

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>1</sup>

The merchandise subject to this order is classifiable under subheading: 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.

#### Rescission of Review

As mentioned above, both Minhui and Zhongjia stated in their respective requests for a new shipper review that each company was an exporter and producer of the subject merchandise during the POR. Therefore, for purposes of initiating this review and based on the certifications provided by both Zhongjia and Minhui in accordance with 19 CFR 351.214(b)(2)(i), the Department was led to believe that both companies also produced the merchandise for which each requested a review. However, in the course of conducting this review, both Minhui and Zhongjia's responses to the Department's antidumping questionnaire indicated that neither company is a producer of the subject merchandise. Consequently, Zhongjia and Minhui misstated the facts when each claimed in its respective new shipper review request that it was both the exporter and producer of the merchandise subject to this review.

In order to qualify for a new shipper review under 19 CFR 351.214(b)(2)(ii), a company that exports but does not produce the subject merchandise for which it requests such a review must provide, among other things, (1) a certification that it did not export subject merchandise to the United States during the period of investigation ("POI"), and (2) a certification from the person or company which produced or supplied the subject merchandise that the producer or supplier did not export the subject merchandise to the United

States during the POI. *See* 19 CFR 351.214(b)(2)(ii)(A) and (B).

Because Zhongjia and Minhui did not provide a certification from the respective producers of the subject merchandise they sold or exported to the United States during the POR in accordance with 19 CFR

351.214(b)(2)(ii)(B), neither respondent met the minimum requirements for an entitlement to a new shipper review.

Therefore, for the reasons stated above and absent comments submitted by the parties in this segment of the proceeding, we have rescinded this new shipper review with respect to Zhongjia and Minhui.

#### Notification

Bonding will no longer be permitted to fulfill security requirements for shipments from Minhui or Zhongjia of certain preserved mushrooms from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date of the final rescission notice. The cash-deposit rate required for subject merchandise from the PRC NME entity (including Zhongjia and Minhui), entered, or withdrawn from warehouse, for consumption on or after the publication of the final rescission notice will continue to be the PRC-wide rate of 198.63 percent. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This rescission notice is in accordance with sections 751(a)(2)(B) and 777(i) of the Act and 19 CFR 351.214.

Dated: October 2, 2003.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty

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

**ACTION:** Publication of quarterly update to annual listing of foreign government

subsidies on articles of cheese subject to an in-quota rate of duty.

**SUMMARY:** The Department of Commerce ("the Department"), in consultation with the Secretary of Agriculture, has prepared its quarterly update to the annual list of foreign government subsidies on articles of cheese subject to an in-quota rate of duty during the period April 1, 2003 through June 30, 2003. We are publishing the current listing of those subsidies that we have determined exist.

**EFFECTIVE DATE:** October 8, 2003.

**FOR FURTHER INFORMATION CONTACT:**

Alicia Kinsey, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230, telephone: (202) 482-2786.

**SUPPLEMENTARY INFORMATION:** Section 702 of the Trade Agreements Act of 1979 (as amended) ("the Act") requires the Department to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of cheese subject to an in-quota rate of duty, as defined in section 702(h) of the Act, and to publish an annual list and quarterly updates of the type and amount of those subsidies. We hereby provide the Department's quarterly update of subsidies on articles of cheese that were imported during the period April 1, 2003 through June 30, 2003.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies (as defined in section 702(h) of the Act) being provided either directly or indirectly by foreign governments on articles of cheese subject to an in-quota rate of duty. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amounts of each subsidy for which information is currently available.

The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of cheese subject to an in-quota rate of duty to submit such information in writing to the Assistant Secretary for Import Administration,

Mushrooms from the People's Republic of China," dated June 19, 2000.

<sup>1</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 Marinated, Acidified Mushrooms from the Scope of the Antidumping Duty Order on Certain Preserved

U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

This determination and notice are in accordance with section 702(a) of the Act.

Dated: October 2, 2003.  
**James J. Jochum,**  
*Assistant Secretary for Import Administration.*

APPENDIX—SUBSIDY PROGRAMS ON CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY

Country	Program(s)	Gross <sup>1</sup> subsidy (\$/lb)	Net <sup>2</sup> subsidy (\$/lb)
Austria	European Union (EU) Restitution Payments	0.08	0.08
Belgium	EU Restitution Payments	0.01	0.01
Canada	Export Assistance on Certain Types of Cheese	0.24	0.24
Denmark	EU Restitution Payments	0.05	0.05
Finland	EU Restitution Payments	0.15	0.15
France	EU Restitution Payments	0.12	0.12
Germany	EU Restitution Payments	0.05	0.05
Greece	EU Restitution Payments	0.08	0.08
Ireland	EU Restitution Payments	0.04	0.04
Italy	EU Restitution Payments	0.06	0.06
Luxembourg	EU Restitution Payments	0.07	0.07
Netherlands	EU Restitution	0.05	0.05
Norway	Indirect (Milk) Subsidy	0.35	0.35
	Consumer Subsidy	0.16	0.16
		0.51	0.51
Portugal	EU Restitution Payments	0.05	0.05
Spain	EU Restitution Payments	0.03	0.03
Switzerland	Deficiency Payments	0.06	0.06
U.K.	EU Restitution	0.06	0.06

<sup>1</sup> Defined in 19 U.S.C. 1677(5).

<sup>2</sup> Defined in 19 U.S.C. 1677(6).

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**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**North American Free-Trade Agreement, Article 1904 NAFTA Panel Reviews; Request for Panel Review**

**AGENCY:** NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

**ACTION:** Notice of first Request for Panel Review.

**SUMMARY:** On October 1, 2003, CEMEX, S.A. de C.V. ("CEMEX") filed a first Request for Panel Review with the United States Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. A second request was received on behalf of GCC Cementos, S.A. de C.V. ("GCC"). Panel review was requested of the 12th administrative review made by the International Trade Administration, respecting Gray Portland Cement and Clinker from Mexico. This determination was published in the **Federal Register** (68 FR 54203) on September 16, 2003. The NAFTA Secretariat has assigned Case Number USA-MEX-2003-1904-03 to this request.

**FOR FURTHER INFORMATION CONTACT:**

Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482-5438.

**SUPPLEMENTARY INFORMATION:** Chapter 19 of the North American Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* ("Rules"). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the United States Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on October 1, 2003, requesting panel

review of the determination described above.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is October 31, 2003);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is November 17, 2003); and

(c) The panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: October 2, 2003.

**Caratina L. Alston,**

*United States Secretary, NAFTA Secretariat.*

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