

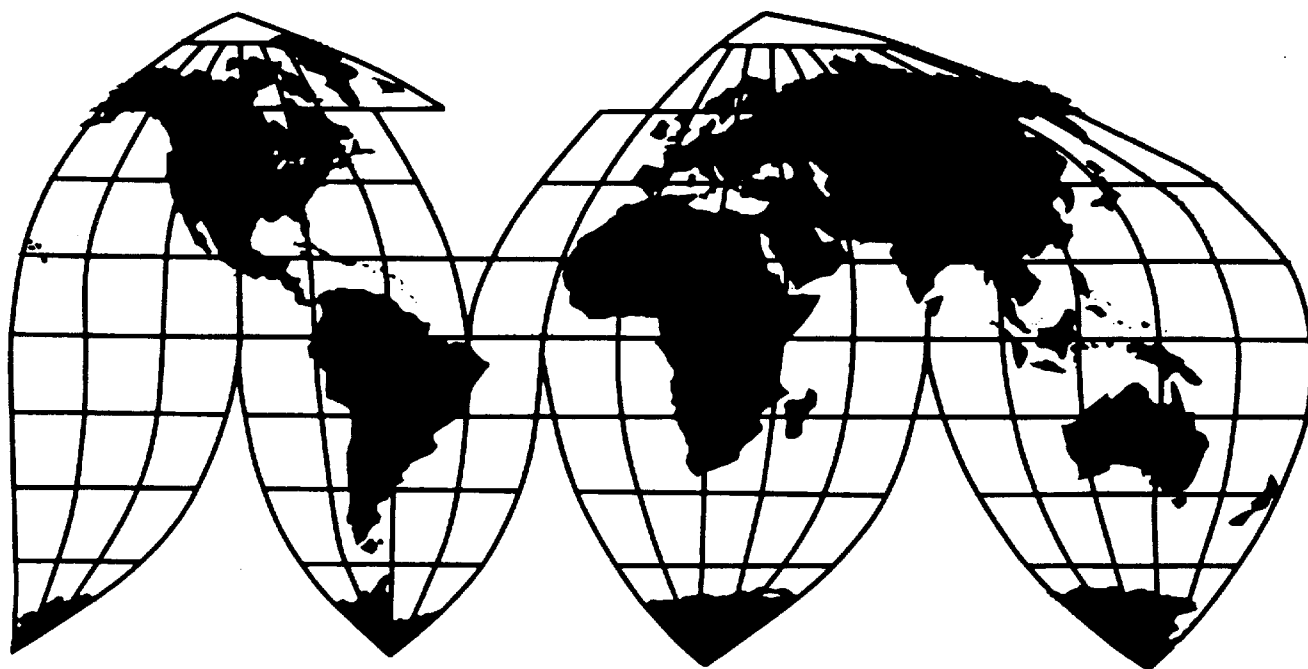
Certain Preserved Mushrooms From Chile, China, India, and Indonesia

Investigations Nos. 731-TA-776-779 (Review)

Publication 3731

October 2004

U.S. International Trade Commission



U.S. International Trade Commission

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Charlotte R. Lane
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Timothy McCarty, *Industry Analyst*
Amelia Preece, *Economist*
Chand Mehta, *Accountant*
Mark Bernstein, *Attorney*
Steven Hudgens, *Statistician*
George Deyman, *Supervisory Investigator*

**Address all communications to
Secretary to the Commission
United States International Trade Commission
Washington, DC 20436**

U.S. International Trade Commission

Washington, DC 20436

www.usitc.gov

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. 731-TA-776-779 (Review)

CERTAIN PRESERVED MUSHROOMS FROM CHILE, CHINA, INDIA, AND INDONESIA

DETERMINATIONS

On the basis of the record¹ developed in these subject five-year reviews, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)), that revocation of the antidumping duty orders on certain preserved mushrooms from Chile, China, India, and Indonesia² would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

BACKGROUND

The Commission instituted these reviews on November 3, 2003 (68 FR 62322) and determined on February 6, 2004 that it would conduct full reviews (69 FR 7793, February 19, 2004). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* on May 18, 2004 (69 FR 28156). The hearing was held in Washington, DC, on September 9, 2004, and all persons who requested the opportunity were permitted to appear in person or by counsel.

¹ The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

² Commissioner Daniel R. Pearson dissents with regard to Indonesia.

VIEWS OF THE COMMISSION

Based on the record in these five-year reviews, we determine under section 751(c) of the Tariff Act of 1930, as amended (the Act), that revocation of the antidumping duty orders on preserved mushrooms from Chile, China, India, and Indonesia would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.¹

I. BACKGROUND

In November 1998, the Commission determined that an industry in the United States was materially injured by reason of less than fair value (LTFV) imports of preserved mushrooms from Chile.² In February 1999, the Commission determined that an industry in the United States was materially injured by reason of LTFV imports of preserved mushrooms from China, India, and Indonesia.³ The U.S. Department of Commerce (Commerce) issued antidumping duty orders with respect to imports from Chile on December 2, 1998,⁴ and with respect to imports from China, India, and Indonesia on February 19, 1999.⁵ Commerce subsequently revoked the order with respect to imports from Indonesia in part.⁶

The Commission instituted the instant reviews on November 3, 2003, to determine whether revocation of the orders on preserved mushrooms from Chile, China, India, and Indonesia would be likely to lead to continuation or recurrence of material injury.⁷

In five-year reviews, the Commission initially determines whether to conduct a full review (which would include a public hearing, the issuance of questionnaires, and other procedures) or an expedited review. In order to make this decision, the Commission first determines whether individual responses to the notice of institution are adequate. Next, based on those responses deemed individually adequate, the Commission determines whether the collective responses submitted by two groups of interested parties – domestic interested parties (such as producers, unions, trade associations, or worker groups) and respondent interested parties (such as importers, exporters, foreign producers, trade associations, or subject country governments) – demonstrate a sufficient willingness among each group to participate and provide information requested in a full review. If the Commission finds the responses from both groups of interested parties adequate, or if other circumstances warrant, it will determine to conduct a full review.⁸

The Commission received responses to the notice of institution from one domestic interested party, the Coalition for Fair Preserved Mushroom Trade (“the Coalition”). The Coalition consists of four

¹ Commissioner Daniel R. Pearson determines that revocation of the antidumping duty order on preserved mushrooms from Indonesia would not be likely to lead to continuation or recurrence of material injury to an industry within the United States within a reasonably foreseeable time. See Additional and Dissenting Views of Commissioner Daniel R. Pearson. He joins all portions of this opinion except sections III.D and IV.D.

² Certain Preserved Mushrooms from Chile, Inv. No. 731-TA-776 (Final), USITC Pub. 3144 (Nov. 1998) (“Original Chile Determination”).

³ Certain Preserved Mushrooms from China, India, and Indonesia, Inv. Nos. 731-TA-777-779 (Final), USITC Pub. 3159 (Feb. 1999) (“Original Indonesia Determination”).

⁴ 63 Fed. Reg. 66529 (Dec. 2, 1998).

⁵ 63 Fed. Reg. 8308-12 (Feb. 19, 1999).

⁶ 68 Fed. Reg. 39521 (July 2, 2003).

⁷ 68 Fed. Reg. 62322 (Nov. 3, 2003).

⁸ See 19 C.F.R. § 207.62(a); 63 Fed. Reg. 30599, 30602-05 (June 5, 1998).

domestic producers of preserved mushrooms and was the petitioner in the original investigations.⁹ It also received a response from a group of five Indonesian producers and exporters of the subject merchandise (“Indonesian Respondents”).¹⁰ The Commission found that domestic interested party response was adequate for each of the reviews, and that the respondent interested party response was adequate for the review on Indonesia but inadequate for the other three reviews. The Commission determined to conduct full reviews with respect to all four reviews to promote administrative efficiency in light of its decision to conduct a full review with respect to the order concerning Indonesia.¹¹

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Product

In making its determination under section 751(c), the Commission defines the “domestic like product” and the “industry.”¹² The Act defines the “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.”¹³

In its final results of the expedited sunset reviews it conducted with respect to imports from all four subject countries, Commerce defined the imported merchandise within the scope of the antidumping orders as:

imported whole, sliced, diced, or as stems and pieces. The “preserved mushrooms” covered under the orders 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 and 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. Included within the scope of the order are “brined” mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing. Also included within the scope of the orders, as of June 19, 2000, are marinated, acidified, or pickled mushrooms containing less than 0.5 percent acetic acid.

Excluded from the scope of the orders are the following: (1) all other species of mushroom, including straw mushrooms; (2) all fresh and chilled mushrooms, including

⁹ Members of the Coalition that currently produce preserved mushrooms include L.K. Bowman, Inc., Monterey Mushrooms, Inc., Mushroom Canning Co., and Sunny Dell Foods, Inc. Each of these firms was a member of the Coalition in the original investigations. See Certain Preserved Mushrooms from Chile, Inv. No. 731-TA-776 (Final), USITC Pub. 3144 at I-1 (Nov. 1998).

¹⁰ The Indonesian Respondents are P.T. Dieng Djaya, P.T. Sura Jaya Abadi Perkasa, P.T. Karya Kompos Bagas, P.T. Eka Timur Raya, and P.T. Indo Evergreen Agro Business Corp.

¹¹ Commission Statement on Adequacy (Feb. 11, 2004).

¹² 19 U.S.C. § 1677(4)(A).

¹³ 19 U.S.C. § 1677(10). See Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996); Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991). See also S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

“refrigerated” or “quick blanched” mushrooms; (3) dried mushrooms; and (4) frozen mushrooms.¹⁴

In the original investigations, the Commission found a single domestic like product coextensive with the scope definition. It rejected arguments that fresh mushrooms should be included in the domestic like product on the grounds that there were significant differences between fresh and preserved mushrooms with respect to appearance, flavor, shelf life, channels of distribution, production methods, customer perception, and price.¹⁵ It rejected arguments that marinated mushrooms should be included in the domestic like product because there were significant differences between the end uses of marinated mushrooms and preserved mushrooms, very limited interchangeability between the two products, and differences in producer and customer perceptions and price.¹⁶

The Coalition argues that in these reviews the Commission should again define a single domestic like product coextensive with the scope definition. Respondents did not provide any alternative like product definitions.

Reviewing the record and the limited arguments of the parties, we see no basis for departing from the domestic like product definition the Commission used in the original investigations. There is no evidence in the record of these reviews with respect to the factors the Commission examines in its domestic like product analysis that supports revisiting the definition of the domestic like product. Therefore, for the reasons stated in the original determinations, we continue to define a single domestic like product coextensive with the scope definition.

B. Domestic Industry and Related Parties

Section 771(4)(A) of the Act defines the relevant domestic industry as the “producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”¹⁷ In light of our definition of the domestic like product, there are two sets of domestic industry issues in these five-year reviews. The first concerns whether growers of fresh mushrooms should be included in the domestic industry pursuant to the statutory grower/processor provision codified at section 771(4)(E) of the Act. The second concerns whether appropriate circumstances exist to exclude certain producers of preserved mushrooms from the domestic industry pursuant to the statutory related parties provision.

1. Grower/Processor Provision

In cases involving processed agricultural products, section 771(4)(E) of the Act authorizes the Commission to include growers’ agricultural input within the domestic industry producing the processed agricultural product if the processed agricultural product is produced from the raw product¹⁸ through a single continuous line of production, and there is a substantial coincidence of economic interest between

¹⁴ 69 Fed. Reg. 11385 (March 10, 2004).

¹⁵ Original Chile Determination, USITC Pub. 3144 at 4-5.

¹⁶ Original Chile Determination, USITC Pub. 3144 at 5-6.

¹⁷ 19 U.S.C. § 1677(4)(A). In defining the domestic industry, the Commission’s general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market, provided that adequate production-related activity is conducted in the United States. See United States Steel Group v. United States, 873 F. Supp. 673, 682-83 (Ct. Int’l Trade 1994), aff’d, 96 F.3d 1352 (Fed. Cir. 1996).

¹⁸ “Raw agricultural product” is defined as any farm or fishery product. 19 U.S.C. § 1677(4)(E)(iv).

the growers and processors based upon relevant economic factors.¹⁹ Under the Act, the processed product is considered to be processed from the raw product in a single continuous line of production if the raw agricultural product is substantially or completely devoted to the production of the processed agricultural product, and the processed agricultural product is produced substantially or completely from the raw product.²⁰

In the original investigations, the Commission concluded that growers of fresh mushrooms should not be included in the domestic industry pursuant to the statutory grower/processor provision. It concluded that the single continuous line of production requirement was not satisfied, because only a minority of fresh mushrooms was processed in any manner.²¹

In these five-year reviews, the Coalition argues that the requirements for applying the grower/processor provision are again not satisfied; no party has argued to the contrary.²² The record indicates that, for the most recent crop year for which information is available, only 16.9 percent of domestically-produced mushrooms were processed; the remainder were sold as fresh mushrooms.²³ Consequently, as in the original investigations, the raw product is not substantially or completely devoted to the production of the processed product. Thus, the requirement of the statutory grower/processor provision that there be a single continuous line of production is not satisfied. Accordingly, we do not include growers of fresh mushrooms in the domestic industry.

2. Related Parties

We next determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to section 771(4)(B) of the Act. This provision of the statute allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves importers.²⁴ Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each case.²⁵

¹⁹ 19 U.S.C. § 1677(4)(E)(i).

²⁰ 19 U.S.C. § 1677(4)(E)(ii).

²¹ Original Chile Determination, USITC Pub. 3144 at 7.

²² Coalition Prehearing Brief at 6-7.

²³ Confidential Report (CR) at I-16 n.19, Public Report (PR) at I-13 n.19.

²⁴ 19 U.S.C. § 1677(4)(B).

²⁵ Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), aff'd without opinion, 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude the related parties include: (1) the percentage of domestic production attributable to the importing producer; (2) the reason the U.S. producer has decided to import the product subject to investigation, *i.e.*, whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market; and (3) the position of the related producers vis-a-vis the rest of the industry, *i.e.*, whether inclusion or exclusion of the related party will skew the data for the rest of the industry. *See, e.g.*, Torrington Co. v. United States, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), aff'd without opinion, 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered the ratio of import shipments to U.S. production for related producers and whether the primary interests of the related producers lie in domestic production or in importation. *See, e.g.*, Melamine Institutional Dinnerware from China, Indonesia, and Taiwan, Inv. Nos. 731-TA-741-743 (Final), USITC Pub. 3016 (Feb. 1997) at 14, n.81.

The purpose of the provision is to exclude domestic producers that substantially benefit from their relationships with foreign exporters.²⁶

The record indicates that one domestic producer, ***, imported subject merchandise from India and Indonesia during the period of review. We must consequently determine whether appropriate circumstances exist to exclude *** from the domestic industry pursuant to the related parties provision.²⁷

*** is the *** U.S. producer of preserved mushrooms, accounting for *** percent of total industry production in 2003.²⁸ *** imported from India *** pounds of subject merchandise in 2000, *** pounds in 2001, and *** pounds in 2002. It imported *** pounds of subject merchandise from Indonesia in 2000. The ratio of these imports to *** domestic production was *** percent in 2000, *** percent in 2001, and *** percent in 2002.²⁹ *** states that it imports subject merchandise ***.³⁰ *** operating margin *** during only one year of the period of review – 2000, when *** had the *** margin in the industry. By contrast, beginning in 2001, *** operating margins were *** and it had either the *** or *** margin in the industry.³¹

Although it appears that *** imports subject merchandise to take advantage of attractive pricing (notwithstanding the existence of the orders), its financial performance over the period of review does not

²⁶ USEC, Inc. v. United States, 132 F. Supp.2d 1, 12 (Ct. Int'l Trade 2001).

²⁷ The Coalition argues that appropriate circumstances do not exist to exclude ***. Respondents did not address the issue.

The record further indicates that two other domestic producers, ***, also purchased subject merchandise from India and/or China during the period of review. The Commission has concluded that a domestic producer that does not itself import subject merchandise, or does not share a corporate affiliation with an importer, may nonetheless be deemed a related party if it controls large volumes of imports. The Commission has found such control to exist when the domestic producer was responsible for a predominant portion of an importer's purchases and the importer's purchases were substantial. See, e.g., Foundry Coke from China, Inv. No. 731-TA-891 (Final), USITC Pub. 3449 at 8-9 (Sept. 2001); Certain Cut-to-Length Steel Plate from the Czech Republic, France, India, Indonesia, Italy, Japan, Korea, and Macedonia, Inv. Nos. 701-TA-387-392, 731-TA-815-822 (Preliminary), USITC Pub. 3181 at 12 (April 1999).

*** purchased *** pounds of subject merchandise from China in 2003. CR/PR, Table III-4. These purchases constituted only *** percent of subject imports from China during 2003, and were equivalent to *** percent of *** domestic production that year. CR/PR, Tables III-4, IV-1. These purchases clearly are not substantial.

*** purchased *** pounds of subject merchandise from China and *** pounds of subject merchandise from India during 2002, and *** pounds of subject merchandise from China and *** pounds of subject merchandise from India during 2003. CR/PR, Table III-4. In 2002 and 2003, respectively, *** purchases constituted *** and *** percent of total subject imports from China and *** percent and *** percent of total subject imports from India. Its combined purchases from China and India were equivalent to *** percent of its U.S. production in 2002 and *** percent of its U.S. production in 2003. CR/PR, Tables III-3, IV-1. While *** purchases of subject imports, particularly in 2003, were not minor, there is no indication in the record that would support a conclusion that *** is responsible for a predominant portion of any importer's purchases, particularly inasmuch as the firm uses different importers depending on the source of its imports; see *** Importers' Questionnaire Response, response to question II-11, and the purchases do not constitute a large proportion of total imports from either subject country.

We consequently conclude that neither *** nor *** should be considered to be a related party producer on the basis of its purchasing activities.

²⁸ CR/PR, Table I-2.

²⁹ CR/PR, Table III-4. *** also purchased subject merchandise from China in 2002 and 2003 and from India in 2001, 2002, and 2003. The ratio of the sum of these purchases and *** direct imports to the firm's domestic production was *** percent in 2000, *** percent in 2001, *** percent in 2002, and *** percent in 2003. Id.

³⁰ CR/PR, Table III-4.

³¹ CR/PR, Table III-9.

indicate that its use of subject merchandise resulted in financial benefits relative to other domestic producers during the period of review. Moreover, *** has a substantial U.S. production presence, is the industry's *** producer, and *** maintaining the antidumping duty orders.³² We conclude that appropriate circumstances do not exist to exclude *** from the domestic industry pursuant to the related parties provision.

Accordingly, we define a single domestic industry consisting of all U.S. producers of preserved mushrooms.

III. CUMULATION

A. Framework

Section 752(a) of the Act provides that:

the Commission may cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews under section 1675(b) or (c) of this title were initiated on the same day, if such imports would be likely to compete with each other and with domestic like products in the United States market. The Commission shall not cumulatively assess the volume and effects of imports of the subject merchandise in a case in which it determines that such imports are likely to have no discernible adverse impact on the domestic industry.³³

Thus, cumulation is discretionary in five-year reviews. However, the Commission may exercise its discretion to cumulate only if the reviews are initiated on the same day and the Commission determines that the subject imports are likely to compete with each other and the domestic like product in the U.S. market. The statute precludes cumulation if the Commission finds that subject imports from a country are likely to have no discernible adverse impact on the domestic industry.³⁴ We note that neither the statute nor the Uruguay Round Agreements Act (“URAA”) Statement of Administrative Action (“SAA”) provides specific guidance on what factors the Commission is to consider in determining that imports “are likely to have no discernible adverse impact” on the domestic industry.³⁵ With respect to this provision, the Commission generally considers the likely volume of the subject imports and the likely impact of those imports on the domestic industry within a reasonably foreseeable time if the orders are revoked.³⁶

³² CR/PR, Table I-2.

³³ 19 U.S.C. § 1675a(a)(7).

³⁴ 19 U.S.C. § 1675a(a)(7).

³⁵ SAA, H.R. Rep. No. 103-316, vol. I (1994).

³⁶ For a discussion of the analytical framework of Chairman Koplan and Commissioners Hillman and Miller regarding the application of the “no discernible adverse impact” provision, see Malleable Cast Iron Pipe Fittings from Brazil, Japan, Korea, Taiwan, and Thailand, Inv. Nos. 731-TA-278-280 (Review) and 731-TA-347-348 (Review) USITC Pub. 3274 (Feb. 2000). For a further discussion of Chairman Koplan’s analytical framework, see Iron Metal Construction Castings from India; Heavy Iron Construction Castings from Brazil; and Iron Construction Castings from Brazil, Canada, and China, Inv. Nos. 303-TA-13 (Review); 701-TA-249 (Review); and 731-TA-262, 263, and 265 (Review) USITC Pub. 3247 (Oct. 1999) (Views of Commissioner Stephen Koplan Regarding Cumulation).

(continued...)

In these reviews, the statutory requirement for cumulation that all reviews be initiated on the same day is satisfied as Commerce initiated all the reviews on November 3, 2003.³⁷

The Commission generally has considered four factors intended to provide a framework for determining whether the imports compete with each other and with the domestic like product.³⁸ Only a “reasonable overlap” of competition is required.³⁹ In five-year reviews, the relevant inquiry is whether there likely would be competition even if none currently exists. Moreover, because of the prospective nature of five-year reviews, we have examined not only the Commission’s traditional competition factors, but also other significant conditions of competition that are likely to prevail if the suspended investigations under review are terminated. The Commission has considered factors in addition to its traditional competition factors in other contexts where cumulation is discretionary.⁴⁰

³⁶ (...continued)

For a discussion of the analytical framework of Vice Chairman Okun regarding the application of the “no discernible adverse impact” provision, see Certain Carbon Steel Products from Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, Korea, Mexico, the Netherlands, Poland, Romania, Spain, Sweden, Taiwan, and the United Kingdom, Inv. Nos. AA1921-197 (Review), 701-TA-231, 319-320, 332, 325-328, 340, 342, and 348-350 (Review), and 731-TA-573-576, 578, 582-587, 604, 607-608, 612, and 614-618 (Review), USITC Pub. 3526 (Nov. 2002).

³⁷ 68 Fed. Reg. 62280 (Nov. 3, 2003).

³⁸ The four factors generally considered by the Commission in assessing whether subject imports compete with each other and with the domestic like product are: (1) the degree of fungibility between the imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions; (2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product; (3) the existence of common or similar channels of distribution for imports from different countries and the domestic like product; and (4) whether the imports are simultaneously present in the market. See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (CIT 1989).

³⁹ See Mukand Ltd. v. United States, 937 F. Supp. 910, 916 (CIT 1996); Wieland Werke, AG, 718 F. Supp. at 52 (“Completely overlapping markets are not required.”); United States Steel Group v. United States, 873 F. Supp. 673, 685 (CIT 1994), aff’d, 96 F.3d 1352 (Fed. Cir. 1996). We note, however, that there have been investigations where the Commission has found an insufficient overlap in competition and has declined to cumulate subject imports. See, e.g., Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386 (Preliminary) and 731-TA-812-813 (Preliminary), USITC Pub. 3155 at 15 (Feb. 1999), aff’d sub nom. Ranchers-Cattlemen Action Legal Foundation v. United States, 74 F. Supp.2d 1353 (CIT 1999); Static Random Access Memory Semiconductors from the Republic of Korea and Taiwan, Inv. Nos. 731-TA-761-762 (Final), USITC Pub. 3098 at 13-15 (Apr. 1998).

⁴⁰ See, e.g., Torrington Co. v. United States, 790 F. Supp. at 1172 (affirming Commission’s determination not to cumulate for purposes of threat analysis when pricing and volume trends among subject countries were not uniform and import penetration was extremely low for most of the subject countries); Metallverken Nederland B.V. v. United States, 728 F. Supp. 730, 741-42 (CIT 1989); Asociacion Colombiana de Exportadores de Flores v. United States, 704 F. Supp. 1068, 1072 (CIT 1988).

B. Likelihood of No Discernible Adverse Impact

Based on the record, we find that subject imports from each of the four subject countries would not be likely to have no discernible adverse impact on the domestic industry were the orders revoked.

1. Chile

In the original investigations, the quantity of subject imports from Chile declined from 10.7 million pounds in 1995 to 7.1 million pounds in 1996 and then to 5.4 million pounds in 1997, but was higher in interim (January-June) 1998 than in interim 1997.⁴¹ The market penetration of subject imports from Chile declined from 4.6 percent in 1995 to 2.8 percent in 1997.⁴² In 1998, there were 6.5 million pounds of subject imports from Chile. Since then, there have been no imports of subject merchandise from Chile.⁴³

The Chilean producer of preserved mushrooms did not respond to the Commission questionnaire in the five-year reviews.⁴⁴ The data collected in the original investigations indicate that annual Chilean capacity utilization ranged between *** and *** percent, that for each full year less than *** percent of shipments went to the home market, and that annually between *** and *** percent of shipments were exported to the United States.⁴⁵ Public data indicate that total exports of canned mushrooms from Chile declined severely in 1999 after imposition of the order. Between 2000 and 2002, exports ranged from 2.4 million to 5.0 million pounds. The latter figure is still well below the peak export levels reported during the original period of investigation.⁴⁶

The most recent pricing data concerning subject imports from Chile are from the original investigations, which showed a mixed pattern of overselling and underselling.⁴⁷

In our view, the cessation of subject imports from Chile after 1998 is a function of the order. Should the order be revoked, we believe that it is likely that imports from Chile will return to the U.S. market, in light of the importance of the U.S. market to the Chilean producer prior to issuance of the order, and the producer's apparent inability since issuance of the order to export to other markets a quantity of preserved mushrooms comparable to the quantity that it exported to the United States during the original period of investigation. Indeed, the Chilean producer made some efforts to enter the U.S. market indirectly during the period of review by exporting brined mushrooms (which are subject merchandise) from Chile to third countries, where they were canned and transhipped to the United States.⁴⁸ Additionally, we find that imports from all subject sources are at least moderate substitutes with the domestic like product, and that price is an important consideration in purchasing decisions. In light of these factors, we do not find that subject imports from Chile will have no discernible adverse impact on the domestic industry if the order were revoked.

⁴¹ Original Chile Determination, USITC Pub. 3144, Table IV-1.

⁴² Original Chile Determination, USITC Pub. 3144, Table IV-3.

⁴³ CR/PR, Table IV-1.

⁴⁴ CR at IV-5, PR at IV-4. See also Coalition Posthearing Brief, ex. 2 (Chilean producer, known in original investigations as Nature's Farm, currently manufactures and exports preserved mushrooms under the trade name Bosques Del Mauro).

⁴⁵ INV-W-005, Table VII-1 (Jan. 20, 1999).

⁴⁶ CR/PR, Figure IV-1.

⁴⁷ Original Chile Determination, USITC Pub. 3144 at V-13.

⁴⁸ In its second administrative review, Commerce expressly stated that the deposit rate applicable to the Chilean producer encompassed merchandise transhipped through Colombia. 67 Fed. Reg. 31769, 31770 (May 10, 2002).

2. China

In the original investigations, the quantity of subject imports from China declined from 75.6 million pounds in 1995 to 72.8 million pounds in 1996, and then to 71.1 million pounds in 1997, but was higher in interim 1998 than in interim 1997.⁴⁹ Market penetration increased from 31.5 percent in 1995 to 34.8 percent in 1997.⁵⁰ There were 48.0 million pounds of subject imports from China in 1998. Subject import quantity from China then declined severely to 320,000 pounds in 1999. Quantities subsequently increased every year, reaching 48.1 million pounds in 2003. In 2003 the market penetration of subject imports from China was 25.6 percent.⁵¹

No Chinese producer of preserved mushrooms responded to the Commission questionnaire in the five-year reviews. The data collected in the original investigations indicate that annual Chinese capacity utilization ranged between 57.5 and 92.5 percent, that 4.5 percent or less of shipments went to the home market, and that annually between 46.0 and 57.9 percent of shipments were exported to the United States.⁵² Public data indicate that total exports of canned mushrooms from China have increased since 1999, and reached 501.8 million pounds in 2002.⁵³

Subject imports from China undersold the domestic like product during 34 of 52 quarterly comparisons during the period of review.⁵⁴

The record consequently indicates that subject imports from China initially declined after imposition of the order but then increased rapidly, and are currently present in the market in appreciable quantities. These imports predominantly undersell the domestic like product. Additionally, the preserved mushroom industry in China is export-oriented. Moreover, we find that imports from all subject sources are at least moderate substitutes with the domestic like product, and that price is an important consideration in purchasing decisions. In light of these factors, we do not find that subject imports from China will have no discernible adverse impact on the domestic industry if the order were revoked.

3. India

In the original determinations, the quantity of subject imports from India declined from 6.0 million pounds in 1995 to 4.4 million pounds in 1996, increased to 9.9 million pounds in 1997, and was higher in interim 1998 than interim 1997.⁵⁵ Market penetration increased from 2.5 percent in 1995 to 4.9 percent in 1997.⁵⁶ There were 12.6 million pounds of subject imports from India in 1998. In 1999, the quantity of subject imports from India jumped to 32.0 million pounds. Subject import quantities from India peaked in 2000, and then declined irregularly throughout the remainder of the period of review.

⁴⁹ Original Indonesia Determination, USITC Pub. 3159, Table IV-1. These volumes include imports transshipped from Hong Kong.

⁵⁰ Original Indonesia Determination, USITC Pub. 3159, Table IV-3.

⁵¹ CR/PR, Table I-5.

⁵² Original Indonesia Determination, USITC Pub. 3159, Table VII-2.

⁵³ CR/PR, Figure IV-2.

⁵⁴ CR/PR, Table V-5.

⁵⁵ Original Indonesia Determination, USITC Pub. 3159, Table IV-1.

⁵⁶ Original Indonesia Determination, USITC Pub. 3159, Table IV-3.

Subject import quantity from India in 2003 was 27.0 million pounds.⁵⁷ In 2003, the market penetration of these imports was 14.4 percent.⁵⁸

Two Indian producers of preserved mushrooms responded to the Commission's questionnaire. Their capacity increased from *** pounds in 1999 to *** pounds in 2003. Capacity utilization was *** percent in 2003, which was its highest level since 1999. The maximum percentage of home market shipments in any year was *** percent. The proportion of shipments exported to the United States ranged from *** percent (in 2002) to *** percent (in 2001), and was *** percent in 2003.⁵⁹ During the period of review, subject imports from India undersold the domestic like product in the majority of quarterly comparisons.⁶⁰

The record consequently indicates that subject imports from India are currently present in the market in appreciable quantities, have increased on an annual basis by large amounts during the period of review, and predominantly undersell the domestic like product. Additionally, the preserved mushroom industry in India relies heavily on exports to the United States and has available unused capacity. Moreover, we find that imports from all subject sources are at least moderate substitutes with the domestic like product, and that price is an important consideration in purchasing decisions. In light of these factors, we do not find that subject imports from India will have no discernible adverse impact on the domestic industry if the order were revoked.

4. Indonesia

During the original period of investigation, the quantity of subject imports from Indonesia declined from 30.8 million pounds in 1995 to 26.9 million pounds in 1996, increased to 31.8 million pounds in 1997, and was lower in interim 1998 than in interim 1997.⁶¹ U.S. market penetration for these imports increased from 12.8 percent in 1995 to 15.5 percent in 1997.⁶² There were 26.7 million pounds of subject imports from Indonesia in 1998. Subject import quantity increased in 1999 to 29.1 million pounds, and then declined throughout the remainder of the period of review. Some of the declines were attributable to the revocation of the order with respect to PT Zeta Agro in February 2002, after which time imports from that firm became nonsubject. The quantity of subject imports from Indonesia in 2003 was *** pounds, and the U.S. market penetration for these imports was *** percent.⁶³

Five Indonesian producers of subject merchandise submitted responses to the Commission's questionnaire; the aggregated information that the Commission collected for the Indonesian industry in these five-year reviews does not contain any data from PT Zeta Agro.⁶⁴ These producers' reported capacity was *** pounds in 1998, 1999, and 2000, *** pounds in 2001, *** pounds in 2002, and *** pounds in 2003. Capacity utilization was *** percent in 2003, and during the period of review ranged between *** and *** percent. No more than *** percent of shipments for any year during the period of

⁵⁷ CR/PR, Table IV-1.

⁵⁸ CR/PR, Table I-5.

⁵⁹ CR/PR, Table IV-3.

⁶⁰ CR/PR, Table V-5. This is true regardless of ***.

⁶¹ Original Indonesia Determination, USITC Pub. 3159, Table IV-1.

⁶² Original Indonesia Determination, USITC Pub. 3159, Table IV-3.

⁶³ CR/PR, Tables I-5, IV-1.

⁶⁴ CR at IV-12, PR at IV-8. Consequently, the data in the report understate subject Indonesian producers' capacity between 1998 and 2001.

review went to the commercial home market. The proportion of shipments exported to the United States ranged from *** percent (in 2002) to *** percent (in 2003).⁶⁵

The responding Indonesian producers of subject merchandise project that their capacity would increase to *** pounds in 2004 and remain at this level in 2005 and 2006.⁶⁶ These producers also projected that their 2004 exports to the United States would exceed their 2003 exports by *** pounds, and their 2005 exports to the United States would exceed their 2004 exports by *** pounds.⁶⁷

The pricing data indicate that subject imports from Indonesia had a mixed pattern of underselling and overselling.⁶⁸

The record thus indicates that subject imports from Indonesia are currently present in the U.S. market in appreciable quantities, that the capacity of subject producers in Indonesia will increase in 2004, the quantity of preserved mushrooms these producers plan to export to the United States will increase in 2004 and 2005, and that there is some underselling by subject imports from Indonesia.⁶⁹ Moreover, we find that imports from all subject sources are at least moderate substitutes with the domestic like product, and that price is an important consideration in purchasing decisions. In light of these factors, we do not find that subject imports from Indonesia will have no discernible adverse impact on the domestic industry if the order was revoked.⁷⁰

C. Likelihood of a Reasonable Overlap of Competition

Below we examine the four factors the Commission customarily considers in determining whether there will be a likely reasonable overlap of competition. For our determinations on China and India, we find a likely reasonable overlap of competition among subject imports from all sources and between these imports and the domestic like product if the orders were revoked. For our determination on Chile, we find a likely reasonable overlap of competition between subject imports from Chile and the domestic like product and between subject imports from Chile and subject imports from China and India. For our determination on Indonesia, we find a likely reasonable overlap of competition between subject imports from Indonesia and the domestic like product and between subject imports from Indonesia and subject imports from China and India.

In the original investigations, the Commission found that subject imports from all four subject countries were fungible with both the domestic like product and with each other. This finding relied on market participants' reports that preserved mushrooms from the various sources were interchangeable. It also relied on the fact that there were purchaser overlaps encompassing all subject country combinations except Chile-Indonesia and India-Indonesia.⁷¹ The Commission found geographic overlap on the basis that a majority of domestic producers and importers distributed product nationally, and that imports from

⁶⁵ CR/PR, Table IV-4.

⁶⁶ CR at IV-13-14, PR at IV-8.

⁶⁷ CR at IV-14 n.20, PR at IV-8 n.20.

⁶⁸ This is true regardless of ***. The pricing data pertaining to subject imports from Indonesia are discussed in greater detail in section IV.D.2. below and in the separate opinions of Chairman Koplan, Commissioner Lane, and Commissioner Pearson.

⁶⁹ Consequently, General Mills' argument that subject import volumes from Indonesia are not likely to increase is not supported by the Indonesian producers' own questionnaire responses.

⁷⁰ Commissioner Lane does not join the remainder of this opinion, except as specified in her additional views. See Additional Views of Commissioner Lane.

⁷¹ Original Chile Determination, USITC Pub. 3144 at 11-12; Original Indonesia Determination, USITC Pub. 3159 at 7-8.

each subject country were entered in numerous ports across the country.⁷² It also found simultaneous presence in the market.⁷³

With respect to channels of distribution, the Commission found that the domestically produced product participated significantly in all three channels (retail, industrial, and food service). With respect to the various subject country combinations, the Commission found a significant overlap between Chile and China and between Chile and India in the food service channel, and between China and India, China and Indonesia, and India and Indonesia in the retail channel. The Commission did not find a reasonable overlap of channels of distribution between subject imports from Chile and subject imports from Indonesia, as the product from the former source was overwhelmingly concentrated in the industrial and food service channels, and the product from the latter source was overwhelmingly concentrated in the retail channel. Moreover, the record did not indicate that any purchaser had purchased product from both Chile and Indonesia. As a result of this finding, the Commission cumulated imports from all subject sources for its determinations on China and India. For its determination on Chile, it cumulated subject imports from Chile, China, and India. For its determination on Indonesia, it cumulated subject imports from China, India, and Indonesia.⁷⁴

Fungibility. As previously discussed, the Commission found this factor satisfied in the original investigations. In these reviews, a majority of purchasers and U.S. producers reported that U.S.-produced preserved mushrooms were always interchangeable with imports from each of the subject countries. A majority of U.S. importers reported that U.S.-produced preserved mushrooms were always or frequently interchangeable with imports from each of the subject countries. For each possible subject country combination, a majority of each type of market participants reported that imports from different subject countries were always or frequently interchangeable.⁷⁵

Purchasers were asked in these reviews to compare preserved mushrooms from different sources on 22 factors, three of which (pertaining to discounts offered, extension of credit, and lowest price) are price-related. There were no comparisons involving subject imports from Chile and no comparisons of Indian product with Indonesian product. Of the 19 factors not related to price, a majority or plurality of purchasers reported that the domestically produced product was comparable with subject imports from China and with subject imports from Indonesia as to 18 factors, and was comparable with subject imports from India as to 16 factors. A majority or plurality of purchasers found subject imports from China and Indonesia comparable to each other in all 19 non-price factors, and subject imports from China and India comparable to each other in 18 factors.⁷⁶

Geographic Overlap. The Commission found this factor satisfied in the original investigations. During the period of review, six of seven responding U.S. producers and 11 of 18 responding importers reported selling their product nationwide.⁷⁷

Channels of Distribution. As discussed above, in the original investigations the Commission found that channels of distribution did not overlap for subject imports from Chile and Indonesia, but did for all other possible subject country combinations.

⁷² Original Chile Determination, USITC Pub. 3144 at 12; Original Indonesia Determination, USITC Pub. 3159 at 8.

⁷³ Original Chile Determination, USITC Pub. 3144 at 14; Original Indonesia Determination, USITC Pub. 3159 at 9.

⁷⁴ Original Chile Determination, USITC Pub. 3144 at 13-15; Original Indonesia Determination, USITC Pub. 3159 at 8-10.

⁷⁵ CR/PR, Tables II-4-6.

⁷⁶ CR/PR, Table II-3.

⁷⁷ CR at II-3, PR at II-2.

During the period of review, the record indicates that U.S. producers had a significant presence in all three channels of distribution. The annual share of U.S. producers' U.S. shipments to the industrial channel ranged from *** percent to *** percent, to the food service channel ranged from *** percent to *** percent, and to the retail channel ranged from *** percent to *** percent.⁷⁸

Subject imports from Chile were not in the U.S. market during the period of review. The record contains some information concerning channels of distribution for imports from the other three subject countries during the period of review.

Information available indicates that distribution patterns of subject imports from China during the period of review varied enormously. In one year, *** shipments were distributed to the food service channel, in a second *** shipments were distributed to the retail channel. By contrast, there were shipments to the industrial channel in only one year, which accounted for *** percent of total shipments in that year.⁷⁹

There were also large annual fluctuations during the period of review for which data are available concerning the channels of distribution for subject imports from India. In one year, *** shipments were made to food service users. During the other years, between *** and *** percent of shipments were made to this channel, between *** and *** percent of shipments were made to industrial users, and between *** and *** percent of shipments were made to retail users.⁸⁰

During each year of the period of review, subject imports from Indonesia were concentrated in the retail channel. Between *** and *** percent of shipments went to this channel. Because *** shipments went to industrial users during the period of review, *** shipments were to food service users.⁸¹ There were overlaps among purchasers of domestically-produced product and product from China, India, and Indonesia.⁸²

Simultaneous Presence in Market. The Commission found this criterion satisfied in the original investigation. Subject imports from Chile have not been present in the U.S. market in any year since 1999; subject imports from the other three subject countries have been present during each year of the period of review.⁸³

Conclusion. Information in the record indicates that subject imports from all subject sources are likely to be fungible with each other and with the domestic like product, as was the case in the original investigations. The record does not indicate any changes in geographic overlap since the original investigations. Subject imports from all subject sources other than Chile have been present in the U.S. market throughout the period of review. In light of our prior conclusion that revocation of the order on subject imports from Chile will cause these imports to increase their presence in the U.S. market to a level that would have a discernible adverse impact, we find that it is likely that subject imports from Chile will also have the same continuous presence in the U.S. market, and nationwide distribution, as they did during the original investigations.

The information available in the record concerning channels of distribution does not appear to us to be substantially different from the information in the original investigations.^{84 85} As in the original

⁷⁸ CR/PR, Table F-1.

⁷⁹ CR/PR, Table F-1.

⁸⁰ CR/PR, Table F-1.

⁸¹ CR/PR, Table F-1.

⁸² CR/PR, Table E-1.

⁸³ CR/PR, Table IV-1.

⁸⁴ The information available does not indicate that subject imports from China, India, or Indonesia were absent during the period of review from any channel of distribution in which they were present during the original period of investigation. Inasmuch as it corroborates the more comprehensive information compiled during the original

(continued...)

investigations, there is substantial presence by the domestically-produced product in all three channels of distribution. Subject imports from China and India have had, at various times during the period of review, significant presence in the retail and food service channels, as they did during the original investigations. Subject imports from Indonesia were even more heavily concentrated in the retail channel during the period of review than they were during the original investigations.⁸⁶

The current record also has information similar to that in the original investigations concerning overlap in purchasers. During the period of review, as in the original period of investigation, there was some overlap in purchasers among U.S.-produced mushrooms, and subject imports from China, India, and Indonesia.

We have considered the information submitted by the Coalition indicating that the sole Chilean producer of preserved mushrooms now produces four- and eight-ounce cans typically sold in the retail channel of distribution, and markets such cans in the Mexican retail market.⁸⁷ While the record indicates that the Chilean producer consequently has the theoretical ability to enter the U.S. retail channel of distribution, there is no information indicating that it has a U.S. retail distribution network in place, or that it can readily establish such a network in light of its current lack of participation in the U.S. market, and its historic lack of participation in the retail channel. We therefore cannot find that it is likely that subject imports from Chile will enter the U.S. retail channel of distribution should the antidumping order be revoked. Instead, these imports will likely have a significant presence, as they did in the original investigations, in the food service and industrial channels. Subject imports from China and India will also likely have a significant presence in the food service channel if the orders are revoked.

