clearly more similar to the type of land leased by the respondent during the POR.

Further, the data contained within the “Punjab Report” is based on actual experience, whereas that contained within the 1996 policy notification was based on parameters that may not have been implemented or that may have since been amended.

Upon review of the record of this new shipper review, we found no information undermining the figure contained within the “Punjab Report.” As such, based on all available information, we determined that the figure contained within the “Punjab Report” serves as the most reliable basis for determining a surrogate value for calculating a cost of the farmland used to grow the subject merchandise.

Where appropriate, we did not include in the surrogate overhead and SG&A calculations the excise duty amount listed in the financial reports. We made certain adjustments to the ratios calculated by the petitioner and the respondent as a result of reclassifying certain expenses contained in the financial reports. For a further discussion of the adjustments made, see the *Preliminary Results Valuation Memorandum*.

To value PRC inland freight for inputs shipped by truck, we used Indian freight rates published in the April 2003–July 2003 issues of *Chemical Weekly* and obtained distances between cities from the following Web sites: <http://www.infreight.com> and <http://www.sitaindia.com/Packages/CityDistance.php>.

To value corrugated cartons, labels, tape, and glue, we used February 2003–July 2003 average import values from the *World Trade Atlas*.

In accordance with the decision of the Court of Appeals for the Federal Circuit in *Sigma Corp. v. United States*, 117 F. 3d 1401 (Fed. Cir. 1997), we revised our methodology for calculating source-to-factory surrogate freight for those material inputs that are valued based, all or in part, 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 of importation to the factory, or from the domestic supplier to the factory on an input-specific basis.

**Preliminary Results of the Review**

We preliminarily determine that the following margin exists during the period February 1, 2003, through July 31, 2003:

Manufacturer/producer/exporter			Margin percent
Guangxi Foods, Inc.	Hengxian	Pro-Light	0.00

We will disclose the calculations used in our analysis to the parties to this proceeding within five days of the date of publication of this notice. Any interested party may request a hearing within 30 days of publication of this notice. Any hearing, if requested, will be held on September 28, 2004.

Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room B–099, within 30 days of the date of publication of this notice. Requests should contain: (1) The party’s name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. See 19 CFR 351.310(c).

Issues raised in the hearing will be limited to those raised in case briefs and rebuttal briefs. Case briefs from interested parties may be submitted no later than September 1, 2004. Rebuttal briefs, limited to issues raised in the case briefs, will be due no later than September 8, 2004. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue; and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

The Department will issue the final results of the review, including the results of its analysis of issues raised in any such written briefs or at the hearing, if held, not later than 90 days after the date of issuance of the preliminary results.

**Assessment Rates**

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate appraisement instructions for the company subject to this review directly to CBP within 15 days of publication of the final results of this review. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final

results of this review is above *de minimis*.

### Cash Deposit Requirements

Upon completion of this review, we will require cash deposits at the rate established in the final results as further described below.

Bonding will no longer be permitted to fulfill security requirements for shipments of brake rotors from the PRC produced and exported by Guangxi Hengxian that are entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of the new shipper review. The following cash deposit requirements will be effective upon publication of the final results of this review for all shipments of subject merchandise from Guangxi Hengxian entered, or withdrawn from warehouse, for consumption on or after the publication date: (1) For subject merchandise manufactured and exported by Guangxi Hengxian, no cash deposit will be required if the cash deposit rate calculated in the final results is zero or *de minimis*; (2) for subject merchandise exported by Guangxi Hengxian but not manufactured by Guangxi Hengxian, the cash deposit rate will continue to be the PRC-wide rate (*i.e.*, 198.63 percent); and (3) for subject merchandise produced by Guangxi Hengxian but not exported by Guangxi Hengxian, the cash deposit rate will be the rate applicable to the exporter.

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

### Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This new shipper review and notice are in accordance with sections 751(a)(1) of the Act and 19 CFR 351.214.

Dated: July 22, 2004.

**Holly A. Kuga,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 04-17201 Filed 7-27-04; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

#### Visiting Committee on Advanced Technology

**AGENCY:** National Institute of Standards and Technology, Department of Commerce.

**ACTION:** Request for nominations of members to serve on the Visiting Committee on Advanced Technology.

**SUMMARY:** NIST invites and requests nomination of individuals for appointment to the Visiting Committee on Advanced Technology (VCAT). The terms of some of the members of the VCAT will soon expire. NIST will consider nominations received in response to this notice for appointment to the Committee, in addition to nominations already received.

**DATES:** Please submit nominations on or before August 12, 2004.

**ADDRESSES:** Please submit nominations to Nancy Miles, Administrative Coordinator, Visiting Committee on Advanced Technology, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 1000, Gaithersburg, MD 20899-1000. Nominations may also be submitted via fax to (301) 869-8972.

Additional information regarding the Committee, including its charter, current membership list, and executive summary may be found on its electronic home page at: <http://www.nist.gov/director/vcat/vcat.htm>.

#### FOR FURTHER INFORMATION CONTACT:

Nancy Miles, Administrative Coordinator, Visiting Committee on Advanced Technology, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 1000, Gaithersburg, MD 20899-1000, telephone (301) 975-2300, fax (301) 869-8972; or via e-mail at [nancy.miles@nist.gov](mailto:nancy.miles@nist.gov).

#### SUPPLEMENTARY INFORMATION:

##### VCAT Information

The VCAT was established in accordance with 15 U.S.C. 278 and the Federal Advisory Committee Act (5 U.S.C. app. 2).

##### Objectives and Duties

1. The Committee shall review and make recommendations regarding general policy for NIST, its organization, its budget, and its programs, within the framework of applicable national policies as set forth by the President and the Congress.

2. The Committee functions solely as an advisory body, in accordance with the provisions of the Federal Advisory Committee Act.

3. The Committee shall report to the Director of NIST.

4. The Committee shall provide a written annual report, through the Director of NIST, to the Secretary of Commerce for submission to the Congress on or before January 31 each year. Such report shall deal essentially, though not necessarily exclusively, with policy issues or matters which affect the Institute, or with which the Committee in its official role as the private sector policy adviser of the Institute is concerned. Each such report shall identify areas of research and research techniques of the Institute of potential importance to the long-term competitiveness of United States industry, which could be used to assist United States enterprises and United States industrial joint research and development ventures. The Committee shall submit to the Secretary and the Congress such additional reports on specific policy matters as it deems appropriate.

##### Membership

1. The Committee is composed of fifteen members that provide representation of a cross-section of traditional and emerging United States industries. Members shall be selected solely on the basis of established records of distinguished service and shall be eminent in one or more fields such as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations. No employee of the Federal Government shall serve as a member of the Committee.

2. The Director of the National Institute of Standards and Technology shall appoint the members of the Committee, and they will be selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance.

##### Miscellaneous

1. Members of the VCAT are not paid for their service, but will, upon request, be allowed travel expenses in accordance with 5 U.S.C. 5701 *et seq.*, while attending meetings of the Committee or of its subcommittees, or while otherwise performing duties at the request of the chairperson, while away from their homes or a regular place of business.

2. Meetings of the VCAT take place in the Washington, DC metropolitan area, usually at the NIST headquarters in