

sold in the United States at less than fair value. Based on comparisons of export price to normal value, calculated in accordance with section 773(c) of the Act, the estimated dumping margins for uncovered innerspring units from the PRC range from 55.95 percent to 234.51 percent and the estimated dumping margin for uncovered innerspring units from Vietnam is 116.31. See PRC Initiation Checklist and Vietnam Initiation Checklist, respectively. Based on a comparison of export price to normal value, calculated in accordance with section 773(a)(1) of the Act, the revised estimated dumping margin for uncovered innerspring units from South Africa is 121.39 percent. See South Africa Initiation Checklist.

Initiation of Antidumping Investigations

Based upon the examination of the Petitions on uncovered innerspring units from the PRC, South Africa, and Vietnam, the Department finds that the Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of uncovered innerspring units from the PRC, South Africa, and Vietnam are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act, unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Separate Rates

In order to obtain separate-rate status in NME investigations, exporters and producers must submit a separate-rate status application. See, e.g., Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries (April 5, 2005) (Separate Rates and Combination Rates Bulletin), available on the Department's Web site at <http://ia.ita.doc.gov/policy/bull05-1.pdf>. Based on our experience in processing the separate-rate applications in previous NME antidumping duty investigations, we have modified the application for the NME investigations to make it more administrable and easier for applicants to complete. See, e.g., *Initiation of Antidumping Duty Investigation: Certain New Pneumatic Off-the-Road Tires From the People's Republic of China*, 72 FR 43591, 43594-95 (August 6, 2007). The specific requirements for submitting the separate-rate application in the NME investigations are outlined in detail in the application itself, which will be

available on the Department's Web site at <http://ia.ita.doc.gov/ia-highlights-and-news.html> on the date of publication of this initiation notice in the **Federal Register**. The separate-rate application will be due 60 days after publication of this initiation notice.

Selection of Respondents

For these investigations, the Department intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POI. We intend to make our decisions regarding respondent selection within 20 days of publication of this **Federal Register** notice. The Department invites comments regarding the CBP data and the selection of respondents within seven days of publication of this **Federal Register** notice.

Use of Combination Rates in an NME Investigation

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in the NME investigations. For example, the Separate Rates and Combination Rates Bulletin, at page 6, states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation. (Emphasis added.)

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public versions of the Petitions have been provided to the representatives of the Governments of the PRC, South Africa, and Vietnam. We will attempt to provide a copy of the public version of the Petitions to the foreign producers/exporters, consistent with 19 CFR 351.203(c)(2).

International Trade Commission Notification

We have notified the ITC of our initiations, as required by section 732(d) of the Act.

Preliminary Determinations by the International Trade Commission

The ITC will preliminarily determine, no later than February 14, 2008, whether there is a reasonable indication that imports of uncovered innerspring units from the PRC, South Africa, and Vietnam are materially injuring, or threatening material injury to, a U.S. industry. A negative ITC determination with respect to any country will result in the investigation being terminated for that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: January 22, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

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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 Antidumping Duty New Shipper Review

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

EFFECTIVE DATE: January 28, 2008.

SUMMARY: The Department of Commerce ("the Department") is currently conducting a 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, 2006, through January 31, 2007. We preliminarily determine that the sale made by Ayecue International SLU ("Ayecue International") of subject merchandise produced by Ayecue (Liaocheng) Foodstuff Co., Ltd. ("Ayecue (Liaocheng)") (collectively, "Ayecue") was not made below normal value ("NV"). If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on entries of subject merchandise during the period of review ("POR") for any importer-

specific assessment rates that are above *de minimis*.