Consequently, the conclusions the Commission reached in the original investigations concerning reasonable overlap of competition are also applicable to the issue of likely overlap of competition in these five year reviews. Accordingly, with respect to subject imports from Chile, we find that there is a likely overlap of competition with the domestic like product and also with subject imports from China and India. With respect to subject imports from China and India, we find that there is a likely overlap of competition between these imports and the domestic like product and among imports from all subject sources. With respect to subject imports from Indonesia, we find that there is a likely overlap of

⁸⁴ (...continued)

investigations, we believe our reference to the information available concerning channels of distribution for subject imports during the period of review is appropriate, notwithstanding that these data cover only a low percentage of subject imports.

⁸⁵ Commissioner Pearson does not join in this sentence. See Additional and Dissenting Views of Commissioner Daniel R. Pearson.

⁸⁶ It is true, as the Coalition maintains, that not all of the Indonesian product sold in the retail channel of distribution is sold in sizes typically used by home consumers. During the period of review, between 3.3 and 13.7 percent of annual imports from Indonesia were in cans above 255 grams (about nine ounces). CR/PR, Table F-2. The General Mills witness testified at the hearing that Indonesian products in this size include 68-ounce cans that are sold in the retail channel through “club” stores such as Costco, and that purchasers such as small restaurants may purchase such products at such stores rather than from food service distributors. Tr. at 174 (Larson). Consequently, some Indonesian product sold through the retail channel of distribution will compete for the same customers with product from other sources sold through the food service channel of distribution. Nevertheless, this was also true during the original period of investigation and the Commission did not find this fact a sufficient basis to conclude in the original determinations that subject imports from Indonesia had a substantial presence in the food service channel of distribution. See Original Indonesia Determination, USITC Pub. 3159 at 8 n.39 (acknowledging that as much as 25 percent of subject imports from Indonesia were 68-ounce cans sold in club stores). In these reviews, we see no reason to deviate from the analysis of the original investigations in this respect in assessing whether there is a likely reasonable overlap of competition.

⁸⁷ Coalition Posthearing Brief, ex. 2.

competition between these imports and the domestic like product and between these imports and subject imports from China and India.

D. Other Considerations⁸⁸

Our cumulation analysis in a five-year review encompasses more than an examination of whether there would likely be a reasonable overlap of competition of the products in the U.S. market. To aid us in our decision whether to exercise our discretion to cumulate, we examine the current and likely differences in the conditions of competition. We find that there have been changes in certain conditions of competition since the orders were imposed. Based on this analysis, we do not exercise our discretion to cumulate subject imports from Indonesia with those from China and India.

First, we observe that the Chinese and Indian industries appear to have grown significantly since the original period of investigation. Available public information indicates that Chinese exports of canned mushrooms to all sources increased by 50.0 percent from 1998 to 2002, suggesting that Chinese productive capacity has increased significantly.⁸⁹ Capacity of the Indian producers that responded to the Commission questionnaire *** during the period of review.⁹⁰

By contrast, the capacity of subject Indonesian producers is considerably smaller. In part, the reduction in capacity is due to the revocation of the antidumping order with respect to a major producer and exporter, PT Zeta Agro, in February 2002.⁹¹ With respect to the producers that remain subject to the order and that responded to the Commission questionnaire, their capacity declined by *** percent from 1998 to 2003, to *** pounds.⁹² Although the subject Indonesian producers project to increase their capacity in 2004, the projected increase will still not bring these producers' capacity levels back to the 1998 level.⁹³ We note that in the original investigations reported capacity for the Indonesian industry in 1997 was *** pounds.⁹⁴

There are also differences between Indonesia, on the one hand, and China and India, on the other hand, with respect to import patterns. While subject import volumes from China and India displayed large fluctuations during the period of review, subject import volume from Indonesia was relatively steady. The significant change during the review period was a one-time occurrence that resulted from the revocation of the order on PT Zeta Agro. Otherwise, while under the discipline of the order, subject imports from Indonesia had relatively steady volumes during the period of review.⁹⁵

Differences in import patterns are likely to occur in the future given the changes in subject producers' capacity since the original investigations.⁹⁶ These disparities, combined with the Indonesian

⁸⁸ Chairman Koplan and Commissioner Pearson do not join this section of the opinion. See Separate and Concurring Views of Chairman Koplan; Additional and Dissenting Views of Commissioner Daniel R. Pearson.

⁸⁹ CR/PR, Figure IV-2.

⁹⁰ CR/PR, Table IV-3.

⁹¹ The Commission did not receive a questionnaire response from PT Zeta Agro. We note, however, that PT Zeta Agro's annual exports during 1998-2001 were at least *** pounds, based on reported Customs data for 2000. CR/PR at IV-1 n.1.

⁹² CR/PR, Table IV-4.

⁹³ See Indonesian Respondents Posthearing Brief at 10; CR/PR, Table IV-4.

⁹⁴ See CR at IV-12 n.16, PR at IV-8 n.16.

⁹⁵ CR/PR, Table IV-1.

⁹⁶ While Chinese capacity is at least equal to the 501.8 million pounds of canned mushrooms it exported to all sources in 2002, and Indian capacity in 2003 was at least *** pounds, reported capacity in Indonesia in 2003 was

(continued...)

producers' current focus on supplying the U.S. market, indicate that while the Indonesian industry has the ability to significantly increase exports to the United States, it will not be able to increase exports by the magnitude that the Chinese or Indian industries actually increased exports during the period of review, nor will have the ability to do so in the reasonably foreseeable future. For example, subject imports from China increased by 27.5 million pounds between 2002 and 2003, and subject imports from India increased by 19.5 million pounds between 1998 and 1999.⁹⁷ Even with projected increases in capacity levels, the industry in Indonesia will likely lack the capability to increase subject imports by a similar magnitude on an annual basis.

In light of differences in current and likely conditions of competition, we do not exercise our discretion to cumulate subject imports from Indonesia with subject imports from China or India. Because there is no likely reasonable overlap of competition between subject imports from Indonesia and subject imports from Chile, we do not cumulate subject imports from Indonesia with those from any other subject country.

The parties have not asserted that there is any difference in likely conditions of competition among subject imports from Chile, China, and India. Accordingly, we have exercised our discretion to cumulate imports from these three subject countries for purposes of our determinations on China, Chile, and India. For our determination on Indonesia, we consider subject Indonesian imports alone.

⁹⁶ (...continued)

*** pounds. CR/PR, Figure IV-2, Tables IV-3-4. Even with the projected increases in Indonesian capacity, the industry in Indonesia will remain significantly smaller than the industries in China or India.

We do not agree with the Coalition that the reported capacity data for Indonesia for 2003 significantly understate actual capacity of subject producers. The 2003 U.S. exports for the five reporting Indonesian producers account for *** percent of total 2003 subject imports from Indonesia. Compare CR/PR, Table IV-4 with id., Table IV-1.

The Coalition contends that websites on the Internet disclose that there exist several Indonesian producers of preserved mushrooms that did not respond to the Commission's questionnaire. However, these websites do not specifically indicate that any of the firms in question produce preserved mushrooms. They merely identify firms that export canned mushrooms or other canned vegetables. See Coalition Posthearing Brief, ex. 1 at 10-11, exs. 13, 14. The Coalition also cites Customs Service data that identify firms other than the five Indonesian producers that submitted data to the Commission as exporters of subject merchandise from Indonesia. Because the 2003 export shipments by the five reporting Indonesian producers account for virtually all subject imports for that year, the exporters identified in the Customs data for which the Commission has not received questionnaire responses are likely to be trading companies rather than producers of preserved mushrooms.

⁹⁷ CR/PR, Table IV-1.

IV. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY IF THE ANTIDUMPING ORDERS ARE REVOKED

A. Legal Standard In A Five-Year Review

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping order unless: (1) it makes a determination that dumping is likely to continue or recur, and (2) the Commission makes a determination that revocation of the antidumping order “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”⁹⁸ The SAA states that “under the likelihood standard, the Commission will engage in a counter-factual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports.”⁹⁹ Thus, the likelihood standard is prospective in nature.¹⁰⁰

The U.S. Court of International Trade has found that “likely,” as used in the sunset review provisions of the Act, means “probable,” and the Commission applies that standard in five-year reviews.^{101 102 103}

The statute states that “the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.”¹⁰⁴ According to

⁹⁸ 19 U.S.C. § 1675a(a).

⁹⁹ SAA, H.R. Rep. No. 103-316, vol. I, at 883-84 (1994). The SAA states that “[t]he likelihood of injury standard applies regardless of the nature of the Commission’s original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed.” *Id.* at 883.

¹⁰⁰ While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued [sic] prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

¹⁰¹ See NMB Singapore Ltd. v. United States, 288 F. Supp. 2d 1306, 1352 (Ct. Int’l Trade 2003) (“‘likely’ means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)”); Nippon Steel Corp. v. United States, Slip Op. 02-153 at 7-8 (Ct. Int’l Trade Dec. 24, 2002) (same); Usinor Industeel, S.A. v. United States, Slip Op. 02-152 at 4 n.3 & 5-6 n.6 (Ct. Int’l Trade Dec. 20, 2002) (“more likely than not” standard is “consistent with the court’s opinion”; “the court has not interpreted ‘likely’ to imply any particular degree of ‘certainty’”); Indorama Chemicals (Thailand) Ltd. v. United States, Slip Op. 02-105 at 20 (Ct. Int’l Trade Sept. 4, 2002) (“standard is based on a likelihood of continuation or recurrence of injury, not a certainty”); Usinor v. United States, Slip Op. 02-70 at 43-44 (Ct. Int’l Trade July 19, 2002) (“‘likely’ is tantamount to ‘probable,’ not merely ‘possible’”).

¹⁰² Commissioner Hillman interprets the statute as setting out a standard of whether it is “more likely than not” that material injury would continue or recur upon revocation. She assumes that this is the type of meaning of “probable” that the Court intended when the Court concluded that “likely” means “probable.” See Separate Views of Vice Chairman Jennifer A. Hillman Regarding the Interpretation of the Term “Likely”, in Certain Carbon Steel Products from Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, Korea, Mexico, the Netherlands, Poland, Romania, Spain, Sweden, Taiwan, and the United Kingdom (Views on Remand), Invs. Nos. AA1921-197 (Review), 701-TA-231, 319-320, 322, 325-328, 340, 342, and 348-350 (Review), and 731-TA-573-576, 578, 582-587, 604, 607-608, 612, and 614-618 (Review) (Remand), USITC Pub. 3526 (July 2002) at 30-31.

¹⁰³ Vice Chairman Okun and Commissioner Pearson refer to their dissenting views in Pressure Sensitive Plastic Tape from Italy, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 at 15-17 (June 2004).

¹⁰⁴ 19 U.S.C. § 1675a(a)(5).

the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ timeframe applicable in a threat of injury analysis [in antidumping investigations].”¹⁰⁵ ¹⁰⁶

Although the standard in a five-year review is not the same as the standard applied in an original antidumping investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to “consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the orders are revoked or the suspended investigation is terminated.”¹⁰⁷ It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if the orders are revoked or the suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).¹⁰⁸

In evaluating the likely volume of imports of subject merchandise if the antidumping orders are revoked, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.¹⁰⁹ In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.¹¹⁰

In evaluating the likely price effects of subject imports if the antidumping orders are revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to domestic like products and whether the subject imports are likely to enter the

¹⁰⁵ SAA at 887. Among the factors that the Commission should consider in this regard are “the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities.” *Id.*

¹⁰⁶ In analyzing what constitutes a reasonably foreseeable time, Chairman Koplan examines all the current and likely conditions of competition in the relevant industry. He defines “reasonably foreseeable time” as the length of time it is likely to take for the market to adjust to a revocation or termination. In making this assessment, he considers all factors that may accelerate or delay the market adjustment process including any lags in response by foreign producers, importers, consumers, domestic producers, or others due to: lead times; methods of contracting; the need to establish channels of distribution; product differentiation; and any other factors that may only manifest themselves in the longer term. In other words, this analysis seeks to define “reasonably foreseeable time” by reference to current and likely conditions of competition, but also seeks to avoid unwarranted speculation that may occur in predicting events into the more distant future.

¹⁰⁷ 19 U.S.C. § 1675a(a)(1).

¹⁰⁸ 19 U.S.C. § 1675a(a)(1). In its fourth administrative review of the order on imports from China, encompassing a period of review from February 1, 2002 through January 31, 2003, Commerce determined that antidumping duties were absorbed by the foreign producer or exporter during the period of review for those sales for which Gerber Food Yunnan Co. was importer of record. 69 Fed. Reg. 54635, 54637 (Sept. 9, 2004).

The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission’s determination. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

¹⁰⁹ 19 U.S.C. § 1675a(a)(2).

¹¹⁰ 19 U.S.C. § 1675a(a)(2)(A-D).

United States at prices that otherwise would have a significant depressing or suppressing effect on the price of domestic like products.¹¹¹

In evaluating the likely impact of imports of subject merchandise if the antidumping orders are revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.¹¹² All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry.¹¹³ As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the orders at issue and whether the industry is vulnerable to material injury if the orders are revoked.¹¹⁴

For the reasons stated below, we determine that revocation of the antidumping orders on preserved mushrooms from Chile, China, India, and Indonesia would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.¹¹⁵

B. Conditions of Competition

In evaluating the likely impact of the subject imports on the domestic industry, the statute directs the Commission to consider all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”¹¹⁶ The following conditions of competition in the preserved mushroom market are relevant to our determination.

¹¹¹ 19 U.S.C. § 1675a(a)(3). The SAA states that “[c]onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices.” SAA at 886.

¹¹² 19 U.S.C. § 1675a(a)(4).

¹¹³ 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that “the Commission may consider the magnitude of the margin of dumping” in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the “magnitude of the margin of dumping” to be used by the Commission in five-year reviews as “the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title.” 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887. In its final results of expedited sunset reviews, Commerce determined a likely dumping margin of 148.51 percent for all Chilean producer/exporters. It determined likely dumping margins for 11 named Chinese manufacturer/exporters ranging from 121.47 percent to 198.63 percent, and a China-wide rate of 198.63 percent. It determined likely dumping margins for four named Indian manufacturer/exporters ranging from 6.28 percent to 243.87 percent, and an “all others” margin of 11.30 percent. For Indonesia, Commerce determined a likely dumping margin of 7.94 percent for PT Dieng Djaya/PR Sura Jaya Abadi Perkasa, and an 11.26 percent margin for all other producers and exporters subject to the order. 69 Fed. Reg. 11384, 11385-86 (March 10, 2004).

¹¹⁴ The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission “considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.” SAA at 885.

¹¹⁵ Commissioner Pearson dissenting with respect to Indonesia.

¹¹⁶ 19 U.S.C. § 1675a(a)(4).

U.S. apparent consumption of preserved mushrooms fluctuated during the period of review, which encompasses calendar years 1998 through 2003. Apparent consumption ranged from a period low of 173.2 million pounds in 2002 to a period high of 198.7 million pounds in 2000. The 187.9 million pounds of U.S. apparent consumption in 2003 was higher than the 181.8 million pounds of U.S. apparent consumption in 1998.¹¹⁷ A Coalition industry witness testified that although five to ten years ago preserved mushroom demand declined as several major pizza chains switched from preserved to fresh mushrooms, demand in recent years has been consistent – neither growing strongly nor declining.¹¹⁸ A majority of responding U.S. producers and importers each stated that they did not expect changes in demand in the future.¹¹⁹ The pattern in apparent consumption during the period of review contrasts with that of the original period of investigation, in which U.S. apparent consumption fell from 232.1 million pounds in 1995 to 196.2 million pounds in 1997.¹²⁰

As was true in the original investigations, there are three major types of purchasers of preserved mushrooms, each of which is associated with a different channel of distribution. One channel of distribution concerns retail customers, which are mainly grocery stores or discount stores that also sell groceries.¹²¹ Individual consumers who shop at retail outlets will typically purchase preserved mushrooms in four or eight-ounce cans or jars.¹²² The food service channel of distribution serves customers such as restaurants and institutions such as schools or hospitals, which typically purchase 68-ounce cans.¹²³ Industrial customers such as frozen-food manufacturers purchase large quantities of preserved mushrooms, typically in 68-ounce cans, that they use in producing further-processed foods.¹²⁴

There have been several changes in the composition of the domestic industry since the original investigations. One member of the original petitioning Coalition ceased operations, and the assets of another were sold to Creekside, a firm that is not a member of the current Coalition. Creekside began producing preserved mushrooms in 2003.¹²⁵ *** ceased production of preserved mushrooms in 2000 and thereafter became a distributor of preserved mushrooms.¹²⁶ Producer *** in 2003 permanently closed one of its preserved mushroom production facilities.¹²⁷

Imports not subject to the orders increased sharply immediately after imposition of the antidumping orders and subsequently declined. Nonsubject imports increased from 21.8 million pounds in 1998 to 45.7 million pounds in 1999 and then reached a period high of 65.1 million pounds in 2000. These imports then declined to 47.5 million pounds in 2001. In 2002 and 2003, nonsubject imports also included imports from Indonesian producer PT Zeta Agro, with respect to which the antidumping order was revoked on February 1, 2002. The total quantity of nonsubject imports (including those from PT Zeta Agro) was *** pounds in 2002 and then declined to *** pounds in 2003.¹²⁸

¹¹⁷ CR/PR, Table I-5.

¹¹⁸ Tr. at 58-59 (Newhard).

¹¹⁹ CR at II-10, PR at II-7.

¹²⁰ Original Chile Investigation, USITC Pub. 3144 at 16.

¹²¹ CR at II-1, PR at II-1.

¹²² Tr. at 21 (Kazemi).

¹²³ CR at II-1, PR at II-1; Tr. at 21 (Kazemi).

¹²⁴ CR at II-1, PR at II-1.

¹²⁵ See CR at III-2, PR at III-1; Coalition Response to Notice of Institution at 19-20.

¹²⁶ CR at III-2, PR at III-1.

¹²⁷ CR at III-2, PR at III-1.

¹²⁸ CR/PR, Table IV-1. For 2002, 47.5 million pounds of nonsubject imports were from nonsubject countries and (continued...)

C. Determinations on Chile, China, and India¹²⁹

1. Likely Volume of Subject Imports

In the original investigations, the Commission cumulated subject imports from Chile, China, and India for purposes of its determination on Chile. We refer to this determination in our examination of the original investigations, because it involves the same group of imports that we are cumulating in these reviews for purposes of our determinations on Chile, China, and India.

The quantity of cumulated subject imports from Chile, China, and India declined irregularly from 92.2 million pounds in 1995 to 86.5 million pounds in 1997. The quantity of cumulated subject imports was higher in interim 1998 than in interim 1997. Cumulated subject import market penetration, measured by quantity, increased irregularly from 39.7 percent in 1995 to 44.1 percent in 1997, and was higher in interim 1998 than in interim 1997. The Commission found that, in light of their market penetration levels, both the volume and increase in market penetration of cumulated subject imports were significant.¹³⁰

Cumulated subject import volume from Chile, China, and India declined from 67.1 million pounds in 1998 to 32.3 million pounds in 1999 following imposition of the orders. Cumulated subject import volume from Chile, China, and India rose the next two years, and then declined from 2001 to 2002. From 2002 to 2003 cumulated subject import volume from Chile, China, and India rose sharply. The 75.1 million pounds of cumulated subject imports from Chile, China, and India in 2003 was greater than the 1998 quantity, notwithstanding the imposition of the orders.¹³¹ These imports had a 40.0 percent share of U.S. apparent consumption in 2003.¹³²

The increases in cumulated subject imports from Chile, China, and India observed during the period of review indicate that subject producers in these countries have the capability to increase their exports to the United States. Other information in the record also supports this conclusion. The record compiled in the original investigations indicated that the Chilean producer had *** capacity utilization, and shipped *** proportion of its shipments to the home market.¹³³ Notwithstanding that this producer is export-oriented, public data indicate that Chilean exports of canned mushrooms to all sources were

¹²⁸ (...continued)

the remaining *** pounds were from PT Zeta Agro. For 2003, 42.8 million pounds of nonsubject imports were from nonsubject countries, and the remaining *** were from PT Zeta Agro. Id.

The share of the quantity of U.S. apparent consumption represented by nonsubject imports rose from 12.0 percent in 1998 to 25.3 percent in 1999 and then to a period high of 32.8 percent in 2000. In 2001 it declined to 27.1 percent. In 2002, the first year imports from PT Zeta Agro became nonsubject, nonsubject import market penetration was *** percent. It then declined to *** percent in 2003. CR/PR, Table I-5.

The four largest sources of imports from nonsubject countries in 2003 were the Netherlands, Spain, Mexico, and Taiwan. Of these countries, only Spain showed a consistent volume trend during the period of review, rising in all but one annual comparison and peaking in 2003. By contrast, 2003 imports from the Netherlands were 56.1 percent less than their peak volume of 2000; 2003 imports from Mexico were 33.9 percent less than their peak volume of 1998; and 2003 imports from Taiwan were 59.3 percent below their peak volume of 2000. CR/PR, Table C-2.

¹²⁹ Chairman Koplán joins this section of the opinion only insofar as it pertains to his determination on the antidumping order concerning subject imports from Chile. His determinations concerning China and India are contained in the Separate and Concurring Views of Chairman Koplán.

¹³⁰ Original Chile Determination, USITC Pub. 3144 at 17.

¹³¹ CR/PR, Table IV-1.

¹³² CR/PR, Table I-5.

¹³³ INV-W-005, Table VII-1 (Jan. 20, 1999).

considerably lower during the period of review than they were prior to the issuance of the antidumping order.¹³⁴ Thus, the information available suggests that the Chilean producer is likely to have at least the amount of unused capacity it had during the original investigations.

Public data indicate that China's exports of canned mushrooms to all sources have increased since 1999 notwithstanding the issuance of the order. The 501.8 million pounds of canned mushrooms Chinese producers exported to all sources in 2002 far exceeds the maximum capacity of 183.8 million pounds that Chinese producers reported to the Commission during the original period of investigation. Indeed, the increase in exports to all sources from 1999 to 2002 is by itself 160.8 million pounds.¹³⁵ We infer from these data, as well as data from the original investigations indicating moderate to high capacity utilization in China, that production capacity in China increased appreciably during the period of review. Current capacity in China is far greater than the capacity reported to the Commission during the original investigations.¹³⁶

Indian producers that responded to the Commission questionnaire reported that their capacity increased throughout the period of review, rising from *** pounds in 1998 to *** pounds in 2003. Indian producers' reported unused capacity in 2003 was *** of the quantity of 2003 subject imports from India.¹³⁷

Several factors support a conclusion that subject producers in Chile, China, and India will likely utilize their increased or unused capacity to direct significant quantity of additional exports to the United States should the antidumping duty orders be revoked. First, the subject producers are export-oriented. Producers in Chile and China did not direct a large percentage of their shipments to the home market during the original investigations (the most recent period for which data are available for these producers) and producers in India have not done so during the period of review.¹³⁸ The United States is India's principal export market, was Chile's principal export market during the original period of investigation, and was a significant export market for China during the original period of investigation.¹³⁹ The attractiveness of the U.S. market to exporters is also indicated by the numerous "new shipper" reviews instituted by Chinese exporters during the period of review,¹⁴⁰ and the Chilean producers' attempts to transship product into the United States during the period of review that were described in section III.B.1 above.

An additional factor that makes the United States an attractive export market for producers in the subject countries is the existence of barriers to importation to the subject merchandise in countries other than the United States. Exports of preserved mushrooms to the European Union have been subject to a tariff-rate quota system since 1995. The EU system places an annual limit of 50.2 million pounds of imports from China. This is far smaller than the total quantity of Chinese exports to all sources reported

¹³⁴ CR/PR, Figure IV-1. As discussed in section III.B.1 above, the Chilean producer, which did not respond to the Commission questionnaire, is still in operation.

¹³⁵ Compare CR/PR, Figure IV-2 with id., Table IV-2, and Original Indonesia Determination, USITC Pub. 3158, Table VII-2.

¹³⁶ We note that domestic producer *** asserts that there are additional processors of preserved mushrooms in China that could produce 200 to 600 million pounds of mushrooms annually for export to the United States upon revocation of the order. CR at IV-7, PR at IV-5-6.

¹³⁷ CR/PR, Tables IV-1, IV-3.

¹³⁸ INV-W-005, Table VII-1; Original Indonesia Determination, USITC Pub. 3158, Table IV-1; CR/PR, Table IV-3.

¹³⁹ INV-W-005, Table VII-1; Original Indonesia Determination, USITC Pub. 3158, Table IV-1; CR/PR, Table IV-3.

¹⁴⁰ See Petitioners Posthearing Brief, ex. 17.

in public data. The aggregate annual quota for imports from all sources other than China, Bulgaria, and Romania – which consequently would include Chile and India – is 7.3 million pounds.¹⁴¹

After declining immediately after imposition of the orders, the quantity of cumulated subject imports from Chile, China, and India subsequently increased significantly. These imports are currently present in the U.S. market in substantial quantities. Their market penetration is nearly as great as that reached in 1997 and found to be significant in the original investigations. The subject producers from Chile, China, and India have both the ability and the inclination to further increase their exports to the United States significantly upon revocation of the antidumping orders. We consequently find that the likely volume of cumulated subject imports would be significant in absolute terms if the orders were revoked.¹⁴²

2. Likely Price Effects of the Subject Imports

In the original investigations, the Commission found that price was an important factor in purchasing decisions and that cumulated subject imports from Chile, China, and India were at least moderate substitutes with the domestic like product. It found there to be significant underselling by the subject imports, with underselling occurring in 51 of 94 quarterly comparisons. It also noted that prices generally declined during the period of investigation. The Commission found that prices declined at a greater rate than cost of goods sold, and concluded that the subject imports had significant price-depressing effects.¹⁴³

The importance of price as a factor in purchasing decisions has not changed since the original investigations. All 20 responding purchasers in these reviews indicated that “lowest price” was a “very important” or “somewhat important” purchasing factor.¹⁴⁴ Price was the factor purchasers named second most frequently (after quality) as the most important factor in selecting a supplier, and tied with quality as the most frequently cited as the factor of second most importance.¹⁴⁵ Consequently, we again find that price is an important factor in purchasing decisions for preserved mushrooms.

We also find, as we did in the original investigations, that the cumulated subject imports are at least moderate substitutes with the domestic like product. We observed in the original investigations that purchasers did not perceive significant quality distinctions between the domestic like product and subject imports from Chile, China, and India. The most recent information available on this issue concerning subject imports from Chile continues to be that from the original investigations.¹⁴⁶ The additional information collected during these reviews indicates that all purchasers found subject imports from India and the domestic like product comparable in three quality-related criteria. Majorities of purchasers found

¹⁴¹ CR at IV-5 n.5, PR at IV-4 n.5; see also CR/PR, Figure IV-2.

¹⁴² In our examination of likely import volume, we have also considered inventories of subject merchandise. Available data concerning inventories of subject merchandise in the United States indicate that they are not substantial. CR/PR, Table IV-2. 2003 inventories of subject merchandise in India were below the peak level observed during the period of review. CR/PR, Table IV-3. Additionally, most of the equipment used to produce preserved mushrooms cannot easily be converted to produce other products. CR at II-5, PR at II-4. While we do not rely on information concerning inventories or product shifting as a basis for our analysis of likely import volume, we find that this information does not detract from our analysis.

¹⁴³ Original Chile Determination, USITC Pub. 3144 at 18-20.

¹⁴⁴ CR/PR, Table II-2.

¹⁴⁵ CR/PR, Table II-1.

¹⁴⁶ Original Chile Determination, USITC Pub. 3144 at 18.

subject imports from China and the domestic like product comparable in two of the quality-related criteria, and a plurality found these products comparable in the remaining criterion.¹⁴⁷

Even with the orders in place, cumulated subject imports undersold the domestic like product in over 65 percent of quarterly comparisons.¹⁴⁸ This is a higher frequency of underselling than that found to be significant during the original investigations. Should the price discipline of the orders be removed, the frequency of underselling will likely increase further. We find that if the orders are revoked, underselling by the cumulated subject imports will likely be significant.

While cumulated subject import volume fell immediately after imposition of the orders, prices for two of the U.S.-produced products for which the Commission collected data increased, and the price for the remaining product fluctuated in a narrow range. Cumulated subject import volume began again to increase in 2000. Between the first quarter of 2000 and the final quarter of 2003, prices for all three U.S.-products declined.¹⁴⁹ Consequently, the records of both the original investigations and these reviews show a relationship between increasing presence of cumulated subject imports from Chile, China, and India in the U.S. market and price declines for the domestic like product. This is not surprising in light of the underlying conditions of competition. Given the substitutability of the products and the importance of price in purchasing decisions, domestic producers must compete on the basis of price with subject imports from Chile, China, and India. We have already concluded that revocation of the orders will likely lead to increasing volumes of cumulated subject imports offered at prices that are frequently below those for the domestic like product. In such circumstances, particularly when demand is anticipated to be stable, domestic producers will be forced either to respond to the imports' prices or to lose market share. Thus, additional quantities of cumulated subject imports will likely contribute materially to a continuation of the declines in prices for the domestic like product observed during the original investigations and the latter portion of the period of review. We consequently find that revocation of the orders will likely have significant price-depressing effects for the domestic like product.

3. Likely Impact of Subject Imports

In the original investigations, the Commission found that the cumulated subject imports from Chile, China, and India gained market share at the expense of the domestic industry. There were declines in the domestic industry's production, shipments, capacity utilization, and employment. The combination of declining output and falling prices led to deterioration in the domestic industry's operating performance. Operating margins declined throughout the period of investigation. During 1997, the

¹⁴⁷ CR/PR, Table II-3.

¹⁴⁸ For the reasons provided in section IV.D.2. below, Vice Chairman Okun, Commissioner Miller, and Commissioner Hillman have not included in the pricing database information General Mills submitted concerning pricing products 1 and 3, but have included the data for product 2. As stated in his separate opinion, Chairman Koplan has included the pricing database information General Mills submitted concerning products 1 and 2, but not product 3. As stated in his separate opinion, Commissioner Pearson considered the pricing data submitted by General Mills, but did not rely on the data, and would have reached the same conclusion whether or not the General Mills data were included in the pricing database.

With the General Mills data for products 1 and 3 excluded, cumulated subject imports undersold the domestic like product in *** of 107 quarterly comparisons during the period of review. If the General Mills data for products 1 and 2 are included, cumulated subject imports undersold the domestic like product in *** of 107 quarterly comparisons. CR/PR, Table V-5.

¹⁴⁹ CR/PR, Tables V-1-3.

operating margin had declined to 1.3 percent and at least half of the domestic producers sustained operating losses.¹⁵⁰

When cumulated subject imports declined, and prices and net sales values increased, immediately after imposition of the orders in 1999, the domestic industry showed modest improvements in several indicators of performance, including production, shipments, and operating income.¹⁵¹ Some industry witnesses testified that they perceived improvements in operations immediately after imposition of the orders.¹⁵² During the latter portion of the period of review, however, cumulated subject import volume increased, prices and unit sales values declined, and the industry's condition deteriorated.

In light of serious deterioration in several industry indicators since 2000, we find the industry's current condition to be vulnerable. Production, whose peak level during the period of review in 2000 was 68.9 million pounds, declined to a period low of 50.2 million pounds in 2003.¹⁵³ U.S. shipments likewise declined from a period peak of 73.5 million pounds in 1999 to a period low of 47.7 million pounds in 2003.¹⁵⁴ The domestic industry's share of U.S. apparent consumption declined irregularly from its period peak of 40.7 percent in 1999, reaching a period low of 25.4 percent in 2003.¹⁵⁵

Two firms closed production facilities after 2000.¹⁵⁶ This caused capacity to decline after 2000. Nevertheless, capacity utilization was only 25.1 percent (a period peak) in 2003.¹⁵⁷ Employment declined irregularly.¹⁵⁸

The domestic industry's last profitable year was 2000, when it had a positive operating margin of 3.2 percent. In 2003, the industry had an operating margin of negative 2.7 percent and three of six producers reported operating losses.¹⁵⁹

For the reasons discussed above, should the orders be revoked, cumulated subject import volume from Chile, China, and India will likely increase significantly. These subject imports will likely undersell the domestic like product at increasing frequency, and will likely have significant price-depressing effects. In light of their likely volume and price effects upon revocation of the antidumping duty orders, cumulated subject imports from Chile, China, and India will likely exacerbate the declines in domestic industry output, employment, and market share observed during the latter portion of the period of review. They will also likely cause the domestic industry's already unprofitable financial performance to deteriorate further. We consequently find that revoking the antidumping duty orders on preserved mushrooms from Chile, China, and India will likely have a significant adverse effect on the domestic industry.

¹⁵⁰ Original Chile Determination, USITC Pub. 3144 at 21-24.

¹⁵¹ CR/PR, Tables III-1, III-2, III-6.

¹⁵² Tr. at 15 (Shelton), 25 (Newhard).

¹⁵³ CR/PR, Table III-1.

¹⁵⁴ CR/PR, Table III-2. Inventories fluctuated, showing large annual variations. CR/PR, Table III-3.

¹⁵⁵ CR/PR, Table I-5.

¹⁵⁶ CR at III-2, PR at III-1.

¹⁵⁷ CR/PR, Table III-1. See also CR/PR at III-1 n.2 (describing possible producer-specific reasons for low capacity utilization).

¹⁵⁸ CR/PR, Table III-5.

¹⁵⁹ CR/PR, Table III-6.

D. Determination on Indonesia¹⁶⁰

1. Likely Volume of Subject Imports

During the original period of investigation, the quantity of subject imports from Indonesia declined from 30.8 million pounds in 1995 to 26.9 million pounds in 1996, increased to 31.8 million pounds in 1997, and was lower in interim 1998 than in interim 1997. U.S. market penetration for these imports increased from 12.8 percent in 1995 to 15.5 percent in 1997.¹⁶¹ The Commission's original determination on Indonesia found subject import volume to be significant, based on a cumulated analysis of subject imports from China, India, and Indonesia.¹⁶²

The quantity of subject imports from Indonesia fluctuated within a fairly narrow range from 1998 through 2001. During this period, quantities ranged between 22.4 million pounds (in 2001) and 29.1 million pounds (in 1999). The 1999 quantity, while above that for the preceding year, was still below the quantities during two of the three full years of the original period of investigation. The revocation of the order with respect to Indonesian producer PT Zeta Agro effective February 1, 2002 caused subject import volume to decline appreciably. Subject import volume declined to *** pounds in 2002 and then to *** pounds in 2003.¹⁶³ In 2003, subject imports from Indonesia accounted for *** percent of U.S. apparent consumption.¹⁶⁴

As discussed earlier, capacity of subject producers in Indonesia declined during the period of review. Questionnaire data indicate that two Indonesian producers, ***, will increase their capacity by *** pounds between 2003 and 2004, and that these producers' capacity will remain at the 2004 level in 2005 and 2006.¹⁶⁵ Even assuming *arguendo* that the two Indonesian producers, PT Dieng and PT Indo, which suspended production of preserved mushrooms in 2003, will not produce mushrooms, and will have zero capacity in 2004, the capacity increases projected by *** will still result in a *** pound capacity increase for subject Indonesian producers from 2003 to 2004.¹⁶⁶

The Indonesian producers themselves acknowledge that some of this increased capacity will be used to increase export shipments to the United States. They project that their exports will increase by *** pounds from 2003 to 2004, and by another *** pounds from 2004 to 2005.¹⁶⁷

Consequently, the Indonesian producers' own projections anticipate that subject imports from Indonesia in 2004 and 2005 will be significantly above 2003 levels. We have concluded, however, that the Indonesian producers' projections of increases in their exports to the United States are overly conservative for purposes of projecting what will likely happen upon revocation of the antidumping order. The projections assume that only *** percent of the increase in these two producers' capacity will

¹⁶⁰ Chairman Koplan and Commissioner Pearson do not join the remainder of this opinion. *See* Separate and Concurring Views of Chairman Koplan; Additional and Dissenting Views of Commissioner Daniel R. Pearson.

¹⁶¹ Original Indonesia Determination, USITC Pub. 3159, Table IV-1.

¹⁶² Original Indonesia Determination, USITC Pub. 3159 at 17-18.

¹⁶³ CR/PR, Table IV-1.

¹⁶⁴ CR/PR, Table I-5.

¹⁶⁵ Indonesian Respondents Posthearing Brief at 10.

¹⁶⁶ CR at IV-14-16, PR at IV-9-10; Compare Indonesian Respondents Posthearing Brief at 10 with CR/PR, Table IV-4.

¹⁶⁷ CR at IV-14 n.20, PR at IV-8 n.20.

be devoted to increasing export shipments to the United States in 2004 and only *** percent of the capacity increase will be devoted to increasing export shipments to the United States in 2005.¹⁶⁸

These percentages seem to us unduly low in light of other information in the record concerning the Indonesian industry. First, the United States is by far the principal market for Indonesian subject producers. In 2003, *** percent of the subject Indonesian producers' shipments were exported to the United States.¹⁶⁹ This percentage was *** – *** percent in 2003 – for the two producers that intend to expand capacity.¹⁷⁰ Counsel for Indonesian Respondents acknowledged at the hearing that “I think it’s safe to say from the data that the U.S. market is certainly the place where the Indonesians are selling the product.”¹⁷¹ Second, subject Indonesian producers operate at fairly high capacity utilization. In 2003, capacity utilization for the reporting Indonesian producers was *** percent.¹⁷² If data on the two producers that suspended production of preserved mushrooms in 2003 are excluded, capacity utilization for the remaining producers increases to *** percent.¹⁷³ It is noteworthy that *** and *** had *** capacity utilization in 2003 notwithstanding that they began operations in 2002.¹⁷⁴ In light of their current *** capacity utilization, their additional capacity will be used to increase production. The firms’ history indicate that this additional capacity is likely promptly to be utilized at a *** level. It further indicates that the overwhelming percentage of additional production is likely to be directed to increasing exports to the United States. We therefore find that the projected increases in Indonesian capacity will likely result in an even greater increase in exports to the United States than that projected by the Indonesian producers.¹⁷⁵

We consequently find that, should the antidumping order be revoked, subject import volume from Indonesia will increase substantially over current levels. The likely volume after revocation will be significant in absolute terms. In this respect, we reference our prior finding, made in section IV.C.3 above, that the domestic industry is in a vulnerable condition. In light of its vulnerability, relatively modest additional amounts of LTFV imports will likely have adverse effects on the domestic industry.

2. Likely Price Effects of Subject Imports

In its original determination on Indonesia, the Commission found significant underselling and significant price-depressing effects by imports based on a cumulated analysis of subject imports from

¹⁶⁸ See Indonesian Respondents Posthearing Brief at 9-10.

¹⁶⁹ CR/PR, Table IV-4.

¹⁷⁰ *** Foreign Producers Questionnaire, ex. 1; *** Foreign Producers Questionnaire, ex. 1.

¹⁷¹ Tr. at 186 (Morgan). Additionally, as explained in section IV.C.1. above, there are barriers to entry in the European Union to Indonesian exports of preserved mushrooms.

¹⁷² CR/PR, Table IV-4.

¹⁷³ See Foreign Producers’ Questionnaire Responses.

¹⁷⁴ See *** and *** Foreign Producer Questionnaire Responses.

¹⁷⁵ In our examination of likely import volume, we have also considered inventories of subject merchandise from Indonesia. Available data indicate that inventories in the United States are not substantial and inventories in Indonesia have been stable during the period of review. CR/PR, Tables IV-2, IV-4. Additionally, most of the equipment used to produce preserved mushrooms cannot easily be converted to produce other products. CR at II-5, PR at II-4. While we do not rely on information concerning inventories or product shifting as a basis for our analysis of likely import volume, we find that this information also does not detract from our analysis.

China, India, and Indonesia.¹⁷⁶ In the original investigations, subject imports from Indonesia undersold the domestic like product in 16 of 42 quarterly comparisons.¹⁷⁷

We incorporate by reference our discussion in section IV.C.2. above that price is an important factor in purchasing decisions for preserved mushrooms.

We find, as we did in the original investigations, that subject imports from Indonesia are at least moderate substitutes with the domestic like product. We observed in the original investigations that a majority of purchasers found the domestic like product and subject imports from Indonesia to be comparable in quality.¹⁷⁸ The additional information collected during these reviews indicates that majorities of purchasers found subject imports from Indonesia and the domestic like product comparable in two of three quality-related criteria, and a plurality found these products comparable in the remaining criterion.¹⁷⁹

Before we analyze the pricing data collected in these reviews, we must first resolve a dispute between the parties concerning the reliability and comparability of some of the pricing data submitted by importer General Mills. General Mills was the *** importer of subject merchandise from Indonesia to submit a questionnaire response. Nevertheless, *** percent of subject imports from Indonesia in 2003 were imported by firms other than General Mills.¹⁸⁰ In light of this, we believe that many of respondents' efforts to depict General Mills' experiences as representative of those of purchasers of Indonesian product, typified by the statement of General Mills' witness that "[t]here aren't any other major players that are in Indonesia other than Green Giant,"¹⁸¹ which is a brand name General Mills uses for its preserved mushroom products, are overstated, even if not technically incorrect.¹⁸²

Respondents have stated that the pricing data that General Mills furnished can and should be used for the Commission's underselling analysis. The Coalition contends that some pricing data General Mills has submitted should not be used.¹⁸³

We have decided not to use for purposes of our underselling analysis the pricing data General Mills submitted for pricing products 1 and 3. Pricing product 1 is four-ounce cans of stems and pieces, excluding stems and pieces packed in butter and butter sauce.¹⁸⁴ In reporting its prices, General Mills used constructed rather than actual prices. It estimated the prices it charged by ***.¹⁸⁵ Using this estimation method, General Mills reported its price for product 1 was a constant ***.¹⁸⁵ Although the fact General Mills estimated prices is not in itself objectionable, we do not believe that General Mills took sufficient steps to ensure the prices it reported were a reliable estimate of the prices it charged to customers. Both

¹⁷⁶ Original Indonesia Determination, USITC Pub. 3159 at 18-19.

