

but the information cannot be verified, then the Department shall, subject to sections 782(d) and (e) of the Act, use the facts otherwise available in reaching the applicable determination.

For the reasons outlined in the *Preliminary Results* at 69 FR 40609, we have continued to apply facts available in the final results of review for calculating the labor hours worked by Shanyang for processing activities and by Wangtun for production activities.

For the final results of this new shipper review, we have clarified that the use of facts available is appropriate for calculating a consumption factor for water. Shanyang did not report a consumption factor for the water used in the production of subject merchandise. For the preliminary results of review we calculated a consumption factor for water using the pump specifications for the model type and corresponding water flow rate (based on water depth) used by Shanyang in the production of garlic during the POR as reported in its supplemental questionnaire response. See the memorandum from Brian Ellman to The File entitled "Analysis for the Preliminary Results of the New Shipper Review of the Antidumping Duty Order on Fresh Garlic from the People's Republic of China: Jinxiang Shanyang Freezing Storage Co., Ltd., and Wangtun Fresh Vegetable Factory," dated June 28, 2004.

In its August 5, 2004, case brief, Shanyang attempted to submit new factual information for the Department to use in our calculation of a water-usage rate for the final results. We rejected Shanyang's case brief because it contained untimely new factual information, and allowed it to submit a redacted case brief (less any new factual information).

In its case brief, Shanyang argues that the flow rate used by the Department in its calculation of a water-usage rate is incorrect because the flow rate is not based on the actual depth of the water table at Wangtun's fields. Moreover, Shanyang argues that the Department should correct its calculation for a water-usage rate by requesting data from Wangtun demonstrating the actual depth at which Wangtun's water pumps operated during the POR.

Prior to and during verification Shanyang had the opportunity to inform the Department that its actual water depth was different from the water depth indicated in its questionnaire response. As such, we determine that, in accordance with section 776(a)(2)(B) of the Act, the use of facts available is appropriate for calculating a consumption factor for water for the

final results. Therefore, we will continue to calculate a consumption factor for water using the pump specifications for the model type used by Shanyang as indicated in its questionnaire response and as verified by the Department. For a complete discussion of this issue see Comment 1 of the *Decision Memo*.

#### Final Results of the New Shipper Review

For the final results of the new shipper review the following dumping margin exists for the period November 1, 2002, through October 31, 2003:

| Grower and exporter combination   | Weighted-average percentage margin |
|---|------------------------------------|
| Grown by Kaifeng Wangtun Fresh Vegetables Factory and Exported by Jinxiang Shanyang Freezing Storage Co., Ltd ..... | 29.04                              |

#### Duty Assessment and Cash-Deposit Requirements

The Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of the final results of this review. Further, the following cash-deposit requirements will be effective upon publication of the final results of this new shipper review for shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results, as provided by section 751(a)(2)(C) of the Act: (1) For subject merchandise grown by Kaifeng Wangtun Fresh Vegetables Factory, and exported by Jinxiang Shanyang Freezing Storage Co., Ltd., the cash-deposit rate will be the rate listed above; (2) for all other subject merchandise exported by Jinxiang Shanyang Freezing Storage Co., Ltd., the cash-deposit rate will be the PRC-wide rate, which is 376.67 percent; (3) for all other PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash-deposit rate will be the PRC-wide rate of 376.67 percent; (4) for all non-PRC exporters of subject merchandise, the cash-deposit rate will be the rate applicable to the PRC exporter that supplied that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

#### Notification to Interested Parties

This notice serves as a final 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 the review period. Pursuant to 19 CFR 351.402(f)(3) failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO as explained in the administrative protective order itself. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Bonding is no longer permitted to fulfill security requirements for shipments from Shanyang of fresh garlic from the PRC entered, or withdrawn from warehouse, for consumption in the United States on or after the publication of this notice in the **Federal Register**.

These final results of the new shipper review and notice are issued and published in accordance with sections 751(a)(2)(B) and 777(i) of the Act.

Dated: September 24, 2004.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

#### Appendix:

- Decision Memo
- 1. Valuation of Water
- 2. Selling, General, and Administrative Expenses and Profit Calculation
- 3. Valuation of Leased Land
- 4. Valuation of Upstream Input Factors

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#### DEPARTMENT OF COMMERCE

##### International Trade Administration

[A-533-813]

#### Certain Preserved Mushrooms From India: Notice of Partial Rescission of Antidumping Duty Administrative Review

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

**EFFECTIVE DATE:** September 24, 2004.

**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, NW., Washington, DC 20230; telephone: (202) 482-4136 or (202) 482-4929, respectively.