FOR FURTHER INFORMATION CONTACT: Thomas Martin at (202) 482-3936; AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: On February 19, 1999, the Department published in the **Federal Register** an amended final determination and antidumping duty order on certain preserved mushrooms from the PRC. See *Notice of Amendment of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Preserved Mushrooms From the People's Republic of China*, 64 FR 8308 (February 19, 1999) ("Order"). On February 20, 2007, we received a timely new shipper review request in accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended ("the Act"), and 19 CFR 351.214(c), from an exporter and producer, Ayecue. On April 2, 2007, the Department published a notice in the **Federal Register** initiating a new shipper review for Ayecue. See *Certain Preserved Mushrooms from the People's Republic of China: Initiation of New Shipper Antidumping Duty Review*, 72 FR 15657 (April 2, 2007) ("Initiation Notice").

On September 12, 2007, the Department published a notice in the **Federal Register** of the extension of the preliminary results by 120 days to January 22, 2008. See *Certain Preserved Mushrooms from the People's Republic of China: Extension of Preliminary Results for Eleventh Antidumping Duty New Shipper Review*, 72 FR 52078 (September 12, 2007).

We issued the general antidumping duty questionnaire, along with the standard importer questionnaire for new shipper reviews on April 6, 2007, and received responses in May 2007. We issued supplemental questionnaires from June through November 2007, and received timely responses to those questionnaires.

Period of Review

The POR covers February 1, 2006, through January 31, 2007.

Scope of the Order

The products covered by this order are certain preserved mushrooms, whether imported whole, sliced, diced, or as stems and pieces. The certain preserved mushrooms covered under this order are the species *Agaricus bisporus* and *Agaricus bitorquis*. "Certain Preserved Mushrooms" refers

to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heated in containers including, but not limited to, cans or glass jars in a suitable liquid medium, including, but not limited to, water, brine, butter or butter sauce. Certain preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces. Included within the scope of this order are "brined" mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing.¹

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

The merchandise subject to this order is classifiable under subheadings: 2003.10.0127, 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.

Affiliation and Determination of Respondent

Based on the evidence on the record of this new shipper review, we preliminarily find that Ayecue (Liaocheng) and Ayecue International are affiliated pursuant to section 771(33)(E) of the Act. Moreover, even though the Department initiated this review with respect to Ayecue (Liaocheng), the Department's review of the record evidence demonstrates that its parent company, Ayecue International, is the true respondent in this segment of the proceeding. This decision is based on the fact that

¹ On June 19, 2000, the Department affirmed that "marinated," "acidified," or "pickled" mushrooms containing less than 0.5 percent acetic acid are within the scope of the antidumping duty order. See "Recommendation Memorandum-Final Ruling of Request by Tak Fat, et al. for Exclusion of Certain Marinated, Acidified Mushrooms from the Scope of the Antidumping Duty Order on Certain Preserved Mushrooms from the People's Republic of China," dated June 19, 2000. On February 9, 2005, this decision was upheld by the United States Court of Appeals for the Federal Circuit ("CAFC"). See *Tak Fat v. United States*, 396 F.3d 1378 (Fed. Cir. 2005).

Ayecue International conducted all sales-related activities with respect to the shipment made by Ayecue (Liaocheng) of the merchandise under review to an unaffiliated U.S. customer. Due to the proprietary nature of this issue, for a detailed discussion of our analysis, see Memorandum to the File from Thomas Martin, International Trade Compliance Analyst, AD/CVD Operations, to Abdelali Elouaradia, Director, AD/CVD Operations, "Certain Preserved Mushrooms from the People's Republic of China: Affiliation of Ayecue (Liaocheng) Foodstuff Co., Ltd., and Ayecue International SLU, and Treatment of Sales," dated concurrently with this notice ("Ayecue Affiliation and Treatment of Sales Memorandum").