¹⁷⁷ Original Indonesia Determination, USITC Pub. 3159 at V-14.

¹⁷⁸ Original Indonesia Determination, USITC Pub. 3159 at 18.

¹⁷⁹ CR/PR, Table II-3.

¹⁸⁰ CR/PR, Tables I-3, IV-1; Tr. at 152 (Larson)

¹⁸¹ Tr. at 152 (Larson).

¹⁸² For example, while General Mills emphasizes that it concentrates its business on whole or sliced "fancy" product, Tr. at 148 (Larson), the record indicates that there are appreciable volumes of canned stems and pieces imported from Indonesia. See CR/PR, Tables V-1-2. Additionally, while General Mills testified that its sales of "fancy" product have declined continuously during the period of review, Tr. at 177 (Larson), there have not been continuous declines in the quantities of subject imports from Indonesia. See CR/PR, Table IV-1.

¹⁸³ The Coalition has not objected to the prices General Mills reported for pricing product 2. See Coalition Posthearing Brief, ex. 2 at 39. We have included information General Mills furnished for pricing product 2 in our pricing database in light of the lack of any objections to its use.

¹⁸⁴ CR at V-5, PR at V-4.

¹⁸⁵ See CR at V-6, PR at V-5.

the lack of variation in prices reported by General Mills and the price levels themselves call into question whether the prices it reported for product 1 are comparable to the prices reported by domestic producers and other importers. In light of this lack of comparability, we do not believe that the pricing data reported by General Mills for product 1 provide an accurate basis for an underselling analysis, in which the constant General Mills price would be compared with fluctuating prices of other market participants. We consequently do not use these data in our underselling analysis.¹⁸⁶

Pricing product 3 encompasses four-ounce cans of sliced mushrooms, excluding sliced mushrooms packed in butter or butter sauce. The pricing data General Mills reported were for 4.5-ounce glass jars of sliced mushrooms.¹⁸⁷ There are clear non-product differences in size and packaging between a four-ounce can and a 4.5-ounce glass jar that make the two products inappropriate for purposes of head-to-head price comparisons.¹⁸⁸ Consequently, we have not used the General Mills data for product 3 in our underselling analysis.

Based on the pricing data that satisfy our standards of reliability and comparability, subject imports from Indonesia undersold the domestic like product in 36 of 72 quarterly comparisons.¹⁸⁹ Thus, notwithstanding the orders, subject imports from Indonesia undersold the domestic like product more frequently during the period of review than they did during the original period of investigation. Should the price discipline of the orders be removed, the frequency of underselling will likely increase further.¹⁹⁰ We find that if the orders are revoked, underselling by the subject imports will likely be significant.

Given the substitutability of the products, and the importance of price in purchasing decisions, domestic producers must compete on the basis of price with subject imports from Indonesia. We have already concluded that revocation of the order will likely lead to increasing volumes of subject imports from Indonesia and that these imports will be offered at prices that are frequently below those for the domestic like product. In such circumstances, particularly when demand is anticipated to be stable, domestic producers will be forced either to respond to the imports' prices or to lose market share. Thus,

¹⁸⁶ We observe that, even after exclusion of the General Mills pricing data, the usable pricing data cover *** percent of subject imports from Indonesia.

Indonesian Respondents assert that the Commission should have verified the prices General Mills reported for product 1 if it believed these prices were unreliable. See Indonesian Respondents Final Comments at 3-4. Indonesian Respondents overlook that General Mills provided to the Commission staff several iterations of untimely and admittedly erroneous pricing data. See Tr. at 152-53 (Larson) (acknowledgment that original pricing data provided by General Mills was not accurate). General Mills did not make its final submission of pricing data – containing its third version of the data– until September 15, 2004. It did not fully explain the basis for this data until September 22, 2004 – which was after the date posthearing briefs were filed and over two months after the initial due date for the questionnaires. See Memorandum to File from Amelia Preece (Sept. 22, 2004). Under the statute, the Commission is only required to provide parties with the opportunity to remedy defective submissions “in light of the time limits established for the completion of investigations or reviews.” 19 U.S.C. § 1677m(d). Because of General Mills' delay in providing and explaining the pricing data to the Commission, there was insufficient time before the due date for the final staff report for Commission staff to attempt verification of the General Mills data.

¹⁸⁷ CR at V-7, PR at V-5.

¹⁸⁸ Glass jars cost more to produce than cans, and product packaged in glass jars will receive a price premium because it is more visually appealing. CR at V-7, PR at V-5-6. Additionally, a 4.5-ounce container will hold more product than will a four-ounce container.

¹⁸⁹ CR/PR, Table V-5.

¹⁹⁰ Available data concerning PT Zeta Agro support this contention, notwithstanding respondents' contrary contentions. The record pricing information that satisfies our standards of reliability and comparability indicates that, following revocation of the antidumping duty order with respect to PT Zeta Agro, imports from PT Zeta Agro undersold domestically produced product in *** quarterly comparisons. CR/PR, Table G-2; Importers Questionnaires. (Data compiled in Table G-1 were not used for this analysis, because they include General Mills data for product 1.)

significant additional quantities of subject imports from Indonesia will likely contribute materially to a continuation of the declines in prices for the domestic like product observed during the original investigations and the latter portion of the period of review.¹⁹¹ We consequently find that revocation of the order will likely have significant price-depressing effects for the domestic like product.

3. Likely Impact of Subject Imports

In its original determination concerning Indonesia, the Commission found that the cumulated subject imports from China, India, and Indonesia gained market share at the expense of the domestic industry. There were declines in the domestic industry's production, shipments, capacity utilization, and employment. The combination of declining output and falling prices led to a deterioration in the domestic industry's operating performance. Operating margins declined throughout the period of investigation. During 1997, the operating margin had declined to 1.3 percent and at least half of the domestic producers sustained operating losses.¹⁹²

We incorporate by reference our finding in section III.C.3 above that the domestic industry is currently in a vulnerable condition and our discussion of the data concerning the deterioration in the domestic industry's performance during the latter portion of the period of review underlying that finding. We observe that the statute states that the Commission is to consider "whether the industry is vulnerable to material injury if the order is revoked or the suspension agreement is terminated."¹⁹³ The statute does not, as Indonesian Respondents argue, require that the domestic industry be vulnerable because of the effects of the particular set of subject imports it is analyzing.¹⁹⁴ To the contrary, the SAA acknowledges that while factors other than subject imports may be responsible for the weakened state of the industry, the Commission should still consider whether the industry will deteriorate further upon revocation of an order.¹⁹⁵

¹⁹¹ Original Indonesia Determination, USITC Pub. 3159 at 14; CR/PR, Tables V-1-3. It is not necessary for us to find that the subject imports from Indonesia were a cause of the price declines experienced by the domestic industry during the latter portion of the period of review. Instead, our analysis in a five-year review concerns the likely price effects should the order under review be revoked. We find that, should the order on Indonesia be revoked, the volume of subject imports will be sufficiently significant, and their frequency of underselling sufficient, that they will by themselves contribute in a material way to further price depression. There is no legal requirement that we find the subject imports to be the sole, or principal, cause of price depression.

¹⁹² Original Indonesia Determination, USITC Pub. 3159 at 20-21.

¹⁹³ 19 U.S.C. § 1675a(a)(1)(C).

¹⁹⁴ Indonesian Respondents' repeated arguments that there was no causal relationship during the period of review between subject import volumes from Indonesia and the condition of the domestic industry are irrelevant. The Commission is not obliged to determine whether imports are injuring the domestic industry while subject to an antidumping order. To the contrary, the statute contemplates that the industry's condition may improve while the order is still in place, 19 U.S.C. § 1675a(a)(1)(B), and the SAA states that such improvement, by itself, should not preclude the Commission from making an affirmative determination in a five-year review. SAA at 884. Instead, the Commission's focus is on the likely effects of subject imports on the domestic industry in the reasonably foreseeable future should the antidumping order(s) under review be revoked.

¹⁹⁵ SAA at 885. Nor does the SAA or any other authority require the Commission to distinguish between the effects of different sets of subject imports when it engages in a non-cumulated analysis. Whatever obligation the Commission has to discuss the effects of alternative causes of injury is limited to causes *other than* subject imports. It is consequently not surprising that Indonesian Respondents cite no authority whatsoever for their argument that, in a non-cumulated analysis, the Commission should consider subject imports from sources other than Indonesia to be alternative causes of injury. See Indonesian Respondents Posthearing Brief at 14. Instead, in a non-cumulated analysis, it is sufficient for the Commission to determine that each set of subject imports it is separately analyzing is
(continued...)

For the reasons discussed above, should the order be revoked, subject import volume from Indonesia will likely increase significantly. These subject imports will likely undersell the domestic like product with increasing frequency, and will likely have significant price-depressing effects. In light of their likely volume and price effects, upon revocation of the antidumping duty order subject imports from Indonesia will likely exacerbate the declines in domestic industry output, employment, and market share observed during the latter portion of the period of review. They will also likely cause the domestic industry's already unprofitable financial performance to deteriorate further. We consequently find that revoking the antidumping duty order on preserved mushrooms from Indonesia will likely have a significant adverse effect on the domestic industry.

CONCLUSION

For the foregoing reasons, we determine that revocation of the antidumping duty orders on preserved mushrooms from Chile, China, India, and Indonesia would be likely to lead to a continuation or recurrence of material injury to an industry in the United States in a reasonably foreseeable time.

¹⁹⁵ (...continued)

an independent likely cause of material injury to the domestic industry. We have made such a showing with respect to subject imports from Indonesia.

Separate and Concurring Views of Chairman Koplan

Section 751(d)(2) of the Tariff Act of 1930, as amended (“the Act”), requires that the U.S. Department of Commerce (“Commerce”) revoke a countervailing duty or an antidumping duty finding in a five-year (“sunset”) review unless Commerce determines that dumping or a countervailable subsidy would be likely to continue or recur and the U.S. International Trade Commission (“Commission”) determines that material injury to a U.S. industry would be likely to continue or recur within a reasonably foreseeable time.¹ Based on the record in these five-year reviews, I determine that material injury is likely to continue or recur within a reasonably foreseeable time if the orders on subject imports of certain preserved mushrooms from Chile, China, India, and Indonesia are revoked.

In these reviews, I have determined to cumulate imports from all subject sources for my determinations on China and India. For my determination on Chile, I have cumulated subject imports from Chile, China, and India. For my determination on Indonesia, I have cumulated subject imports from China, India, and Indonesia. I have done so because: (1) I have not found that subject imports from each of the four subject countries would have no discernible adverse impact on the domestic industry; (2) I have found that there is a likely reasonable overlap of competition among subject imports and between the subject imports and the domestic like product for all possible subject country combinations except Chile and Indonesia; and (3) I have chosen to exercise my discretion to cumulate all subject imports eligible to be cumulated based on my findings on no discernible adverse impact and likely reasonable overlap of competition.

I join in the discussion regarding domestic like product and domestic industry. I also join in the determination of the majority on cumulation with respect to the issues of no discernible adverse impact and reasonable likelihood of competition. I further join in the views of the majority on conditions of competition. I also join the determination of the majority concerning the fungibility of subject imports with each other and the domestic like product, and the simultaneous presence in the same geographic markets. I write separately to provide my reasons for exercising my discretion to cumulate all subject imports eligible to be cumulated based on my findings on no discernible adverse impact and likely reasonable overlap of competition. I also explain why I have determined that revocation of the antidumping duty orders on preserved mushrooms from China, India, and Indonesia is likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

I. Cumulation

I have considered carefully respondents’ arguments that I should exercise my discretion not to cumulate subject imports from Indonesia with imports from any other subject country. As explained above, I have joined the majority’s finding that subject imports from Indonesia may not be cumulated with subject imports from Chile because of the lack of a likely reasonable overlap of competition. With respect to the remaining subject countries, notwithstanding respondents’ arguments concerning disparate trends in volume and capacity, I find that producers of subject merchandise in Indonesia, like those in China and India, have both the capability and inclination to increase exports to the United States significantly upon revocation of an order. Indeed, the Indonesian subject producers themselves report that their capacity will increase after 2003 and that they will increase their exports to the United States as a result.² Moreover, the United States is Indonesia’s principal export market.³ The purported disparities in average unit values (AUVs) identified by respondents appears to be principally a result of subject

¹ 19 U.S.C. § 1675(d)(2).

² CR at IV-12, IV-14, PR at IV-8.

³ CR/PR, Table IV-4.

imports from Indonesia being more heavily concentrated in the retail channel of distribution than the imports from other subject countries. The trends in AUVs for subject imports from Indonesia do not appear to differ significantly from those for subject imports overall.⁴ In light of these findings and my other findings concerning product fungibility and substitutability and the importance of price in purchasing decisions, I conclude that it is not likely that there will be any significant differences in the likely conditions of competition between subject imports from Indonesia, on the one hand, and subject imports from China and India, on the other.

I have therefore exercised my discretion to cumulate all subject imports eligible to be cumulated based on my findings on no discernible adverse impact and likely reasonable overlap of competition. For my determination on Chile, I cumulate subject imports from Chile, China, and India. For my determinations on China and India, I cumulate subject imports from Chile, China, India, and Indonesia. For my determination on Indonesia, I cumulate subject imports from China, India, and Indonesia.

II. Determination on Chile

For my determination on Chile, I cumulate subject imports from Chile, China, and India. This is the same group of subject imports that the majority has cumulated for its determinations on Chile, China, and India. I join that portion of the Commission's opinion with respect to my determination on Chile.

III. Determinations on China and India

For my determinations on China and India, I cumulate subject imports from Chile, China, India, and Indonesia.

A. Likely Volume of Subject Imports

The quantity of cumulated subject imports from Chile, China, India, and Indonesia declined from 123.0 million pounds in 1995 to 111.1 million pounds in 1996, and then increased to 118.3 million pounds in 1997. The quantity of cumulated subject imports was higher in interim 1998 than in interim 1997. Cumulated subject import market penetration, measured by quantity, declined from 51.2 percent in 1995 to 51.1 percent in 1996, and increased to 57.9 percent in 1997.⁵ Market penetration was higher in interim 1998 than in interim 1997. The Commission found that, in light of their market penetration levels, both the volume and increase in market penetration of cumulated subject imports were significant.⁶

Cumulated subject import volume from Chile, China, India, and Indonesia declined from 93.8 million pounds in 1998 to 61.4 million pounds in 1999 following imposition of the orders. Cumulated subject import volume from Chile, China, India, and Indonesia rose to 71.8 million pounds in 2000 and then declined slightly to 71.3 million pounds in 2001. Cumulated subject import volume declined to *** pounds in 2002, the year that the order was revoked with respect to Indonesian producer PT Zeta Agro. From 2002 to 2003, however, cumulated subject import volume from Chile, China, India, and Indonesia

⁴ CR/PR, Table IV-1. Respondents' contentions concerning General Mills focus on importing "fancy" whole or sliced mushroom products, which they assert are less likely to compete on price than other types of mushrooms, appear to be overstated. *** subject imports from Indonesia in 2003 were ***. See CR/PR, Tables I-3, IV-1. The record indicates that there are appreciable volumes of canned stems and pieces imported from Indonesia. See CR/PR, Tables V-1-2.

⁵ CR/PR, Table I-1.

⁶ Original Indonesia Determination, USITC Pub. 3159 at 12-13.

rose *** to *** million pounds.⁷ These imports had a ***-percent share of U.S. apparent consumption in 2003.⁸

The record indicates that producers of subject merchandise from Chile, China, India, and Indonesia have the capability to increase their exports to the United States. The record compiled in the original investigations indicated that the Chilean producer had *** capacity utilization, and shipped *** of its shipments to the home market.⁹ Notwithstanding that this producer is export-oriented, public data indicate that Chilean exports of canned mushrooms to all sources were considerably lower during the period of review than they were prior to the issuance of the antidumping order.¹⁰ Thus, the information available suggests that the Chilean producer is likely to have at least the amount of unused capacity it had during the original investigations.

Public data indicate that China's exports of canned mushrooms to all sources have increased since 1999 notwithstanding the issuance of the order. The 501.8 million pounds of canned mushrooms Chinese producers exported to all sources in 2002 far exceeds the maximum capacity of 183.8 million pounds that Chinese producers reported to the Commission during the original period of investigation. Indeed, the increase in exports to all sources from 1999 to 2002 is by itself 160.7 million pounds.¹¹ I infer from these data, as well as data from the original investigations that indicated moderate to high capacity utilization in China, that production capacity in China increased appreciably during the period of review. Clearly, current capacity in China is far greater than the capacity reported to the Commission during the original investigations.¹²

Indian producers that responded to the Commission's questionnaire reported that their capacity increased throughout the period of review, rising from *** pounds in 1998 to *** pounds in 2003. Indian producers' reported unused capacity in 2003 was *** of the quantity of subject imports from India in that year.¹³

Indonesian producers that responded to the Commission's questionnaire, and that remain subject to the orders, reported that capacity declined from *** million pounds in 1998 to *** million pounds in 2003, as ***. However, the *** producers in Indonesia reported that their capacity to produce the subject product increased in 2004,¹⁴ and projected an increase to *** million pounds in 2005 and 2006.¹⁵

Several factors support a conclusion that should the antidumping duty orders be revoked, subject producers in Chile, China, India, and Indonesia will likely utilize their increased or unused capacity to direct a significant quantity of additional exports to the United States. First, the subject producers are export-oriented. Producers in Chile and China did not direct *** their shipments to the home market during the original investigations (the most recent period for which data are available for these producers) and producers in India and Indonesia have not done so during the period of review.¹⁶ The United States is

⁷ CR/PR, Table IV-1.

⁸ CR/PR, Table I-5.

⁹ INV-W-005, Table VII-1 (Jan. 20, 1999).

¹⁰ CR/PR, Figure IV-1.

¹¹ Compare CR/PR, Figure IV-2 with id., Table IV-2, and Original Indonesia Determination, USITC Pub. 3158, Table VII-2.

¹² I note that domestic producer *** asserts that there are additional processors of preserved mushrooms in China that could produce 200 to 600 million pounds of mushrooms annually for export to the United States upon revocation of the order. CR at IV-7, PR at IV-5-6.

¹³ CR/PR, Tables IV-1, IV-3.

¹⁴ CR, pages IV-15 and 16, PR, pages IV-9-10.

¹⁵ CR, page IV-14, PR, page IV-8.

¹⁶ INV-W-005, Table VII-1; Original Indonesia Determination, USITC Pub. 3158, Table IV-1; CR/PR, Table IV-3.

the principal export market for producers in India and Indonesia, was Chile's principal export market during the original period of investigation, and was a significant export market for China during the original period of investigation.¹⁷ The attractiveness of the U.S. market to exporters is also indicated by the numerous "new shipper" reviews instituted by Chinese exporters during the period of review,¹⁸ and the Chilean producers' attempts to transship product into the United States during the period of review that were described in the Commission's opinion. Moreover, the subject Indonesian producers themselves project that their exports to the United States will increase by *** pounds from 2003 to 2004, and by another *** pounds from 2004 to 2005.¹⁹

An additional factor that makes the United States an attractive export market for producers in the subject countries is the existence of barriers to importation of the subject merchandise in countries other than the United States. Exports of preserved mushrooms to the European Union have been subject to a tariff-rate quota system since 1995. The EU system places an annual limit of 50.2 million pounds on imports from China. This is far smaller than the total quantity of Chinese exports to all sources reported in public data. The aggregate annual quota for imports from all sources other than China, Bulgaria, and Romania – which consequently would include Chile, India, and Indonesia – is 7.3 million pounds.²⁰

After declining immediately after imposition of the orders, the quantity of cumulated subject imports from Chile, China, India, and Indonesia subsequently increased, with a particularly sharp increase occurring between 2002 and 2003. These imports are currently present in the U.S. market in substantial quantities. The subject producers from Chile, China, India, and Indonesia have both the ability and the inclination to increase their exports to the United States significantly if the antidumping orders are revoked. The record indicates that these producers have the ability to increase exports to the United States rapidly – indeed, the market penetration of cumulated subject imports from Chile, China, India, and Indonesia increased by *** percentage points in the single year between 2002 and 2003, notwithstanding that U.S. apparent consumption rose during this year.²¹ Consequently, I find that the likely volume of cumulated subject imports would be significant in absolute terms.²²

B. Likely Price Effects of the Subject Imports

In the original investigations, the Commission found that price was an important factor in purchasing decisions and that cumulated subject imports from Chile, China, India, and Indonesia were at least moderate substitutes for the domestic like product. It found there to be significant underselling by the subject imports, with underselling occurring in 67 of 136 quarterly comparisons, overselling occurring in 67 quarterly comparisons, and the products being priced the same in the remaining two comparisons. It also noted that prices generally declined during the period of investigation. The Commission found that

¹⁷ INV-W-005, Table VII-1; Original Indonesia Determination, USITC Pub. 3158, Table IV-1; CR/PR, Table IV-3.

¹⁸ See Petitioners' Posthearing Brief, ex. 17.

¹⁹ CR at IV-14 n.20, PR at IV-8.

²⁰ CR at IV-5 n.5, PR at IV-4; see also CR/PR, Figure IV-2.

²¹ CR/PR, Table I-5.

²² In my examination of likely import volume, I have also considered inventories of subject merchandise. Available data concerning inventories of subject merchandise in the United States indicate that they are not substantial. CR/PR, Table IV-2. In 2003, inventories of subject merchandise in India were *** the peak level observed during the period of review. CR/PR, Table IV-3. Inventories in Indonesia have been stable during the period of review. CR/PR, Table IV-4. Additionally, most of the equipment used to produce preserved mushrooms cannot easily be converted to produce other products. CR at II-5, PR at II-4. While I do not rely on information concerning inventories or product shifting as a basis for my analysis of likely import volume, I find that this information does not detract from my analysis.

prices declined at a greater rate than cost of goods sold, and concluded that the subject imports had significant price-depressing effects.²³

The importance of price as a factor in purchasing decisions has not changed since the original investigations. All 20 responding purchasers in these reviews indicated that “lowest price” was a “very important” or “somewhat important” purchasing factor.²⁴ Price was the factor purchasers named second most frequently (after quality) as the most important factor in selecting a supplier, and was tied with quality as the most frequently cited factor of second most importance.²⁵ Consequently, I again find that price is an important factor in purchasing decisions for preserved mushrooms.

I also find, as the Commission did in the original investigations, that the cumulated subject imports are at least moderate substitutes with the domestic like product. The Commission observed in the original investigations that purchasers did not perceive significant quality distinctions between the domestic like product and subject imports from Chile, China, India, and Indonesia. The additional information collected during these reviews indicates that all purchasers found subject imports from India and the domestic like product comparable in three quality-related criteria. Majorities of purchasers found subject imports from both China and Indonesia comparable to the domestic like product in two of the quality-related criteria, and a plurality found these products comparable in the remaining criterion.²⁶

Over the period of review, subject imports from Chile, China, India, and Indonesia combined undersold the comparable domestic like product in 100 of 179 possible comparisons (55.9 percent), and instances of underselling generally increased over the period.²⁷ This underselling occurred even though the subject imports were under the restraint of the orders. The frequency of underselling was higher than that found to be significant during the original investigations. Should the price discipline of the orders be removed, the frequency of underselling will likely increase further. I find that if the orders are revoked, underselling by the cumulated subject imports will likely be significant.

Given the substitutability of the products and the importance of price in purchasing decisions, domestic producers must compete on the basis of price with subject imports from Chile, China, India, and Indonesia. I have already concluded that revocation of the orders will likely lead to increasing volumes of cumulated subject imports offered at prices that are frequently below those for the domestic like product. In such circumstances, particularly when demand is anticipated to be stable, domestic producers will be forced either to respond to the import prices or lose market share. Thus, additional quantities of cumulated subject imports will likely contribute materially to a continuation of the declines in prices for the domestic like product observed during the original investigations and latter portion of the period of review.²⁸ Consequently I find that revocation of the orders will likely have significant price-depressing effects for the domestic like product.

C. Likely Impact of Subject Imports

In the original investigations, the Commission found that the cumulated subject imports from Chile, China, India, and Indonesia gained market share at the expense of the domestic industry. There

²³ Original Indonesia Determination, USITC Pub. 3159 at 14-15.

²⁴ CR/PR, Table II-2.

²⁵ CR/PR, Table II-1.

²⁶ CR/PR, Table II-3.

²⁷ The instances of underselling were 51.9 percent in 1999, 50.0 percent in 2000, 42.4 percent in 2001, 60.6 percent in 2002, and 71.9 percent in 2003. CR/PR, Table V-5.

²⁸ Original Indonesia Determination, USITC Pub. 3159 at 14; CR/PR, Tables IV-1-3. Between the first quarter of 1999, when the orders were first announced and the final quarter of 2003, prices for all three U.S. products declined. Prices for product 2, the 68-ounce can, declined *** percent, and prices for products 1 and 3 declined *** percent and *** percent, respectively. CR/PR, Tables V-1-3.

were declines in the domestic industry's production, shipments, capacity utilization, and employment. The combination of declining output and falling prices led to deterioration in the domestic industry's operating performance. Operating margins declined throughout the period of investigation. During 1997, the operating margin had declined to 1.3 percent and at least half of the domestic producers sustained operating losses.²⁹

Cumulated subject imports declined, and prices and net sales values increased, immediately after imposition of the orders in 1999. As a result, the domestic industry showed modest improvements in several indicators of performance, including production, shipments, and operating income.³⁰ Some industry witnesses testified that they perceived improvements in operations immediately after imposition of the orders.³¹ However, during the latter portion of the period of review, cumulated subject import volume increased, prices and unit sales values declined, and the industry's condition deteriorated.

In light of serious deterioration in several industry indicators since 2000, I find the industry's current condition to be vulnerable. Production, whose peak level during the period of review in 2000 was 68.9 million pounds, declined to a period low of 50.2 million pounds in 2003.³² U.S. shipments likewise declined from a period peak of 73.5 million pounds in 1999 to a period low of 47.7 million pounds in 2003.³³ The domestic industry's share of U.S. apparent consumption declined irregularly from its period peak of 40.7 percent in 1999, reaching a period low of 25.4 percent in 2003.³⁴

Two firms closed production facilities after 2000.³⁵ This caused capacity to decline after 2000. Nevertheless, capacity utilization was only 25.1 percent (a period peak) in 2003.³⁶ Employment declined irregularly.³⁷

The domestic industry's last profitable year was 2000, when it had a positive operating margin of 3.2 percent. In 2003, the industry had an operating margin of negative 2.7 percent and three of six producers reported operating losses.³⁸

Based on the above, should the orders be revoked, cumulated subject import volume from Chile, China, India, and Indonesia will likely increase significantly. These subject imports will likely undersell the domestic like product at increasing frequency, and will likely have significant price-depressing effects. In light of their likely volume and price effects if the antidumping duty orders are revoked, cumulated subject imports from Chile, China, India, and Indonesia will likely exacerbate the declines in domestic industry output, employment, and market share observed during the latter portion of the period of review. They will also likely cause the domestic industry's already unprofitable financial performance to deteriorate further. Consequently I find that revoking the antidumping duty orders on preserved mushrooms from Chile, China, India, and Indonesia will likely have a significant adverse effect on the domestic industry.

²⁹ Original Indonesia Determination, USITC Pub. 3159 at 15-16.

³⁰ CR/PR, Tables III-1, III-2, III-6.

³¹ Tr. at 15 (Shelton), 25 (Newhard).

³² CR/PR, Table III-1.

³³ CR/PR, Table III-2. Inventories fluctuated, showing large annual variations. CR/PR, Table III-3.

³⁴ CR/PR, Table I-5.

³⁵ CR at III-2, PR at III-1.

³⁶ CR/PR, Table III-1.

³⁷ CR/PR, Table III-5.

³⁸ CR/PR, Table III-6.

IV. Determination on Indonesia

For my determination on Indonesia, I cumulate subject imports from China, India, and Indonesia.

A. Likely Volume of Subject Imports

The quantity of cumulated subject imports from China, India, and Indonesia declined from 112.3 million pounds in 1995 to 104.0 million pounds in 1996, and then increased to 112.8 million pounds in 1997. The quantity of cumulated subject imports was higher in interim 1998 than in interim 1997. Cumulated subject import market penetration, measured by quantity, increased from 46.8 percent in 1995 to 47.8 percent in 1996, and to 55.2 percent in 1997. Market penetration was higher in interim 1998 than in interim 1997. The Commission found that, in light of their market penetration levels, both the volume and increase in market penetration of cumulated subject imports were significant.³⁹

Cumulated subject import volume from China, India, and Indonesia declined from 87.3 million pounds in 1998 to 61.4 million pounds in 1999 following imposition of the orders. Cumulated subject import volume from China, India, and Indonesia rose to 71.8 million pounds in 2000 and then declined slightly to 71.3 million pounds in 2001. Cumulated subject import volume declined to *** pounds in 2002, the year that the order was revoked with respect to Indonesian producer P.T. Zeta Agro. From 2002 to 2003, however, cumulated subject import volume from China, India, and Indonesia rose sharply. The *** million pounds of cumulated subject imports from China, India, and Indonesia in 2003 was *** the 1998 quantity, notwithstanding the imposition of the orders, and the revocation of the order with respect to P.T. Zeta Agro, the largest Indonesian supplier.⁴⁰ These imports had a *** percent share of U.S. apparent consumption in 2003.⁴¹

The increases in cumulated subject imports from China, India, and Indonesia observed during the period of review indicate that subject producers in these countries have the capability to increase their exports to the United States. Other information in the record also supports this conclusion. Public data indicate that China's exports of canned mushrooms to all sources have increased since 1999 notwithstanding the issuance of the order. The 501.8 million pounds of canned mushrooms Chinese producers exported to all sources in 2002 far exceeds the maximum capacity of 183.8 million pounds that Chinese producers reported to the Commission during the original period of investigation. Indeed, the increase in exports to all sources from 1999 to 2002 is by itself 160.7 million pounds.⁴² I infer from these data, as well as data from the original investigations that indicated moderate to high capacity utilization in China, that production capacity in China increased appreciably during the period of review. Clearly, current capacity in China is far greater than the capacity reported to the Commission during the original investigations.⁴³

Indian producers that responded to the Commission questionnaire reported that their capacity increased throughout the period of review, rising from *** pounds in 1998 to *** pounds in 2003. Indian

³⁹ Original Determination, USITC Pub. 3159 at 18.

⁴⁰ CR/PR, Table IV-1. I also note that the volume trends for the cumulated imports from producers that remain subject to the orders would show a *** over the comparable volume of imports in 1998.

⁴¹ CR/PR, Table I-5.

⁴² Compare CR/PR, Figure IV-2 with id., Table IV-2, and Original Indonesia Determination, USITC Pub. 3158, Table VII-2.

⁴³ I note that domestic producer *** asserts that there are additional processors of preserved mushrooms in China that could produce 200 to 600 million pounds of mushrooms annually for export to the United States upon revocation of the order. CR at IV-7, PR at IV-5-6.

producers' reported unused capacity in 2003 was *** of the quantity of subject imports from India in that year.⁴⁴

Indonesian producers that responded to the Commission's questionnaire, and that remain subject to the orders, reported that capacity declined from *** million pounds in 1998 to *** million pounds in 2003, as ***. However, the *** producers in Indonesia reported that their capacity to produce the subject product increased in 2004,⁴⁵ and projected an increase to *** million pounds in 2005 and 2006.⁴⁶

Several factors support my conclusion that should the antidumping duty orders be revoked, subject producers in China, India, and Indonesia will likely utilize their increased or unused capacity to direct a significant quantity of additional exports to the United States. First, the subject producers are export-oriented. Producers in China did not direct a large percentage of their shipments to the home market during the original investigations (the most recent period for which data are available for these producers) and producers in India and Indonesia *** during the period of review.⁴⁷ The United States is the principal export market for producers in India and Indonesia, and was a significant export market for China during the original period of investigation.⁴⁸ The attractiveness of the U.S. market to exporters is also indicated by the numerous "new shipper" reviews instituted by Chinese exporters during the period of review.⁴⁹ Moreover, the subject Indonesian producers themselves project that their exports to the United States will increase by *** pounds from 2003 to 2004, and by another *** pounds from 2004 to 2005.⁵⁰

An additional factor that makes the United States an attractive export market for producers in the subject countries is the existence of barriers to importation of the subject merchandise in countries other than the United States. Exports of preserved mushrooms to the European Union have been subject to a tariff-rate quota system since 1995. The EU system places an annual limit of 50.2 million pounds on imports from China. This is far smaller than the total quantity of Chinese exports to all sources reported in public data. The aggregate annual quota for imports from all sources other than China, Bulgaria, and Romania – which consequently would include India and Indonesia – is 7.3 million pounds.⁵¹

After declining immediately after imposition of the orders, the quantity of cumulated subject imports from China, India, and Indonesia subsequently increased, with a particularly sharp increase occurring between 2002 and 2003. These imports are currently present in the U.S. market in substantial quantities. The subject producers from China, India, and Indonesia have both the ability and the inclination to increase their exports to the United States significantly if the antidumping orders are revoked. The record indicates that these producers have the ability to increase exports to the United States rapidly – indeed, the market penetration of cumulated subject imports from China, India, and Indonesia increased by *** percentage points in the single year between 2002 and 2003, notwithstanding that U.S. apparent consumption rose during this year.⁵² Consequently I find that the likely volume of cumulated subject imports would be significant in absolute terms.⁵³

⁴⁴ CR/PR, Tables IV-1, IV-3.

⁴⁵ CR, pages IV-15 and 16, PR, pages IV-9-10.

⁴⁶ CR, page IV-14, PR, page IV-8.

⁴⁷ Original Indonesia Determination, USITC Pub. 3158, Table IV-1; CR/PR, Table IV-3.

⁴⁸ Original Indonesia Determination, USITC Pub. 3158, Table IV-1; CR/PR, Table IV-3.

⁴⁹ See Petitioners' Posthearing Brief, ex. 17.

⁵⁰ CR at IV-14 n.20, PR at IV-8.

⁵¹ CR at IV-5 n.5, PR at IV-4; see also CR/PR, Figure IV-2.

⁵² CR/PR, Table I-5.

⁵³ In my examination of likely import volume, I have also considered inventories of subject merchandise. Available data concerning inventories of subject merchandise in the United States indicate that they are not substantial. CR/PR, Table IV-2. In 2003, inventories of subject merchandise in India were *** the peak level

B. Likely Price Effects of the Subject Imports

In the original investigations, the Commission found that price was an important factor in purchasing decisions and that cumulated subject imports from China, India, and Indonesia were at least moderate substitutes for the domestic like product. It found there to be significant underselling by the subject imports, with underselling occurring in 61 of 118 quarterly comparisons. It also noted that prices generally declined during the period of investigation. The Commission found that prices declined at a greater rate than cost of goods sold, and concluded that the subject imports had significant price-depressing effects.⁵⁴

The importance of price as a factor in purchasing decisions has not changed since the original investigations. All 20 responding purchasers in these reviews indicated that “lowest price” was a “very important” or “somewhat important” purchasing factor.⁵⁵ Price was the factor purchasers named second most frequently (after quality) as the most important factor in selecting a supplier, and was tied with quality as the most frequently cited factor of second most importance.⁵⁶ Consequently, I again find that price is an important factor in purchasing decisions for preserved mushrooms.

I also find, as the Commission did in the original investigations, that the cumulated subject imports are at least moderate substitutes with the domestic like product. The Commission observed in the original investigations that purchasers did not perceive significant quality distinctions between the domestic like product and subject imports from China, India, and Indonesia. The additional information collected during these reviews indicates that all purchasers found subject imports from India and the domestic like product comparable in three quality-related criteria. Majorities of purchasers found subject imports from both China and Indonesia comparable to the domestic like product in two of the quality-related criteria, and a plurality found these products comparable in the remaining criterion.⁵⁷

Over the period of review, subject imports from China, India, and Indonesia combined undersold the comparable domestic like product in 100 of 179 possible comparisons (55.9 percent), and instances of underselling generally increased over the period.⁵⁸ This underselling occurred even though the subject imports were under the restraint of the orders. The frequency of underselling was higher than that found to be significant during the original investigations. Should the price discipline of the orders be removed, the frequency of underselling will likely increase further. I find that if the orders are revoked, underselling by the cumulated subject imports will likely be significant.

Given the substitutability of the products and the importance of price in purchasing decisions, domestic producers must compete on the basis of price with subject imports from China, India, and Indonesia. I have already concluded that revocation of the orders will likely lead to increasing volumes of cumulated subject imports offered at prices that are frequently below those for the domestic like product. In such circumstances, particularly when demand is anticipated to be stable, domestic producers will be forced either to respond to the prices of the imports or lose market share. Thus, additional quantities of cumulated subject imports will likely contribute materially to a continuation of the declines

observed during the period of review. CR/PR, Table IV-3. Inventories in Indonesia have been stable during the period of review. CR/PR, Table IV-4. Additionally, most of the equipment used by U.S. producers to produce preserved mushrooms cannot easily be converted to produce other products. CR at II-5, PR at II-4. While I do not rely on information concerning inventories or product shifting as a basis for my analysis of likely import volume, I find that this information does not detract from my analysis.

⁵⁴ Original Indonesia Determination, USITC Pub. 3159 at 19.

⁵⁵ CR/PR, Table II-2.

⁵⁶ CR/PR, Table II-1.

⁵⁷ CR/PR, Table II-3.

⁵⁸ The instances of underselling were 51.9 percent in 1999, 50.0 percent in 2000, 42.4 percent in 2001, 60.6 percent in 2002, and 71.9 percent in 2003. CR/PR, Table V-5.

in prices for the domestic like product observed during the original investigations and the latter portion of the period of review.⁵⁹ Consequently I find that revocation of the orders will likely have significant price-depressing effects for the domestic like product.

C. Likely Impact of Subject Imports

In the original investigations, the Commission found that the cumulated subject imports from China, India, and Indonesia gained market share at the expense of the domestic industry. There were declines in the domestic industry's production, shipments, capacity utilization, and employment. The combination of declining output and falling prices led to deterioration in the domestic industry's operating performance. Operating margins declined throughout the period of investigation. During 1997, the operating margin had declined to 1.3 percent and at least half of the domestic producers sustained operating losses.⁶⁰

Cumulated subject imports declined, and prices and net sales values increased, immediately after imposition of the orders in 1999. As a result, the domestic industry showed modest improvements in several indicators of performance, including production, shipments, and operating income.⁶¹ Some industry witnesses testified that they perceived improvements in operations immediately after imposition of the orders.⁶² However, during the latter portion of the period of review, cumulated subject import volume increased, prices and unit sales values declined, and the industry's condition deteriorated.

In light of serious deterioration in several industry indicators since 2000, I find the industry's current condition to be vulnerable. Production, whose peak level during the period of review in 2000 was 68.9 million pounds, declined to a period low of 50.2 million pounds in 2003.⁶³ U.S. shipments likewise declined from a period peak of 73.5 million pounds in 1999 to a period low of 47.7 million pounds in 2003.⁶⁴ The domestic industry's share of U.S. apparent consumption declined irregularly from its period peak of 40.7 percent in 1999, reaching a period low of 25.4 percent in 2003.⁶⁵

Two firms closed production facilities after 2000.⁶⁶ This caused capacity to decline after 2000. Nevertheless, capacity utilization was only 25.1 percent (a period peak) in 2003.⁶⁷ Employment declined irregularly.⁶⁸

The domestic industry's last profitable year was 2000, when it had a positive operating margin of 3.2 percent. In 2003, the industry had an operating margin of negative 2.7 percent and three of six producers reported operating losses.⁶⁹

⁵⁹ Original Indonesia Determination, USITC Pub. 3159 at 19; CR/PR, Tables IV-1-3. Between the first quarter of 1999, when the orders were first announced and the final quarter of 2003, prices for all three U.S. products declined. Prices for product 2, the 68-ounce can, declined *** percent, and prices for products 1 and 3 declined *** percent and *** percent, respectively. CR/PR, Tables V-1-3.

⁶⁰ Original Indonesia Determination, USITC Pub. 3159 at 21.

⁶¹ CR/PR, Tables III-1, III-2, III-6.

⁶² Tr. at 15 (Shelton), 25 (Newhard).

⁶³ CR/PR, Table III-1.

⁶⁴ CR/PR, Table III-2. Inventories fluctuated, showing large annual variations. CR/PR, Table III-3.

⁶⁵ CR/PR, Table I-5.

⁶⁶ CR at III-2, PR at III-1.

⁶⁷ CR/PR, Table III-1.

⁶⁸ CR/PR, Table III-5.

⁶⁹ CR/PR, Table III-6.

Based on the above, should the orders be revoked, cumulated subject import volume from China, India, and Indonesia will likely increase significantly. These subject imports will likely undersell the domestic like product at increasing frequency, and will likely have significant price-depressing effects. In light of their likely volume and price effects upon revocation of the antidumping duty orders, cumulated subject imports from China, India, and Indonesia will likely exacerbate the declines in domestic industry output, employment, and market share observed during the latter portion of the period of review. They will also likely cause the domestic industry's already unprofitable financial performance to deteriorate further. Consequently I find that revoking the antidumping duty orders on preserved mushrooms from China, India, and Indonesia will likely have a significant adverse effect on the domestic industry.

SEPARATE AND CONCURRING VIEWS OF COMMISSIONER LANE

Section 751(d)(2) of the Tariff Act of 1930, as amended (“the Act”), requires that the U.S. Department of Commerce (“Commerce”) revoke a countervailing duty or an antidumping duty finding in a five-year (“sunset”) review unless Commerce determines that dumping or a countervailable subsidy would be likely to continue or recur and the U.S. International Trade Commission (“Commission”) determines that material injury to a U.S. industry would be likely to continue or recur within a reasonably foreseeable time.¹ Based on the record in these five-year reviews, I determine that material injury is likely to continue or recur within a reasonably foreseeable time if the orders on subject imports of certain preserved mushrooms from Chile, China, India, and Indonesia are revoked.

I join in the discussion found in Sections I and II of the majority opinion. However, I do not reach the same conclusion as my colleagues with regard to cumulation of subject imports. In these reviews, I have determined to cumulate subject imports from Chile, China, India and Indonesia. I have done so because the record indicates that subject imports from these countries compete or would compete with one another and with the domestic like product. In contrast to the original investigations, and contrary to the determination of my colleagues in these five-year reviews, I determine that subject imports from Indonesia do compete, or are likely to compete, with imports from China, India and Chile.

