

review of the antidumping duty order for the following companies: China Processed Food Import & Export Company ("China Processed"), Gerber Food (Yunnan) Co., Ltd. ("Gerber"), Green Fresh, Guangxi Yulin, Raoping Xingyu Foods Co., Ltd. ("Raoping"), Shantou Hongda Industrial General Corporation ("Shantou Hongda"), Shenxian Dongxing Foods Co., Ltd. ("Shenxian Dongxing"), Shenzhen Qunxingyuan Trading Co., Ltd. ("Shenzhen Qunxingyuan"), Xiamen Zhongjia Imp. & Exp. Co., Ltd. ("Zhongjia"), Zhangzhou Jingxiang Foods Co., Ltd. ("Jingxiang"), and Zhangzhou Longhai Minhui Industry and Trade Co., Ltd. ("Minhui"). On March 6, 2003, Shantou Hongda and Shenxian Dongxing requested an administrative review of their sales.<sup>2</sup> On March 25, 2003, the Department published a notice of initiation of an administrative review of the antidumping duty order on certain preserved mushrooms from the PRC with respect to these companies. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocations in Part*, 68 FR 14394.

On May 7, 2003, Raoping and Shenzhen Qunxingyuan requested that the Department rescind their respective reviews because they did not export to the United States during the period of review ("POR"). We confirmed the claims of Raoping and Shenzhen Qunxingyuan by reviewing data from U.S. Customs and Border Protection. See Memorandum to the File dated September 29, 2003, on file in Room B-099 of the Commerce Department. We received no comments on this memorandum from any party.

On June 12, 2003, the petitioner requested an extension of the deadline to withdraw its requests for review. On June 16, 2003, the Department granted the petitioner's request and extended the deadline until July 10, 2003. On August 7, 2003, the petitioner withdrew its request for an administrative review of Zhongjia and Minhui, following the Department's preliminary decision to rescind the new shipper review with respect to these companies due to the filing of improper certifications. See *Certain Preserved Mushrooms from the People's Republic of China: Intent to Rescind Antidumping Duty New Shipper Review*, 68 FR 45792 (August 4,

2003). On August 20, 2003, Zhongjia and Minhui requested that the data submitted on the record of the above-mentioned new shipper review be transferred to the record of the fourth administrative review.<sup>3</sup> The petitioner objected to this request on September 2, 2003. On September 15, 2003, respondents Zhongjia and Minhui submitted a letter in opposition to the petitioner's August 7 review request withdrawal. On September 23, 2003, the petitioner submitted a letter in opposition to Zhongjia's and Minhui's September 15 letter.

#### Partial Rescission of Review

Pursuant to section 351.213 (d)(1) of the Department's regulations, the Secretary will rescind an administrative review in whole or in part if a party that requested the review withdraws its request within ninety days of publication of the **Federal Register** notice that initiated the review. Section 351.213(d)(1) further provides that the Secretary may extend this time limit if the Secretary decides that it is reasonable to do so. The administrative review is still at the early stages of the proceeding, and the Department has not conducted verification or issued a preliminary determination. The Department has determined that it is reasonable to extend the time in which the petitioner can request a withdrawal of its request for the administrative review of Zhongjia and Minhui.

Zhongjia and Minhui contest the petitioners request and argue that the Department should continue with the administrative review covering their sales of subject merchandise. For purposes of our analysis, it is important to distinguish that Zhongjia and Minhui each requested a new shipper review but did not request an administrative review. This is in contrast to the situation in which a respondent requests both a new shipper review and an administrative review. Section 351.214(j) of the Department's regulations provides that if a party requests multiple reviews, the Department may choose to initiate one and not the other after consulting with the party. For example, in *Certain In-Shell Roasted Pistachios From Iran: Notice of Initiation of New Shipper Countervailing Duty Review*, 66 FR 59235, 59235-6 (November 27, 2001) (*Pistachios from Iran*), the respondent requested both a new shipper and an administrative review in a timely

manner. Pursuant to 19 CFR 351.214(j), the Department only initiated the new shipper review. Had the new shipper review been rescinded in *Pistachios from Iran* under facts similar to those in this case, the Department would have considered continuing the administrative review. However, in this case, because neither Zhongjia nor Minhui submitted a request for an administrative review of their sales in a timely fashion, as required by 751(a)(1) of the Act, we are rescinding the administrative review of the antidumping duty order on certain preserved mushrooms from the PRC with respect to these two companies, as requested by the petitioner.

Furthermore, as neither Raoping nor Shenzhen Qunxingyuan exported the subject merchandise to the United States during the POR, we are rescinding this review of the antidumping duty order on certain preserved mushrooms from the PRC as to both Raoping and Shenzhen Qunxingyuan. This review will continue with respect to Gerber, Green Fresh, China Processed, Guangxi Yulin, Shantou Hongda, Shenxian Dongxing and Jingxiang.

This notice is published in accordance with section 777(i) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: November 3, 2003.

**Jeffrey May,**

*Deputy Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-851]

#### Notice of Decision of the Court of International Trade: Certain Preserved Mushrooms from the People's Republic of China

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

**ACTION:** Notice of Decision of the Court of International Trade.

**SUMMARY:** On October 17, 2003, in *Tak Fat Trading Company, et al., v. United States*, Consol. Court No. 00-07-00360, Slip Op. 03-134, a lawsuit challenging the Department of Commerce's final scope ruling that the marinated mushrooms manufactured or exported by the plaintiffs are within the scope of the antidumping duty order of certain preserved mushrooms from the People's

Company, Southwood Farms, Sunny Dell Foods, Inc., and United Canning Corp.