Bona Fide Analysis

Consistent with the Department's practice, we investigated the *bona fide* nature of the sale made by Ayecue International for this new shipper review. In evaluating whether or not a single sale in a new shipper review is commercially reasonable, and therefore *bona fide*, the Department considers, *inter alia*, such factors as: (1) The timing of the sale; (2) the price and quantity; (3) the expenses arising from the transaction; (4) whether the goods were resold at a profit; and (5) whether the transaction was made on an arm's-length basis. See *Tianjin Tiancheng Pharmaceutical Co., Ltd. v. United States*, 366 F. Supp. 2d 1246, 1250 (CIT 2005). Accordingly, the Department considers a number of factors in its *bona fide* analysis, "all of which may speak to the commercial realities surrounding an alleged sale of subject merchandise." See *Hebei New Donghua Amino Acid Co., Ltd. v. United States*, 374 F. Supp. 2d 1333, 1342 (CIT 2005) (citing *Fresh Garlic from the People's Republic of China: Final Results of Antidumping Administrative Review and Rescission of New Shipper Review*, 67 FR 11283 (March 13, 2002) and accompanying Issues and Decision Memorandum).

We preliminarily found that the U.S. sale made by Ayecue International during the POR was made on a *bona fide* basis. Specifically, we found that: (1) The timing of the sale does not indicate that the sale might not be *bona fide*; (2) the price and quantity of the sale were within the range of the prices and quantities of other entries of subject merchandise from the PRC into the United States during the POR, based upon the Department's review of data obtained from CBP; (3) Ayecue International and its customer did not incur any extraordinary expenses arising from the transaction; (4) the sale was resold at a profit; and (5) the sale

was made between unaffiliated parties at arm's-length.²

Based on our review of the record evidence concerning the *bona fide* nature of this sale, as well as Ayecue International's eligibility for a separate rate (see "Separate Rates Determination" section, below) and the Department's determination that the seller was not affiliated with any exporter or producer that had previously shipped subject merchandise to the United States, we preliminarily determine that Ayecue International has met the requirements to qualify as a new shipper during the POR. Therefore, for purposes of these preliminary results, we are treating the sale of subject merchandise to the United States as an appropriate transaction for this new shipper review.

NME Country Status

In every case conducted by the Department involving the PRC, the PRC has been treated as a non-market economy ("NME") country. See *Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the 2004/2005 Administrative Review and Notice of Rescission of 2004/2005 New Shipper Review*, 71 FR 66304 (November 14, 2006). In accordance with 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. None of the parties to this proceeding have contested such treatment. Accordingly, we calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

Separate Rates Determination

A designation of a country as an NME remains in effect until it is revoked by the Department. See section 771(18)(C) of the Act. Accordingly, there is a rebuttable presumption that all companies within the PRC are subject to government control and, thus, should be assessed a single antidumping duty rate. It is the Department's standard policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. To establish whether a company is sufficiently independent to

be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991), as amplified by the *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994).

As discussed in detail in the Ayecue Affiliation and Treatment of Sales Memorandum, the Department has preliminarily determined that Ayecue (Liaocheng) should not be considered the respondent in this new shipper review. Since Ayecue (Liaocheng) did not have a sale of its own during the POR, we are not making a separate rate determination for Ayecue (Liaocheng).³ However, we have preliminarily granted Ayecue International its own rate because it is a company located in a market economy country, Spain. This decision is consistent with the Department's practice of granting a separate rate when the seller is located in a market economy country. See *Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Activated Carbon From the People's Republic of China*, 71 FR 59721 (October 11, 2006), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Activated Carbon from the People's Republic of China*, 72 FR 9508 (March 2, 2007); and *Notice of Preliminary Determination of Sales at Less Than Fair Value: Silicomanganese From Kazakhstan*, 66 FR 56639, 56641 (November 9, 2001), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Silicomanganese From Kazakhstan*, 67 FR 15535 (April 2, 2002). Therefore, the Department calculated a company-specific dumping margin for Ayecue International.

Surrogate Country

When the Department investigates imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production ("FOPs"), valued in a surrogate market-economy country or countries considered to be appropriate by the Department. In accordance with section

773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market-economy countries that are at a level of economic development comparable to that of the NME country and are significant producers of comparable merchandise. The sources of the surrogate values we have used in this investigation are discussed under the "Normal Value" section, below. On July 12, 2007, the Department determined that India, Sri Lanka, Indonesia, the Philippines, and Egypt are countries comparable to the PRC in terms of economic development, and requested comments from interested parties on selecting the appropriate surrogate country for this review. See Letter to All Interested Parties, "New Shipper Review of Certain Preserved Mushrooms from the People's Republic of China: Ayecue (Liaocheng) Foodstuff Co., Ltd., and Ayecue International SLU," dated July 12, 2007. No party submitted surrogate country selection comments.