CUMULATION

With regard to the “Framework” of the provisions of the Act and Commission determinations with regard to cumulation, I join in the discussion of my colleagues in Section III.A. of the majority opinion. Likewise, with regard to the “Likelihood of No Discernible Adverse Impact,” I join in the discussion in Section III.B. of the majority opinion. Indeed, the majority found that in the case of India, China, Chile and Indonesia, subject imports would not be likely have no discernible adverse impact on the domestic industry if the orders were revoked. I concur with that decision.

I disagree with the majority opinion regarding reasonable overlap of competition and cumulation. I find that subject imports from China, India, Chile and Indonesia should be cumulated.

The Commission generally examines four factors in determining whether there will be a likely reasonable overlap of competition. These factors are fungibility, geographic overlap, channels of distribution, and simultaneous presence in the market. In addition to these factors, the Commission also determines in five-year reviews whether there are any other considerations that would lead them to exercise their discretion to cumulate subject imports from one or more countries. Although a majority of my colleagues have exercised their discretion not to cumulate that subject imports from Indonesia with imports from any other subject countries, I have exercised my discretion differently.

Both the original investigations and the majority opinion in this review found the fungibility factor for cumulation to be satisfied. I concur with the discussion of my colleagues regarding fungibility. Likewise, I concur with the discussion of my colleagues in the majority View of the Commission regarding geographic overlap and likely simultaneous presence. These factors are also satisfied for purposes of cumulation of subject imports.

With respect to channels of distribution, I concur with my colleagues to the extent they determine that these factors support cumulation of subject imports from Chile, China and India. However, I believe that the evidence also supports cumulation of Indonesia with Chile, China and India.

I find that information submitted by the Coalition For Fair Preserved Mushroom Trade (“the Coalition”) indicating that the sole Chilean producer of preserved mushrooms now produces four and eight ounce cans typically sold in the retail channel of distribution, and markets such cans in the Mexican

¹ 119 U.S.C. § 1675(d)(2).

retail market² to be sufficient to determine that the Chilean producer is likely to enter the U.S. retail channel of distribution if the antidumping order is revoked. The lack of information regarding an existing retail distribution network within the United States for subject imports from Chile does not dissuade me from this conclusion. I believe that distribution through existing marketers and wholesalers in the United States is a reasonable expectation for subject imports from Chile if the antidumping order is revoked. Therefore, I find that it is likely that subject imports from Chile will enter the U.S. retail channel of distribution should the antidumping order be revoked.

I also find, as the Coalition maintains, that not all the Indonesian product sold in the retail channel of distribution is sold in sizes typically used by home consumers. During the period of review, between 3.3 and 13.7 percent of annual imports from Indonesia were in cans above 255 grams.³ The General Mills witness testified at the hearing that Indonesian products in this size (68-ounce cans) are sold in the retail channel through club stores such as Costco, and that purchasers such as small restaurants may purchase such products at such stores rather than from food service distributors. Consequently, the Indonesian product sold through the retail channel of distribution will compete for the same customers with product from other sources sold through the food service channel of distribution. I find this fact a sufficient basis to conclude that subject imports from Indonesia would have a substantial presence in the food service channel of distribution should the Orders be revoked.

For these reasons, I find that the conclusions the Commission reached in the original investigations concerning reasonable overlap of competition of subject imports from Chile and Indonesia do not control the issue of likely overlap of competition in these five-year reviews. Accordingly, with respect to subject imports from Chile and Indonesia, I find that there is a likely overlap of competition with the domestic like product and also with subject imports from not only with China and India, but also with each other.

With regard to “Other Considerations,” unlike my colleagues, I find that there are not significant differences in current and likely conditions of competition between subject imports from Chile, China, India or Indonesia. Consequently, I have exercised my discretion to cumulate subject imports from Chile, China, India and Indonesia.

LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY IF THE ANTIDUMPING ORDERS ARE REVOKED

I join the majority opinion regarding the standard in a five year review and the majority’s discussion on the Conditions of Competition. Furthermore, I concur with and join the majority views with regard to excluding the data submitted by General Mills with regard to pricing products 1 and 3. However, due to my decision to cumulate subject imports from India, China, Chile and Indonesia, I shall consider the likelihood of material injury based on cumulated data that includes subject imports from all four countries.

1. Likely Volume of Subject Imports for Chile, China, India and Indonesia

The quantity of cumulated subject imports from Chile, China, India and Indonesia declined from 122.95 million pounds in 1995 to 111.12 million pounds in 1996, and then increased to 118.28 million pounds in 1997. The quantity of cumulated subject imports was higher in interim 1998 than in interim 1997. Cumulated subject import market penetration, measured by quantity, increased irregularly from 51.2 percent in 1995 to 57.9 percent in 1997, and was higher in interim 1998 than in interim 1997. The

² Coalition Posthearing Brief, ex. 2.

³ CR/PR, Table F-2.

Commission found that, in light of their market penetration levels, both the volume and increase in market penetration of cumulated subject imports were significant.⁴

Cumulated subject import volume from Chile, China, India and Indonesia declined from 93.786 million pounds in 1998 to 61.439 million pounds in 1999 following imposition of the orders. Cumulated subject import volume from Chile, China, India and Indonesia declined slightly in 2001, declined significantly in 2002 (reflecting the revocation of the Order regarding PT Zeta Agro), and then increased sharply in 2003. These imports had a *** percent share of U.S. apparent consumption in 2003.⁵

Subject producers China, India, Chile and Indonesia have the capability to increase their exports to the United States. The record compiled in the original investigations indicated that the Chilean producer had *** capacity utilization, and shipped *** proportion of its shipments to the home market.⁶ Notwithstanding that this producer is export oriented, public data indicate that Chilean exports of canned mushrooms to all sources were considerably lower during the period of review than they were prior to the issuance of the antidumping order.⁷ Thus, the information available suggests that the Chilean producer is likely to have at least the amount of unused capacity it had during the original investigations.

Public data indicate that China's exports of canned mushrooms to all sources have increased since 1999 notwithstanding the issuance of the order. The 501.8 million pounds of canned mushrooms Chinese producers exported to all sources in 2002 far exceeds the maximum capacity of 183.8 million pounds that Chinese producers reported to the Commission during the original period of investigation. Indeed, the increase in exports to all sources from 1999 to 2002 is by itself 160.8 million pounds.⁸ We infer from these data, as well as data from the original investigations indicating moderate to high capacity utilization in China, that production capacity in China increased appreciably during the period of review. In any event, current capacity in China is far greater than the capacity reported to the Commission during the original investigations.⁹

Indian producers that responded to the Commission questionnaire reported that their capacity increased throughout the period of review, rising from *** pounds in 1998 to *** pounds in 2003. Indian producers reported unused capacity in 2003 was *** of the quantity of 2003 subject imports from India.¹⁰

Questionnaire data indicate that two Indonesian producers, ***, will increase their capacity by *** pounds between 2003 and 2004, and that these producers' capacity will remain at the 2004 level in 2005 and 2006.¹¹ Even assuming *arguendo* that the two Indonesian producers, PT Dieng and PT Indo, which suspended production of preserved mushrooms in 2003, will not produce mushrooms, and will have zero capacity in 2004, the capacity increases projected by *** will still result in a *** pound capacity increase for subject Indonesian producers from 2003 to 2004.¹² The Indonesian producers

⁴ Original Indonesia Determination, USITC Pub. 3159 at 12-13.

⁵ CR/PR, Table I-5.

⁶ INV-W-005, Table VII-1 (Jan. 20, 1999).

⁷ CR/PR, Figure IV-1.

⁸ Compare CR/PR, Figure IV-2 with id., Table IV-2, and Original Indonesia Determination, USITC Pub.3158, Table VII-2.

⁹ We note that domestic producer *** asserts that there are additional processors of preserved mushrooms in China that could produce 200 to 600 million pounds of mushrooms annually for export to the United States upon revocation of the order. CR at IV-7, PR at IV-5-6.

¹⁰ CR/PR, Tables IV-1, IV-3.

¹¹ Indonesian Respondents Posthearing Brief at 10.

¹² CR at IV-14-16, PR at IV-9-10; Compare Indonesian Respondents Posthearing Brief at 10 with CR/PR, Table IV-4.

themselves acknowledge that some of this increased capacity will be used to increase export shipments to the United States. They project that their exports will increase by *** pounds from 2003 to 2004, and by another *** pounds from 2004 to 2005.¹³

Several factors support a conclusion that subject producers in Chile, China, India and Indonesia will likely utilize their increased or unused capacity to direct significant quantity of additional exports to the United States should the antidumping duty orders be revoked. First, the subject producers are export-oriented. Producers in Chile and China did not direct a large percentage of their shipments to the home market during the original investigations (the most recent period for which data are available for these producers) and producers in India and Indonesia have not done so during the period of review.¹⁴ The United States is India's and Indonesia's principal export market, as was Chile's principal export market during the original period of investigation, and was a significant export market for China during the original period of investigation.¹⁵

An additional factor that makes the United States an attractive export market for producers in the subject countries is the existence of barriers to importation to the subject merchandise in countries other than the United States. Exports of preserved mushrooms to the European Union have been subject to a tariff-rate quota system since 1995. The EU system places an annual limit of 50.2 million pounds of imports from China. This is far smaller than the total quantity of Chinese exports to all sources reported in public data. The aggregate annual quota for imports from all sources other than China, Bulgaria, and Romania which consequently would include Chile, India and Indonesia is 7.3 million pounds.¹⁶

After declining immediately after imposition of the orders, the quantity of cumulated subject imports from Chile, China, India and Indonesia increased sharply during the corresponding portion of the period of review. These imports are currently present in the U.S. market in substantial quantities. This sharp increase in quantity caused a corresponding increase in market penetration in 2002 and 2003. Taking this and the fact that the subject producers from Chile, China, India and Indonesia have both the ability and the inclination to increase their exports to the United States significantly upon revocation of the antidumping orders, I find that the likely volume of cumulated subject imports would be significant in absolute terms.¹⁷

2. Likely Price Effects of the Subject Imports

The importance of price as a factor in purchasing decisions has not changed since the original investigations. All 20 responding purchasers in these reviews indicated that lowest price was a very important or a somewhat important purchasing factor.¹⁸ Price was the factor purchasers named second most frequently (after quality) as the most important factor in selecting a supplier, and tied with quality as

¹³ CR at IV-14 n.20, PR at IV-8 n.20.

¹⁴ INV-W-005, Table VII-1; Original Indonesia Determination, USITC Pub. 3158, Table IV-1; CR/PR, Tables IV-3, IV-4.

¹⁵ INV-W-005, Table VII-1; Original Indonesia Determination, USITC Pub. 3158, Table IV-1; CR/PR, Table IV-3.

¹⁶ CR at IV-5 n.5, PR at IV-; see also CR/PR, Figure IV-2.

¹⁷ In my examination of likely import volume, I have also considered inventories of subject merchandise. Available data concerning inventories in the United States and the subject countries indicate that they are not substantial. CR/PR, Tables IV-2, IV-3. Additionally, most of the equipment used to produce preserved mushrooms cannot easily be converted to produce other products. CR at II-5, PR at II-4. While I do not rely on information concerning inventories or product shifting as a basis for my analysis of likely import volume, I find that this information does not detract from my analysis.

¹⁸ CR/PR, Table II-2.

the most frequently cited as the factor of second most importance.¹⁹ Consequently, I find that price is an important factor in purchasing decisions for preserved mushrooms.

I also find, as the Commission found in the original investigations, that the cumulated subject imports are at least moderate substitutes with the domestic like product. In the original investigations the purchasers did not perceive significant quality distinctions between the domestic like product and subject imports from Chile, China, India and Indonesia. The most recent information available on this issue concerning subject imports from Chile continues to be that from the original investigations.²⁰ The additional information collected during these reviews indicates that all purchasers found subject imports from India and the domestic like product comparable in three quality-related criteria. Majorities of purchasers found subject imports from both China and Indonesia and the domestic like product comparable in two of the quality-related criteria, and a plurality found these products comparable in the remaining criterion.²¹

Even with the orders in place, cumulated subject imports undersold the domestic like product in nearly 60 percent of quarterly comparisons.²² This is a higher frequency of underselling than that found to be significant during the original investigations.²³ Should the price discipline of the orders be removed, the frequency of underselling will likely increase further. I find that if the orders are revoked, underselling by the cumulated subject imports will likely be significant.

Given the substitutability of the products and the importance of price in purchasing decisions, domestic producers must compete on the basis of price with subject imports from Chile, China, India and Indonesia. I have already concluded that revocation of the orders will likely lead to increasing volumes of cumulated subject imports offered at prices that are frequently below those for the domestic like product. In such circumstances, particularly when demand is anticipated to be stable, domestic producers will be forced either to respond to the import's prices or to lose market share. Thus, additional quantities of cumulated subject imports will likely contribute materially to a continuation of the declines in prices for the domestic like product observed during the original investigations and the latter portion of the period of review. Accordingly, I find that revocation of the orders will likely have significant price-depressing effects for the domestic like product.

3. Likely Impact of Subject Imports

In the original investigations, the Commission found that the cumulated subject imports from Chile, China, India and Indonesia gained market share at the expense of the domestic industry. There were declines in the domestic industry's production, shipments, capacity utilization, and employment. The combination of declining output and falling prices led to deterioration in the domestic industry's operating performance. Operating margins declined throughout the period of investigation. During 1997, the operating margin had declined to 1.3 percent and at least half of the domestic producers sustained operating losses.²⁴

¹⁹ CR/PR, Table II-1.

²⁰ Original Chile Determination, USITC Pub. 3144 at 18.

²¹ CR/PR, Table II-3.

²² For the reasons provided in section IV.D.2. of the majority opinion, Commissioner Lane has not included in the pricing database information General Mills submitted concerning pricing products 1. *** cumulated subject imports undersold the domestic like product in *** of 179 quarterly comparisons during the period of review. However, *** cumulated subject imports still undersold the domestic like product in *** of 179 quarterly comparisons. CR/PR, Table V-5.

²³ Compare Original Indonesia Determination, USITC Pub. 3159 at 13-15.

²⁴ Original Indonesia Determination, USITC Pub. 3159 at 15-16.

Cumulated subject imports declined, and prices and net sales values increased, immediately after imposition of the orders in 1999. As a result, the domestic industry showed modest improvements in several indicators of performance, including production, shipments, and operating income.²⁵ Some industry witnesses testified that they perceived improvements in operations immediately after imposition of the orders.²⁶ During the latter portion of the period of review, however, cumulated subject import volume increased, prices and unit sales values declined, and the industry's condition deteriorated.

In light of serious deterioration in several industry indicators since 2000, I find the industry's current condition to be vulnerable. Production, whose peak level during the period of review in 2000 was 68.9 million pounds, declined to a period low of 50.2 million pounds in 2003.²⁷ U.S. shipments likewise declined from a period peak of 73.5 million pounds in 1999 to a period low of 47.7 million pounds in 2003.²⁸ The domestic industry's share of U.S. apparent consumption declined irregularly from its period peak of 40.7 percent in 1999, reaching a period low of 25.4 percent in 2003.²⁹ Two firms closed production facilities after 2000.³⁰ This caused capacity to decline after 2000. Nevertheless, capacity utilization was only 25.1 percent (a period peak) in 2003.³¹ Employment declined irregularly.³² The domestic industry's last profitable year was 2000, when it had a positive operating margin of 3.2 percent. In 2003, the industry had an operating margin of negative 2.7 percent and three of six producers reported operating losses.³³

For the reasons discussed above, should the orders be revoked, cumulated subject import volume from Chile, China, India and Indonesia will likely increase significantly. These subject imports will likely undersell the domestic like product at increasing frequency, and will likely have significant price-depressing effects. In light of their likely volume and price effects upon revocation of the antidumping duty orders, cumulated subject imports from Chile, China, India and Indonesia will likely exacerbate the declines in domestic industry output, employment, and market share observed during the latter portion of the period of review. They will also likely cause the domestic industry's already unprofitable financial performance to deteriorate further. Consequently, I find that revoking the antidumping duty orders on preserved mushrooms from Chile, China, India and Indonesia will likely have a significant adverse effect on the domestic industry.

Conclusion

For the foregoing reasons, I determine that the subject countries, India, China, Chile and Indonesia should be cumulated for the purposes of these reviews and that revocation of the antidumping duty orders on preserved mushrooms from these countries would be likely to lead to a continuation or recurrence of material injury to an industry in the United States in a reasonably foreseeable time.

²⁵ CR/PR, Tables III-1, III-2, III-6.

²⁶ Tr. at 15 (Shelton), 25 (Newhard).

²⁷ CR/PR, Table III-1. Tr. at 15 (Shelton), 25 (Newhard).

²⁸ CR/PR, Table III-2. Inventories fluctuated, showing large annual variations. CR/PR, Table III-3.

²⁹ CR/PR, Table I-5.

³⁰ CR at III-2, PR at III-1.

³¹ CR/PR, Table III-1. See also CR/PR at III-1 n.2 (describing possible producer-specific reasons for low capacity utilization).

³² CR/PR, Table III-5.

³³ CR/PR, Table III-6.

**ADDITIONAL AND DISSENTING VIEWS OF
COMMISSIONER DANIEL R. PEARSON**

I. Introduction

Section 751(d)(2) of the Tariff Act of 1930, as amended (“the Act”), requires that the U.S. Department of Commerce (“Commerce”) revoke a countervailing duty or an antidumping duty finding in a five-year (“sunset”) review unless Commerce determines that dumping or a countervailable subsidy would be likely to continue or recur and the U.S. International Trade Commission (“Commission”) determines that material injury to a U.S. industry would be likely to continue or recur within a reasonably foreseeable time.¹ Based on the record in this first five-year review, I determine that material injury is not likely to continue or recur within a reasonably foreseeable time if the order on subject imports of certain preserved mushrooms from Indonesia is revoked.

I join my colleagues’ discussion regarding domestic like product, domestic industry, and conditions of competition (sections I, II, and IV.B), and I join my colleagues’ determination regarding the likelihood of the recurrence or continuation of material injury if the orders on Chile, China, and India were revoked (section IV.C). In these reviews, I have exercised my discretion to cumulate subject imports from Chile, China, and India for the reasons stated in the Views of the Commission. I have, however, opted to exercise my discretion to not cumulate subject imports from China and India with those from Indonesia in order to make my determination as to whether a continuation or recurrence of material injury is likely if the order on Indonesia were revoked.

II. Likelihood of continuation or recurrence of material injury if the order on Indonesia were revoked

A. Cumulation

I have opted to exercise my discretion and do not cumulate subject imports from Indonesia with those of the other countries subject to this review for purposes of my determination regarding Indonesia. I agree with my colleagues that it is not likely that subject imports from any of the four countries would have no discernible adverse impact upon revocation, and I agree with my colleagues that a reasonable overlap of competition among subject imports from Indonesia, China, and India is likely upon revocation (sections III.A-C).

The industry in Indonesia is distinguished from those in China and India by differences in its capacity, as the industry in Indonesia is significantly smaller than in the original investigation, while those in China and India appear to have grown significantly.² The industry in Indonesia is also distinguishable in that one significant producer, PT Zeta Agro, succeeded in having the order as to its imports revoked in February 2002.³

I find that other factors also distinguish the industry in Indonesia from those in China and India, and those factors indicate that, upon revocation, subject imports from Indonesia would face different conditions of competition. The imposition of the orders had diverse effects on subject imports. Subject imports from China were essentially barred from the U.S. market at first, but then increased at impressive

¹ 19 U.S.C. § 1675(d)(2).

² Final Staff Report, confidential version (CR) at Figure IV-2, Tables IV-3 and IV-4; public version (PR) at Figure IV-2, Tables IV-3 and IV-4.

³ CR at I-14, PR at I-12.

rates. Subject imports from China more than doubled between 2000 and 2001, going from 8.3 million pounds to 19.4 million pounds, and more than doubled again between 2002 and 2003, rising from 20.6 million pounds to 48.1 million pounds. In the year that the orders were imposed, subject imports from India ballooned, increasing from 12.6 million pounds in 1998 to 32.0 million pounds in 1999. The volume of subject imports from India slackened somewhat after 1999, but in 2003 the volume of subject imports from India was still four-and-a-half times higher than it had been in 1995.⁴

The imposition of the orders also brought significant changes, and instability, to the channels of distribution for subject imports from China and India. In the original investigation, subject imports from China were concentrated in the food service sector, but a significant share of imports went to the retail market. For subject imports from India, the opposite was true, with a majority going to retail but a significant minority sold into the food service sector.⁵ In the years since the orders were imposed, however, there has been no stability in channels of distribution for subject imports from China and India. In 1999, *** percent of subject imports from China were reported as sold to the food service sector; in 2003, *** percent of subject imports from China were reported as sold to the retail sector. For subject imports from India, *** percent of subject imports in 1999 were reported as sold to the food service sector, but by 2003, that sector accounted for *** percent, while the retail market accounted for *** percent.⁶

The imposition of the order had a very different effect on subject imports from Indonesia. During the period of the original investigation, the volume of subject imports from Indonesia had increased somewhat. In the years immediately following the imposition of the order, subject import volume remained relatively steady and within 10 percent of the levels reached during the period of the original investigation. In more recent years, subject import volume has declined, but total imports from Indonesia, including subject and nonsubject imports, have been extremely stable, hovering around 22 million pounds in each of the last three years.⁷ Subject import volume from Indonesia remained steady between 1999 and 2000 despite a 10-percent increase in apparent domestic consumption, and remained steady between 2002 and 2003, despite an 8.5 percent increase in apparent domestic consumption. Subject imports from Indonesia gained no market share throughout the period of review despite having consistently low margins. When the order as to one major exporter, PT Zeta Agro, was revoked, its shipments to the U.S. remained relatively flat, and total imports from Indonesia were flat.⁸

A similar stability prevailed in the channels of distribution for subject imports from Indonesia. During the period of the original investigation, just over *** percent of its shipments went to the retail sector, with the remainder going to the food service sector.⁹ In the years since the order was imposed, subject imports from Indonesia remained highly concentrated in that same channel of distribution.¹⁰

During the original investigation, subject imports from Indonesia undersold the domestic like product less frequently than did other subject imports. That trend continued during the post-order period. Subject imports from China and India undersold the domestic like product in approximately two-thirds of the quarterly comparisons; subject imports from Indonesia undersold the domestic like product in less

⁴ CR/PR at Table I-1.

⁵ INV-W-005 (January 20, 1999) at Table I-1.

⁶ CR/PR at Table F-1.

⁷ CR/PR at Table C-1.

⁸ CR/PR at Table C-1.

⁹ INV-W-005 (January 20, 1999) at Table I-2.

¹⁰ CR/PR at Table F-1.

than half of the quarterly comparisons, and at times oversold ***.¹¹

Subject imports from Indonesia have been relatively stable in both volume and pricing patterns, and subject import volume in particular has not been responsive to shifts in overall apparent domestic consumption, shifts in the volume of other subject imports, or changes in its own margins.¹² Subject imports from China and India appear to have been significantly affected by the imposition of the orders, and as a result both volume and channels of distribution have been unpredictable and apparently opportunistic.

These differences in trends suggest that subject imports from Indonesia have entered the U.S. market under different conditions of competition than have the other subject imports. Nothing in the record suggests that these differences are likely to be removed upon revocation. Therefore cumulating subject imports from Indonesia with those from China or India would obscure important differences between those subject imports and the likely effects upon revocation. I therefore exercise my discretion and decline to cumulate subject imports from Indonesia with those from China and India.

B. Conditions of competition

I adopt the conditions of competition as discussed by my colleagues in section IV.B of the Views of the Commission above. I find two additional conditions of competition to be relevant to my consideration of the likely effects of revocation of the order on Indonesia.

The industry in Indonesia is focused on producing preserved mushrooms, predominantly for the U.S. market. The supply of mushrooms available for the production of preserved mushrooms in Indonesia is therefore not dependent on demand for fresh mushrooms or the share of mushrooms that cannot meet the requirements of the market for fresh mushrooms.¹³ The industry in Indonesia has historically operated at far higher capacity utilization rates than has the domestic industry.¹⁴

One importer, General Mills, has consistently accounted for a significant share of all imports of preserved mushrooms from Indonesia. The share has varied from *** percent in 2002 to *** percent in 2001. In 2003, General Mills accounted for *** percent of subject imports and *** percent of total imports from Indonesia. General Mills' imports have included preserved mushrooms in both small and large containers, in stems and pieces and in sliced whole mushrooms. However, General Mills' imports primarily have consisted of branded products that sell for a premium in the retail market.¹⁵

C. Volume

As noted above, subject import volume from Indonesia remained remarkably stable throughout both the original investigation period and the period since the orders were imposed. Import volume declined over the last three years, a decline that was further hastened by the revocation of the order as to one exporter. This general downward trend persisted despite and through upturns in apparent domestic consumption in 2000 and 2003. By 2003, subject imports from Indonesia accounted for only *** percent of apparent domestic consumption, the lowest share since the beginning of the original investigation

¹¹ CR/PR at Table V-5. Even if ***, subject imports from Indonesia oversold the domestic like product more frequently than did other subject imports. *Id.*

¹² The decline in subject imports after 2001 was driven largely by the exclusion of PT Zeta Agro from the order.

¹³ Tr. at 148 (Mr. Larson); tr. at 66, 67 (Mr. Kazemi).

¹⁴ Compare CR/PR at Table IV-4 with Table C-1.

¹⁵ Tr. at 142, 143, 144 (Mr. Larson).

period.¹⁶ The record evidence suggests this pattern would continue upon revocation. Given the modest share of apparent domestic consumption likely to be held by subject imports and some limitations in competition between the domestic like product and subject imports, the volume of subject imports from Indonesia is not likely to be significant upon revocation.

Customers perceive few differences between preserved mushrooms from different sources, and price is an important factor for purchasers in choosing a supply source.¹⁷ Nonetheless, competition between the domestic like product and subject imports from Indonesia is somewhat limited. Subject imports from Indonesia are heavily concentrated in the retail sector, and concentration in that sector means a corresponding concentration in small cans and jars, as opposed to the 68-ounce cans sold to food service or industrial users. The domestic like product is sold in all channels and in both sizes, but sales of the domestic like product are more evenly distributed, and sales to industrial users and food service users accounted for *** of sales of the domestic like product throughout the period since the orders were imposed.¹⁸ Furthermore, a significant portion of the subject imports from Indonesia are sold as name-brand products, further distinguishing those imports.

Parties to these investigations have made conflicting arguments about the existing and future capacity for preserved mushroom production in Indonesia. Domestic producers are certain that the information gathered by the Commission does not include all producers, and that two producers reported as exiting production ***.¹⁹ Responding producers in Indonesia deny these allegations, but admit that expansions in production capacity are planned for 2004-2005.²⁰ In light of planned capacity expansions, and a continued reliance on the U.S. market, domestic producers argue that the volume of subject imports from Indonesia upon revocation would be significant.

However, the record suggests otherwise. The data gathered by Commission staff in this investigation as to the industry in Indonesia cover five firms. The similarity between reported exports by this group in 2003 and imports as reported by Commerce suggest that the Commission's data cover the major producers of preserved mushrooms in Indonesia.²¹ The industry in Indonesia is admittedly oriented toward the U.S. market.²² But it has been so oriented since at least 1995, yet the volume of imports was generally stable or declining, regardless of changes in apparent domestic consumption or the apparent exclusion of other subject imports from the market. Assuming that responding producers are correct, and the planned expansions take place, production capacity accounted for by subject producers will still be smaller than in any year between 1998 and 2000.²³ Even after expansion, production capacity available to subject producers will be far lower than in the period of the original investigation, when subject imports accounted for up to 16 percent of the U.S. market. Even after expansion, production capacity will still be lower than in 2002, a year in which subject imports accounted for only *** percent of apparent domestic

¹⁶ CR/PR at Table I-1.

¹⁷ CR/PR at Tables II-2 and II-4.

¹⁸ CR/PR at Table F-1.

¹⁹ CR at IV-12 nn. 18-19, PR at IV-8 nn. 18-19.

²⁰ CR at IV-12-IV-14. PR at IV-8.

²¹ Exports to the United States in 2003, as reported by responding producers in Indonesia, were *** million pounds; imports, as reported by Commerce and Customs, were *** million pounds. CR/PR at Tables IV-1 and IV-4.

²² I note that exports from Indonesia to the European Union are limited.

²³ Responding producers report planned capacity of *** million pounds for 2004-2006; production capacity for all subject producers between 1998 and 2000 was *** million pounds. CR at IV-12, IV-13 and Table IV-4, PR at IV-8 and Table IV-4.

consumption in the United States.²⁴ ²⁵ As a final matter, producers in Indonesia reported only modest inventories at the end of 2003.²⁶

I am mindful that respondents themselves project increased exports to the U.S. market in 2004-2006.²⁷ Even if respondents' projections are accurate, subject imports from Indonesia will remain modest and probably account for less than 10 percent of apparent domestic consumption. However, the volume of post-revocation imports from PT Zeta Agro suggest that significant change upon revocation is unlikely. Imports from PT Zeta Agro increased in the year that the order was revoked, but imports were flat between 2002 and 2003, despite an increase in apparent domestic consumption. The steadiness of total Indonesian imports suggests that the initial increase in import volume came at the expense of subject Indonesian producers rather than the domestic industry, while the unchanged levels of non-subject imports thereafter suggest that PT Zeta Agro did not easily find additional purchasers, even in a year where overall consumption increased.

Nothing in the record suggests that the remaining subject producers would have a different experience after revocation or would be more successful in gaining market share at the expense of the domestic industry than PT Zeta Agro. Rather, the evidence suggests continuing stability, limited competition, and the likelihood that the volume of subject imports from Indonesia would not be significant upon revocation.

D. Price

Subject imports from Indonesia oversold the domestic like product more frequently than did other subject imports during the original investigation. Subject imports from Indonesia oversold the domestic like product in 26 of 42 quarterly observations, including 11 of 14 quarters for product 3, whole sliced mushrooms in small cans, a retail product, and 12 of 14 quarters for product 1, another retail product.²⁸ Between 1995 and 1997 the volume of subject imports from Indonesia actually increased, both absolutely and relatively, despite persistent overselling in its dominant products. The record suggests that subject imports from Indonesia did not gain market share by underselling and that subject imports from Indonesia did not suppress or depress prices for the domestic like product.²⁹

In the years since the orders were imposed, subject imports from Indonesia continued to oversell the domestic like product frequently. For product 1, four-ounce cans of stems and pieces, subject imports from Indonesia oversold the domestic like product consistently, ***. Even if ***, subject imports oversold the domestic like product throughout most of the period. Subject imports undersold in the last two years of the period, but ***.³⁰ Subject imports of product 2, the 68-ounce can product, oversold the domestic like product in most quarters.³¹ Only in product 3 did subject imports consistently undersell the

²⁴ CR at IV-14 and Table I-1, PR at IV-8 and Table I-1.

²⁵ No party has argued that product shifting is an issue in this investigation.

²⁶ CR/PR at Table IV-4.

²⁷ CR at IV-14 n.20, PR at IV-8 n.20.

²⁸ INV-W-005 (January 20, 1999) at Tables V-1 and V-3.

²⁹ In making this finding, I note that in its original determination, the Commission found that subject imports had significant price-depressing effects, but that finding was made on the basis of cumulated subject imports from China, India, and Indonesia. Original Indonesia Determination at 19.

³⁰ CR/PR at Table V-1.

³¹ CR/PR at Table V-2.

domestic like product, and for that product the reported prices accounted for modest amounts of imports.³²

As noted above, customers appear to perceive few differences in preserved mushrooms from different sources. In particular, the record does not support the contention by a respondent that customers appreciate subject imports from Indonesia as including more fancy mushrooms. And, as noted, price appears to be an important factor in choosing a supplier. Nonetheless, the record indicates that subject imports from Indonesia frequently oversold the domestic like product both before and after the order was imposed. The record also suggests that overselling had little impact on subject import volume, as subject import volume from Indonesia remained steady between 1995 and 2000 despite frequently overselling the domestic like product in its most important products.

Again, the experience of PT Zeta Agro after revocation is instructive. The volume of imports from PT Zeta Agro increased in the first year after revocation and were flat the following year. The pricing data available suggest that PT Zeta Agro products *** the domestic like product, and ***.³³ PT Zeta Agro was therefore able to maintain its sales level in 2003 ***.

The evidence on the record, particularly the evidence from the original investigation and the post-revocation behavior of PT Zeta Agro, suggest that revocation will have little effect on the prices of subject imports from Indonesia. The prominence of branded product, capable of earning a premium in the marketplace, among subject imports further suggests that subject imports are no more likely to suppress or depress domestic prices than in the past. Given that significant change in import volume is not likely upon revocation, and given that subject imports frequently oversold the domestic like product even when removed from the discipline of an order, I find that significant underselling by the subject imports as compared to domestic like products is not likely, and that the subject imports are not likely to enter the United States at prices that would otherwise have a significant depressing or suppressing effect on the price of domestic like products. I find it likely that subject imports will not lead to significant price depression or suppression.³⁴

E. Impact

I find the domestic industry to be vulnerable. The domestic industry's market share peaked in 1999 at 40.7 percent; in 2003, it was 25.4 percent. The domestic industry's production peaked as long ago as 2000 and in 2003, production by the domestic industry was down 27 percent from that peak, although domestic consumption was down by less than five percent. In 2003 the domestic industry utilized only 25.1 percent of its capacity, even though its productive capacity by 2003 had contracted by 28.7 percent since 1998. Along with its productive capacity, the industry shed nearly one-fifth of its workers between 1998 and 2003.³⁵

The industry's loss of market share and production coincided with a steady decline in the value of sales after 1999. The value of net sales was \$58.1 million in 2003, down from \$98.4 million in 1999. The industry's profitability peaked in 2000, with operating income equal to only 3.2 percent of sales. The

³² CR/PR at Table V-3. The General Mills equivalent product 3 item, subject imports of sliced mushrooms in a 4.5-ounce glass jar, *** the domestic like product, ***. CR/PR at Table G-4. Given the fact that General Mills sold its subject imports from Indonesia as branded products, Tr. at 142, 143, 144 (Mr. Larson), I find it likely that those products sold for a premium in the U.S. market. In reaching my determination, I do not rely on the quarterly pricing data as submitted, though I find this data support my conclusions.

³³ CR/PR at Tables G-1-G-4. One importer was not able to separate out PT Zeta Agro imports from subject imports, but that importer's prices again *** the domestic like product. *Id.*

³⁴ I note that Commerce has determined the likely dumping margins to be 7.94 percent for PT Dieng Djaya and PT Surya Jaya, and 11.26 percent for all others covered by the antidumping duty order. CR at I-11, PR at I-9.

³⁵ CR/PR at Table C-1.

industry registered losses in 2001, 2002, and 2003, and in 2003 its operating losses were equivalent to 2.7 percent of sales.³⁶

The record suggests that the imposition of the orders was followed by some improvement in the domestic industry. In recent years, the industry's condition has deteriorated. Yet the industry's performance does not correlate with the behavior of subject imports from Indonesia. In the industry's best years, between 1998 and 2000, subject imports from Indonesia were increasing moderately or steady and accounted for significant shares of apparent domestic consumption. In fact, the market share of subject imports from Indonesia was highest in 1999, the same year that market share for the domestic like product also peaked. In the years since 2000, as the industry has turned downward, the volume of subject imports from Indonesia turned downward. As the industry's sales revenue turned downward, subject imports from Indonesia frequently oversold the domestic like product, as in the original investigation. The channels of distribution for subject imports remained essentially unchanged, indicating that imports from Indonesia were not occupying new markets at the expense of the domestic like product. Yet significant portions of those subject imports were subject to little restraint from antidumping margins, as several exporters earned progressively lower margins through administrative reviews by the Department of Commerce.³⁷

Nothing suggests that this will change upon revocation. The entire record, stretching back to the beginning of the original investigation, suggests a fair degree of stability in the relationship between subject imports from Indonesia and the U.S. market. Given the continuity between the original investigation period and the period after the order was imposed, revocation is not likely to have a significant impact on that relationship. Subject import volume is not likely to increase significantly upon revocation, and subject imports are not likely to change the long pattern of frequent overselling. Given the lack of significant volume of subject imports upon revocation, the lack of significant price effects, and the lack of correlation between the condition of the industry and subject imports, I find it likely that revocation of the order will not have a significant impact on the domestic industry's cash flow, inventories, employment, wages, growth, ability to raise capital, nor lead to a significant reduction in the domestic industry's output, sales, market share, profits, or productivity. In light of these findings, I determine that revocation of the order on preserved mushrooms from Indonesia is not likely to lead to the continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

³⁶ CR/PR at Table C-1.

³⁷ CR at I-14, PR at I-12.

PART I: INTRODUCTION AND OVERVIEW

BACKGROUND

On November 3, 2003, the Commission gave notice, pursuant to section 751(c) of the Tariff Act of 1930 (the Act), that it had instituted reviews to determine whether revocation of the antidumping duty orders on certain preserved mushrooms¹ from Chile, China, India, and Indonesia would likely lead to the continuation or recurrence of material injury to a domestic industry. Effective February 6, 2004, the Commission determined that it would conduct full reviews pursuant to section 751(c)(5) of the Act. Information relating to the background and schedule of the reviews is provided in the tabulation on the following page.²

The Original Investigations

On January 6, 1998, a petition was filed with Commerce and the Commission alleging that an industry in the United States was materially injured, or was threatened with material injury, by reason of dumped imports of certain preserved mushrooms from Chile, China, India, and Indonesia.³ On October 19, 1998, Commerce made a final affirmative dumping determination with regard to imports from Chile.⁴

¹ “Certain preserved mushrooms” are defined as preserved mushrooms of the species *Agaricus bisporus* and *Agaricus bitorquis* 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. These mushrooms are imported whole, sliced, diced, or as stems and pieces. Included within the scope of the antidumping duty orders are “brined” mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing. Also included in the scope of the antidumping duty orders are marinated, acidified, or pickled mushrooms containing less than 0.5 percent acetic acid.

The preserved mushrooms included in the scope of the antidumping duty orders are provided for in subheadings 0711.51.00 and 2003.10.01 (statistical reporting numbers 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, and 2003.10.0153) of the Harmonized Tariff Schedule of the United States (“HTS”). The normal trade relations rate of duty for subheading 0711.51.00 is 5.7 cents per kilogram (drained weight) plus 8 percent *ad valorem*. The normal trade relations rate of duty for subheading 2003.10.01 is 6 cents per kilogram (drained weight) plus 8.5 percent *ad valorem*.

The term “certain preserved mushrooms” does not include: (1) all other species of mushroom, including straw mushrooms (HTS statistical reporting number 2003.90.0010); (2) all fresh and chilled mushrooms (HTS subheading 0709.51.01), including “refrigerated” or “quick blanched” mushrooms; (3) dried mushrooms (HTS subheading 0712.31.00); and (4) frozen mushrooms (HTS subheading 0710.80.20).

² The Commission’s notice of institution, notice to conduct full reviews, scheduling notice, and statement on adequacy appear in app. A and may also be found at the Commission’s web site (internet address www.usitc.gov). Commissioners’ votes on whether to conduct expedited or full reviews may also be found at the web site.

³ The petition was filed by the Coalition for Fair Preserved Mushroom Trade and its members, L.K. Bowman, Inc., Nottingham, PA; Modern Mushroom Farms, Inc., Toughkenamon, PA; Monterey Mushrooms, Inc., Watsonville, CA; Mount Laurel Canning Corp., Temple, PA; Mushroom Canning Co., Kennett Square, PA; Southwood Farms, Hockessin, DE.; Sunny Dell Foods, Inc., Oxford, PA; and United Canning Corp., North Lima, OH.

⁴ *Notice of Final Determination of Sales at Less than Fair Value: Certain Preserved Mushrooms from Chile*, 63 FR 56613, October 22, 1998.

Effective date	Action
December 2, 1998	Commerce's antidumping duty order with respect to imports from Chile (63 FR 66529, December 2, 1998)
February 19, 1999	Commerce's antidumping duty orders with respect to imports from China, India, and Indonesia (64 FR 8308 (China), 64 FR 8311 (India), and 64 FR 8310 (Indonesia), February 19, 1999)
February 1, 2002	Commerce's partial revocation of the antidumping duty order with respect to Indonesia (68 FR 39521, July 2, 2003)
November 3, 2003	Commission's institution of reviews (68 FR 62322, November 3, 2003)
February 6, 2004	Commission's decision to conduct full reviews (69 FR 7793, February 19, 2004)
March 10, 2004	Commerce's final results of expedited reviews (69 FR 11384, March 10, 2004)
May 12, 2004	Commission's scheduling of the reviews (69 FR 28156, May 18, 2004)
September 9, 2004	Commission's hearing ¹
October 18, 2004	Commission's vote
October 28, 2004	Commission's determinations to Commerce
¹ App. B contains a list of witnesses who appeared at the hearing.	

On December 28, 1998, Commerce made affirmative dumping determinations with regard to imports from China, India, and Indonesia.⁵ The amended weighted-average dumping margins (in percent *ad valorem*), as reported by Commerce, are presented in the tabulation on the following page.

With regard to imports from Chile, the Commission made its final affirmative injury determination on November 27, 1998 and Commerce issued an antidumping duty order on December 2, 1998.⁶ With regard to imports from China, India, and Indonesia, the Commission made its final affirmative injury determinations on February 11, 1999 and Commerce issued antidumping duty orders on February 19, 1999.⁷

Table I-1 presents a summary of data from the original investigations and from these reviews. Figure I-1 shows U.S. imports of certain preserved mushrooms from Chile, China, India, and Indonesia since 1995.⁸

⁵ *Notice of Final Determination of Sales at Less than Fair Value: Certain Preserved Mushrooms from India*, 63 FR 72246, December 31, 1998; *Notice of Final Determination of Sales at Less than Fair Value: Certain Preserved Mushrooms from Indonesia*, 63 FR 72268, December 31, 1998; and *Notice of Final Determination of Sales at Less than Fair Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 72255, December 31, 1998, as amended by 64 FR 8308, February 19, 1999.

⁶ *Certain Preserved Mushrooms from Chile: Determination*, 63 FR 66575, December 2, 1998; *Notice of Antidumping Duty Order: Certain Preserved Mushrooms from Chile*, 63 FR 66529, December 2, 1998.