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

On February 3, 2004, the Department published in the **Federal Register** (69 FR 5125) a notice of "Opportunity To Request Administrative Review" of the antidumping duty order on certain preserved mushrooms from India for the period February 1, 2003, through January 31, 2004. On February 27, 2004, Agro Dutch Foods, Ltd. (Agro Dutch), requested an administrative review of its sales. On February 27, 2004, Premier Mushroom Farms (Premier), requested an administrative review of its sales. Also, on February 27, 2004, the petitioner<sup>1</sup> requested an administrative review of the antidumping duty order for the following companies: Agro Dutch, Dinesh Agro Products, Ltd. (Dinesh Agro), Flex Foods, Ltd. (Flex Foods), Himalya International, Ltd. (Himalya), Premier, Saptarishi Agro Industries Ltd. (Saptarishi Agro), and Weikfield Agro Products Ltd. (Weikfield). On March 26, 2004, the Department published a notice of initiation of an administrative review of the antidumping duty order on certain preserved mushrooms from India with respect to these companies. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocations in Part*, 69 FR 15788.

On June 24, 2004, the petitioner timely withdrew its request for review with respect to Dinesh Agro, Himalya, and Saptarishi Agro. On June 22, 2004, the petitioner requested that the Department extend the deadline established under 19 CFR 351.213(d)(1) to withdraw its request for review of Flex Foods until fourteen days after the receipt of a complete electronic dataset from Flex Foods. On June 24, 2004, we granted this request for extending the deadline to withdraw the petitioner's request for review of Flex Foods until July 6, 2004. On July 6, 2004, the petitioner requested that the Department extend the previous deadline established under 19 CFR 351.213(d)(1), until July 9, 2004, for withdrawing its request for an administrative review of

Flex Foods. On July 7, 2004, we granted this request. However, the petitioner never subsequently withdrew its request for an administrative review of Flex Foods.

**Partial Rescission of Review**

Section 351.213(d)(1) of the Department's regulations stipulates that the Secretary will rescind an administrative review, in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. In this case, the petitioner withdrew its request for review of Dinesh Agro, Himalya, and Saptarishi Agro within the 90-day period. Therefore, because the petitioner was the only party to request the administrative review of these three companies, we are rescinding, in part, this review of the antidumping duty order on certain preserved mushrooms from India as to Dinesh Agro, Himalya, and Saptarishi Agro. This review will continue with respect to Agro Dutch, Flex Foods, Premier, and Weikfield.

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: September 24, 2004.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

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**DEPARTMENT OF COMMERCE****International Trade Administration**

**[C-122-839]**

**Certain Softwood Lumber Products From Canada: Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Review**

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

**ACTION:** Notice of extension of time limit for preliminary results of countervailing duty administrative review.

**EFFECTIVE DATE:** September 30, 2004.

**FOR FURTHER INFORMATION CONTACT:**

Stephanie Moore or Jim Terpstra at (202) 482-3692 or (202) 482-3965, respectively, AD/CVD Enforcement, Office III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:****Time Limits**

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue the preliminary results of a review within 245 days after the last day of the anniversary month of an order/finding for which a review is requested and the final results within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within that time period, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary results to a maximum of 365 days and for the final results to 180 days (or 300 days if the Department does not extend the time limit for the preliminary results) from the date of the publication of the preliminary results.

**Background**

On June 30, 2004, the Department initiated an administrative review of the countervailing duty order on certain softwood lumber products from Canada. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 69 FR 39409. The preliminary results are currently due no later than January 31, 2005.

**Extension of Time Limit for Preliminary Results of Review**

The subsidy programs covered by this review are extraordinarily complicated. In addition, because this administrative review is being conducted on an aggregate level, the Department must analyze large amounts of data from each of the Canadian Provinces as well as data from the Canadian Federal Government. Therefore, the Department is extending the time limit for completion of the preliminary results to May 31, 2005. *See* the Decision Memorandum from Melissa G. Skinner, Director, Office of AD/CVD Enforcement III, to Jeffrey May, Deputy Assistant Secretary for Import Administration, dated concurrently with this notice, which is on file in the Central Records Unit.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: September 24, 2004.

**Jeffrey May,**

*Deputy Assistant Secretary for Import Administration.*

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<sup>1</sup> The petitioner is the Coalition for Fair Preserved Mushroom Trade which includes: L.K. Bowman, Inc., Monterey Mushrooms, Inc., Mushroom Canning Company, and Sunny Dell Foods, Inc.