On August 20, 2007, the Department examined the export levels⁴ of subject merchandise from the above-mentioned countries and found that India and Indonesia are significant producers of comparable merchandise. See Memorandum from Thomas Martin, International Trade Compliance Analyst, to Abdelali Elouaradia, Director, "Antidumping Duty New Shipper Review of Certain Preserved Mushrooms from the People's Republic of China: Selection of a Surrogate Country," dated August 20, 2007 ("Surrogate Country Memorandum"), at 4. In selecting the appropriate surrogate country, the Department examines the availability and reliability of data from the countries deemed to be economically comparable and significant producers of subject merchandise. For a description of our practice, see Department Policy Bulletin No. 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004). In this case, we found that India has publicly available and reliable data that is more contemporaneous with the POR than is Indonesia's data. See Surrogate Country Memorandum at 4-5. Therefore, since India is a significant producer of comparable merchandise, is at a similar level of economic development, and has publicly available and reliable data contemporaneous with the POR, the Department selected India as the

² See Memorandum from Thomas Martin, International Trade Compliance Analyst, to Abdelali Elouaradia, Director, Office 4, "Bona Fide Sales Analysis for Ayecue (Liaocheng) Foodstuff Co., Ltd. and Ayecue International SLU," dated concurrently with this notice.

³ The Department notes that although Ayecue (Liaocheng) submitted a separate rate application and complete information in its Section A questionnaire response, the record evidence demonstrates that Ayecue International was the seller of the merchandise. See Ayecue Affiliation and Treatment of Sales Memorandum.

⁴ The Department was unable to find world production data for subject merchandise and relied on export data as a substitute for overall production.

surrogate country, pursuant to section 773(c)(4) of the Act. *See* Surrogate Country Memorandum at 5.

Fair Value Comparisons

To determine whether Ayecue's sale of subject merchandise to the United States was made at a price below NV, we compared its U.S. price to NV, as described in the "U.S. Price" and "Normal Value" sections of this notice, below.

U.S. Price

In accordance with section 772(a) of the Act, we based U.S. price on the export price ("EP") of the sale to the United States by Ayecue International because the first sale to an unaffiliated party was made before the date of importation and the use of constructed export price ("CEP") was not otherwise warranted. We calculated EP based on the free-on-board price to the first unaffiliated purchaser in the United States. For this EP sale, we deducted foreign inland freight and foreign brokerage and handling from the starting price (or gross unit price), in accordance with section 772(c) of the Act. For Ayecue International's U.S. sale, each of these services was either provided by an NME vendor or paid for using an NME currency. Thus, we based the deduction of these movement charges on surrogate values. We valued foreign inland freight with the surrogate value for truck freight, which we obtained from www.infreight.com. This source provides daily rates per truck load from six major points of origin to five different destinations in India. *See* Memorandum from Thomas Martin, International Trade Compliance Analyst, to the File, "New Shipper Review of Certain Preserved Mushrooms from the People's Republic of China: Surrogate Values for the Preliminary Results," dated concurrently with this notice ("Surrogate Values Memorandum"), at Exhibit 8. We valued foreign brokerage and handling with the publicly summarized brokerage and handling expense reported by an Indian mushroom processor, Agro Dutch Industries, Ltd. ("Agro Dutch"), in the 2004–2005 administrative review of Certain Preserved Mushrooms from India. *Id.* at Exhibit 9.

Normal Value

1. Methodology

Section 773(c)(1)(B) of the Act provides that the Department shall determine the NV using an FOP methodology if the merchandise is exported from an NME and the information does not permit the

calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies. *See Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind in Part*, 70 FR 39744 (July 11, 2005), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of 2003–2004 Administrative Review and Partial Rescission of Review*, 71 FR 2517 (January 17, 2006).