⁷ *Certain Preserved Mushrooms from China, India, and Indonesia: Determinations*, 64 FR 9178, February 24, 1999; *Notice of Antidumping Duty Order: Certain Preserved Mushrooms from India*, 64 FR 8311, February 19, 1999; *Notice of Antidumping Duty Order: Certain Preserved Mushrooms from Indonesia*, 64 FR 8310, February 19, 1999; *Notice of Antidumping Duty Order: Certain Preserved Mushrooms from the People's Republic of China*, 64 FR 8308, February 19, 1999.

⁸ In the original investigations, the Commission cited witness testimony stating that the decrease in U.S. apparent consumption of certain preserved mushrooms from 1995 to 1997 was a function of "shifts in lifestyle" and a general (continued...)

Country and firm	Margin (percent)
Chile	
Nature's Farm Products (Chile) S.A.	148.51
All others	148.51
China	
China Processed Food I&E Co./Xiamen Jiahua Import and Export Trading Co., Ltd.	121.47
Tak Fat Trading Co.	162.47
Shenzhen Cofry Cereals, Oils & Foodstuffs Co., Ltd.	151.15
Gerber (Yunnan) Food Co.	142.11
Jiangsu Cereals, Oils & Foodstuffs Group Import and Export Corp.	142.11
Fujian Provincial Cereals, Oils & Foodstuffs Import and Export Corp.	142.11
Putian Cannery Fujian Province	142.11
Xiamen Gulong Import and Export Co., Ltd.	142.11
General Canned Foods Factory of Zhangzhou	142.11
Zhejiang Cereals, Oils & Foodstuffs Import and Export Corp.	142.11
Shanghai Foodstuffs Import and Export Corp.	142.11
Canned Goods Co. of Raoping	142.11
All others	198.63
India	
Agro Dutch Foods, Ltd.	6.28
Ponds (India), Ltd.	14.91
Alpine Biotech, Ltd.	243.87
Mandeep Mushrooms, Ltd.	243.87
All others	11.30
Indonesia	
PT Dieng Djaya/PT Surya Jaya Abadi Perkasa	7.94
PT Zeta Agro Corp.	22.84
All others	11.26

⁸ (...continued)

shift in consumer tastes from preserved to fresh vegetables. *Certain Preserved Mushrooms from Chile*, USITC Pub. 3144 at 16. A witness in these reviews indicated one reason preserved mushroom consumer demand declined in the 1990's was because several large national pizza chains substituted certain preserved mushrooms with fresh mushrooms in their operations. Hearing transcript (Mr. Newhard), p. 58.

Table I-1
Certain preserved mushrooms: Summary data from the original investigations and current reviews, 1995-2003

(Quantity=1,000 pounds drained weight, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per pound)

Item	Reported data								
	1995	1996	1997	1998	1999	2000	2001	2002	2003
U.S. consumption quantity:									
Amount	240,054	217,744	204,511	181,796	180,627	198,689	175,264	173,167	187,903
Producers' share (1)	39.7	42.2	36.5	36.4	40.7	31.1	32.3	33.8	25.4
Importers' share (1):									
Chile	4.4	3.3	2.7	3.6	0.0	0.0	0.0	0.0	0.0
China	31.5	33.4	34.8	26.4	0.2	4.2	11.0	11.9	25.6
India	2.5	2.0	4.9	6.9	17.7	17.3	16.8	13.8	14.4
Indonesia (subject)	12.8	12.4	15.5	14.7	16.1	14.6	12.8	***	***
Subtotal	51.2	51.1	57.9	51.6	34.0	36.1	40.7	***	***
Indonesia (nonsubject)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	***	***
Other sources	9.1	6.8	5.7	12.0	25.3	32.8	27.1	27.5	22.8
Total imports	60.3	57.9	63.6	63.6	59.3	68.9	67.7	66.2	74.6
U.S. consumption value:									
Amount	327,443	256,520	218,016	197,702	218,079	228,216	191,659	176,802	187,329
Producers' share (1)	43.4	47.2	41.4	41.9	45.5	35.7	36.0	38.2	29.7
Importers' share (1):									
Chile	3.6	3.1	2.9	3.9	0.0	0.0	0.0	0.0	0.0
China	26.7	26.3	26.8	19.0	0.2	3.3	10.0	11.0	23.1
India	2.5	2.1	4.6	6.6	12.8	14.5	14.3	11.9	11.7
Indonesia (subject)	14.6	13.7	17.1	15.4	18.0	16.9	15.0	***	***
Subtotal	47.3	45.3	51.3	44.9	31.0	34.7	39.3	***	***
Indonesia (nonsubject)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	***	***
Other sources	9.3	7.5	7.3	13.2	23.5	29.6	24.6	24.9	21.3
Total imports	56.6	52.8	58.6	58.1	54.5	64.3	64.0	61.8	70.3
U.S. imports from:									
Chile:									
Quantity	10,660	7,101	5,429	6,516	0	0	0	0	0
Value	11,661	7,990	6,252	7,683	0	0	0	0	0
Unit value	\$1.09	\$1.13	\$1.15	\$1.18	(3)	(3)	(3)	(3)	(3)
Ending inventory quantity	***	***	***	***	0	0	0	0	0
China:									
Quantity	75,587	72,753	71,109	48,046	320	8,330	19,364	20,594	48,139
Value	87,580	67,570	58,321	37,520	433	7,617	19,117	19,516	43,339
Unit value	\$1.16	\$0.93	\$0.82	\$0.78	\$1.35	\$0.91	\$0.99	\$0.95	\$0.90
Ending inventory quantity	***	***	***	***	***	***	***	***	***
India:									
Quantity	5,951	4,368	9,949	12,559	32,023	34,439	29,479	23,885	27,010
Value	8,065	5,400	10,069	13,022	27,873	33,057	27,442	21,051	21,997
Unit value	\$1.36	\$1.24	\$1.01	\$1.04	\$0.87	\$0.96	\$0.93	\$0.88	\$0.81
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Indonesia (subject):									
Quantity	30,756	26,893	31,791	26,666	29,096	29,043	22,417	***	***
Value	47,648	35,197	37,269	30,459	39,321	38,493	28,830	***	***
Unit value	\$1.55	\$1.31	\$1.17	\$1.14	\$1.35	\$1.33	\$1.29	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Subtotal:									
Quantity	122,954	111,115	118,278	93,786	61,439	71,812	71,259	***	***
Value	154,954	116,157	111,911	88,685	67,628	79,167	75,389	***	***
Unit value	\$1.26	\$1.05	\$0.95	\$0.95	\$1.10	\$1.10	\$1.06	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***

Table continued on next page.

Table I-1--Continued
Certain preserved mushrooms: Summary data from the original investigations and current reviews, 1995-2003

(Quantity=1,000 pounds drained weight, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per pound)

Item	Reported data								
	1995	1996	1997	1998	1999	2000	2001	2002	2003
U.S. imports from:									
Indonesia (nonsubject):									
Quantity	(2)	(2)	(2)	(2)	(2)	(2)	(2)	***	***
Value	(2)	(2)	(2)	(2)	(2)	(2)	(2)	***	***
Unit value	(2)	(2)	(2)	(2)	(2)	(2)	(2)	***	***
Ending inventory quantity . . .	(2)	(2)	(2)	(2)	(2)	(2)	(2)	***	***
Other sources:									
Quantity	21,826	14,763	11,590	21,814	45,663	65,136	47,462	47,549	42,838
Value	30,476	19,279	15,826	26,158	51,161	67,638	47,239	43,954	39,809
Unit value	\$1.40	\$1.31	\$1.37	\$1.20	\$1.12	\$1.04	\$1.00	\$0.92	\$0.93
Ending inventory quantity . . .	***	***	***	***	***	***	***	***	***
All sources:									
Quantity	144,780	125,878	129,868	115,600	107,102	136,948	118,721	114,615	140,216
Value	185,430	135,436	127,737	114,843	118,789	146,805	122,628	109,220	131,607
Unit value	\$1.28	\$1.08	\$0.98	\$0.99	\$1.11	\$1.07	\$1.03	\$0.95	\$0.94
Ending inventory quantity . . .	***	***	***	***	***	***	***	***	***
U.S. producers':									
Average capacity quantity	214,973	223,735	203,523	280,405	285,300	287,728	271,155	270,042	200,044
Production quantity	107,711	84,936	74,711	66,186	67,849	68,932	53,316	50,733	50,161
Capacity utilization (1)	50.1	38.0	36.7	23.6	23.8	24.0	19.7	18.8	25.1
U.S. shipments:									
Quantity	95,274	91,865	74,642	66,196	73,525	61,741	56,543	58,552	47,687
Value	142,013	121,084	90,279	82,859	99,290	81,411	69,031	67,582	55,722
Unit value	\$1.49	\$1.32	\$1.21	\$1.25	\$1.35	\$1.32	\$1.22	\$1.15	\$1.17
Export shipments:									
Quantity	850	1,214	1,409	***	***	***	***	***	***
Value	1,307	1,766	1,977	***	***	***	***	***	***
Unit value	\$1.54	\$1.45	\$1.40	***	***	***	***	***	***
Ending inventory quantity	24,212	16,061	14,495	14,578	8,902	16,090	12,860	4,841	7,313
Inventories/total shipments (1)	25.2	17.3	19.1	***	***	***	***	***	***
Production workers	518	476	421	330	321	328	270	260	266
Hours worked (1,000s)	1,113	978	804	435	433	502	430	402	380
Wages paid (\$1,000s)	12,672	10,776	10,525	5,372	5,480	6,999	6,633	6,423	5,988
Hourly wages	\$11.39	\$11.02	\$13.09	\$12.35	\$12.66	\$13.94	\$15.43	\$15.98	\$15.78
Productivity (pounds per hour)	96.8	86.8	92.9	125.6	140.0	133.8	124.0	126.2	132.2
Unit labor costs	\$0.12	\$0.13	\$0.14	\$0.10	\$0.09	\$0.10	\$0.12	\$0.13	\$0.12
Net sales:									
Quantity	90,840	90,551	76,052	68,133	71,437	64,639	57,251	59,943	49,724
Value	142,110	122,323	94,012	81,714	98,393	87,008	70,610	69,463	58,139
Unit value	\$1.56	\$1.35	\$1.24	\$1.20	\$1.38	\$1.35	\$1.23	\$1.16	\$1.17
Cost of goods sold (COGS)	121,721	105,728	81,957	74,270	89,167	76,808	64,611	66,246	55,543
Gross profit or (loss)	20,389	16,595	12,055	7,444	9,226	10,200	5,999	3,217	2,596
SG&A expenses	12,868	12,067	10,815	6,657	7,183	7,447	6,305	5,729	4,150
Operating income or (loss)	7,521	4,528	1,240	787	2,043	2,753	(306)	(2,512)	(1,554)
Capital expenditures	3,076	761	1,023	1,215	1,235	1,539	1,353	907	2,706
Unit COGS	\$1.34	\$1.17	\$1.08	\$1.09	\$1.25	\$1.19	\$1.13	\$1.11	\$1.12
Unit SG&A expenses	\$0.14	\$0.13	\$0.14	\$0.10	\$0.10	\$0.12	\$0.11	\$0.10	\$0.08
Unit operating income or (loss)	\$0.08	\$0.05	\$0.02	\$0.01	\$0.03	\$0.04	(\$0.01)	(\$0.04)	(\$0.03)
COGS/sales (1)	85.7	86.4	87.2	90.9	90.6	88.3	91.5	95.4	95.5
Operating income or (loss)/ sales (1)	5.3	3.7	1.3	1.0	2.1	3.2	(0.4)	(3.6)	(2.7)

(1) "Reported data" are in percent and "period changes" are in percentage points.

(2) Imports from PT Zeta Agro are included in Indonesia (subject) for 1995-2001, and reported separately as Indonesia (nonsubject) for 2002 and 2003.

(3) Not applicable.

Note.--Financial data are reported on a fiscal-year basis and may not necessarily be comparable to data reported on a calendar-year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.

Figure I-1
Certain preserved mushrooms: U.S. imports from Chile, China, India, and Indonesia, 1995-2003

* * * * *

Statutory Criteria and Organization of the Report

Section 751(c) of the Act requires Commerce and the Commission to conduct a review no later than five years after the issuance of an antidumping or countervailing duty order or the suspension of an investigation to determine whether revocation of the order or termination of the suspended investigation “would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.”

Section 752(a) of the Act provides that in making its determination of likelihood of continuation or recurrence of material injury--

(1) IN GENERAL.-- . . . the Commission shall determine whether revocation of an order, or termination of a suspended investigation, would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission shall consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated. The Commission shall take into account--

(A) its prior injury determinations, including the volume, price effect, and impact of imports of the subject merchandise on the industry before the order was issued or the suspension agreement was accepted,

(B) whether any improvement in the state of the industry is related to the order or the suspension agreement,

(C) whether the industry is vulnerable to material injury if the order is revoked or the suspension agreement is terminated, and

(D) in an antidumping proceeding . . . , (Commerce’s findings) regarding duty absorption . . .

(2) VOLUME.--In evaluating the likely volume of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether the likely volume of imports of the subject merchandise would be significant if the order is revoked or the suspended investigation is terminated, either in absolute terms or relative to production or consumption in the United States. In so doing, the Commission shall consider all relevant economic factors, including--

(A) any likely increase in production capacity or existing unused production capacity in the exporting country,

(B) existing inventories of the subject merchandise, or likely increases in inventories,

(C) the existence of barriers to the importation of such merchandise into countries other than the United States, and

(D) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.

(3) PRICE.--In evaluating the likely price effects of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether--

(A) there is likely to be significant price underselling by imports of the subject merchandise as compared to domestic like products, and

(B) imports of the subject merchandise are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of domestic like products.

(4) IMPACT ON THE INDUSTRY.--In evaluating the likely impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated, the Commission shall consider all relevant economic factors which are likely to have a bearing on the state of the industry in the United States, including, but not limited to--

(A) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,

(B) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and

(C) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.

The Commission shall evaluate all such relevant economic factors . . . within the context of the business cycle and the conditions of competition that are distinctive to the affected industry.

Section 752(a)(6) of the Act states further that in making its determination, “the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy. If a countervailable subsidy is involved, the Commission shall consider information regarding the nature of the countervailable subsidy and whether the subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement.”

Information obtained during the course of these reviews that relates to the above factors is presented throughout this report. A summary of data collected in the review is presented in appendix C. U.S. industry data are based on questionnaire responses of seven firms (see table I-2) that accounted for all known U.S. production of certain preserved mushrooms during the review period. U.S. import data are based on official Commerce statistics.⁹ Responses by U.S. producers, importers, and purchasers of certain preserved mushrooms and producers of certain preserved mushrooms in Chile, China, India, and Indonesia to a series of questions concerning the significance of the existing antidumping duty orders and the likely effects of revocation are presented in appendix D.

⁹ Commerce revoked the antidumping duty order with regard to imports from the Indonesian firm PT Zeta Agro Corp., effective February 1, 2002. Therefore, U.S. import statistics regarding Indonesia are adjusted for 2002 and 2003 by removing U.S. imports originating from this firm as reported in information provided to the Commission by Customs. See *Certain Preserved Mushrooms from Indonesia: Antidumping Duty Administrative Review and Final Determination to Revoke Order in Part*, 68 FR 39521, July 2, 2003.

COMMERCE'S RESULTS OF EXPEDITED REVIEWS

On March 10, 2004, Commerce found that revocation of the antidumping duty orders on certain preserved mushrooms from Chile, China, India, and Indonesia would likely lead to the continuation or recurrence of dumping.¹⁰ Commerce also made a duty absorption determination with respect to sales for which Gerber Food Yunan Co., Ltd. was the importer of record.¹¹ The weighted-average dumping margins (in percent *ad valorem*), as reported by Commerce, that would occur if the antidumping duty orders were to be revoked, are presented in the following tabulation.

¹⁰ Commerce's notice is presented in app. A.

¹¹ 69 FR 54635, September 9, 2004.

Country and firm	Margin (percent)
Chile	
Nature's Farm Products (Chile) S.A.	148.51
Ravine Foods	148.51
All others	148.51
China	
China Processed Food I&E Co./Xiamen Jiahua Import and Export Trading Co., Ltd.	121.47
Tak Fat Trading Co.	162.47
Shenzhen Cofry Cereals, Oils & Foodstuffs Co., Ltd.	151.15
Gerber (Yunnan) Food Co.	198.63
Jiangsu Cereals, Oils & Foodstuffs Group Import and Export Corp.	142.11
Fujian Provincial Cereals, Oils & Foodstuffs Import and Export Corp.	142.11
Putian Cannery Fujian Province	142.11
Xiamen Gulong Import and Export Co., Ltd.	142.11
General Canned Foods Factory of Zhangzhou	142.11
Zhejiang Cereals, Oils & Foodstuffs Import and Export Corp.	142.11
Shanghai Foodstuffs Import and Export Corp.	142.11
Canned Goods Co. of Raoping	142.11
All others	198.63
India	
Agro Dutch Foods, Ltd.	6.28
Ponds (India), Ltd.	14.91
Alpine Biotech, Ltd.	243.87
Mandeep Mushrooms, Ltd.	243.87
All others	11.30
Indonesia	
P.T. Dieng Djaya/P.T. Surya Jaya Abadi Perkasa	7.94
P.T. Zeta Agro Corp.	0.00 (revoked)
All others	11.26

COMMERCE'S ADMINISTRATIVE REVIEWS

Chile

Commerce has conducted one administrative review of the antidumping duty order on certain preserved mushrooms from Chile, as shown in the following tabulation:

Period of review	Date results published	Margins (percent)
December 1, 1999 to November 30, 2000	May 10, 2002 (67 FR 31769)	Nature's Farm 148.51 ¹
		Ravine Foods 148.51
		Chile-wide rate 148.51

¹ Includes Chilean merchandise shipped by the Colombian firm, Compania Envasadora del Atlantico.

China

Commerce has conducted four administrative reviews of the antidumping duty order on certain preserved mushrooms from China, as shown in the following tabulation:

Period of review	Date results published	Margins (percent)
May 7, 1998 to January 31, 2000	August 17, 2000 (65 FR 50183)	Mei Wei Food 198.63
		Tak Fat Trading Co. 198.63
		China-wide rate 198.63
August 5, 1998 to January 31, 2000	July 6, 2001 (66 FR 35595)	China Processed Food Import & Export Co. 0.00
		Gerber (Yunnan) Co. 121.33
		Raoping Xingyu Foods Co., Ltd. 47.80
February 1, 2000 to January 31, 2001	August 9, 2002 (67 FR 51833)	Gerber (Yunnan) Co. 0.00
		Shantou Hongda Industrial General 0.00
		Shenxian Dongxing Foods Co., Ltd. 0.00
		Raoping Xingyu Foods Co., Ltd. 161.57
February 1, 2001 to January 31, 2002	July 11, 2003 (68 FR 41304)	Guangxi Yulin Oriental Food Co., Ltd. 0.00
		Shenxian Dongxing Foods Co., Ltd. 61.37
		Shantou Hongda Industrial General 122.07
		Gerber (Yunnan) Co. 198.63
		Green Fresh Foods (Zhangzhou), Ltd. 198.63
		Guangxi Yulin 198.63
		China-wide rate 198.63
February 1, 2002 to January 31, 2003	September 9, 2004 (69 FR 54635)	China Processed Food Import & Export Co. and designated affiliates 3.92
		Guangxi Yulin Oriental Food Co., Ltd. 0.00
		Shenxian Dongxing Foods Co., Ltd. 66.50
		Shantou Hongda Industrial General 198.63
		Gerber Food (Yunnan) Co., Ltd. 198.63
		Green Fresh Foods (Zhangzhou), Ltd. 42.90
		Primera Harvest (Xiangfan) Co. 82.22
		China-wide rate 198.63

India

Commerce has conducted four administrative reviews of the antidumping duty order on certain preserved mushrooms from India,¹² as shown in the following tabulation:

Period of review	Date results published	Margins (percent)
August 5, 1998 to January 31, 2000	August 13, 2001 (66 FR 42507)	Agro Dutch Foods, Ltd. 2.26 Himalya International, Ltd. 6.63 Hindustan Lever, Ltd. 4.29 Techtran Agro Industries, Ltd. 66.24 Weikfield Agro Products, Ltd. 26.44 India-wide rate 11.30
February 1, 2000 to January 31, 2001	July 12, 2002 (67 FR 46172)	Agro Dutch Foods, Ltd. 27.80 Himalya International, Ltd. 0.68 Saptarishi Agro Industries, Ltd. 66.24 Weikfield Agro Products, Ltd. 0.00
February 1, 2001 to January 31, 2002	July 11, 2003 (68 FR 41303)	Agro Dutch Foods, Ltd. 1.02 Himalya International, Ltd. 0.08 Weikfield Agro Products, Ltd. 34.66
February 1, 2002 to January 31, 2003	August 20, 2004 (69 FR 51630) <i>amended by</i> September 14, 2004 (69 FR 55405)	Agro Dutch Foods, Ltd. 33.47 Dinesh Agro Products, Ltd. 66.24 Premier Mushroom Farms 25.73 Saptarishi Agro Industries, Ltd. 66.24 Weikfield Agro Products, Ltd. 9.35

¹² Commerce also issued a final determination in a changed-circumstances review in which it determined that KICM (MADRAS), Ltd. was the successor-in-interest to Hindustan Lever, Ltd. for purposes of determining antidumping duty liability. *Certain Preserved Mushrooms from India: Final Results of Changed-Circumstances Review*, 68 FR 6884, February 11, 2003.

Indonesia

Commerce has conducted three administrative reviews of the antidumping duty order on certain preserved mushrooms from Indonesia, as shown in the following tabulation:

Period of review	Date results published	Margins (percent)
August 5, 1998 to January 31, 2000 ¹	July 13, 2001 (66 FR 36754)	PT Dieng Djaya 0.44 PT Surya Jaya Abadi Perkasa 0.44 PT Indo Evergreen 5.16 PT Zeta Agro 0.02 Indonesia-wide rate 11.26
February 1, 2000 to January 31, 2001	May 13, 2002 (67 FR 32014)	PT Dieng Djaya 0.59 PT Surya Jaya Abadi Perkasa 0.59 PT Indo Evergreen 0.09 PT Zeta Agro 0.27 Indonesia-wide rate 11.26
February 1, 2001 to January 31, 2002	July 2, 2003 (67 FR 39521)	PT Indo Evergreen 0.30 PT Zeta Agro 0.00 ² Indonesia-wide rate 11.26
<p>¹ The period of review covered December 31, 1998 through January 31, 2000 for PT Dieng Djaya and PT Surya Jaya Abadi Perkasa.</p> <p>² Commerce revoked the antidumping duty order with regard to imports from PT Zeta Agro Corp., effective February 1, 2002. It determined that PT Zeta Agro Corp. had not sold product at less than fair value for three consecutive administrative reviews. See <i>Certain Preserved Mushrooms from Indonesia: Antidumping Duty Administrative Review and Final Determination to Revoke Order in Part</i>, 68 FR 39521, July 2, 2003.</p>		

COMMERCE'S SCOPE RULINGS

Since the issue of the antidumping orders, Commerce has issued two scope rulings with regard to certain preserved mushrooms. On July 13, 1999, Commerce determined that preserved mushrooms produced in third countries from provisionally preserved mushrooms produced in Chile were within the scope of the antidumping orders.¹³ On June 19, 2000, Commerce determined that “marinated or acidified mushrooms with an acetic acid content under 0.5 percent” were within the scope of the antidumping orders.¹⁴

¹³ *Notice of Scope Rulings*, 65 FR 41957, July 7, 2000. See part IV, p. 5, fn 6.

¹⁴ *Notice of Scope Rulings*, 65 FR 52409, August 29, 2000. On October 17, 2003, the Court of International Trade, in *Tak Fat Trading Co. v. United States*, 294 F.Supp.2d 1352 (CIT 2003), vacated Commerce's scope determination with regard to “marinated or acidified” mushrooms. See also *Notice of Decision of the Court of International Trade: Certain Preserved Mushrooms from the People's Republic of China*, 68 FR 63066, November 7, 2003. An appeal of the Court's ruling is still pending.

THE SUBJECT PRODUCT

Definition of the Subject Product

The imported product subject to the antidumping duty orders under review, as defined by Commerce, consists of certain preserved mushrooms of the species *Agaricus bisporus* and *Agaricus bitorquis* 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. These mushrooms are imported whole, sliced, diced, or as stems and pieces. Included within the scope of the antidumping duty orders are “brined” mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing. Also included in the scope of the antidumping orders are marinated, acidified, or pickled mushrooms containing less than 0.5 percent acetic acid.

The preserved mushrooms included in the scope of these investigations are provided for in subheadings 0711.51.00 and 2003.10.01 (HTS statistical reporting numbers 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, and 2003.10.0153).¹⁵

The term “certain preserved mushrooms” does not include: (1) all other species of mushroom, including straw mushrooms (HTS statistical reporting number 2003.90.0010); (2) all fresh and chilled mushrooms (HTS subheading 0709.51.01), including “refrigerated” or “quick blanched” mushrooms; (3) dried mushrooms (HTS subheading 0712.31.00); and (4) frozen mushrooms (HTS subheading 0710.80.20).

Physical Characteristics, Processing Operations, and End Uses

The imported and domestic products covered in these reviews are preserved¹⁶ mushrooms of the *Agaricus bisporus* and *Agaricus bitorquis* (collectively “*Agaricus*”) species.¹⁷ Raw *Agaricus* mushrooms used to produce the subject preserved mushrooms are often white but may also include off-white (cream and brown) mushrooms.¹⁸ U.S. mushroom growers sell most of their mushrooms in the fresh market, whereas less than 20 percent annually of all *Agaricus* mushrooms grown in the United States are sold for processing.¹⁹ U.S. standards of identity for raw mushrooms intended for processing range from grade 1-A (white, closed veil, no blemishes) to grade 2-B (off-white, open veil, blemishes), with most canned stems

¹⁵ Prior to January 1, 2002, the products subject to these investigations were covered by HTS subheadings and statistical reporting numbers 0711.90.40, 2003.10.0027, 2003.10.0031, 2003.10.0037, 2003.10.0043, 2003.10.0047, and 2003.10.0053.

¹⁶ Raw mushrooms were not within the scope of the original investigations. *Certain Preserved Mushrooms from Chile*, Inv. No. 731-TA-776 (Final), USITC Pub. 3144, November 1998, pp. 4-5.

¹⁷ *Antidumping Duty Petition, Volume I: Certain Preserved Mushrooms from Chile, China, India, and Indonesia*, submitted on behalf of L.K. Bowman, Inc.; Modern Mushroom Farms, Inc.; Monterey Mushrooms, Inc.; Mount Laurel Canning Corp.; Mushroom Canning Co.; Southwood Farms; Sunny Dell Foods, Inc.; and United Canning Corp., received January 6, 1998, p. 12.

¹⁸ *Certain Preserved Mushrooms from Chile*, Inv. No. 731-TA-776 (Final), USITC Pub. 3144, November 1998, p. I-3.

¹⁹ U.S. mushroom growers reported sales of the 2003-04 *Agaricus* mushroom crop to be 701 million pounds for the fresh market, or 83.1 percent of the yield, and 143 million pounds, or 16.9 percent, for the processing market. *Mushrooms*, National Agricultural Statistics Service (NASS), Agricultural Statistics Board, U.S. Department of Agriculture, August 16, 2004.

and pieces made from grade 2 mushrooms and most canned whole and sliced mushrooms made from grade 1-B and sometimes grade 1-A mushrooms.²⁰

The processing of mushrooms begins with the procurement of raw product. The largest, best-formed mushrooms are generally sold on the fresh market for prices higher than those for processing-grade mushrooms, resulting in medium to small, broken or blemished mushrooms being more readily available for canning.²¹ Domestic industry sources have stated that in times of oversupply to the fresh market, fresh-market-quality mushrooms that would otherwise be sold to a retailer or food-service buyer to be used in the fresh form might instead be diverted to a processor.²²

In general, mushroom processing involves the cleaning, grading, sorting, sometimes slicing or dicing, blanching, packing in a liquid medium (including water, brine, and butter or butter sauce) in airtight containers, and heating or retorting (preserved by heat sterilization) in cans or jars.²³ Due to the perishable nature of raw mushrooms, they are generally processed within 24 hours after harvest.²⁴ Fresh mushrooms for processing are prepared from raw mushrooms that have been cleaned, inspected, and weighed again to determine the net volume of the shipment. The mushrooms are then washed with plain water and blanched (cooked) to an internal temperature of at least 180 degrees for 7-8 minutes. The blanching process shrinks the mushrooms by about 40 percent as raw mushrooms consist of about 94-percent water and excess moisture is lost during this process. The mushrooms are then sliced (if desired as sliced or as pieces or stems), de-watered, and put through a metal detector to check for extraneous metal materials.²⁵ Finally, the mushrooms go through a volumetric filler machine, the net weight in the can or jar is checked, and the packing media (which may include such things as water, a light salt water solution, ascorbic acid, or other preservatives) is added into the can.²⁶ The container is vacuum sealed with a metal lid and the cans or jars are heated in a retort cooker until the contents reach commercial sterility. The product is allowed to cool and the containers labeled, if appropriate, and packed in cardboard cartons or palletized for shipment.²⁷ Canned mushrooms generally have a shelf life of up to 3 years. Processed mushrooms are generally tan or gray in color, have a slightly salty taste, and a soft texture. Mushrooms packed in jars are usually in small container sizes ranging from 2.5 to 8 ounces. Mushrooms packed in cans are packed predominantly in larger container sizes of 16 ounces and 68 ounces, but also are packed in 4- and 8-ounce cans.

Processed mushrooms are generally sold in three styles of pack: whole (including buttons),²⁸ sliced, and diced or stems and pieces. Whole mushrooms are said to account for the smallest market share of canned-mushroom sales. Most of the U.S. market for canned mushrooms prefers stems and pieces, which especially predominate in the industrial and institutional/food-service market.²⁹ The three main types of purchasers of certain preserved mushrooms are industrial users, food-service customers,

²⁰ *Certain Preserved Mushrooms from Chile*, Inv. No. 731-TA-776 (Final), USITC Pub. 3144, November 1998, p. I-3.

²¹ *Id.* at pp. I-3-I-4.

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ Buttons are small whole mushrooms with the stems removed manually. *Id.* at p. I-3.

²⁹ *Id.* U.S. producers reported that by volume, 81.9 percent of their 2003 U.S. shipments were of pieces and stems, 14.3 percent were sliced mushrooms, and the remaining 3.8 percent were whole mushrooms or other (e.g., portobello) mushrooms. U.S. importers reported that 72.7 percent of their 2003 U.S. shipments were of pieces and stems, 23.0 percent were sliced mushrooms, and the remaining 4.3 percent were of whole mushrooms or other portobello mushrooms.

and retailers.³⁰ Industrial customers generally use canned mushrooms to produce other food products, such as brand-name and private-label soups and spaghetti sauces. These purchasers are described as generally buying large volumes of canned mushrooms in large containers. Food-service users, including major pizza chains, other restaurants, and distributors for institutional applications, also purchase large quantities of large-volume containers. Finally, sales of mushrooms packed in jars and 4- and 8-ounce cans tend to be concentrated in retail outlets, including grocery stores, and distributors to such outlets, where the mushrooms are sold as both national brands and private-label products principally to individual customers for home consumption.

DOMESTIC LIKE PRODUCT ISSUES

In its original determinations, the Commission found the appropriate domestic like product to be “certain preserved mushrooms,” as defined above by Commerce.³¹ In response to a question soliciting comments regarding the appropriate domestic like product in the Commission’s notice of institution of these reviews, the petitioners stated that they support the definition used by the Commission in the original investigations.³² In their response, Indonesian respondents did not take a position on the definition of the domestic like product.³³

This section presents information related to the Commission’s “domestic like product” determination.³⁴ In the final phase of the original investigations, two domestic like product issues were raised by respondents: (1) broadening the definition of the domestic like product (and the domestic industry considered) to include fresh mushrooms; and (2) broadening the definition of the domestic like product to include marinated, acidified, and pickled (“marinated”) mushrooms.³⁵ In its final determinations, the Commission declined to include fresh or marinated mushrooms and found the

³⁰ *Id.* See Part II for a more detailed discussion on channels of distribution.

³¹ *Certain Preserved Mushrooms from Chile*, Investigation No. 731-TA-776 (Final), USITC Pub. 3144, November 1998, p. 4; *Certain Preserved Mushrooms from China, India, and Indonesia*, Invs. Nos. 731-TA-777-779 (Final), USITC Pub. 3159, February 1999, p. 5.

³² Petitioners’ Response to Notice of Institution, December 23, 2003, p. 20.

³³ Respondents’ Response to Notice of Institution, December 23, 2003, p. 19. In subsequent submissions, Indonesian respondents did not dispute petitioners’ proposed definition of the domestic like product.

³⁴ The Commission’s decision regarding the appropriate domestic products that are “like” the subject imported products is based on a number of factors including (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and, where appropriate, (6) price.

³⁵ Petitioners’ prehearing brief, pp. 3-16; Pillsbury’s prehearing brief, pp. 1-8; Indonesian prehearing brief, pp. 2-11; and Chinese prehearing brief, pp. 7-11.

domestic like product to be certain preserved mushrooms.³⁶ These issues have not been pursued by the parties during the course of these reviews.³⁷

U.S. MARKET PARTICIPANTS

U.S. Producers

The Commission sent producers' questionnaires to eight firms identified as U.S. producers of certain preserved mushrooms. Seven firms provided the Commission with responses.³⁸ Of the remaining members of the original petitioning Coalition for Fair Preserved Mushroom Trade, L.K. Bowman, Inc. ("L.K. Bowman"); Modern Mushroom Farms, Inc. ("Modern Mushroom"); Monterey Mushrooms, Inc. ("Monterey Mushrooms"); Mushroom Canning Co. ("Mushroom Canning"); and Sunny Dell Foods, Inc. ("Sunny Dell"), provided the Commission with questionnaire responses.³⁹ Giorgio Foods, Inc. ("Giorgio Foods"), ***, and Creekside also provided responses to the Commission's questionnaire.⁴⁰ Table I-2 presents the list of U.S. producers with each company's U.S. production location, share of U.S. production in 2003, and position on the continuation of the antidumping duty orders.

³⁶ *Certain Preserved Mushrooms from Chile*, Inv. No. 731-TA-776 (Final), USITC Pub. 3144, November 1998, pp. 3-6. With regard to fresh mushrooms, the Commission found that "preserved mushrooms have substantially different characteristics than fresh mushrooms in terms of appearance, flavor, and shelf life; that there are distinct channels of distribution; that fresh and preserved mushrooms are produced using different production facilities, employees, and methods; that customers and producers perceive significant differences between fresh and preserved mushrooms; and that the prices for the products differ substantially." *Id.* at 4.

With regard to marinated mushrooms, the Commission found that "although preserved mushrooms and marinated mushrooms share some common channels of distribution and production facilities, they have different tastes that limit marinated mushrooms' end uses, very limited interchangeability, are perceived to be different products by both producers and customers, and sell in different price ranges. We believe that the distinction between preserved mushrooms and marinated mushrooms establish a 'clear dividing line.'" *Id.* at 6.

³⁷ Petitioner asserts that the proper domestic like product definition is certain preserved mushrooms as defined by Commerce. Petitioner's prehearing brief, p. 4. Indonesian respondents take no position with regard to the definition of the domestic like product or the domestic industry. Indonesian respondents' posthearing brief, exh. 1, p. 17.

³⁸ Ron-Son Mushroom Products, Inc. ("Ron-Son") reported that it ***.

³⁹ Mount Laurel Canning Corp., United Canning Corp., and Southwood Farms were members of the original petitioning coalition but did not provide the Commission with questionnaire responses. In the original investigations, United Canning Corp. accounted for *** percent of 1997 U.S. production of certain preserved mushrooms, Southwood Farms accounted for *** percent, and Mount Laurel Canning Corp. accounted for *** percent. Creekside Mushrooms, Ltd. ("Creekside") reported that it ***. Southwood Farms ceased operations as of December 31, 2002 (and ceased production of certain preserved mushrooms prior to this date). Petitioners' Response to Notice of Institution, December 23, 2003, p. 20. Mount Laurel Canning ***. U.S. producer questionnaire response of ***.

⁴⁰ Giorgio Foods and Creekside were not members of the original petitioning coalition, ***.

Table I-2

Certain preserved mushrooms: U.S. producers, U.S. production locations, shares of U.S. production in 2003, and positions on the continuation of the antidumping duty orders

Firm	Production location(s)	Share of production (percent)	Position on continuation of the orders ¹
Creekside ²	Worthington, PA North Lima, OH	***	***
Giorgio Foods	Temple, PA	***	***
L.K. Bowman ³	Nottingham, PA	***	Petitioner
Modern Mushroom ⁴	Avondale, PA	***	Petitioner
Monterey Mushrooms ⁵	Ventura, CA Bonne Terre, MO	***	Petitioner
Mushroom Canning	Cambridge, MD	***	Petitioner
Sunny Dell	Kennett Square, PA	***	Petitioner
1 *** 2 *** 3 *** 4 *** 5 ***			
Source: Compiled from data submitted in response to Commission questionnaires.			

U.S. Importers

The Commission sent importer questionnaires to 43 firms believed to be importers of certain preserved mushrooms, as well as to all U.S. producers.⁴¹ Questionnaire responses containing data were received from 19 companies accounting for *** percent of the volume of subject U.S. imports of certain preserved mushrooms in 2003 and 41.5 percent of all imports.⁴² Table I-3 presents the responding U.S. importers, their locations, and imports, by source, of certain preserved mushrooms in 2003.

Table I-3

Certain preserved mushrooms: Reported subject U.S. imports, by importer and by source of imports, 2003

* * * * *

⁴¹ The Commission sent questionnaires to those firms identified in the original investigations, along with firms that, based on a review of data provided by Customs, may have imported certain preserved mushrooms since 1998.

⁴² In addition, the Commission received responses from *** reporting that they did not import certain preserved mushrooms during 1998-2003 from any country.

APPARENT U.S. CONSUMPTION AND MARKET SHARES

Table I-4 presents apparent U.S. consumption for the review period and table I-5 presents U.S. market shares for the same period.

**Table I-4
Certain preserved mushrooms: U.S. shipments of domestic product, U.S. imports, and apparent U.S. consumption, 1998-2003**

Item	1998	1999	2000	2001	2002	2003
Quantity (1,000 pounds, drained weight)						
U.S. producers' U.S. shipments	66,196	73,525	61,741	56,543	58,552	47,687
U.S. imports from--						
Chile	6,516	0	0	0	0	0
China	48,046	320	8,330	19,364	20,594	48,139
India	12,559	32,023	34,439	29,479	23,885	27,010
Indonesia (subject)	26,666	29,096	29,043	22,417	***	***
Subtotal	93,786	61,439	71,812	71,259	***	***
Indonesia (nonsubject)	(1)	(1)	(1)	(1)	***	***
Other sources	21,814	45,663	65,136	47,462	47,549	42,838
Total imports	115,600	107,102	136,948	118,721	114,615	140,216
Apparent consumption	181,796	180,627	198,689	175,264	173,167	187,903
Value (\$1,000)						
U.S. producers' U.S. shipments	82,859	99,290	81,411	69,031	67,582	55,722
U.S. imports from--						
Chile	7,683	0	0	0	0	0
China	37,520	433	7,617	19,117	19,516	43,339
India	13,022	27,873	33,057	27,442	21,051	21,997
Indonesia (subject)	30,459	39,321	38,493	28,830	***	***
Subtotal	88,685	67,628	79,167	75,389	***	***
Indonesia (nonsubject)	(1)	(1)	(1)	(1)	***	***
Other sources	26,158	51,161	67,638	47,239	43,954	39,809
Total imports	114,843	118,789	146,805	122,628	109,220	131,607
Apparent consumption	197,702	218,079	228,216	191,659	176,802	187,329
¹ Not applicable.						
Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.						

Table I-5
Certain preserved mushrooms: U.S. market shares, 1998-2003

Item	1998	1999	2000	2001	2002	2003
Quantity (1,000 pounds, drained weight)						
Apparent consumption	181,796	180,627	198,689	175,264	173,167	187,903
Value (1,000 dollars)						
Apparent consumption	197,702	218,079	228,216	191,659	176,802	187,329
Share of quantity (percent)						
U.S. producers' U.S. shipments	36.4	40.7	31.1	32.3	33.8	25.4
U.S. imports from--						
Chile	3.6	0	0	0	0	0
China	26.4	0.2	4.2	11.0	11.9	25.6
India	6.9	17.7	17.3	16.8	13.8	14.4
Indonesia (subject)	14.7	16.1	14.6	12.8	***	***
Subtotal	51.6	34.0	36.1	40.7	***	***
Indonesia (nonsubject)	(1)	(1)	(1)	(1)	***	***
All other sources	12.0	25.3	32.8	27.1	27.5	22.8
Total imports	63.6	59.3	68.9	67.7	66.2	74.6
Share of value (percent)						
U.S. producers' U.S. shipments	41.9	45.5	35.7	36.0	38.2	29.7
U.S. imports from--						
Chile	3.9	0	0	0	0	0
China	19.0	0.2	3.3	10.0	11.0	23.1
India	6.6	12.8	14.5	14.3	11.9	11.7
Indonesia (subject)	15.4	18.0	16.9	15.0	***	***
Subtotal	44.9	31.0	34.7	39.3	***	***
Indonesia (nonsubject)	(1)	(1)	(1)	(1)	***	***
All other sources	13.2	23.5	29.6	24.6	24.9	21.3
Total imports	58.1	54.5	64.3	64.0	61.8	70.3
¹ Not applicable. Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.						

PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET

U.S. MARKET SEGMENTS

Certain preserved mushrooms are sold to industrial users, food service customers, and retailers. Industrial users such as frozen-food manufacturers purchase large quantities that they use in producing packaged foods. Food service customers include restaurant and institutional customers as well as distributors to such firms. Retail customers mainly consist of grocery stores or discount stores that also sell groceries. Retail users purchase small containers: 4- and 8- ounce cans or jars or “number 10” cans that contain 68 ounces drained weight of preserved mushrooms.¹

Certain preserved mushrooms are sold as whole mushrooms, sliced mushrooms, or as stems and pieces. Whole mushrooms are mainly sold to retailers and are usually small, attractive, and of uniform size. Sliced mushrooms also must be made of small, attractive, and uniform sized-mushrooms and must show a complete silhouette of the mushroom. Sliced and whole mushrooms may be sold in glass jars as well as cans. Stems and pieces account for 75 percent of the entire U.S. market and 95 percent of sales to food service and industrial customers. Stems and pieces are typically sold in cans, not in glass jars. Lower-quality mushrooms, such as broken or more mature mushrooms, are used for stems and pieces.