<sup>2</sup> This request was originally filed on February 27, 2003, but was subsequently refiled on March 6, 2003, because the package containing the original request could not be located subsequent to the original filing.

<sup>3</sup> In response to the Department's questionnaire issued in the fourth administrative review, both companies claimed they had no shipments of the subject merchandise during the POR other than the transactions covered in the new shipper review.

Republic of China, the Court of International Trade vacated the Department of Commerce's scope ruling and entered a judgement order. Consistent with the decision of the United States Court of Appeals for the Federal Circuit in *Timken Co. v. United States*, 893 F.2d 337 (Fed.Cir. 1990), the Department is notifying the public that this decision was "not in harmony" with the Department's original final scope ruling.

**EFFECTIVE DATE:** November 7, 2003.

**FOR FURTHER INFORMATION CONTACT:** David J. Goldberger at (202) 482-4136 or Rebecca Trainor at (202) 482-4007, Office of Antidumping and Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

**SUPPLEMENTARY INFORMATION:**

**Background**

On February 19, 1999, the Department of Commerce (the Department) published notice of its amended final determination of less-than-fair-value (LTFV) investigation of certain preserved mushrooms from the People's Republic of China (PRC) and the antidumping duty order. 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).

On January 6, 2000, producers/exporters, Mei Wei Food Industry Co, Ltd, Tak Fat Trading Co., Leung Mi International, Tak Yeun Corp., and U.S. importer Genex International Corp. (collectively, Tak Fat), requested that the Department determine that certain marinated or acidified mushrooms produced in the People's Republic of China (PRC) are outside the scope of the antidumping duty order on certain preserved mushrooms. See *Request for Scope Determination: Certain Preserved Mushrooms from the People's Republic of China*, January 6, 2000. The Department made a final ruling on this scope request on June 19, 2000, finding that the "marinated or acidified" mushrooms produced, exported or imported by Tak Fat are within the scope of the antidumping duty order on certain preserved mushrooms from the PRC based on their acetic acid content level.

Tak Fat appealed this ruling to the Court of International Trade (CIT). On October 17, 2003, the CIT issued its decision granting Tak Fat's request to

vacate the scope ruling. See *Tak Fat Trading Company, et al., v. United States*, Slip Op. 03-134.

**Timken Notice**

In its decision in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), the Court of Appeals for the Federal Circuit (CAFC) held that, pursuant to 19 USC 1516(e), the Department must publish notice of a decision of the CIT or the CAFC which is "not in harmony" with the Department's determination. Therefore, publication of this notice fulfills this obligation of the Department. In addition, this notice will serve to continue the suspension of liquidation. If this decision is not appealed, or if appealed, if it is upheld, the Department will amend its scope ruling.

Dated: November 3, 2003.

**James Jochum,**

*Assistant Secretary for Import Administration.*

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**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[A-583-830]

**Stainless Steel Plate in Coils from Taiwan: Final Rescission of Antidumping Duty Administrative Review**

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

**ACTION:** Notice of the Final Rescission of Antidumping Duty Administrative Review of Stainless Steel Plate in Coils from Taiwan.

**SUMMARY:** On June 4, 2003, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary rescission of its administrative review of the antidumping duty order on stainless steel plate in coils from Taiwan. See *Notice of the Preliminary Rescission of Antidumping Duty Administrative Review of Stainless Steel Plate in Coils from Taiwan*, 68 FR 33472 (June 4, 2003) ("Preliminary Rescission"). This review covers two manufacturers of the subject merchandise, Yieh United Steel Corporation ("YUSCO"), a Taiwanese producer of subject merchandise, and Ta Chen Stainless Pipe Co., Ltd. ("Ta Chen"), also a Taiwanese producer of subject merchandise. The period of review ("POR") is May 1, 2001 through April 30, 2002.

We preliminarily rescinded this review based on record evidence supporting the conclusion that there were no entries into the United States of subject merchandise during the POR by respondents. See *Preliminary Rescission*. We are now issuing our final rescission of this review based on evidence on the record indicating that there were no entries into the United States of subject merchandise during the POR from the respondents.

**EFFECTIVE DATE:** November 7, 2003.

**FOR FURTHER INFORMATION CONTACT:** Catherine Bertrand or Robert Bolling, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3207 or (202) 482-3434 respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On May 21, 1999, the Department of Commerce ("Department") published the antidumping duty order on stainless steel plate in coils from Taiwan. See *Antidumping Duty Orders; Certain Stainless Steel Plate in Coils From Belgium, Canada, Italy, the Republic of Korea, South Africa, and Taiwan*, 64 FR 27756 (May 21, 1999). On May 6, 2002, the Department published a notice of opportunity to request an administrative review of this order for the period May 1, 2001 through April 30, 2002. See *Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation*, 67 FR 30356 (May 6, 2002). On May 7, 2002, Petitioners<sup>1</sup> timely requested that the Department conduct an administrative review of sales by YUSCO, a Taiwan producer and exporter of subject merchandise, and Ta Chen, also a Taiwan producer and exporter of subject merchandise. On June 25, 2002, in accordance with section 751(a) of the Tariff Act of 1930 as amended ("the Act"), the Department published in the **Federal Register** a notice of initiation of this antidumping duty administrative review of sales by YUSCO and Ta Chen for the period May 1, 2001 through April 30, 2002. See *Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 67 FR 42753 (June 25, 2002).

On July 10, 2002, the Department issued its antidumping duty

<sup>1</sup> Allegheny Ludlum, AK Steel Corporation, Butler Armco Independent Union, United Steelworkers of America, AFL-CIO/CLC, and Zanesville Armco Independent Organization are collectively "Petitioners" for this review.