We calculated NV by adding together the value of the FOPs, general expenses, profit, and packing costs. The FOPs for subject merchandise include: (1) Quantities of raw materials employed; (2) hours of labor required; (3) amounts of energy and other utilities consumed; (4) representative capital and selling costs; and (5) packing materials. We used the FOPs reported by Ayecue for materials, energy, labor, and packing, and valued those FOPs by multiplying the amount of the factor consumed in producing subject merchandise by the average unit surrogate value of the factor.

In accordance with 19 CFR 351.408(c)(1), when a producer sources an input from a market-economy country and pays for it in a market-economy currency, the Department will normally value the FOP using the actual price paid for the input. *See* 19 CFR 351.408(c)(1); *see also Lasko Metal Products v. United States*, 43 F.3d 1442, 1445–1446 (Fed. Cir. 1994) (affirming the Department's use of market-based prices to value certain FOPs). The Department has instituted a rebuttable presumption that market economy input prices are the best available information for valuing an input when the total volume of the input purchased from all market economy sources during the period of investigation or review is 33 percent or greater of the total volume of the input purchased from all sources during the period. In these cases, unless case-specific facts provide adequate grounds to rebut the Department's presumption, the Department will use the weighted-average market economy purchase price to value the input. Alternatively, when the volume of an NME firm's purchases of an input from market economy suppliers during the

period is below 33 percent of its total volume of purchases of the input during the period, but where these purchases are otherwise valid and there is no reason to disregard the prices, the Department will weight-average the weighted-average market economy purchase price with an appropriate surrogate value according to their respective shares of the total volume of purchases, unless case-specific facts provide adequate grounds to rebut the presumption. When a firm has made market economy input purchases that may have been dumped or subsidized, are not *bona fide*, or are otherwise not acceptable for use in a dumping calculation, the Department will exclude them from the numerator of the ratio to ensure a fair determination of whether valid market economy purchases meet the 33 percent threshold. *See Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments*, 71 FR 61716 (October 19, 2006). In this case, Ayecue reported that it did not purchase any inputs from market economy sources.

In addition, we added freight costs to the surrogate costs that we calculated for material inputs. We calculated freight costs by multiplying surrogate freight rates by the shorter of the reported distance from the domestic supplier to the factory that produced the subject merchandise or the distance from the nearest seaport to the factory that produced the subject merchandise, as appropriate. Where there were multiple domestic suppliers of a material input, we calculated a weighted-average distance after limiting each supplier's distance to no more than the distance from the nearest seaport to Ayecue (Liaocheng). This adjustment is in accordance with the decision by the CAFC in *Sigma Corp. v. United States*, 117 F.3d 1401, 1407–1408 (Fed. Cir. 1997). We increased the calculated costs of the FOPs for surrogate general expenses and profit. *See* Surrogate Value Memorandum.

2. Selection of Surrogate Values

In selecting surrogate values, we followed, to the extent practicable, the Department's practice of choosing public values which are non-export averages, representative of a range of prices in effect during the POR, or over a period as close as possible in time to the POR, product-specific, and tax-exclusive. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of*

Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam, 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004). We also considered the quality of the source of surrogate information in selecting surrogate values. See *Manganese Metal From the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 63 FR 12440 (March 13, 1998). Where we could only obtain surrogate values that were not contemporaneous with the POR, we inflated (or deflated) the surrogate values using, where appropriate, the Indian Wholesale Price Index ("WPI") as published in *International Financial Statistics* by the International Monetary Fund. See Factor Value Memorandum.