Subject imports comprised 44.9 percent of the value of the U.S. market in 1998, domestic producers’ shipments comprised 41.9 percent, and nonsubject imports were 13.2 percent. In 2003, subject imports comprised *** percent of the value of the U.S. market, domestic shipments comprised 29.7 percent, and nonsubject imports comprised *** percent.

Some U.S. producers sell not only certain preserved mushrooms but also produce and sell other forms of mushrooms including packaged fresh whole or sliced mushrooms, frozen mushrooms, and/or chilled mushrooms, as well as products containing mushrooms. Domestic producers may also benefit from “Buy American” requirements or preferences that promote demand for their products, although purchases subject to such requirements are a very small portion of the overall market.²

¹ Petitioners and respondents do not agree whether number 10 cans sold by retailers should be considered as part of the retail channel of trade. Petitioners report that this product is largely purchased by small businesses that use the mushrooms for food products and these firms would otherwise purchase through the food service sector. Hearing transcript (Mr. Kazemi), p. 22, and (Mr. Coursey), p. 232. The respondents report that it was the petitioners who requested that these firms be included in the retail sector. Hearing transcript (Mr. Morgan), p. 235.

² In response to a question whether buying U.S. product is an important factor in each firm’s purchases of certain preserved mushrooms, all but one of the 19 responding firms reported that it was not. The one firm reporting “yes” reported that it purchased only U.S. product for its ***.

CHANNELS OF DISTRIBUTION

Twenty-one purchasers³ responded to the purchaser questionnaire.⁴ Seven purchasers were retailers, 13 were distributors, and one was no longer in business and did not provide the information needed to classify it. Information received to date indicates that retailers and distributors that sell to retailers tend to purchase the product from more than one country source, whereas the three reporting distributors that sell mainly for food service use and to other distributors purchase the product from India (see appendix E). Not all importers reported information on channels of distribution; however, the responses of those that did are reported in appendix F, which also provides Customs data on imports by size of container. Product in the smaller containers would typically be sold in the retail channel while larger containers would typically be sold to food service and industrial users. According to Customs data, most Indonesian product is sold in smaller containers; most Indian product is sold in larger containers; and Chinese product shifts from year to year between being mainly in large and mainly in small containers. In almost all instances, the answers by responding purchasers that were retailers and by those that were distributors were similar.

Geographic Markets

Six of the seven responding producers and 11 of the 18 responding importers reported shipping nationally. The remaining one producer and seven importers reported selling to one or more regions.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Production

Based on available information, staff believes that U.S. certain preserved mushroom producers are likely to respond to changes in demand with moderate to small changes in shipments of U.S. produced certain preserved mushrooms to the U.S. market. Factors contributing to the moderate to small responsiveness of supply are discussed below.

Industry capacity and inventory levels

High levels of excess capacity in canning facilities indicate that the industry can increase production assuming that adequate supplies of fresh mushrooms are available for canning. Between 1998 and 2003, reported capacity utilization rose slightly from 23.6 percent to 25.1 percent.

³ ***.

⁴ All but one of these firms answered the question on whether the purchasers were retailers, food service, industrial users, or distributors. Some firms misinterpreted this question; for this reason, staff interpreted their response to this question using their answers to the question that asked for responses of distributors. If firms answered this question in a manner that indicated that they were distributors, they have been classified as distributors in this analysis. ***.

The U.S. mushroom canning industry's ability to increase output depends on the mushroom growers' willingness to increase their production of mushrooms available for canning as well as the canners' ability to increase the amount they process. The petitioners reported that they pay less for fresh mushrooms to be used in canning than they had before⁵ and thus it is not economically feasible for mushroom growers to grow mushrooms specifically for the processing market.⁶ The fresh mushrooms used in canning are mainly second-grade mushrooms that could not be sold on the fresh market, and some are excess fresh mushrooms that cannot find a market as fresh.⁷ U.S. processors believe that fresh mushroom growers would grow more mushrooms if they could get for mushrooms for canning 60 to 75 percent of the price that they get in the fresh market.⁸ However, mushrooms for canning were reported as selling for about 35 cents per pound while bulk mushrooms for the fresh market sell for 70 to 95 cents more.⁹ Petitioners believe that the low price paid for processing mushrooms has caused growers to be more cautious to not over-produce, and if the price for processing mushrooms were higher, growers would grow more mushrooms to ensure they had "the nicest, best, freshest mushrooms to serve their individual accounts for fresh."¹⁰ Calculating from these estimates the price of fresh mushrooms for canning would have to be at least 63 cents per pound in order to significantly increase the amount of mushrooms available to the processors.¹¹

U.S. producers of certain preserved mushrooms were asked if changes in demand for fresh mushrooms had affected their supply of raw mushrooms. Five producers responded: one reported that it had, but did not elaborate; one reported it had and that the growing demand for fresh mushrooms had reduced the demand for certain preserved mushrooms somewhat; one reported that it had not, but that the increased demand for fresh mushrooms had increased the supply of mushrooms available for canning; one reported that it had not, but stated that the supply of fresh mushrooms for the fresh market had increased; and one reported that the changing demand of fresh mushrooms had not affected its supply but the closing of one mushroom growing facility that resulted from the low price for mushrooms for processing had reduced the fresh mushrooms available for canning.

Alternative markets

U.S. exports of certain preserved mushrooms are limited. *** of the seven responding U.S. producers exported, and a number of the non-exporting firms reported that such exports were not feasible as a result of restrictive quotas, lack of sales force, shipping costs, exchange rate problems, or low prices.¹² Domestic producers' exports rose between 1998 and 2003 but remained at *** of their total shipments of certain preserved mushrooms. The *** level of exports during the period might indicate

⁵ Hearing transcript (Mr. Newhard), pp. 62-63.

⁶ Hearing transcript (Mr. Kazemi), p. 66.

⁷ About a week or two of the year, good quality mushrooms go to the canneries, but these may go to produce different product than is typically produced (e.g., to marinated product). Hearing transcript (Mr. Kazami), p. 87.

⁸ Hearing transcript (Mr. Newhard), p. 82.

⁹ Hearing transcript (Mr. Kazemi), pp. 83-84.

¹⁰ Hearing transcript (Mr. Newhard), pp. 81-82.

¹¹ Using the lower values, \$0.35 + \$0.70 for the minimum fresh price of \$1.05, times 60 percent for the minimum share of the fresh price necessary to increase production, results in \$0.63 per pound as a minimum price.

¹² The EU quotas are discussed in Part IV, p. 4 footnote 5.

that domestic producers find it difficult to shift shipments between the U.S. and other markets because of quotas or other difficulties or that U.S. shipments face stiff competition in foreign markets.

Inventory levels

Moderate-to-large inventories relative to total shipments indicates that U.S. producers are able to respond to changes in demand with relatively large changes in the quantity shipped. Inventories fell from *** percent of U.S. producers' total shipments in 1998 to *** percent in 2003.

Production alternatives

Most of the equipment used to produce certain preserved mushrooms cannot easily be converted to produce other mushroom products or other canned products. Different mushroom products are usually produced on different lines; however, the equipment used in cleaning, sorting, and blanching may be used in common, and chilled mushrooms are sliced using equipment similar to that used for canned mushrooms. The equipment for putting mushrooms in cans or jars and sealing, sterilizing, labeling, and packing these cans and jars is typically used only for canning, although two producers reported producing products other than certain preserved mushrooms using mushroom canning lines. Mr. Shelton of L.K. Bowman estimated that adding a canning line for smaller cans would cost around \$300,000.¹³

Subject Imports

Based on available information, subject imports of certain preserved mushrooms are likely to respond to changes in demand with relatively large changes in the quantity shipped to the U.S. market. Supply responsiveness is increased by moderate capacity utilization rates; however, it is limited by low-to-moderate inventories and the fact that the United States is already purchasing the majority of reported production by the subject-country producers. This analysis covers only Indonesian and Indian product, since the Commission received no foreign producers' questionnaires from Chile or China. Chilean product is shipped to other countries but not shipped to the United States.¹⁴ Chinese product is shipped into the United States and other countries.¹⁵

Industry capacity

Reported Indian capacity *** between 1998 to 2003 from *** million pounds in 1998 to *** million pounds in 2003. Capacity utilization rates fell *** from *** percent in 1998 to *** percent in

¹³ Hearing transcript (Mr. Shelton), pp. 68-69.

¹⁴ Petitioners report that Chilean product has been transshipped into the United States from Canada and Colombia.

¹⁵ Some importers reported that Chinese producers were able to increase production more quickly than Indian or Indonesian producers. One reported that in China, mushroom growing was a cottage industry, while in India, Indonesia, and Chile, mushrooms were grown in a corporate manner. Because Chinese mushroom growing was a cottage industry it did not require the investment in infrastructure to increase the amount of mushrooms grown and canned and as a result, some importers believed that China could increase production more rapidly than the other subject countries.

2003; however, year-to-year variations in capacity utilization were greater, with capacity utilization rising to as high as *** percent in 1999 and falling to as low as *** percent in 2001. Capacity of subject Indonesian producers fell from *** million pounds in 1998 to *** million pounds in 2003. Subject Indonesian capacity utilization rates fell irregularly from *** percent in 1998 to *** percent in 2003, with capacity utilization rates peaking in 1999 at *** percent and reaching their lowest point in 2003 at *** percent. The moderate capacity utilization rates, the high year-to-year variation in capacity utilization rates in India and Indonesia, and the *** overall growth in Indian capacity (which was *** reduction in subject Indonesian capacity and caused their combined capacity to increase ***), reflect an ability to increase production of certain preserved mushrooms in the event of a price change.

Alternative markets

The Indian and Indonesian foreign producers agreed that it would be difficult to shift between the U.S. market and other markets; however, this was mainly because the U.S. market was so large relative to all other markets. Only four U.S. importers reported that they knew about markets other than the U.S. market; three of these reported that U.S. prices were higher than in other countries, and the fourth reported that other markets had different specifications than the U.S. market and that the EU imposed quotas on imports of preserved mushrooms. The United States was reported to be by far the largest market for certain preserved mushrooms in the world and this fact limited the ability to shift from other markets to the United States; thus, there would be relatively little product now sold to other countries that would be available to sell in the United States. *** reported that the U.S. market purchased different-sized containers than they sold in other markets, and that the U.S. market purchased more stems and pieces and more product in glass jars than their other markets. The home markets in both India and Indonesia are small, with commercial home consumption ranging from *** percent to *** percent of total shipments in India and from *** to *** percent in Indonesia. According to the Indonesian producers, Indonesian consumption has increased with the growth of pizza chains in Indonesia. They also reported facing little foreign competition in Indonesia. The Indian producers reported that there was *** market for the product in India. Most shipments from India and Indonesia were to the United States, ranging from a low of *** percent in 2002 to a high of *** percent of total shipments in 2003 for Indonesia and from a low of *** percent in 2002 for India to a high of *** percent in 2001. These data indicate that foreign producers in Indonesia and India can divert some shipments to or from alternative markets in response to changes in the price of certain preserved mushrooms; this is limited, however, by the large shares of their shipments that already go to the United States.

Inventory levels

Foreign producers' inventory levels vary from year to year, especially in India. Between 1998 and 2003, inventories as a share of total shipments for Indian product ranged from *** percent in 1998 to *** percent in 2002, ending at *** percent in 2003. Inventories as a share of total shipments for subject Indonesian product ranged from *** percent in 2002 to *** percent in 2003. These data indicate that foreign producers' ability to use inventories as a means of increasing shipments of certain preserved mushrooms to the U.S. market differs from year to year. The inventory levels in 2003 indicate some ability to increase sales to the U.S. market out of inventories at the end of 2003.

Production alternatives

Only one of the seven responding foreign producers reported that it can produce other products on the same equipment used in the production of certain preserved mushrooms. This firm reported that it had ***. None of the foreign producers reported that they could shift production from other products to the production of canned mushrooms.

Nonsubject Imports

There are a large number of nonsubject sources for certain preserved mushrooms. Over the period from 1998 to 2003 these sources have been able to shift significant amounts of product to and from the United States and these nonsubject sources may be able to do so again in the future.

Other sources of imports of certain preserved mushrooms reported by purchasers include France, Malaysia, Mexico, the Netherlands, and Taiwan.¹⁶ Effective February 1, 2002, Commerce revoked the antidumping order concerning PT Zeta Agro of Indonesia, causing this firm to shift from being a subject producer to being a nonsubject producer.

Nonsubject-country imports rose from 21.8 million pounds in 1998 to 65.1 million pounds in 2000 and then fell to 47.5 million pounds in 2001 and 2002 before falling to 42.8 million pounds in 2003. The largest source of nonsubject-country imports during the period was the Netherlands. Imports from the Netherlands increased from 4.5 million pounds in 1998 to 28.3 million pounds in 2000 before falling to 12.5 million pounds in 2003. Imports from Mexico were the next largest in 2003; they peaked at 7.2 million pounds in 1998 and were 4.8 million pounds in 2003. The next largest nonsubject supplier, Taiwan, increased its exports to the United States from 2.7 million pounds in 1998 to 10.4 million pounds in 2000 after which its exports fell to 4.3 million pounds in 2003.¹⁷

U.S. Demand

Demand Characteristics

U.S. demand for certain preserved mushrooms depends on the level of demand for downstream food products using certain preserved mushrooms as an ingredient. This is dependent on the decisions by producers of these downstream products whether to use certain preserved mushrooms or other forms of mushrooms, and the perceptions of consumers as to whether they prefer products made from fresh or processed ingredients. Certain preserved mushrooms are typically used as an ingredient in foods including pizza toppings, spaghetti sauces, other sauces and gravies, casseroles, stews, and soups, rather than being served as a dish by themselves. The petitioners report that demand is growing at about the rate of population.¹⁸

¹⁶ The top four nonsubject countries for imports of certain preserved mushrooms between 1998 and 2003 in terms of volume were the Netherlands, Mexico, Taiwan, and France. Imports from Malaysia have also risen rapidly during the period of review.

¹⁷ From official Commerce statistics.

¹⁸ Hearing transcript (Mr. Kazemi), p. 59.

None of the responding purchasers reported using certain preserved mushrooms as an ingredient in further-processed food products.¹⁹ All 18 responding purchasers reported that the end uses of certain preserved mushrooms did not change between 1998 and 2003 and that they did not expect them to change in the future. When asked if demand had changed since 1998, three purchasers reported that demand had increased; one firm reported that it had decreased; and eight firms reported that demand was unchanged. The reasons purchasers reported for increased demand were promotions and cross merchandising (reported by one firm); quality and consistency being better for imported product (reported by a second firm); and increases in the number of *** locations. The purchaser reporting falling demand stated that consumer preference for fresh mushrooms reduced demand for certain preserved mushrooms. Seven of 15 importers reported that demand had not changed between 1998 and 2003, and 10 of 14 did not expect it to change in the future. Four importers explained why demand changed; two reported why demand had changed for their firm, and two firms reported that demand had decreased because use of fresh mushrooms had taken demand from certain preserved mushrooms. Five of the six U.S. producers reported that demand for certain preserved mushrooms has fallen over the period since 1998, with one reporting that demand was unchanged. Only two producers reported why demand had fallen; one of these reported that imports had reduced demand and the other reported that fresh mushrooms had replaced imported certain preserved mushrooms.²⁰ Four of the six responding producers reported that they did not expect future demand changes, and the other two expected demand to continue to decline.

Substitute Products

Substitutes for certain preserved mushrooms mainly include other forms of mushrooms. The flavor of mushroom is unique and certain preserved mushrooms are typically used as an ingredient in foods. Mushroom purchasers choose between fresh, preserved, and to a lesser extent frozen and dried mushrooms. Commercial purchasers have additional choices of chilled mushrooms. Each of these types has advantages and disadvantages.

Fifteen of the 19 responding purchasers,²¹ five of seven producers, and nine of 17 responding importers reported that there are no substitutes for certain preserved mushrooms. All four purchasers, both producers, and all eight importers that reported substitutes for certain preserved mushrooms reported that fresh mushrooms were a substitute; other substitutes reported included dry, blanched, frozen, and straw mushrooms.

Cost Share

Price changes for certain preserved mushrooms at the retail level will likely have only a small effect on consumption because certain preserved mushrooms are a small share of purchasers' food expenditures. However, if the price of certain preserved mushrooms rises, some retail purchasers may

¹⁹ General Mills was testified that it was also an industrial user. Its volume of certain preserved mushrooms for its own industrial use had fallen, replaced with either frozen mushrooms or the mushrooms were eliminated as an ingredient in the product. Hearing transcript (Mr. Larson), pp. 147 and 178.

²⁰ The other reported that the cost of inputs had increased at around the rate of inflation but did not explain how this caused demand to fall.

²¹ All seven responding retailers reported no substitutes for certain preserved mushrooms.

substitute them with fresh or other forms of mushrooms. Such a substitution, though it might take more time, might also occur for mushrooms used in food service or food processing.

The cost of using certain preserved mushrooms was largely unknown by the responding firms. Although certain preserved mushrooms are used in a variety of different types of food products, none of the purchasers that used such mushrooms in their food products answered the purchaser questionnaire. One purchaser and one U.S. producer estimated the cost share of mushrooms in other food products, with the purchaser reporting less than 1 percent and the U.S. producer reporting 15 percent. Assuming that certain preserved mushrooms make up a relatively small share of the cost of most food items, changes in the price of certain preserved mushrooms would have relatively little effect on the production costs of these foods and thus little effect on demand for foods containing certain preserved mushrooms.

SUBSTITUTABILITY ISSUES

Factors Affecting Purchasing Decisions

Purchasers were asked to identify the three major factors considered by their firm in deciding from whom to purchase certain preserved mushrooms (table II-1). Ten of the 19 responding firms reported that quality was the most important factor; the most commonly cited second-most-important factors were price and quality (both reported by six firms each); price was also the most-commonly cited

Table II-1
Certain preserved mushrooms: Most important factors in selecting a supplier, as reported by purchasers

Factor	First	Second	Third
Quality ¹	10	6	2
Price	5	6	8
Availability	2	3	3
Reliability ²	1	1	3
Delivery time ²	1	1	1
Service	0	1	1
Other ³	0	2	1

¹ Quality includes factors such as: consistent product quality, quality exceeds industry standards, and quality and safety are the minimum standard and so do not drive the purchase decision.

² One firm that reported at both reliability and delivery time as the second most important factor has been included in both reliability and delivery time.

³ Other includes: for the second factor, consistency of supply and food safety certificate with audit trails; for the third factor, extension of credit.

Source: Compiled from data submitted in response to Commission questionnaires.

third most important factor according to eight firms.²² Other factors reported by more than one firm were availability, reliability, delivery time, and service.

Purchasers were asked what factors determined the quality of certain preserved mushrooms. Factors mentioned included: color, size, flavor, shape cut, percentage of silhouettes, consistency, brine, can or jar cap quality, uniformity of product, texture, technical support, packaging, and quality meets or exceeds quality specifications.

Purchasers were asked if they always, usually, sometimes, or never purchased the lowest priced certain preserved mushrooms. One purchaser reported always purchasing the lowest priced product; nine usually purchased the lowest priced product; ten sometimes purchased the lowest priced product; and no purchaser reported that it never purchased the lowest priced product. Reasons reported for not purchasing the least expensive certain preserved mushrooms included the reliability of the supplier, quality of the product, the consistency of quality, and availability. Purchasers were also asked if they purchased certain preserved mushrooms from one source although a comparable product was available at a lower price from another source. Fifteen purchasers responded, reporting reasons why they purchased from a source that might be more expensive. Reasons provided included: reliability of supply, availability, delivery time, relationship, quality, purchase only from approved sources, “consistency of the Chinese product is better than that from other countries,” and “purchase only from one source.”

Purchasers were asked to rate the importance of 22 factors in their purchasing decisions (table II-2). All 20 responding purchasers rated availability as very important; 19 reported that quality meeting industry standards was very important; 17 reported that reliability of supply was very important; 15 reported that product flavor and product smell were very important; and 14 reported that delivery time and product color were very important.

Purchasers were asked for a country-by-country comparison on the same 22 factors (table II-3).²³ For the U.S. product compared to the Chinese product, the most frequently reported difference in the factors (reported by five of the seven responding purchasers) was that the U.S. product was superior to the Chinese product in delivery time, while the Chinese product was reported to be superior to the U.S. product for lowest price (reported by five of seven responding purchasers) and discounts offered (reported by four of the seven responding firms). Three firms compared U.S. and Indian product; two of these reported that U.S. producers provided better delivery times, delivery terms, and technical support. Two reported that the Indian product was superior with regard to discounts and lowest price. Five purchasers compared the U.S. and subject Indonesian product; three of these reported that the U.S. product was superior in terms of delivery time, while three reported that the subject Indonesian product was superior in discounts offered and lowest price. Four firms compared Chinese and Indian product; two of these reported that the Chinese product was superior in product color, consistency of quality among manufacturers, quality meeting industry standards, and quality exceeding industry standards. Five purchasers compared Chinese and subject Indonesian product, with most of these firms reporting that Chinese and subject Indonesian product were comparable for all 22 factors. Three firms compared U.S. and nonsubject product; all three reported that the U.S. product was superior in delivery time, while two reported that the U.S. product was superior with regard to product availability and delivery terms and two reported that the nonsubject product was superior in terms of lowest price. Subject and nonsubject

²² None of the seven retailers reported price as the most important factor; however, five reported quality as most important. All seven retailers reported that price was either the second or third most important factor.

²³ None of the purchasers reported for the Chilean product.

Table II-2
Certain preserved mushrooms: Importance of purchase factors, as reported by purchasers

Factor	Very important	Somewhat important	Not important
	<i>Number of firms responding</i>		
Product availability	20	0	0
Delivery terms	9	11	0
Delivery time	14	5	0
Discounts offered	9	8	3
Extension of credit	3	10	7
Lowest price	12	8	0
Minimum quantity requirements	4	10	5
Packaging	9	10	1
Mushroom piece size	12	7	0
Product color	14	6	0
Percentage of silhouettes	8	10	1
Product flavor	15	5	0
Product smell	15	5	0
Variation in piece size	11	9	0
Container/case size	11	9	0
Consistency of quality among manufacturers in country	7	7	6
Quality meets industry standards	19	1	0
Quality exceeds industry standards	7	11	1
Product range	2	12	5
Reliability of supply	17	3	0
Technical support/service	7	12	1
U.S. transportation costs	8	7	4

Note: Not all purchasers responded for each factor.

Source: Compiled from data submitted in response to Commission questionnaires.

Table II-3
Certain preserved mushrooms: Comparisons of product by source country, as reported by purchasers

Factor	U.S. vs China			U.S. vs India			U.S. vs Indonesia			China vs India			China vs Indonesia		
	S	C	I	S	C	I	S	C	I	S	C	I	S	C	I
	<i>Number of firms responding</i>														
Product availability	1	4	2	1	2	0	1	3	1	0	4	0	0	4	1
Delivery terms	3	3	1	2	1	0	2	3	0	0	4	0	1	4	0
Delivery time	5	2	0	2	1	0	3	2	0	0	4	0	0	5	0
Discounts offered	1	2	4	1	0	2	0	2	3	0	4	0	0	5	0
Extension of credit	0	6	1	1	2	0	0	5	0	0	3	0	1	3	0
Lowest price	1	1	5	0	1	2	1	1	3	1	3	0	0	5	0
Minimum quantity requirements	2	4	1	1	2	0	1	4	0	0	4	0	0	5	0
Packaging	0	7	0	0	3	0	0	5	0	1	3	0	0	5	0
Mushroom piece size	1	3	3	1	2	0	0	3	2	1	2	0	0	5	0
Product color	0	5	2	0	3	0	0	3	2	2	2	0	0	4	1
Percentage of silhouettes	0	4	3	0	3	0	0	3	2	1	2	0	0	5	0
Product flavor	1	5	1	1	2	0	0	4	1	0	4	0	0	4	1
Product smell	1	5	1	1	2	0	0	4	1	0	4	0	0	4	1
Variation in piece size	0	4	3	0	3	0	0	3	2	1	3	0	0	5	0
Container/case size	1	7	0	0	3	0	1	4	0	0	4	0	0	5	0
Consistency of quality among manufacturers in country	2	4	0	0	3	0	2	3	0	2	1	0	0	4	1
Quality meets industry standards	0	5	2	0	3	0	0	4	1	2	2	0	0	5	0
Quality exceeds industry standards	0	3	3	0	2	0	0	2	2	2	2	0	0	4	1
Product range	0	6	1	0	3	0	0	5	0	0	4	0	0	4	0
Reliability of supply	0	6	1	0	3	0	0	4	1	0	3	1	1	4	0
Technical support/service	2	5	0	2	1	0	1	4	0	0	4	0	0	4	0
U.S. transportation costs	2	3	1	0	3	0	2	2	1	0	2	0	0	5	0
<p>Note.--S=first listed country's product is superior; C=both countries' products are comparable; I=first listed country's product is inferior.</p> <p>Note.--Not all companies gave responses for all factors.</p> <p>Table continued.</p>															

Table II-3--Continued

Certain preserved mushrooms: Comparisons of product by source country, as reported by purchasers

Factor	U.S. vs nonsubject			China vs nonsubject ¹			India vs nonsubject			Indonesia vs nonsubject		
	S	C	I	S	C	I	S	C	I	S	C	I
	<i>Number of firms responding</i>											
Product availability	2	1	0	0	5	2	0	3	0	0	2	1
Delivery terms	2	1	0	1	4	2	0	3	0	0	2	1
Delivery time	3	0	0	0	4	3	0	2	1	0	1	2
Discounts offered	0	2	1	0	7	0	0	3	0	0	3	0
Extension of credit	0	3	0	1	5	0	0	2	0	0	2	1
Lowest price	0	1	2	4	3	0	2	1	0	1	2	0
Minimum quantity requirements	0	2	0	0	7	0	0	3	0	0	3	0
Packaging	0	3	0	0	7	0	0	3	0	0	3	0
Mushroom piece size	0	2	1	1	5	0	1	1	1	0	3	0
Product color	0	2	1	2	4	1	1	0	2	1	2	0
Percentage of silhouettes	0	2	1	1	5	0	1	1	0	0	2	1
Product flavor	0	3	0	1	3	3	1	0	2	0	2	1
Product smell	0	3	0	1	3	2	0	1	2	0	2	1
Variation in piece size	0	2	1	1	6	0	0	3	0	0	3	0
Container/case size	0	3	0	1	6	0	0	3	0	0	3	0
Consistency of quality among manufacturers in country	0	3	0	1	5	1	0	2	0	0	3	0
Quality meets industry standards	0	3	0	1	6	0	1	1	1	0	3	0
Quality exceeds industry standards	0	1	1	1	5	1	0	2	1	0	3	0
Product range	1	2	0	0	7	0	0	3	0	0	3	0
Reliability of supply	1	2	0	0	7	0	0	3	0	0	3	0
Technical support/service	0	3	0	0	7	0	0	3	0	0	3	0
U.S. transportation costs	1	2	0	0	5	1	0	3	0	0	3	0

¹ One firm compared Chinese product with product from PT Zeta Agro. This information has been included in the nonsubject data.

Note.--S=first listed country's product is superior; C=both countries' products are comparable; I=first listed country's product is inferior.

Note.--Not all companies gave responses for all factors.

Source: Compiled from data submitted in response to Commission questionnaires.

imported product were generally considered comparable, with the majority of responding purchasers indicating that the Chinese and Indian products are superior in lowest price; that the Indian product is inferior in product color, product flavor, and product smell; and that Indonesian product is inferior in delivery time.

Purchasers were asked if certain grades, types, or sizes of certain preserved mushrooms were available from a single source. Sixteen of the 17 responding purchasers reported that they were not. The purchaser that reported certain grades, types or sizes were available from a single source did not give any further information on this.

Purchasers were asked if they required certification or prequalification for certain preserved mushrooms. Fifteen of the 20 responding purchasers required certification/prequalification. Of the 15, 11 required it for all their purchases, two required it for all their purchases in 2003, and one required it for 50 percent of its purchases in 2003.²⁴ Thirteen purchasers reported on their certification/qualification process; many of these reported a number of requirements, including factory audits by either the purchaser or a third party, lab analysis, periodic sampling, and miscellaneous third-party (such as FDA) inspections, registrations, and approvals.

Nineteen purchasers reported factors they considered in qualifying a new supplier. Factors considered included the reliability of the supplier, size of the supplier, the quality of the product, consistency of the quality, results from factory audit, service, price, integrity, consistency of color, odor, texture of product, product safety requirements, price stability, commitment, and relationship with the supplier. The time required to qualify a new supplier was reported by eleven purchasers and ranged from one week to a year. Five firms reported times of 3 months²⁵ or less; three reported time of 3 months or more; one reported the time ranging from 2 to 8 months; and one reported time from 2 to 4 months.

Purchasers were asked if any suppliers had failed to qualify their product or lost their approved status. Only three of the 19 responding firms reported that suppliers had failed to qualify. One of these firms reported failure to qualify by all Indian firms except ***; one reported failure by a U.S. producer and various Chinese producers; and the other did not report which firms had failed to qualify/lost their approval.

Purchasers were asked a number of questions about whether their purchasing patterns for certain preserved mushrooms from subject and nonsubject sources had changed since 1998. Thirteen of the 21 responding purchasers reported that they had purchased certain preserved mushrooms from subject countries before 1998; six of these reported no change in purchases from subject countries,²⁶ three reduced or stopped purchasing from China or Indonesia as a result of the antidumping duty orders;²⁷ and

²⁴ The other reported requiring certification or prequalification for some of its product but it did not report the percentage that required certification. All seven responding retailers required some certification, with five requiring it for all product or all product in 2003; one retailer did not report what share required certification, and one required it for half its purchases.

²⁵ The two firms reporting times of 3 months have been included in the 3-months-or-less group rather than in the 3-months-or-longer group.

²⁶ One of these however, reported that it had increased its purchases from nonsubject countries because of the orders.

²⁷ The questions asked if the purchasers had discontinued/reduced their purchases from any of the subject countries; however, all three responding firms listed only China and Indonesia, or just China.

four changed their purchase patterns for reasons other than the antidumping duty orders.²⁸ When asked about purchases from nonsubject countries, seven purchasers reported that they did not purchase from nonsubject countries before or after the orders;²⁹ seven reported that their purchases from nonsubject countries were essentially unchanged; three increased their purchases from nonsubject countries because of the orders; and three increased their purchases from nonsubject countries for reasons other than the orders.

Purchasers were asked how frequently they and their customers purchased from specific producers and from specific countries. A number purchased only from approved suppliers and thus purchased based on the producer. Choices based on countries tended to be due to quality or relationships.

	<u>Always</u>	<u>Usually</u>	<u>Sometimes</u>	<u>Never</u>
Purchaser decides based on producer.....	5	3	8	4
Purchaser's customer decides based on producer.....	1	3	8	7
Purchaser decides based on country.....	4	4	10	1
Purchaser's customer decides based on country.....	1	2	9	7

Nine of the 17 responding purchasers contacted two to three suppliers before making a purchase, with three firms contacting only one supplier, and five contacting three or more suppliers. Most purchasers, 11 of the 17 responding, reported that they had not changed suppliers in the last five years.

Lead Times

Lead times for the U.S. producers ranged from 7 to 28 days regardless of whether sales were from inventory or produced to order. All four U.S. producers reporting specific lead times from both inventories and from production to order reported the same lead time for both types of sale. Four producers sold most product from inventories, while two sold most product made-to-order. Importers reported lead times that ranged from 5 to 98 days. Importers' lead times from inventories had a similar range to those of U.S. producers. Eight of the 11 responding importers reported delivery times from inventories of 15 days or less, with the remainder reporting inventory lead times of 3 to 12 weeks. In contrast, the most common times reported for sales produced to order were from 2 to 3 months, reported by 11 of the 14 responding importers. Nine importers sold most of their product from inventories, while four sold most produced-to-order.

²⁸ One of these firms reported shifting from China in 2001-02 because Chinese prices were too high (this firm also reported increasing nonsubject purchases because of the order) and one of these firms reported shifting from importing mushrooms from China to purchasing Chinese mushrooms in the United States.

²⁹ One additional firm reported that it did not purchase nonsubject product before or after the order; however, it purchased product from the Netherlands and so was not included in the group that did not purchase nonsubject product.

Comparisons of Domestic Products, Subject Imports, and Nonsubject Imports

Purchasers were asked to report how frequently certain preserved mushrooms from different countries were used in the same applications (table II-4). If purchasers reported that products from different countries were not always used in the same application, they were asked to explain why. Two reported reasons for differences. One firm reported that interchangeability depends on the variety and quality of the finished product and another stated that it would only purchase non-Chinese product if Chinese product were not available.³⁰

Producers and importers were asked to report how frequently certain preserved mushrooms from different countries were used in the same applications (tables II-5 and II-6). Only one of the producers

Table II-4
Certain preserved mushrooms: U.S. purchasers' perceived degree of interchangeability of products produced in the United States and other countries

Country	Chile				China				India				Indonesia				Nonsubject			
	A	F	S	N	A	F	S	N	A	F	S	N	A	F	S	N	A	F	S	N
United States	4	1	0	0	6	3	2	0	4	3	0	0	6	3	1	0	7	3	0	0
Chile	--	--	--	--	4	1	0	0	4	1	0	0	4	1	0	0	4	1	0	0
China	--	--	--	--	--	--	--	--	4	5	0	0	7	3	1	0	4	3	0	0
India	--	--	--	--	--	--	--	--	--	--	--	--	4	3	1	0	3	3	1	0
Indonesia	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	5	3	1	0

Note.--A=always; F=frequently; S=sometimes; N=never.
Source: Compiled from responses to Commission questionnaires.

Table II-5
Certain preserved mushrooms: U.S. producers' perceived degree of interchangeability of product produced in the United States and other countries

Country	Chile				China				India				Indonesia				Nonsubject			
	A	F	S	N	A	F	S	N	A	F	S	N	A	F	S	N	A	F	S	N
United States	5	1	0	0	5	1	0	0	5	1	0	0	5	1	0	0	5	1	0	0
Chile	--	--	--	--	5	1	0	0	5	1	0	0	5	1	0	0	5	1	0	0
China	--	--	--	--	--	--	--	--	5	1	0	0	5	1	0	0	5	1	0	0
India	--	--	--	--	--	--	--	--	--	--	--	--	5	1	0	0	5	1	0	0
Indonesia	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	5	1	0	0

Note.--A=always; F=frequently; S=sometimes; N=never.
Source: Compiled from responses to Commission questionnaires.

³⁰ In addition, one firm did not make the comparisons requested in the table but reported that product was not interchangeable between countries and it purchased only from Indonesia.

Table II-6
Certain preserved mushrooms: U.S. importers' perceived degree of interchangeability of product produced in the United States and other countries

Country	Chile				China				India				Indonesia				Nonsubject			
	A	F	S	N	A	F	S	N	A	F	S	N	A	F	S	N	A	F	S	N
United States	3	1	1	0	5	3	0	2	4	4	1	1	4	3	2	1	3	1	1	1
Chile	--	--	--	--	3	2	0	0	3	1	0	0	3	2	0	0	2	0	1	0
China	--	--	--	--	--	--	--	--	4	3	2	0	5	4	2	0	4	2	2	0
India	--	--	--	--	--	--	--	--	--	--	--	--	5	3	2	0	4	1	1	0
Indonesia	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	3	2	1	0

Note.--A=always; F=frequently; S=sometimes; N=never.

Source: Compiled from responses to Commission questionnaires.

elaborated on its response to this question, reporting that, for example, *** buys both domestic and imported products for the same private label. Three importers reported on differences between products. One reported that it had found U.S. product to be lower in quality than most imports; one reported that the Chinese product was better in quality than those of most other countries; and one reported dealing only in Chinese and Indonesian product. Importer General Mills reported that the product it purchases in Indonesia is typically a “fancy” product and for this reason, it is more expensive to produce than the typical product from China and India. Importer General Mills had purchased product in both India and China but no longer purchased from either of these countries, and reported that it could not get the consistency of quality it wanted in product from China.³¹

Purchasers were asked if they or their customers ever specifically requested certain preserved mushrooms from one country over other possible sources. Five of the 19 responding purchasers reported that they or their customers did sometimes order certain preserved mushrooms from specific countries. One each reported a preference for product from France and the Netherlands;³² one preferred product from ***, an Indian company; one reported a preference for Indonesian firms; and one preferred Chinese product. The firm purchasing from France reported that this product had a distinct quality. Products from China and India were reported to be preferred for consistent quality. The firm preferring Indonesian product reported that its only approved packers were in Indonesia. Only one of the 17 responding purchasers reported that certain types of certain preserved mushrooms were available from only a single source, but it did not elaborate.

Producers and importers were asked to assess how often differences other than price were significant in sales of certain preserved mushrooms from the United States, subject countries, or nonsubject countries. Producers' and importers' answers are summarized in tables II-7 and II-8. Producers and importers were asked to report what these differences were; however, none of the producers responded. Three of the importers elaborated. One reported that U.S. producers' quality was lower than that of imports; one reported there were differences in variability of piece size, color and

³¹ Hearing transcript (Mr. Larson), pp. 148-151.

³² The purchaser did not explain why product from the Netherlands was preferred.

Table II-7

Certain preserved mushrooms: U.S. producers' perceived importance of factors other than price in sales of product produced in the United States and other countries

Country	Chile				China				India				Indonesia				Nonsubject			
	A	F	S	N	A	F	S	N	A	F	S	N	A	F	S	N	A	F	S	N
United States	0	0	2	4	0	0	3	3	0	0	3	3	0	0	2	4	0	0	2	4
Chile	--	--	--	--	0	0	3	3	0	0	3	3	0	0	2	4	0	0	2	4
China	--	--	--	--	--	--	--	--	0	0	3	3	0	0	2	4	0	0	2	4
India	--	--	--	--	--	--	--	--	--	--	--	--	0	0	2	4	0	0	2	4
Indonesia	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	0	0	2	4	

Note.--A=always; F=frequently; S=sometimes; N=never.

Source: Compiled from responses to Commission questionnaires.

Table II-8

Certain preserved mushrooms: U.S. importers' perceived importance of factors other than price in sales of product produced in the United States and other countries

Country	Chile				China				India				Indonesia				Nonsubject			
	A	F	S	N	A	F	S	N	A	F	S	N	A	F	S	N	A	F	S	N
United States	0	1	0	4	0	2	3	3	0	3	3	3	0	2	2	4	0	1	2	2
Chile	--	--	--	--	0	0	2	3	0	0	2	3	0	0	1	4	0	0	0	2
China	--	--	--	--	--	--	--	--	0	0	5	4	1	1	4	5	1	0	2	3
India	--	--	--	--	--	--	--	--	--	--	--	--	0	0	4	5	0	0	2	3
Indonesia	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	0	0	4	2	

Note.--A=always; F=frequently; S=sometimes; N=never.

Source: Compiled from responses to Commission questionnaires.

flavor; and one reported that product from China, Malaysia, and Taiwan provided better size, color, and texture.

ELASTICITY ESTIMATES

This section discusses elasticity estimates. Parties were requested to provide comments in their prehearing briefs; however, no party made any comments.

U.S. Supply Elasticity³³

The domestic supply elasticity for certain preserved mushrooms measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of certain preserved mushrooms. The elasticity of domestic supply depends on several factors including the level of excess capacity, the ease with which producers can alter capacity, producers' ability to shift to production of other products, the existence of inventories, and the availability of alternate markets for U.S.-produced certain preserved mushrooms. Earlier analysis of these factors indicates that the U.S. industry has a moderate ability to increase or decrease shipments into the U.S. market; an estimate in the range of 3 to 6 is suggested.

U.S. Demand Elasticity

The U.S. demand elasticity for certain preserved mushrooms measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of certain preserved mushrooms. This estimate depends on factors discussed earlier such as the existence, availability, and commercial viability of substitute products, as well as the component share of the certain preserved mushrooms in the production of any downstream products. Based on the available information, the aggregate demand for certain preserved mushrooms is likely to be in a range of -0.4 to -0.9. Purchasers would not likely be very sensitive to changes in the price of certain preserved mushrooms and would continue to demand fairly constant quantities over a considerably wide range of prices.

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.³⁴ Product differentiation, in turn, depends upon such factors as quality (e.g., color, size, odor, etc.) and conditions of sale. Based on available information, the elasticity of substitution between domestic and subject product is likely to be moderately elastic and in the range of 2 to 4.

³³ A supply function is not defined in the case of a non-competitive market.

³⁴ The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and the domestic like products to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject products (or vice versa) when prices change.

PART III: CONDITION OF THE U.S. INDUSTRY

U.S. PRODUCERS' CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

Data on U.S. producers' capacity, production, and capacity utilization are presented in table III-1. Reported U.S. capacity of certain preserved mushrooms decreased from 1998 to 2003 by 28.7 percent and production decreased by 24.2 percent.¹ Capacity utilization rates ranged from 18.8 percent in 2002 to 25.1 percent in 2003.²

Table III-1
Certain preserved mushrooms: U.S. producers' capacity, production, and capacity utilization, 1998-2003

Item	Calendar year					
	1998	1999	2000	2001	2002	2003
Capacity (1,000 lbs. drained weight)	280,405	285,300	287,728	271,155	270,042	200,044
Production (1,000 lbs. drained weight)	66,186	67,849	68,932	53,316	50,733	50,161
Capacity utilization (percent)	23.6	23.8	24.0	19.7	18.8	25.1

Source: Compiled from data submitted in response to Commission questionnaires.

Four of seven U.S. producers, ***, reported that there was some change in their certain preserved mushroom operations during the period reviewed.³ ***⁴ ***⁵ *** also reported that its total production increased in 1999 and 2000, immediately after the antidumping duty orders were issued, but subsequently decreased in 2001 through 2003 as U.S. imports from China increased. ***. Therefore, *** ceased production of certain preserved mushrooms in 2000 and became a U.S. distributor of the product.⁶ Mushroom Canning reported a ***-percent increase in capacity from 1998 to 1999. It stated that during the period of review, it relocated its production facility from Kennett Square, PA to Cambridge, MD and ***. Mushroom Canning stated that its relocation was necessitated by otherwise needed renovations to an original facility built in 1903 and water allotment difficulties with the municipality of Kennett Square,

¹ ***.

Industry-wide, U.S. mushroom growers reported sales of the 2003-04 *Agaricus* mushroom crop to be 701 million pounds for the fresh market, or 83.1 percent of the yield, and 143 million pounds, or 16.9 percent, for the processing market. *Mushrooms*, National Agricultural Statistics Service (NASS), Agricultural Statistics Board, U.S. Department of Agriculture, August 16, 2004.

² A number of possible causes for the U.S. industry's low capacity utilization rate are as follows: (1) ***; (2) ***; and (3) L.K. Bowman testified that it slowed production after it lost a large purchaser to a foreign competitor. See *Verification Report and Changes to the Prehearing Report*, INV-BB-111, p. 6. Hearing transcript (Mr. Shelton), p. 114.

³ Although not reporting any change in operations during the review period, *** stated that in the future it ***. U.S. producer questionnaire response of ***.

⁴ U.S. producer questionnaire response of ***.

⁵ U.S. producer questionnaire response of ***.

⁶ U.S. producer questionnaire response of ***. ***.

PA which would have required curtailed production.⁷

Five of the seven U.S. producers reported that they do not produce other products using the same manufacturing equipment and/or production related employees employed to produce certain preserved mushrooms. *** reported that from 1998 to 2003 it produced *** mushrooms and *** reported that it produced *** mushrooms using the same manufacturing equipment and/or production related employees.

U.S. PRODUCERS' DOMESTIC SHIPMENTS, COMPANY TRANSFERS, AND EXPORT SHIPMENTS

As shown in table III-2, the quantity of U.S. producers' U.S. shipments decreased by 28 percent from 1998 to 2003. The value of U.S. producers' U.S. shipments also decreased, by 32.8 percent, during this period, as did the average unit value of such shipments, by 6.6 percent. One U.S. producer, ***, reported export shipments ***.

⁷ Hearing transcript (Mr. Newhard), pp. 24-25.

Table III-2
Certain preserved mushrooms: U.S. producers' shipments, by type, 1998-2003

Item	Calendar year					
	1998	1999	2000	2001	2002	2003
Quantity (1,000 pounds, drained weight)						
Commercial shipments	65,380	72,505	61,257	56,543	58,552	47,687
Internal consumption	***	***	***	***	***	***
Transfers to related firms	***	***	***	***	***	***
U.S. shipments	66,196	73,525	61,741	56,543	58,552	47,687
Export shipments	***	***	***	***	***	***
Total shipments	***	***	***	***	***	***
Value (\$1,000)						
Commercial shipments	81,817	97,966	80,775	69,031	67,582	55,722
Internal consumption	***	***	***	***	***	***
Transfers to related firms	***	***	***	***	***	***
U.S. shipments	82,859	99,290	81,411	69,031	67,582	55,722
Export shipments	***	***	***	***	***	***
Total shipments	***	***	***	***	***	***
Unit value (per pound)						
Commercial shipments	\$1.25	\$1.35	\$1.32	\$1.22	\$1.15	\$1.17
Internal consumption	***	***	***	***	***	***
Transfers to related firms	***	***	***	***	***	***
U.S. shipments	1.25	1.35	1.32	1.22	1.15	1.17
Export shipments	***	***	***	***	***	***
Average	***	***	***	***	***	***
¹ Not applicable.						
Source: Compiled from data submitted in response to Commission questionnaires.						

U.S. PRODUCERS' INVENTORIES

Data on end-of-period inventories of certain preserved mushrooms for the review period are presented in table III-3.

Table III-3
Certain preserved mushrooms: U.S. producers' end-of-period inventories, 1998-2003

Item	Calendar year					
	1998	1999	2000	2001	2002	2003
Inventories (1,000 pounds, drained weight)	14,578	8,902	16,090	12,860	4,841	7,313
Ratio to production (percent)	22.0	13.1	23.3	24.1	9.5	14.6
Ratio to U.S. shipments (percent)	22.0	12.1	26.1	22.7	8.3	15.3
Ratio to total shipments (percent)	***	***	***	***	***	***

Note: Ratios are calculated from firms providing both inventory and production/shipments information.
Source: Compiled from data submitted in response to Commission questionnaires.

U.S. PRODUCERS' IMPORTS AND PURCHASES OF IMPORTS

Three U.S. producers, ***,⁸ either directly imported or purchased imports of the subject product during the review period.⁹ Table III-4 presents data on the imports and purchases of imports of certain preserved mushrooms by U.S. producers.

Table III-4
Certain preserved mushrooms: U.S. producers' subject imports and purchases of subject imports, by source, 1998-2003

* * * * *

U.S. PRODUCERS' EMPLOYMENT, WAGES, AND PRODUCTIVITY

Data provided by U.S. producers on the number of production and related workers (PRWs) engaged in the production of certain preserved mushrooms and the total hours worked by and wages paid to such PRWs during the period for which data were collected in these reviews are presented in table III-5. From 1998 to 2003, the number of PRWs decreased by 19.4 percent, hours worked decreased by 12.8 percent, and hourly wages increased by 2.5 percent. Productivity increased by 5.2 percent during the review period.

⁸ In their notice of institution, Indonesian respondents maintain that Giorgio Foods should be excluded from the U.S. industry as a related party. Respondents' Response to Notice of Institution, December 23, 2003, p. 19. Respondents did not take a position with regard to ***. Indonesian respondents did not discuss related parties issues in their briefs or hearing testimony.

⁹ ***.

Table III-5
Certain preserved mushrooms: Average number of production and related workers, hours worked, wages paid to such employees, and hourly wages, productivity, and unit labor costs, 1998-2003

Item	Calendar year					
	1998	1999	2000	2001	2002	2003
PRWs (<i>number</i>)	330	321	328	270	260	266
Hours worked (<i>1,000</i>)	435	433	502	430	402	380
Wages paid (<i>\$1,000</i>)	5,372	5,480	6,999	6,633	6,423	5,988
Hourly wages	\$12.35	\$12.66	\$13.94	\$15.43	\$15.98	\$15.78
Productivity (<i>pounds per hour</i>)	125.6	140.0	133.8	124.0	126.2	132.2
Unit labor costs (<i>per pound</i>)	\$0.10	\$0.09	\$0.10	\$0.12	\$0.13	\$0.12
Source: Compiled from data submitted in response to Commission questionnaires.						

FINANCIAL EXPERIENCE OF THE U.S. INDUSTRY

Background

Seven U.S. producers¹⁰ provided financial data on their operations on certain preserved mushrooms. These producers accounted for all known U.S. production of these mushrooms in 2003.

U.S. producers reported several developments relating to plant openings and closings. Creekside started production of certain preserved mushrooms by purchasing Sno*Top's plant from United Canning Corp. on April 28, 2003. Giorgio Foods closed its Myers production facility in 2003; all production equipment has been moved or sold and the facility is being leased to other companies and is being used for warehousing. *** mentioned that three domestic producers—Southwood, United Canning, and Mount Laurel Canning—have closed their production facilities since December 2, 1998. Modern Mushroom closed its cannery operation in July 2000.

Financial data were gathered only on the producers' actual processing operations (cleaning, sorting, blanching, and canning), not their growing operations. Several producers (***) are or were integrated at least to some extent, meaning that they grow a portion of the fresh mushrooms needed for their processing operations or purchase a portion from related growers; they may also purchase a portion from unrelated growers. Processors that are not integrated must purchase all of their fresh mushroom requirements from unrelated growers. Since financial data on growers and growing operations were not gathered and are not publicly available, those data are not presented.

The questionnaire data of one producer, ***, were verified. Based upon verification findings, ***, *** verification adjustments were incorporated in this report.

Operations on Certain Preserved Mushrooms

Income-and-loss data for the U.S. producers on their certain preserved mushrooms operations are presented in table III-6, per-pound data are shown in table III-7, and components of cost of goods sold are presented in table III-8. Selected financial data, by firm, are presented in table III-9. To summarize, net sales values and profitability both initially increased and then decreased over time. The change in net sales values was the result of increasing and then decreasing net sales quantities and sales average unit values (AUVs), while the swing in profitability was the result of unit costs increasing at a slower rate than sales AUVs and then decreasing at a slower rate than sales AUVs.

The aggregate operating income margin improved from 1.0 percent in 1998 to 3.2 percent in 2000, and then turned steadily negative: operating loss margins were 0.4 percent in 2001, 3.6 percent in 2002, and 2.7 percent in 2003. In 2003, three out of six firms reported operating losses, compared with two out of five firms in 2001 and 2002.

The volume of total net sales declined irregularly by about 27 percent from 1998 to 2003. The volume of total net sales increased by about 5 percent from 1998 to 1999, decreased by about 10 percent in 2000, declined by 11 percent in 2001, increased by 5 percent in 2002, and then dropped by 17 percent in 2003. From 1998 to 1999, on a per-pound basis, the total of average cost of goods sold (COGS) and selling, general, and administrative (SG&A) expenses rose less than the increase in the average selling price, resulting in the producers' improved operating income. In 2000, such costs and expenses combined declined more than the decrease in the average selling price, resulting in a slightly improved operating income; in 2001 and 2002, COGS declined less than the decline in the average selling price, resulting in operating losses; and, in 2003, the average selling price increased slightly whereas COGS increased and SG&A expenses fell, resulting in a slightly lower operating loss.

¹⁰ U.S. producers and their fiscal year ends are ***.

With regard to the individual components of COGS, raw materials (mushrooms) accounted for 56 to 61 percent of the total cost of goods sold whereas other factory costs accounted for 33 to 36 percent

Table III-6
Results of operations of U.S. producers in the production of certain preserved mushrooms, fiscal years 1998-2003

Item	Fiscal years					
	1998	1999	2000	2001	2002	2003
	Quantity (1,000 pounds drained weight)					
Commercial sales	***	***	***	***	***	***
Transfers to related firms	***	***	***	***	***	***
Total net sales	68,133	71,437	64,639	57,251	59,943	49,724
	Value (\$1,000)					
Commercial sales	***	***	***	***	***	***
Transfers to related firms	***	***	***	***	***	***
Total net sales	81,714	98,393	87,008	70,610	69,463	58,139
Cost of goods sold	74,270	89,167	76,808	64,611	66,246	55,543
Gross profit	7,444	9,226	10,200	5,999	3,217	2,596
SG&A expenses	6,657	7,183	7,447	6,305	5,729	4,150
Operating income or (loss)	787	2,043	2,753	(306)	(2,512)	(1,554)
Interest expense	1,031	718	861	508	174	93
Other expense	81	167	573	190	140	311
Other income items	139	83	74	226	91	3
Dumping and subsidy funds received	0	0	0	209	1,861	1,274
Net income or (loss)	(186)	1,241	1,393	(569)	(874)	(681)
Depreciation/amortization	1,086	651	1,219	1,084	997	992
Cash flow	900	1,892	2,612	515	123	311
	Ratio to net sales (percent)					
Cost of goods sold	90.9	90.6	88.3	91.5	95.4	95.5
Gross profit	9.1	9.4	11.7	8.5	4.6	4.5
SG&A expenses	8.1	7.3	8.6	8.9	8.2	7.1
Operating income or (loss)	1.0	2.1	3.2	(0.4)	(3.6)	(2.7)
Net income or (loss)	(0.2)	1.3	1.6	(0.8)	(1.3)	(1.2)
	Number of firms reporting					
Operating losses	1	1	2	2	2	3
Data	6	6	6	5	5	6
1 ***						
2 ***						
Source: Compiled from data submitted in response to Commission questionnaires.						

Table III-7
Results of operations (*per pound*) of U.S. producers in the production of certain preserved mushrooms, fiscal years 1998-2003

Item	Fiscal years					
	1998	1999	2000	2001	2002	2003
	Unit value (<i>per pound</i>)					
Net sales	\$1.20	\$1.38	\$1.35	\$1.23	\$1.16	\$1.17
Cost of goods sold	1.09	1.25	1.19	1.13	1.11	1.12
Gross profit	0.11	0.13	0.16	0.10	0.05	0.05
SG&A expenses	0.10	0.10	0.12	0.11	0.10	0.08
Operating income or (loss)	0.01	0.03	0.04	(0.01)	(0.04)	(0.03)
Net income or (loss)	(0.003)	0.02	0.02	(0.01)	(0.01)	(0.01)
Source: Compiled from data submitted in response to Commission questionnaires.						

during the period for which data were collected. All responding firms except *** purchased fresh mushrooms on the open market for use as raw materials. *** used part of the mushrooms grown by their firms for processing whereas all fresh mushrooms used by *** as raw material were grown by ***. The total unit cost of goods sold increased irregularly from 1998 to 2000, particularly because of increasing costs of raw mushrooms and other factory costs. The total unit cost of goods sold then declined because of declining raw mushroom costs.

Table III-9 presents selected financial data on a company-by-company basis, and illustrates some of the similarities and differences among the producers. The industry trends were generally driven by ***, which is ***, accounting for *** percent of total sales volume and *** percent of total net sales value in 2003.

Table III-8
Components of cost of goods sold of U.S. producers in the production of certain preserved mushrooms, fiscal years 1998-2003

Item	Fiscal years					
	1998	1999	2000	2001	2002	2003
	Value (\$1,000)					
Raw materials:						
Mushrooms:						
Grown by the firms ¹	***	***	***	***	***	***
Purchased by the firms	***	***	***	***	***	***
Total	45,094	54,217	45,665	36,404	38,083	32,334
Direct labor	4,541	4,526	5,195	4,825	4,547	3,897
Other factory costs	24,635	30,424	25,948	23,382	23,616	19,312
Total cost of goods sold	74,270	89,167	76,808	64,611	66,246	55,543
	Share of cost of goods sold (percent)					
Raw materials:						
Mushrooms:						
Grown by the firms ¹	***	***	***	***	***	***
Purchased by the firms	***	***	***	***	***	***
Total	60.7	60.8	59.5	56.3	57.5	58.2
Direct labor	6.1	5.1	6.8	7.5	6.9	7.0
Other factory costs	33.2	34.1	33.8	36.2	35.6	34.8
Total cost of goods sold	100.0	100.0	100.0	100.0	100.0	100.0
	Unit value (per pound)					
Raw materials:						
Mushrooms:						
Grown by the firms ¹	\$***	\$***	\$***	\$***	\$***	\$***
Purchased by the firms	***	***	***	***	***	***
Total	0.66	0.76	0.71	0.64	0.64	0.65
Direct labor	0.07	0.06	0.08	0.08	0.08	0.08
Other factory costs	0.36	0.43	0.40	0.41	0.39	0.39
Total cost of goods sold	1.09	1.25	1.19	1.13	1.11	1.12
¹ ***						
Source: Compiled from data submitted in response to Commission questionnaires.						

**Table III-9
Results of operations of U.S. producers in the production of certain preserved mushrooms, by firms, fiscal years 1998-2003**

* * * * *

***¹¹ also produce fresh mushrooms and sell the majority of those mushrooms as fresh mushrooms. Creekside reported *** volume in 2003 when it started its operations. Giorgio Foods reported *** in 2001, 2002, and 2003. Modern Mushroom *** in 2000 when it closed its cannery operation. Monterey Mushrooms reported ***. L.K. Bowman, Mushroom Canning, and Sunny Dell, *** Mushroom Canning *** in 2003.

With respect to its ***, Giorgio Foods stated that: ***.¹²

L.K. Bowman reported declining profitability during the period of investigation. With respect to its declining operating income in 2003, L.K. Bowman indicated that: ***.¹³

With respect to its declining profitability from 1998 to 2000, Modern Mushroom stated that “***.”¹⁴

With respect to reasons for its ***, *** indicated that: ***.¹⁵

With respect to its declining labor costs since 2001, Monterey Mushrooms indicated that: ***.¹⁶

With respect to the ***, Mushroom Canning stated that: ***.¹⁷

The variance analysis showing the effects of prices and volume on the producers’ net sales of certain preserved mushrooms, and of costs and volume on their total expenses, is presented in table III-10. The analysis is summarized at the bottom of the table. The information for this variance analysis is derived from table III-6. There was no internal consumption, and transfers to related firms accounted for less than *** percent of total net sales by volume during the period of investigation. The variance analysis provides an assessment of changes in profitability as related to changes in pricing, cost, and volume. This analysis is more effective when the product involved is a homogeneous product with no variation in product mix. The analysis shows that the decrease in operating income from 1998 to 2003 is primarily attributable to the much higher unfavorable price variance (lower selling prices), but is also attributable to a lesser degree to the unfavorable net cost/expense variance (higher unit costs) and net volume variance (lower volume).

¹¹ Chairman Koplan asked a question to Mr. Kazemi, president of Monterey Mushrooms, “Indonesian respondents seem to be arguing that domestic production of processed mushrooms is simply a residual byproduct of fresh mushrooms. What I am wondering, Mr. Kazemi, is are you able to offset at least in part losses that you incur with regard to preserved mushrooms with gains from your sales of fresh mushrooms as an integrated company?” Mr. Kazemi replied that “There is a fundamental flaw in that supposition. It assumes that you are making money on the fresh side of the business, which may or may not happen. There are a lot of fresh companies that are going bankrupt. So we treat our businesses as stand alone businesses, fresh mushrooms. If we don’t make money in the processed area, we are going to shut down that segment, or vice versa. So they are independent, and we don’t try to balance the two because we are losing money here, and we are making money on the fresh side.” Hearing transcript, pp. 93-94.

¹² ***.

¹³ ***.

¹⁴ ***.

¹⁵ ***.

¹⁶ *Id.*

¹⁷ ***.

Table III-10
U.S. producers' variance analysis on their operations producing certain preserved mushrooms,
fiscal years 1998-2003

Item	Fiscal years					
	1998-03	1998-99	1999-00	2000-01	2001-02	2002-03
	Value (\$1,000)					
Commercial sales:						
Price variance	***	***	***	***	***	***
Volume variance	***	***	***	***	***	***
Commercial sales variance	***	***	***	***	***	***
Transfers to related firms:						
Price variance	***	***	***	***	***	***
Volume variance	***	***	***	***	***	***
Transfer variance	***	***	***	***	***	***
Total net sales:						
Price variance	(1,497)	12,716	(2,022)	(6,453)	(4,467)	518
Volume variance	(22,078)	3,963	(9,363)	(9,945)	3,320	(11,842)
Total net sales variance	(23,575)	16,679	(11,385)	(16,398)	(1,147)	(11,324)
Cost of sales:						
Cost variance	(1,340)	(11,295)	3,874	3,418	1,403	(591)
Volume variance	20,067	(3,602)	8,485	8,779	(3,038)	11,294
Total cost variance	18,727	(14,897)	12,359	12,197	(1,635)	10,703
Gross profit variance	(4,848)	1,782	974	(4,201)	(2,782)	(621)
SG&A expenses:						
Expense variance	708	(203)	(948)	291	872	602
Volume variance	1,799	(323)	684	851	(296)	977
Total SG&A variance	2,507	(526)	(264)	1,142	576	1,579
Operating income variance	(2,341)	1,256	710	(3,059)	(2,206)	958
Summarized as:						
Price variance	(1,497)	12,716	(2,022)	(6,453)	(4,467)	518
Net cost/expense variance	(632)	(11,499)	2,926	3,709	2,276	12
Net volume variance	(213)	38	(194)	(315)	(14)	428
Note: Unfavorable variances are shown in parentheses; all others are favorable.						
Source: Compiled from data submitted in response to Commission questionnaires.						

Investment in Capital Expenditures and Research and Development Expenses

The responding firms' aggregate data on capital expenditures and research and development (R&D) expenses on their certain preserved mushrooms operations are shown in table III-11. None of the firms reported any R&D expenses. ***.

Table III-11
Capital expenditures and research and development expenses of U.S. producers of certain preserved mushrooms, fiscal years 1998-2003

Item	Fiscal years					
	1998	1999	2000	2001	2002	2003
	Value (\$1,000)					
Capital expenditures	1,215	1,235	1,539	1,353	907	2,706
R&D expenses	0	0	0	0	0	0
Source: Compiled from data submitted in response to Commission questionnaires.						

Assets and Return on Investment

The Commission's questionnaire requested data on assets used in the production, warehousing, and sale of certain preserved mushrooms to compute return on investment (ROI). Although ROI can be computed in many different ways, a commonly used method is income divided by total assets. Therefore, ROI is calculated as operating income divided by total assets used in the production, warehousing, and sale of certain preserved mushrooms.

Data on the U.S. certain preserved mushrooms producers' total assets and their ROI are presented in table III-12. The total assets utilized in the production, warehousing, and sales of certain preserved mushrooms declined from 1998 to 2003.

With respect to negative cash and equivalents, *** indicated that: ***.

With respect to negative cash and equivalents, *** indicated that: ***.

The ROI improved from 2.1 percent in 1998 to about 7.0 percent in 1999 and 2000, and then turned negative and decreased irregularly from a negative 0.9 percent in 2001 to a negative 6.3 percent in 2003. The trend of ROI was the same as the trend of the operating income margin to net sales in table III-6 during the reporting period.

In order to put the foregoing data into some historical perspective, table III-13 computes the ROI for NAICS (North American Industry Classification System) code 311421, based upon data contained in the Risk Management Association's (RMA) *Annual Statement Studies*. Exact comparisons between the questionnaire data and RMA data are not recommended due to several reasons.

RMA defines NAICS code 311421 as "(t)his U.S. industry comprises establishments primarily engaged in manufacturing canned, pickled, and brined fruits and vegetables." This code includes Standard Industrial Classification (SIC) codes 2033 and 2035. RMA started reporting data on NAICS code 311421 for April 1, 2002 to March 31, 2003. Data for earlier periods are reported on SIC code 2033 only. Thus, whereas the questionnaire data strictly relate to certain preserved mushrooms, the RMA data include data on the broad range of fruit and vegetable canning and hence, may not be comparable.

Table III-12

Value of assets and return on investment of U.S. producers in the production of certain preserved mushrooms, fiscal years 1998-2003

Item	Fiscal year					
	1998	1999	2000	2001	2002	2003
	Value (\$1,000)					
Value of assets:						
Current assets:						
Cash and equivalents	195	573	100	(100)	(75)	154
Accounts receivable, net	7,742	5,755	7,294	5,443	6,281	5,176
Inventories ¹	23,511	15,793	24,100	22,136	9,140	9,951
Short-term investments	13	15	16	14	15	9
Prepaid expenses	141	99	238	134	98	189
Total current assets	31,602	22,235	31,748	27,627	15,459	15,479
Notes receivable	620	526	1,035	0	0	0
Property, plant and equipment:						
Original cost	14,729	15,804	17,307	17,562	17,462	19,676
Less: Accumulated depreciation	8,809	9,443	10,602	11,262	10,738	10,523
Book value	5,920	6,361	6,705	6,300	6,724	9,153
Other non-current assets	166	150	134	118	102	87
Total assets	38,308	29,272	39,622	34,045	22,285	24,719
Operating income or (loss)	787	2,043	2,753	(306)	(2,512)	(1,554)
	Ratio of operating income to total assets (percent)					
Return on investment	2.1	7.0	6.9	(0.9)	(11.3)	(6.3)
¹ Ending inventories of Giorgio Foods, L.K. Bowman, Monterey Mushrooms, and Mushroom Canning declined in 2002 and 2003.						
Source: Compiled from data submitted in response to Commission questionnaires.						

Table III-13

Risk Management Association data on the number of firms and their sales, assets, operating income margins, and return on investment (ROI) on operations for NAICS 311421 (fruit and vegetable canning) for 15 one-year periods ending March 31, 1989 to March 31, 2003

Period	Number of companies	Sales value (\$1,000)	Asset value (\$1,000)	Operating margin (percent)	ROI ¹ (percent)
4/1/88 - 3/31/89	65	1,586,161	869,936	5.9	10.8
4/1/89 - 3/31/90	68	2,241,271	1,205,260	6.0	11.2
4/1/90 - 3/31/91	90	4,118,211	2,120,801	5.5	10.7
4/1/91 - 3/31/92	85	4,303,987	2,223,196	5.2	10.1
4/1/92 - 3/31/93	76	4,480,469	2,341,532	4.8	9.2
4/1/93 - 3/31/94	84	3,988,196	2,456,803	4.4	7.1
4/1/94 - 3/31/95	97	4,580,491	2,620,682	5.1	8.9
4/1/95 - 3/31/96	103	6,258,942	3,526,188	5.5	9.8
4/1/96 - 3/31/97	89	5,021,281	2,605,286	5.3	10.2
4/1/97 - 3/31/98	111	5,584,750	3,377,959	5.8	9.6
4/1/98 - 3/31/99	87	4,220,912	2,581,184	2.5	4.1
4/1/99 - 3/31/00	90	5,549,120	3,087,185	5.0	9.0
4/1/00 - 3/31/01	69	5,021,362	3,214,604	4.6	7.2
4/1/01 - 3/31/02	61	4,408,263	2,727,747	5.4	8.7
4/1/02 - 3/31/03	69	5,705,201	3,467,093	5.0	8.2

¹ ROI was calculated using RMA data.

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The questionnaire data for 2003 represent data of only six companies with \$58.1 million in sales and \$24.7 million in assets whereas the RMA data for the 12-month period ending March 31, 2003 consist of data from 69 companies with \$5.7 billion in sales and \$3.5 billion in assets. Thus, the questionnaire data represent about 1 percent of the RMA data.

Finally, since we are not privy to the names of companies that provided data to RMA, we do not know whether any of the domestic producers provided data to RMA. Thus, our questionnaire data may not be a subset of the RMA data at all. Therefore, while the historical RMA data might prove useful to put the certain preserved mushrooms data into some historical context, they cannot be used to make absolute comparisons.

PART IV: U.S. IMPORTS AND THE FOREIGN INDUSTRIES

U.S. IMPORTS

Data regarding U.S. imports of certain preserved mushrooms, as reported by Commerce,¹ are presented in table IV-1. As shown, U.S. imports from subject countries cumulatively have fluctuated during the period of review, with U.S. import volume in 2003 being *** percent lower than in 1998. U.S. imports from Chile were nonexistent after 1998. U.S. imports from China decreased dramatically from 1998 to 1999, but then increased from 1999 to 2003, more than doubling from 2002 to 2003 to return to 1998 import volume levels. U.S. imports from India also fluctuated during the review period, but increased overall from 1998 import volume levels. Subject U.S. imports from Indonesia increased from 1998 to 1999, remained virtually unchanged from 1999 to 2000, decreased from 2000 to 2001, and decreased further in 2002 and 2003 after the revocation of the antidumping duty order with respect to PT Zeta Agro. U.S. imports from nonsubject countries approximately doubled from 1998 to 2003.²

Ten of the 19 reporting U.S. importers stated that they have arranged for the importation of certain preserved mushrooms from Chile, China, India, or Indonesia subsequent to January 1, 2004.³

¹ Subject and nonsubject import data for Indonesia are derived from data compiled by Commerce, as adjusted by company-specific Customs data, with U.S. imports from PT Zeta Agro presented as nonsubject imports for 2002 and 2003. The antidumping duty order with regard to PT Zeta Agro was revoked effective February 1, 2002. Using data obtained from Customs, estimated U.S. imports from PT Zeta Agro increased during the period of review with *** pounds in 1999, *** pounds in 2000, *** pounds in 2001, *** pounds in 2002, and *** pounds in 2003.

Prior to January 1, 2002, the products subject to these reviews were covered by HTS subheadings and statistical reporting numbers 0711.90.40, 2003.10.0027, 2003.10.0031, 2003.10.0037, 2003.10.0043, 2003.10.0047, and 2003.10.0053. Currently, certain preserved mushrooms are provided for in subheadings 0711.51.00 and 2003.10.01 (statistical reporting numbers 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, and 2003.10.0153) of the HTS.

² According to Commerce data, U.S. imports from nonsubject countries included the following countries, in order of total volume from 1998 to 2003: (1) the Netherlands, (2) Mexico, (3) Taiwan, (4) France, and (5) Canada. These countries accounted for approximately 80 percent of the U.S. imports from nonsubject countries during the period of review. U.S. imports from the Netherlands increased from 4.5 million pounds in 1998 to 12.5 million pounds in 2003 and accounted for approximately 38 percent of U.S. imports from nonsubject countries during the period of review. U.S. imports from France increased from 24,000 pounds in 1998 to 2.8 million pounds in 2003. Appendix C, table C-2 presents U.S. import data by nonsubject country for the period of review.

³ These U.S. importers are: ***.

Table IV-1
Certain preserved mushrooms: U.S. imports, by sources, 1998-2003

Source	Calendar year					
	1998	1999	2000	2001	2002	2003
Quantity (1,000 pounds, drained weight)						
Chile	6,516	0	0	0	0	0
China	48,046	320	8,330	19,364	20,594	48,139
India	12,559	32,023	34,439	29,479	23,885	27,010
Indonesia (subject)	26,666	29,096	29,043	22,417	***	***
Subtotal	93,786	61,439	71,812	71,259	***	***
Indonesia (nonsubject)	(1)	(1)	(1)	(1)	***	***
All other sources	21,814	45,663	65,136	47,462	47,549	42,838
Total	115,600	107,102	136,948	118,721	114,615	140,216
Value (\$1,000)²						
Chile	7,683	0	0	0	0	0
China	37,520	433	7,617	19,117	19,516	43,339
India	13,022	27,873	33,057	27,442	21,051	21,997
Indonesia (subject)	30,459	39,321	38,493	28,830	***	***
Subtotal	88,685	67,628	79,167	75,389	***	***
Indonesia (nonsubject)	(1)	(1)	(1)	(1)	***	***
All other sources	26,158	51,161	67,638	47,239	43,954	39,809
Total	114,843	118,789	146,805	122,628	109,220	131,607
Unit value (per pound, drained weight)						
Chile	\$1.18	(1)	(1)	(1)	(1)	(1)
China	0.78	\$1.35	\$0.91	\$0.99	\$0.95	\$0.90
India	1.04	0.87	0.96	0.93	0.88	0.81
Indonesia (subject)	1.14	1.35	1.33	1.29	***	***
Average	0.95	1.10	1.10	1.06	***	***
Indonesia (nonsubject)	(1)	(1)	(1)	(1)	***	***
All other sources	1.20	1.12	1.04	1.00	0.92	0.93
Average	0.99	1.11	1.07	1.03	0.95	0.94
Table continued on next page.						

Table IV-1--Continued
Certain preserved mushrooms: U.S. imports, by sources, 1998-2003

Source	Calendar year					
	1998	1999	2000	2001	2002	2003
Share of quantity (percent)						
Chile	5.6	0	0	0	0	0
China	41.6	0.3	6.1	16.3	18.0	34.3
India	10.9	29.9	25.1	24.8	20.8	19.3
Indonesia (subject)	23.1	27.2	21.2	18.9	***	***
Subtotal	81.1	57.4	52.4	60.0	***	***
Indonesia (nonsubject)	(1)	(1)	(1)	(1)	***	***
All other sources	18.9	42.6	47.6	40.0	41.5	30.6
Total	100.0	100.0	100.0	100.0	100.0	100.0
Share of value (percent)						
Chile	6.7	0	0	0	0	0
China	32.7	0.4	5.2	15.6	17.9	32.9
India	11.3	23.5	22.5	22.4	19.3	16.7
Indonesia (subject)	26.5	33.1	26.2	23.5	***	***
Subtotal	77.2	56.9	53.9	61.5	***	***
Indonesia (nonsubject)	(1)	(1)	(1)	(1)	***	***
All other sources	22.8	43.1	46.1	38.5	40.2	30.2
Total	100.0	100.0	100.0	100.0	100.0	100.0
Ratio of imports to U.S. production (percent)						
Chile	9.8	0	0	0	0	0
China	72.6	0.5	12.1	36.3	40.6	96.0
India	19.0	47.2	50.0	55.3	47.1	53.8
Indonesia (subject)	40.3	42.9	42.1	42.0	***	***
Subtotal	141.7	90.6	104.2	133.7	***	***
Indonesia (nonsubject)	(1)	(1)	(1)	(1)	***	***
All other sources	33.0	67.3	94.5	89.0	93.7	85.4
Total	174.7	157.9	198.7	222.7	225.9	279.5
¹ Not applicable. ² Landed, duty-paid.						
Source: Compiled from adjusted Commerce statistics. U.S. imports from Indonesia for 2002 and 2003 were adjusted to remove U.S. imports from PT Zeta Agro from subject U.S. imports from Indonesia. U.S. imports from PT Zeta Agro were compiled using information provided by Customs. These imports are reported under Indonesia (nonsubject).						

U.S. IMPORTERS' INVENTORIES

End-of-period inventories reported by U.S. importers are shown in table IV-2.

Table IV-2

Certain preserved mushrooms: U.S. importers' end-of-period inventories of imports, by source, 1998-2003

* * * * *

THE INDUSTRY IN CHILE

The Commission requested data from the sole producer of certain preserved mushrooms in Chile, Nature's Farm Products (Chile), S.A. ("Nature's Farm"), which according to the Commission's original investigation accounted for 100 percent of Chile's exports to the United States. Nature's Farm did not provide the Commission with a response. Petitioners claim that Nature's Farm is still in operation as Inversiones Bosques Del Mauco and operating at the same level of production capacity as during the Commission's original investigations, and has shifted its product mix from the larger cans of certain preserved mushrooms to 4 oz. to 8 oz. retail-sized cans.⁴ *** also states that Nature's Farm is still producing certain preserved mushrooms and is currently shipping to ***.⁵

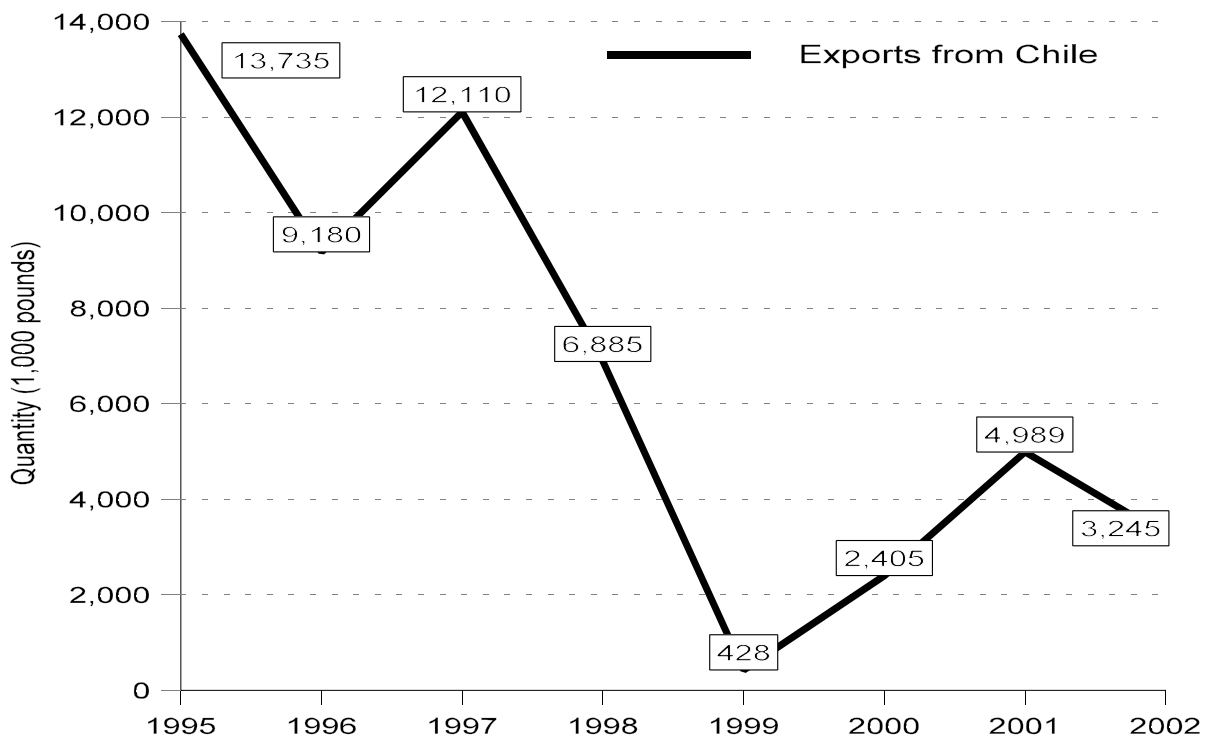
After the imposition of the antidumping duty order on certain preserved mushrooms from Chile, U.S. imports from Chile ceased in 1999 through 2003.⁶ Figure IV-1 provides data obtained from the United Nations regarding exports of "canned mushrooms" from Chile to all countries combined. As shown, exports of canned mushrooms from Chile decreased dramatically after the imposition of the antidumping order on Chile in 1998 and increased moderately from 2000 to 2002.

⁴ Petitioners' response to notice of institution, December 23, 2003, p. 8; petitioners' posthearing brief, p. 2 and exh. 2. According to data obtained by the Commission in the original investigations, Nature's Farm had a capacity of *** pounds from 1995 through June 1998, production ranging from *** pounds in 1997 to *** pounds in 1995, and exported over *** percent of its shipments to the United States. Investigations Nos. 731-TA-777-779 (Final): *Certain Preserved Mushrooms from China, India, and Indonesia*, Staff Report, January 20, 1999, INV-W-005, p. VII-4.

⁵ U.S. producer questionnaire response of ***, p. 5. Imports of certain preserved mushrooms into the EU are subject to a tariff-rate quota system that commenced in 1995. Imports from Chile do not have a country-specific quota and would fall under the "other" countries annual quota limit of 3,290 metric tons (7.253 million pounds). The EU quota system sets forth the following country-specific annual limits: (1) Bulgaria, 1,750 metric tons (3.858 million pounds); (2) Romania, 500 metric tons (1.102 million pounds); (3) China, 22,750 metric tons (50.155 million pounds); "other" countries, 3,290 metric tons (7.253 million pounds); and "reserved," 1,000 metric tons (2.204 million pounds). The out-of-quota tariff rate is 18.4 percent plus 191 Euros per 100 kilograms (220.46 pounds) for HTS subheading 2003.1020 and 18.4 percent plus 222 Euros per 100 kilograms for HTS subheading 2003.1030. Commission Regulation 2858/2000, December 27, 2000 amending the 1995 regulation 2125/95 which imposed the quota system.

⁶ Nature's Farm was allegedly attempting to transship subject product through Canada and Colombia to circumvent the antidumping duty order. See Petitioners' Response to Notice of Institution, December 23, 2003, p. 7; Petitioners' posthearing brief, pp. 14-15. In order to counteract any circumvention issues, on July 13, 1999, Commerce determined that preserved mushrooms produced in third countries from provisionally preserved mushrooms produced in Chile were within the scope of the antidumping duty orders. *Notice of Scope Rulings*, 65 FR 41957, July 7, 2000.

Figure IV-1
Exports of canned mushrooms from Chile, 1995-2002



Source: Food and Agricultural Organization of the United Nations, Statistics Division, <http://www.fao.org/es/ess/toptrade.asp>.

THE INDUSTRY IN CHINA

The Commission requested data from 12 producers of certain preserved mushrooms in China, none of which provided the Commission with a response.⁷ Petitioners claim that capacity in China to produce certain preserved mushrooms has increased since the time of the Commission’s original investigations as evidenced by the completion of nine new shipper reviews by Commerce since the imposition of the antidumping order.⁸ *** concurs and claims that there are between 20 and 30 additional

⁷ These producers are: (1) China Processed Food Import & Export Co., Ltd.; (2) Dalian Mishima Foods, Co., Ltd.; (3) Fujian Provincial Cereals, Oils, & Foodstuffs Import & Export Corp.; (4) Fujian Putian Canned Foods Group Corp.; (5) General Canned Food Factory of Zhangzhou; (6) Gerber Food (Yunnan) Co., Ltd.; (7) Jiangsu Cereals, Oils & Foodstuffs Import & Export Corp.; (8) Shanghai Foodstuffs Import & Export Corp.; (9) Shenzhen Cofry, Cereals, Oils & Foodstuffs, Co., Ltd.; (10) Tak Fat Trading Co.; (11) Xiamen Gulong Import & Export Co., Ltd.; and (12) Zhejiang Cereals, Oils & Foodstuffs Import & Export Co., Ltd.

⁸ Petitioners claimed that from February 2000 to January 2003, U.S. imports from “new shippers” in China accounted for 65 percent or 34 million pounds of certain preserved mushrooms from China. Petitioners noted that U.S. Customs is attempting to rectify an apparent problem with “new shippers” of agricultural products in China that allegedly presents opportunities to evade the remedial effects of the antidumping duty order. Petitioners’ posthearing brief, Responses to Commission Questions, pp. 16-17 & exhibits 7-12.

According to data obtained by the Commission in the original investigations, producers in China had a
 (continued...)

processors of certain preserved mushrooms in China, each with a capacity to produce approximately 10 to 20 million pounds annually, that could begin shipping to the United States in the event the antidumping duty order is revoked with regard to China.⁹

After the imposition of the antidumping duty order on certain preserved mushrooms from China, U.S. imports from China dramatically decreased in 1999, but subsequently began increasing. By 2003, U.S. imports from China were again at levels reported in 1998, before the imposition of the antidumping duty order. Figure IV-2 provides data obtained from the United Nations regarding exports of “canned mushrooms” from China. As shown, exports of canned mushrooms from China have increased since 1999, thereby tracking the trend observed in the data on U.S. imports from China.

Figure IV-2
Exports of canned mushrooms from China, 1995-2002



Source: Food and Agricultural Organization of the United Nations, Statistics Division,
<http://www.fao.org/es/ess/toptrade.asp>.

⁸ (...continued)

capacity ranging from 140 million pounds in 1995 to 184 million pounds in 1996, production ranging from 99 million pounds in 1997 to 152 million pounds in 1996, and exported approximately 46 to 58 percent of their shipments to the United States from 1995 to 1997. *Certain Preserved Mushrooms from China, India, and Indonesia*, Invs. Nos. 731-TA-777-779 (Final), USITC Pub. 3159, February 1999, p. VII-3.

⁹ U.S. producer questionnaire response of ***, p. 5. *** also reported that many U.S. importers of certain preserved mushrooms from China are avoiding the actual payment of antidumping orders by simply declaring bankruptcy and opening new importing operations. Customs has recently addressed this issue by dramatically increasing the amount of the continuous bond required to be posted by U.S. importers of products subject to antidumping duty orders. *See Amendment to Bond Directive 99-3510-004 for Certain Merchandise Subject to Antidumping/Countervailing Duty Cases*, July 9, 2004, http://www.customs.ustreas.gov/xp/cgov/import/add_cvd/07082004.xml. This scenario may be occurring with regard to certain preserved mushrooms as evidenced by a relatively high number of undeliverable questionnaires sent by the Commission to companies reported by Customs to have imported product from China.