In calculating surrogate values from import statistics, in accordance with the Department's practice, we disregarded statistics for imports from NME countries and countries deemed to maintain broadly available, non-industry-specific subsidies which may benefit all exporters to all export markets (e.g., Indonesia, South Korea, and Thailand). See, e.g., *Final Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields From The People's Republic of China*, 67 FR 6482 (February 12, 2002) and accompanying Issues and Decision Memorandum at Comment 1. See also *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 68 FR 66800, 66808 (November 28, 2003), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 69 FR 20594 (April 16, 2004). Additionally, we excluded from our calculations imports that were labeled as originating from an unspecified country because we could not determine whether they were from an NME country.

To value the fresh mushroom input, the Department used data from the fiscal year 2005–2006 financial statement of Agro Dutch. See Surrogate Values Memorandum, at Exhibit 3.

We valued other raw material inputs (salt, citric acid, vitamin C, tin cans and tin lids) using weighted-average Indian import values derived from the World Trade Atlas online ("WTA"), for the period February 2006 through January 2007. See Surrogate Values Memorandum. In addition, we valued packing inputs (cartons, labels, tape, and glue) with weighted-average Indian import values derived from the WTA. The Indian import statistics obtained from the WTA were published by the Indian Directorate General of Commercial Intelligence and Statistics, Ministry of Commerce of India and are contemporaneous with the POR. As the Indian surrogate values were denominated in rupees, in accordance with 773A(a) of the Act, they were converted to U.S. dollars using the official exchange rate for India recorded on the date of sale of subject merchandise in this case. See <http://www.ia.ita.doc.gov/exchange/index.html>.

To value electricity, the Department used the 2000 electricity price in India reported in *Energy Prices & Taxes, Second Quarter 2003*, published by the International Energy Agency. See Surrogate Values Memorandum at Exhibit 5, containing information obtained from data.iea.org. Since the electricity rates were not contemporaneous with the POR, the Department adjusted the value for inflation. *Id.* at Exhibit 5.

To value natural gas, the Department used information from the Natural Gas Authority of India, from February 2005. Because the information was not contemporaneous with the POR, we adjusted the average cost of natural gas for inflation. See Surrogate Values Memorandum, at Exhibit 6.

To value water, the Department used data from the Maharashtra Industrial Development Corporation (www.midcindia.org) for June 2003, which it found to be the best available information since it includes a wide range of industrial water rates. Since the water rates were not contemporaneous with the POR, the Department adjusted the value for inflation. See Surrogate Values Memorandum, at Exhibit 7.

To value inland freight expenses incurred for transporting raw materials and finished subject merchandise, we used data from www.infreight.com. This source provides daily rates per truck load from six major points of origin to five different destinations in India, from February through July 2005. Since these freight rates are not contemporaneous with the POR, the Department adjusted the value for inflation. See Surrogate Values Memorandum, at Exhibit 8.

19 CFR 351.408(c)(3) requires the use of a regression-based wage rate. Therefore, to value labor, the Department used the regression-based wage rate for the PRC published on the Import Administration Web site. See <http://ia.ita.doc.gov/wages/04wages/04wages-010907.html>.

To value brokerage and handling, the Department used the publicly summarized average brokerage and handling expenses reported in the U.S. sales listings of Agro Dutch's May 24, 2005, submission in the sixth antidumping duty review of certain preserved mushrooms from India. See Surrogate Values Memorandum, at Exhibit 9.

To value the surrogate financial ratios for factory overhead ("OH"), selling, general & administrative ("SG&A") expenses, and profit, the Department used the 2005–2006 (April 2005 through March 2006) financial statements of Agro Dutch and Flex Foods Ltd. ("Flex Foods").⁵ The Department notes that Agro Dutch is a processor of mushrooms, and Flex Foods is an Indian producer of mushrooms and vegetable products. Therefore, Agro Dutch's and Flex Foods' financial ratios for OH and SG&A are comparable to Ayecue (Liaocheng)'s financial ratios because Agro Dutch's and Flex Foods' production experience is comparable to Ayecue (Liaocheng)'s production experience. Additionally, the financial statements of these two companies are contemporaneous for two months of the POR. Moreover, an average of the financial statements of Agro Dutch and Flex Foods represents a broader spectrum of the Indian mushroom industry, than the financial statement of a single mushroom producer. See Surrogate Values Memorandum, at Exhibit 10.

Currency Conversion

We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. These exchange rates can be accessed at the Web site of Import Administration at <http://ia.ita.doc.gov/exchange/index.html>.

Combination Rate

In new shipper reviews, where subject merchandise is exported to the United States by a company that is not the producer of the merchandise, the Department may, pursuant to 19 CFR 351.107(b), establish a combination cash

⁵ Both Agro Dutch and Flex Foods have a fiscal year of April to March.

deposit rate for each combination of the exporter and its supplying producer(s). See *Fresh Garlic From the People's Republic of China: Final Results of Antidumping Duty New Shipper Review*, 67 FR 72139 at 72140 (December 4, 2002), *Notice of Final Results of Antidumping Duty New Shipper Review: Certain In-Shell Raw Pistachios From Iran*, 68 FR 353 at 354 (January 3, 2003), and *Certain Forged Stainless Steel*

Flanges From India: Final Results of Antidumping Duty New Shipper Review, 68 FR 351 (January 3, 2002). The Department has preliminarily determined that a combination rate is appropriate in this case, as Ayecue International is not the producer of the subject merchandise. Therefore, the Department will include in its cash deposit instructions to CBP appropriate language to enforce the final results of

this review on the basis of a combination rate involving Ayecue International and Ayecue (Liaocheng).

Preliminary Results of Review

We preliminarily determine that the following margin exists during the period February 1, 2006, through January 31, 2007:

| Exporter | Manufacturer | Weighted-average margin (percentage) |
|--------------------------------|---|--------------------------------------|
| Ayecue International SLU | Ayecue (Liaocheng) Foodstuff Co., Ltd. | 0.00 |

Public Comment

The Department will disclose to parties to this proceeding the calculations performed in reaching the preliminary results within five days after the date of publication of these preliminary results. Interested parties may submit written comments (case briefs) within 30 days of publication of the preliminary results and rebuttal comments (rebuttal briefs), which must be limited to issues raised in the case briefs, within five days after the time limit for filing case briefs. See 19 CFR 351.309(c)(1)(ii) and 19 CFR 351.309(d). Parties who submit arguments are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Further, the Department requests that parties submitting written comments provide the Department with a diskette containing the public version of those comments.

Any interested party may request a hearing within 30 days of publication of this notice. See 19 CFR 351.310(c). 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 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 the briefs.

Unless the deadline is extended pursuant to section 751(a)(2)(B)(iv) of the Act, the Department will issue the final results of this new shipper review, including the results of our analysis of the issues raised by the parties in their comments, within 90 days of publication of these preliminary results.

Assessment Rates

Upon issuing the final results of the review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of 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*. However, the final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of these reviews and for future deposits of estimated duties, where applicable.

Cash Deposit Requirements

The following cash deposit requirements, when imposed, will be effective upon publication of the final results of this new shipper review for all shipments of subject merchandise exported by Ayecue International and produced by Ayecue (Liaocheng) entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For subject merchandise exported by Ayecue International and produced by Ayecue (Liaocheng), the cash-deposit rate will be that established in the final results of this review; (2) for subject merchandise exported by Ayecue International but not manufactured by Ayecue (Liaocheng), the cash deposit rate will continue to be the PRC-wide rate (*i.e.*,

198.63 percent); and (3) for subject merchandise manufactured by Ayecue (Liaocheng) but exported by any party other than Ayecue International, the cash deposit rate will be the rate applicable to the exporter. If the cash deposit rate calculated for Ayecue International in the final results is zero or *de minimis*, no cash deposit will be required for entries of subject merchandise exported by Ayecue International and produced by Ayecue (Liaocheng). These cash deposit requirements, when imposed, shall remain in effect until further notice.

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)(2)(B) and 777(i) of the Act and 19 CFR 351.214(h)(i).

Dated: January 18, 2008.

David M. Spooner,
Assistant Secretary for Import Administration.

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