Imports of certain preserved mushrooms from China into the EU are subject to a tariff-rate quota system that commenced in 1995. The EU tariff-rate quota system sets an annual limit on imports from China at 22,750 metric tons (50.155 million pounds) and out-of-quota tariff rates of 18.4 percent plus 191 Euros per 100 kilograms (220.46 pounds) for HTS subheading 2003.10.20 and 18.4 percent plus 222 Euros per 100 kg for HTS subheading 2003.10.30.¹⁰

THE INDUSTRY IN INDIA

Table IV-3 presents data for reported production and shipments of certain preserved mushrooms for India.¹¹ The Commission requested data from seven firms and received responses from two firms, Agro Dutch and Himalya International, Ltd. (“Himalya”).¹²

Agro Dutch reported that *** percent of its total sales in the most recent fiscal year were sales of certain preserved mushrooms. It reported that its 2003 production accounted for *** percent of total production of certain preserved mushrooms in India. In 2003, *** percent of Agro Dutch’s total shipments were exported to the United States. It reported that *** percent of its shipments of certain preserved mushrooms were to countries in the European Union,¹³ *** percent to countries in Asia, and *** percent to other countries such as ***. It reported *** shipments of certain preserved mushrooms in its home market.¹⁴ From 1998 to 2003, Agro Dutch’s volume of shipments exported to the United States increased by *** percent, and its volume of shipments exported to other world markets rose by *** percent. Agro Dutch’s capacity increased by *** percent from 1998 to 2003, as did its production by *** percent. ***, its five largest U.S. customers were: ***.

Himalya reported that *** percent of its total sales in the most recent fiscal year were sales of certain preserved mushrooms. It reported that its 2003 production accounted for *** percent of total production of certain preserved mushrooms in India and that its total 2003 exports accounted for *** percent of total Indian exports to the United States. In 2003, *** percent of Himalya’s total shipments were exported to the United States. In 2003, it reported that *** percent of its shipments of certain preserved mushrooms were made in its home market. During the period of review, Himalya ***. From 1998 to 2003, Himalya’s volume of shipments exported to the United States increased from *** pounds in 1998 to *** pounds in 2003 while its home market shipments increased from *** in 1998 to *** pounds in 2003. Himalya’s capacity remained steady at *** pounds during the period reviewed. Its production, however, fluctuated, ranging from *** pounds in 1998 to *** pounds in 2000.¹⁵ *** U.S. importer of certain preserved mushrooms.

¹⁰ Commission Regulation 2858/2000, December 27, 2000 amending the 1995 regulation 2125/95 which imposed the quota system.

¹¹ According to data obtained by the Commission in the original investigations, producers in India had a reported capacity ranging from *** pounds in 1995 to *** pounds in 1997, production ranging from *** pounds in 1997 to *** pounds in 1996, and exported approximately *** to *** percent of their shipments to the United States from 1995 to 1997. Investigations Nos. 731-TA-777-779 (Final): *Certain Preserved Mushrooms from China, India, and Indonesia*, Staff Report, January 20, 1999, INV-W-005, p. VII-6.

¹² Hindustan Lever, Ltd. (which merged with Pond’s India, Ltd. in 1998); Mandeep Mushrooms, Ltd.; Premier Explosives, Ltd.; Saptarishi Agro Industries, Ltd.; and Weikfield Agro Products, Ltd. did not provide responses to the Commission’s questionnaire.

¹³ Imports of certain preserved mushrooms into the EU are subject to a tariff-rate quota system that commenced in 1995. Imports from India do not have a country-specific quota and would fall under the “other” countries annual quota limit of 3,290 metric tons (7.253 million pounds).

¹⁴ ***.

¹⁵ ***.

**Table IV-3
Certain preserved mushrooms: India’s reported production capacity, production, shipments, and inventories, 1998-2003**

* * * * *

THE INDUSTRY IN INDONESIA

Table IV-4 presents data for reported production and shipments of certain preserved mushrooms for Indonesia.¹⁶ The Commission received data from five firms, PT Dieng Djaya (“PT Dieng”), PT Eka Timur Raya (“PT Eka”), PT Karya Kompos Bagas (“PT Karya”), PT Indo Evergreen Agro Business Corp. (“PT Indo”), and PT Surya Jaya Abadi Perkasa (“PT Surya”), which together accounted for the majority of certain preserved mushroom production in Indonesia during the period reviewed. PT Zeta Agro, the producer of certain preserved mushrooms in Indonesia for which the antidumping duty order was revoked in 2002, did not provide the Commission with a questionnaire response.¹⁷

**Table IV-4
Certain preserved mushrooms: Indonesia’s reported production capacity, production, shipments, and inventories, 1998-2003**

* * * * *

Cumulatively, producers of certain preserved mushrooms in Indonesia reported relatively steady capacity from 1998 to 2002 and capacity utilization rates ranging from *** percent in 2002 to *** percent in 1999 (table IV-4).¹⁸ In 2003, capacity decreased by *** percent caused in large part by ***.¹⁹ Their reported production also decreased by *** percent during the review period. However, reporting Indonesian producers projected that their capacity to produce certain preserved mushrooms would increase from *** pounds in 2003 to ***. Indonesian producers of certain preserved mushrooms reported exporting to the United States *** percent to *** percent of their total shipments during the period reviewed,²⁰ with other markets in Asia accounting for *** percent to *** percent during the same period.

¹⁶ According to data obtained by the Commission in the original investigations, producers in Indonesia had a reported capacity ranging from *** pounds in 1995 to *** pounds in 1997, production ranging from *** pounds in 1996 to *** pounds in 1995, and exported approximately *** to *** percent of their shipments to the United States from 1995 to 1997. Investigations Nos. 731-TA-777-779 (Final): *Certain Preserved Mushrooms from China, India, and Indonesia*, Staff Report, January 20, 1999, INV-W-005, p. VII-7.

¹⁷ On September 22, 2004, the Commission also sent questionnaires to three other potential producers of certain preserved mushrooms in Indonesia (PT Double Eight International, PT Inti Jamur Raya, and CV Multi Bertha) but did not receive a response.

¹⁸ Petitioners argue that an increase in Indonesian capacity may be inferred from a new shipper review conducted by Commerce that included two new Indonesian producers. Petitioners’ response to notice of institution, December 23, 2003, p. 10. Respondents state that the two new shippers, PT Karya and PT Eka, were found to be selling certain preserved mushrooms in the United States at fair values. Respondents’ response to notice of institution, December 23, 2003, p. 16.

¹⁹ ***.

²⁰ Reporting Indonesian producers projected that their exports to the United States would increase from *** pounds in 2003 to *** pounds in 2004, *** pounds in 2005, and *** pounds in 2006. Indonesian respondents’ posthearing brief, p. 9.

Producers in Indonesia also reported *** volumes of export shipments to the EU²¹ and other countries. General Mills, a U.S. importer of certain preserved mushrooms from Indonesia,²² claims that product from Indonesia, which it states is largely whole and sliced mushrooms for the retail market, differs from imports from other countries, which are mainly pieces and stems sold in the industrial channels of distribution.

PT Dieng reported that *** percent of its total sales in the most recent fiscal year were sales of certain preserved mushrooms. It reported that its 2003 production accounted for *** percent of total production of certain preserved mushrooms in Indonesia and that its total 2003 exports accounted for *** percent of total Indonesian exports to the United States. PT Dieng ceased production of certain preserved mushrooms in early 2003 due to ***. In 2002 (PT Dieng's last year of full production), *** percent of its total shipments were exported to the United States. It reported that *** percent of its shipments of certain preserved mushrooms were to its home market and that *** percent were to countries in Asia. PT Dieng's volume of shipments exported to the United States decreased by *** percent from 1998 to 2002, as its volume of shipments exported to other world markets also decreased. PT Dieng's capacity decreased by *** percent from 1998 to 2003.²³ Its largest U.S. customers were: ***.

PT Eka commenced production of certain preserved mushrooms in 2002.²⁴ It reported that *** percent of its total sales in the most recent fiscal year were sales of certain preserved mushrooms. PT Eka stated that its 2003 production accounted for approximately *** percent of total production of certain preserved mushrooms in Indonesia and that its total 2003 exports accounted for approximately *** percent of total Indonesian exports to the United States. In 2003, *** percent of PT Eka's total shipments were exported to the United States. It reported that *** percent of its shipments of certain preserved mushrooms were internally consumed or to its home market and *** percent were to countries in Asia. From 2002 to 2003, PT Eka's volume of shipments exported to the United States increased by *** percent, and its volume of shipments exported to other world markets decreased by *** percent. Its capacity remained steady from 2002 to 2003;²⁵ however, its production increased by *** percent. PT Eka's five largest U.S. customers were: ***.

PT Indo reported that *** percent of its total sales in the most recent fiscal year were sales of certain preserved mushrooms. It reported that its 2003 production accounted for approximately *** percent of total production of certain preserved mushrooms in Indonesia and that its total 2003 exports accounted for approximately *** percent of total Indonesian exports to the United States. PT Indo ceased production of certain preserved mushrooms in July 2003 due to ***.²⁶ In 2003, *** percent of its total shipments were exported to the United States. It reported that *** percent of its shipments of certain preserved mushrooms were either internally consumed or made to its home market and that *** percent were to countries in Asia. PT Indo's volume of shipments exported to the United States decreased by *** percent from 1998 to 2003, and its volume of shipments exported to other world markets also decreased. PT Indo's reported capacity remained steady from 1998 to 2002, however, decreased by *** percent in

²¹ Imports of certain preserved mushrooms into the EU are subject to a tariff-rate quota system that commenced in 1995. Imports from Indonesia do not have a country-specific quota and would fall under the "other" countries annual quota limit of 3,290 metric tons (7.253 million pounds).

²² General Mills has imported certain preserved mushrooms from India and China, but currently sources all the certain preserved mushrooms it uses in the United States from Indonesia, citing quality and consistency issues with product from India and China. Hearing transcript (Mr. Larson), pp. 149-151.

²³ PT Dieng reported ***. Indonesian respondents' posthearing brief, exh. 1, p. 18, and exh. 4.

²⁴ Commerce, in a new shipper review, assigned PT Eka a zero percent dumping margin. *Certain Preserved Mushrooms from Indonesia: Final Results of Antidumping Duty New Shipper Review*, 68 FR 39520, July 2, 2003.

²⁵ ***, it increased its capacity by approximately *** percent with the ***.

²⁶ ***. Indonesian respondents' posthearing brief, exh. 1, pp. 20-22.

2003, the year in which it ceased production. Its largest U.S. customers were: ***.

PT Karya commenced production of certain preserved mushrooms in 2002.²⁷ It reported that *** percent of its total sales in the most recent fiscal year were sales of certain preserved mushrooms. PT Karya stated that its 2003 production accounted for approximately *** percent of total production of certain preserved mushrooms in Indonesia and that its total 2003 exports accounted for approximately *** percent of total Indonesian exports to the United States. In 2003, *** percent of PT Karya's total shipments were exported to the United States. It reported that *** percent of its shipments of certain preserved mushrooms were internally consumed or to its home market and *** percent were to countries in Asia. From 2002 to 2003, PT Karya's volume of shipments exported to the United States increased by *** percent, and its volume of shipments exported to other world markets decreased by *** percent. Its capacity *** from 2002 to 2003;²⁸ however, its production increased by *** percent. PT Karya's largest U.S. customers were: ***.

PT Surya reported that *** percent of its total sales in the most recent fiscal year were sales of certain preserved mushrooms. It reported that its 2003 production accounted for approximately *** percent of total production of certain preserved mushrooms in Indonesia and that its total 2003 exports accounted for approximately *** percent of total Indonesian exports to the United States. In 2003, *** percent of its total shipments were exported to the United States. It reported that *** percent of its shipments of certain preserved mushrooms were either internally consumed or made to its home market and that *** percent were to countries in Asia. PT Surya's volume of shipments exported to the United States increased by *** percent from 1998 to 2003, as its volume of shipments exported to other world markets *** increased. PT Surya's capacity remained steady from 1998 to 2003; however, its production increased by *** percent.²⁹ Its largest U.S. customers were: ***.

²⁷ ***. *Certain Preserved Mushrooms from Indonesia: Final Results of Antidumping Duty New Shipper Review*, 68 FR 39520, July 2, 2003.

²⁸ ***.

²⁹ ***.

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Transportation Costs to the U.S. Market

Transportation costs for certain preserved mushrooms from subject countries to the United States (excluding U.S. inland costs) in 2003 are estimated to be equivalent to approximately 15.0 percent of the customs value for product from China, 11.1 percent of the customs value for product from India, and 13.3 percent of the customs value for product from Indonesia. There have been no imports from Chile since 1998, so their transportation cost is not estimated. These estimates are derived from official import data and represent the transportation and other charges on imports valued on a c.i.f. basis, as compared with customs value.¹

U.S. Inland Transportation Costs

U.S. inland transportation costs ranged between 2 percent and 7 percent for U.S. producers and between 1 percent and 10 percent for importers. Most producers (five of the six responding) and six of the 14 responding importers shipped most of their sales between 101 and 1,000 miles to their customers. However, importers were more likely to ship shorter distances, with six reporting shipping most of their product distances of 100 miles or less; only one U.S. producer reported shipping most of its product this distance.²

Exchange Rates

Quarterly data reported by the International Monetary Fund for the Chilean peso, Indian rupee, and the Indonesian rupiah from January 1998 through December 2003 for nominal and real values of the currencies are presented in figure V-1 as available. The Chinese yuan is pegged to the U.S. dollar and therefore it is not shown.

PRICING PRACTICES

Pricing Methods

The most common type of sales for both producers and importers is spot sales. Four of seven responding U.S. producers and seven of 14 responding importers reported that at least 50 percent of their sales of certain preserved mushrooms are made on a spot basis. Short-term contracts were also common with five importers and three U.S. producers, which sold more than 50 percent on such contracts.³

¹ These estimates are based on HTS subheadings and statistical reporting numbers 0711.51.00, 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, and 2003.10.0153.

² One importer shipped most of its product over 1,000 miles and one shipped ***.

³ Two importers and none of the producers sold over 50 percent on long-term contracts.

Figure V-1
Exchange rates: Indices of the nominal and real exchange rates of the Chilean, Indian, and Indonesian currencies relative to the U.S. dollar, by quarters, January 1998-December 2003

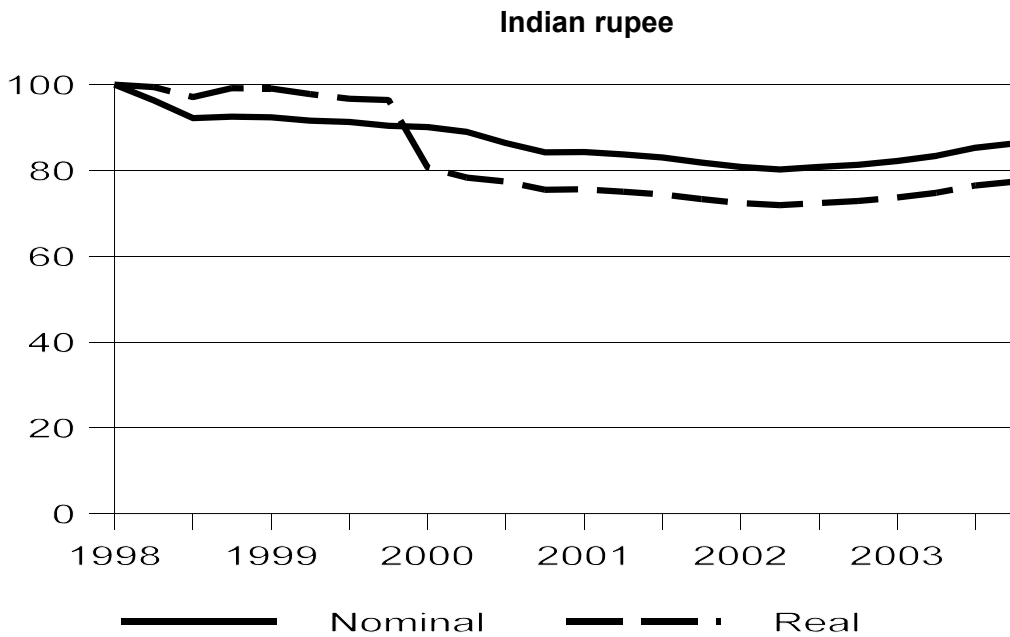
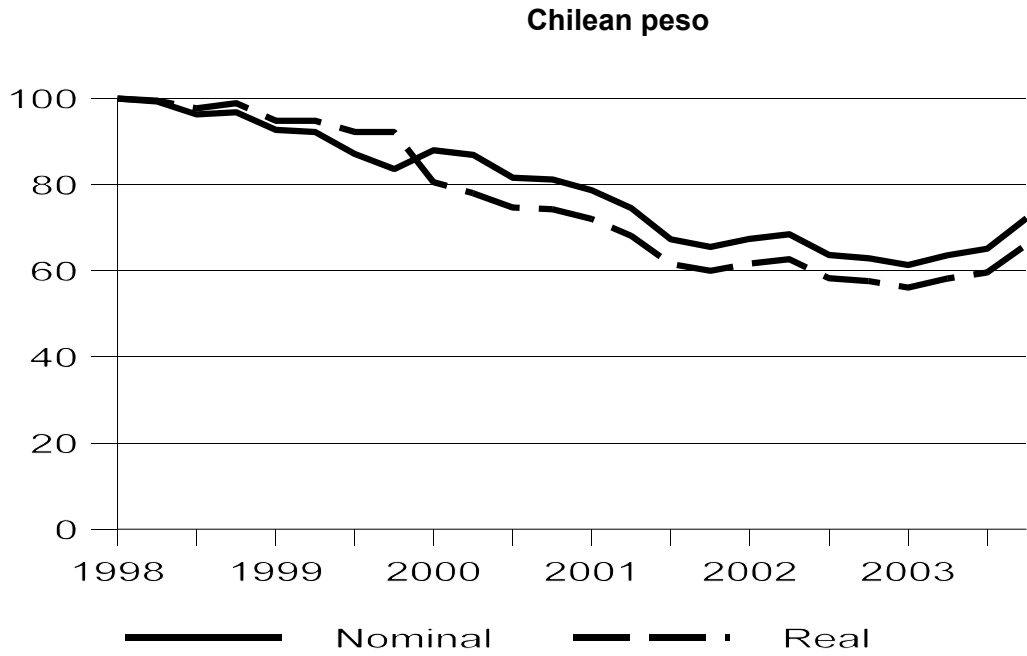
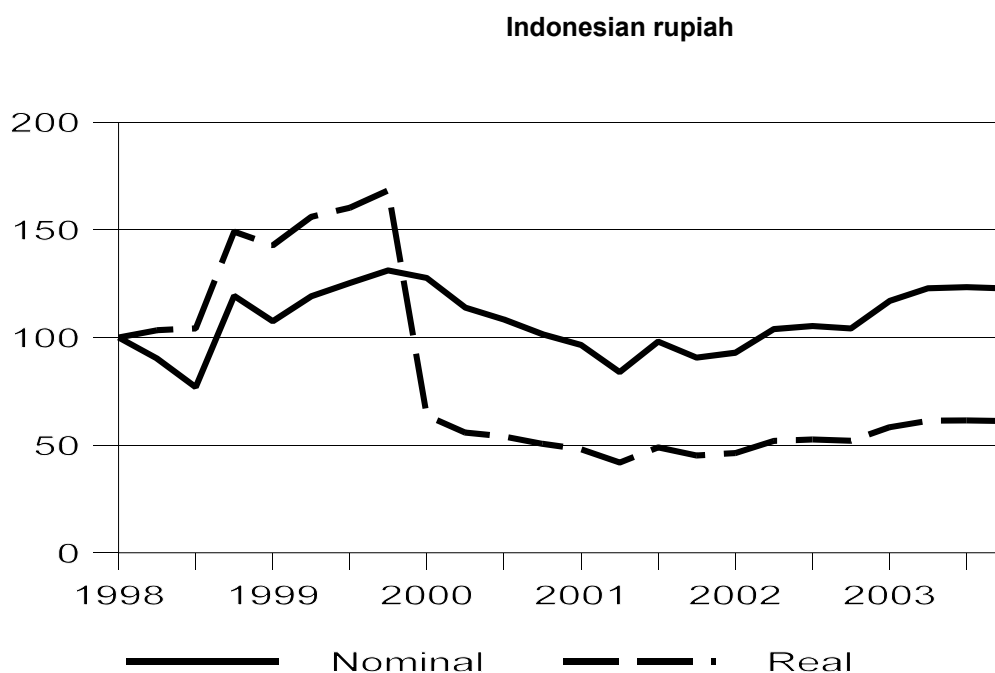


Figure continued on next page.

Figure V-1--Continued

Exchange rates: Indices of the nominal and real exchange rates of the Chilean, Indian, and Indonesian currencies relative to the U.S. dollar, by quarters, January 1998-December 2003



Source: International Monetary Fund, *International Financial Statistics*, January 2001, January 2003, and June 2004.

Of the 14 importers reporting sales terms, only two reported selling mostly using long-term contracts, five sold mostly with short-term contracts, six sold mostly with spot sales, and the other importer sold half through short-term contracts and half in spot sales. Importers sometimes renegotiated the price during contracts, with one of the three reporting prices renegotiated in long-term contracts and five of ten reporting prices renegotiated in short-term contracts. Ten out of 12 responding importers reported both price and quantity were fixed in contracts, and the other two reported flexibility in price and quantity. All three reporting on long-term contracts reported fixed price and quantity. Only three importers reported meet-or-release provisions; all reported that these were rarely invoked.

Only one U.S. producer reported any long-term contracts. Four of the seven responding U.S. producers sold most of their product on a spot basis, and the other three sold primarily using short-term contracts. However, two firms reported that the length of short-term contracts was typically one year, the same length of time as the one that reported long-term contracts. Three of five responding U.S. producers reported that prices could not be renegotiated in short-term contracts, and the one responding for long-term contracts reported that price could be renegotiated for “acts of God.” Five of the six

responding producers reported that contracts fixed both price and quantity. Only one of the five responding producers reported meet-or-release provisions in contracts; it reported that these were occasionally invoked.

Long-term contracts ranged from a year to a year and a half. Short-term contracts were typically 3 months long for importers, reported by six of the 11 importers responding. The length of U.S. producers' contracts ranged up to 12 months, with three of the five responding producers reporting contract lengths of 6 months or less. Both f.o.b. and delivered pricing are common, with six of 13 importers and one of four producers reporting either f.o.b. or ex dock pricing. In addition, four importers and two producers reported using delivered prices, and three importers and one producer reported that both methods were used.

PRICE DATA

The Commission requested U.S. producers and importers of certain preserved mushrooms to provide quarterly data for the total quantity and f.o.b. value of certain preserved mushrooms that were shipped to unrelated customers in the U.S. market. Data were requested for the period January 1998 to December 2003. The products for which pricing data were requested are as follows:

Product 1— Stems and pieces, in 4-ounce cans (excluding stems and pieces that are packed in butter or butter sauce)

Product 2— Stems and pieces in 68-ounce cans (excluding stems and pieces that are packed in butter or butter sauce)

Product 3— Sliced mushrooms, in 4-ounce cans (excluding sliced mushrooms that are packed in butter or butter sauce)

Six U.S. producers, six importers of preserved mushrooms from China, eight importers of preserved mushrooms from India, and nine importers of preserved mushrooms from Indonesia provided usable pricing data for sales of the requested products,⁴ although not all firms reported pricing for all products for all quarters. Customs reported no imports of preserved mushrooms from Chile after 1998, and thus no Chilean price data were available. By quantity, pricing data reported by responding firms in 1998 through 2003 accounted for approximately 21.4 percent of U.S. producers' shipments of certain

⁴ Price data for U.S. product came from ***. *** provided price data for Chinese, Indian, and Indonesian product. *** provided pricing data for Chinese and Indonesian product. *** provided pricing data for Indian and Indonesian product. In addition, *** provided Chinese price data; *** provided Indian price data; and *** provided Indonesian price data.

preserved mushrooms, 4.3 percent of U.S. shipments of subject imports from China,⁵ 37.7 percent of U.S. shipments of subject imports from India,⁶ and 46.6 percent of U.S. shipments of subject imports from Indonesia.⁷ These coverage numbers do not include the General Mills data given for the price of 4.5-ounce glass jars as explained below.

Product 1 is the most common product for retail sales to households. Among producers, three supplied data, and among importers, five supplied data for Chinese product, four supplied data for Indian product, and eight supplied data for subject Indonesian product.⁸ The petitioners question the validity of the pricing data General Mills provided for product 1.⁹ The price for product 1 reported by General Mills ***. Petitioners question whether the price provided *** sales values net of returns, refunds, discounts and credits, and add that *** are not realistic. Moreover, branded products typically incur promotional expenses such as slotting fees and merchandise promotion costs which would cause list prices and net prices to differ.¹⁰ ***.¹¹ ***.¹² The price data for product 1 in this section are presented both including and excluding General Mills' prices.

Product 2 is the most common product for sales to industrial users. Among producers, six supplied data, and among importers, five supplied data for Chinese product, seven supplied data for Indian product, and five supplied data for subject Indonesian product.

Product 3 is a more expensive product for retail sales to households. Among producers, two supplied data, and among importers, three supplied data for Chinese product, three supplied data for Indian product, and four supplied data for the subject Indonesian product. General Mills reported that it did not sell sliced mushrooms in 4-ounce cans (product 3) but did sell them in 4.5-ounce glass jars and submitted price data for this product. General Mills reports that these products are comparable, although the glass product would cost slightly more because of the higher cost of glass jars.¹³ The Indonesian respondents reported that General Mills' price data for product in glass jars would be comparable to those in cans on a per-pound basis.¹⁴ In contrast, the petitioners reported that the prices of cans and jars would not be comparable. Product in glass jars "involve significantly higher cost than do mushrooms in

⁵ The low Chinese coverage is in part due to the large number of importers' questionnaires that were undeliverable because the importers were no longer in existence. In addition ***, a Chinese importer, provided some price information in its questionnaire, but it was not usable because the firm did not identify which product the data were for and the questionnaire did not provide any of the requested contact information. *** reported that many U.S. importers of certain preserved mushrooms from China are avoiding the actual payment of antidumping duty orders by simply declaring bankruptcy and opening new importing operations. Pricing data would not be available from these bankrupt firms.

⁶ *** gave annual price and quantity data for product *** from India. These data have been allocated equally among the quarters of each of the years. If ***.

⁷ *** was unable to break out price and quantity data for PT Zeta Agro from the other Indonesian price data. Their Indonesian data were therefore included in the subject Indonesian price data before 2002 but excluded from the price data from 2002 through 2003. If ***.

⁸ The antidumping duty order for Indonesian product produced by PT Zeta Agro was revoked by Commerce effective February 1, 2002.

⁹ Petitioners' posthearing brief, exhibit 1, pp. 34-35.

¹⁰ Petitioners' posthearing brief, exhibit 1, pp. 34-36.

¹¹ Staff telephone calls with ***.

¹² This calculation is based on a 24-pack case. Hearing transcript (Mr. Larson), p. 197.

¹³ General Mills' posthearing brief, p. 8.

¹⁴ Indonesian respondents' posthearing brief, exhibit 1, p. 26.

cans,” and glass jars cost more than cans.¹⁵ Though requested, neither General Mills nor the respondents gave any indication of the amount by which the prices for product in 4.5-ounce glass jars should be adjusted to be comparable to product in 4-ounce cans. Data for the product in 4.5-ounce glass jars are not included in the pricing tables in this section.¹⁶

Appendix G includes price data that could not be included in these price tables, including data for product produced by PT Zeta when it was nonsubject, data for product that combined PT Zeta with other Indonesian product when PT Zeta was nonsubject, and prices provided by General Mills for sliced product in 4.5-ounce glass jars.

Price Trends

Prices for preserved mushrooms did not follow a single pattern over the period January 1998 through December 2003; prices for some products from some countries rose while others fell (tables V-1 to V-4 and figure V-2). Additionally, there were not observations for all products from all sources throughout the period for which data were requested. The descriptions below concern those periods for which data were reported. The prices for U.S., Chinese, and subject Indonesian product 1 rose while prices for Indian product and Indonesian product 1 *** fell. Prices for U.S. and Indian product 2 fell while the price for subject Indonesian product 1 rose and the price of the Chinese product was unchanged. Prices for U.S., Indian, and subject Indonesian product 3 fell, while the Chinese product’s price rose.

Price Comparisons

Tables V-1 to V-3 and figure V-2 present selling prices. Overall, there was more underselling than overselling by subject imports, with 17 instances of underselling by imports for product 1 and 46 of overselling;¹⁷ 35 instances of underselling and 24 of overselling by importers for product 2; and 46 instances of underselling and 11 of overselling by imports for product 3. For country-by-country comparisons by product and by year, see tables V-4 and V-5.

Volumes of the U.S.-produced, Chinese, and Indian products were greatest for sales of product 2, the lowest priced product that is typically not for retail use. In contrast, Indonesian volumes were largest for product 1, typically sold in the retail market.

Table V-1
Certain preserved mushrooms: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 and margins of underselling/(overselling), by quarters, January 1998-December 2003

* * * * *

¹⁵ Petitioners’ posthearing brief, pp. 38-39.

¹⁶ According to ***, product in glass jars is typically higher priced than in cans both because it must be more visually appealing and because glass jars cost more than cans. U.S. producers reported that product in glass jars could be priced *** to *** percent more than similar product in cans. Staff telephone calls with ***.

¹⁷ When prices from General Mills are excluded from the data for product 1, there are *** instances of underselling and *** instances of overselling.

Table V-2

Certain preserved mushrooms: Weighted-average f.o.b. prices and quantities of domestic and imported product 2¹ and margins of underselling/(overselling), by quarters, January 1998-December 2003

Period	United States		China			India		
	Price (per pound drained weight)	Quantity (thousand pounds drained weight)	Price (per pound drained weight)	Quantity (thousand pounds drained weight)	Margin (percent)	Price (per pound drained weight)	Quantity (thousand pounds drained weight)	Margin (percent)
1998:								
Jan.-Mar.	\$***	***	\$***	***	***	\$***	***	***
Apr.-June	***	***	***	***	***	***	***	***
July-Sept.	1.09	7,005	***	***	***	***	***	***
Oct.-Dec.	1.09	6,849	***	***	***	***	***	***
1999:								
Jan.-Mar.	1.13	5,815	***	***	***	***	***	***
Apr.-June	1.14	5,573	***	***	***	***	***	***
July-Sept.	1.16	6,923	-	-	-	***	***	***
Oct.-Dec.	1.16	6,814	***	***	***	***	***	***
2000:								
Jan.-Mar.	1.20	5,363	-	-	-	***	***	***
Apr.-June	1.15	5,257	-	-	-	***	***	***
July-Sept.	1.12	6,179	-	-	-	***	***	***
Oct.-Dec.	1.12	6,727	-	-	-	***	***	***
2001:								
Jan.-Mar.	1.09	6,386	-	-	-	***	***	***
Apr.-June	1.08	5,698	-	-	-	***	***	***
July-Sept.	1.04	5,639	***	***	***	***	***	***
Oct.-Dec.	1.02	5,841	***	***	***	***	***	***
2002:								
Jan.-Mar.	1.02	5,042	***	***	***	***	***	***
Apr.-June	1.02	5,333	***	***	***	***	***	***
July-Sept.	0.99	5,259	-	-	-	***	***	***
Oct.-Dec.	1.06	5,528	-	-	-	***	***	***
2003:								
Jan.-Mar.	1.03	4,941	-	-	-	***	***	***
Apr.-June	1.04	4,667	-	-	-	***	***	***
July-Sept.	1.06	5,811	-	-	-	***	***	***
Oct.-Dec.	1.12	5,005	-	-	-	***	***	***

Table continued.

Table V-2--Continued

Certain preserved mushrooms: Weighted-average f.o.b. prices and quantities of domestic and imported product ² and margins of underselling/(overselling), by quarters, January 1998-December 2003

Period	United States		Indonesia ²			All subject combined		
	Price (per pound drained weight)	Quantity (thousand pounds drained weight)	Price (per pound drained weight)	Quantity (thousand pounds drained weight)	Margin (percent)	Price (per pound drained weight)	Quantity (thousand pounds drained weight)	Margin (percent)
1998: Jan.-Mar.	\$***	***	\$***	***	***	\$1.01	1,219	***
Apr.-June	***	***	***	***	***	1.00	1,644	***
July-Sept.	1.09	7,005	***	***	***	1.08	1,012	0.3
Oct.-Dec.	1.09	6,849	***	***	***	1.11	1,195	(2.4)
1999: Jan.-Mar.	1.13	5,815	***	***	***	1.16	892	(2.2)
Apr.-June	1.14	5,573	***	***	***	1.14	1,501	0.1
July-Sept.	1.16	6,923	***	***	***	1.15	1,023	0.9
Oct.-Dec.	1.16	6,814	***	***	***	1.08	1,871	6.9
2000: Jan.-Mar.	1.20	5,363	***	***	***	1.05	1,346	12.2
Apr.-June	1.15	5,257	***	***	***	1.01	1,412	12.1
July-Sept.	1.12	6,179	***	***	***	1.00	1,658	11.0
Oct.-Dec.	1.12	6,727	***	***	***	0.96	1,787	13.7
2001: Jan.-Mar.	1.09	6,386	***	***	***	0.90	2,126	17.7
Apr.-June	1.08	5,698	***	***	***	0.94	1,888	13.1
July-Sept.	1.04	5,639	***	***	***	0.89	2,573	15.1
Oct.-Dec.	1.02	5,841	***	***	***	0.87	4,421	14.7
2002: Jan.-Mar.	1.02	5,042	***	***	***	0.81	4,074	20.8
Apr.-June	1.02	5,333	***	***	***	0.83	1,445	19.1
July-Sept.	0.99	5,259	***	***	***	0.78	892	21.8
Oct.-Dec.	1.06	5,528	***	***	***	0.71	1,942	33.6
2003: Jan.-Mar.	1.03	4,941	***	***	***	0.69	2,841	33.4
Apr.-June	1.04	4,667	***	***	***	0.69	2,403	33.6
July-Sept.	1.06	5,811	***	***	***	0.78	3,397	26.1
Oct.-Dec.	1.12	5,005	***	***	***	0.79	3,443	28.8

¹ Stems and pieces in 68-ounce cans (excluding stems and pieces that are packed in butter or butter sauce).

² Data for Indonesia include sales data for product produced by PT Zeta Agro Corp. during 1998-2001 but not during 2002-2003 because it became nonsubject.

Source: Compiled from data submitted in response to Commission questionnaires.

Table V-3

Certain preserved mushrooms: Weighted-average f.o.b. prices and quantities of domestic and imported product 3 and margins of underselling/(overselling), by quarters, January 1998-December 2003

* * * * *

Table V-4

Certain preserved mushrooms: Summary of weighted-average f.o.b. prices and changes in prices¹ for products 1 through 3, by countries

Country	Number of quarters	Highest price	Lowest price	Change in price ¹
		<i>Per pound drained weight</i>	<i>Per pound drained weight</i>	<i>Percent</i>
Product 1				
United States	24	\$***	\$***	5.8
China	23	***	***	19.4
India	16	***	***	***
Indonesia	24	***	***	***
India (excluding General Mills)	16	***	***	***
Indonesia (excluding General Mills)	24	***	***	***
Product 2				
United States	24	\$1.20	\$0.99	***
China	11	***	***	-0.6
India	24	***	***	-20.5
Indonesia	24	***	***	12.0
Product 3				
United States	24	\$***	\$***	-5.2
China	18	***	***	91.2
India	15	***	***	-55.5
Indonesia	24	***	***	-37.2
¹ Changes in price are based on prices from the first quarter to the last quarter reported, which differ for various countries and products and thus should be compared with caution. Source: Compiled from data submitted in response to Commission questionnaires.				

Table V-5
Certain preserved mushrooms: Summary of subject imports' underselling/overselling, by year

Country/year	Number of quarters of underselling	Number of quarters of overselling	Simple average margin of underselling/ (overselling)	Weighted-average margin of underselling/ (overselling)
China				
1998	8	4	10.4	19.3
1999	5	6	(9.8)	5.5
2000	2	1	(9.9)	2.0
2001	6	3	(0.1)	8.7
2002	6	3	(1.8)	6.6
2003	7	1	2.2	6.9
Total	34	18	6.5	9.4
India (including General Mills' products 1 and 2)				
1998	***	***	***	***
1999	***	***	***	***
2000	***	***	***	***
2001	***	***	***	***
2002	***	***	***	***
2003	***	***	***	***
Total	***	***	***	***
Indonesia (including General Mills' products 1 and 2)				
1998	***	***	***	***
1999	***	***	***	***
2000	***	***	***	***
2001	***	***	***	***
2002	***	***	***	***
2003	***	***	***	***
Total	***	***	***	***
Source: Compiled from data submitted in response to Commission questionnaires.				

Figure V-2
Certain preserved mushrooms: Weighted-average f.o.b. prices (per pound drained weight) of domestic and imported products 1-3, by quarters, January 1998-December 2003

* * * * *

APPENDIX A

***FEDERAL REGISTER* NOTICES AND THE COMMISSION'S STATEMENT
ON ADEQUACY**

possession of the Thomas Burke Memorial Washington State Museum, Seattle, WA, that meets the definition of sacred object under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural item. The National Park Service is not responsible for the determinations within this notice.

The one cultural item (catalog number 2-11783) is a man's buckskin perforated shirt decorated with beadwork that was collected on the Spokane Indian Reservation by University of Washington faculty anthropologist Verne Ray in 1928. It was purchased by the Thomas Burke Memorial Washington State Museum in 1930 and accessioned as number 2346. Dr. Ray's notes indicate that the shirt was made by an unnamed member of the Spokane Tribe of the Spokane Reservation, Washington and was worn by a member of the tribe residing on the Spokane Indian Reservation. Shirts of this type are part of a religious system involving the acquisition of guardian spirit powers. Consultation with religious leaders and representatives of the Spokane Tribe of the Spokane Reservation, Washington indicates that the shirt has ongoing religious importance and that the shirt is a ceremonial object essential for the continuation of traditional religious practices in the tribe.

Officials of the Thomas Burke Memorial Washington State Museum have determined, pursuant to 25 U.S.C. 3001, that the cultural item is a specific ceremonial object needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Officials of the Thomas Burke Memorial Washington State Museum also have determined that there is a relationship of shared group identity that can be reasonably traced between the sacred object and the Spokane Tribe of the Spokane Reservation, Washington.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the sacred object should contact Dr. James D. Nason, Chairman, Repatriation Committee, Thomas Burke Memorial Washington State Museum, Box 353010, University of Washington, Seattle, WA 98195-3010, telephone (206) 543-9680, before December 3, 2003. Repatriation of the sacred object to the Spokane Tribe of the Spokane

Reservation, Washington may proceed after that date if no additional claimants come forward.

The Thomas Burke Memorial Washington State Museum is responsible for notifying the Spokane Tribe of the Spokane Reservation, Washington that this notice has been published.

Dated: September 10, 2003.

John Robbins,

Assistant Director, Cultural Resources.

[FR Doc. 03-27525 Filed 10-31-03; 8:45 am]

BILLING CODE 4312-50-S

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-776-779 (Review)]

Preserved Mushrooms From Chile, China, India, and Indonesia

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the antidumping duty orders on preserved mushrooms from Chile, China, India, and Indonesia.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on preserved mushrooms from Chile, China, India, and Indonesia would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;¹ to be assured of consideration, the deadline for responses is December 23, 2003. Comments on the adequacy of responses may be filed with the Commission by January 16, 2004. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: November 3, 2003.

¹ No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 03-5-077, expiration date June 30, 2005. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202-205-3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background—On December 2, 1998, the Department of Commerce ("Commerce") issued an antidumping duty order on imports of preserved mushrooms from Chile (63 FR 66529) and on February 19, 1999, Commerce issued antidumping duty orders on imports of preserved mushrooms from China, India, and Indonesia (64 FR 8308-8312). Commerce subsequently revoked in part the order on imports from Indonesia (68 FR 39521, July 2, 2003). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are Chile, China, India, and Indonesia.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise*. In its original determinations, the Commission found one domestic like product consisting of preserved mushrooms corresponding to the scope of Commerce's investigations.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product*, or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the *Domestic Industry* to consist of all domestic producers of preserved mushrooms. Certain Commissioners defined the *Domestic Industry* differently.

(5) The *Order Date* is the date that the antidumping duty orders under review became effective. In the review concerning Chile, the *Order Date* is December 2, 1998. In the reviews concerning China, India, and Indonesia, the *Order Date* is February 19, 1999.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the "same particular matter" as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was "personal and substantial." However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol

McCue Verratti, Deputy Agency Ethics Official, at 202-205-3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions—Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is December 23, 2003. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is January 16, 2004. All written submissions must conform with the provisions of §§ 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by § 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with §§ 201.16(c) and 207.3 of the

Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information—Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information to be Provided in Response to this Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country*; or produce *Subject Merchandise* in more than one *Subject Country*, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country*. As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product*, a U.S. union or worker group, a U.S. importer of the *Subject Merchandise*, a foreign producer or exporter of the *Subject Merchandise*, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty

orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry*.

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product*. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries since 1998.

(7) If you are a U.S. producer of the *Domestic Like Product*, provide the following information on your firm's operations on that product during calendar year 2002 (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Countries*, provide the following information on your firm's(s') operations on that product during calendar year 2002 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from

each *Subject Country* accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country*; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country*.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Countries*, provide the following information on your firm's(s') operations on that product during calendar year 2002 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in each *Subject Country* since the *Order Date*, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise*

produced in the *Subject Countries*, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry*; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

Issued: October 28, 2003.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03-27598 Filed 10-31-03; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Shani Distributors Denial of Application

On August 20, 2002, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Shani Distributors (Shani) proposing to deny its application, executed on October 21, 1999, for DEA Certificate of Registration as a distributor of list I chemicals. The Order to Show Cause alleged that granting the application of Shani would be inconsistent with the public interest as that term is used in 21 U.S.C. 823(h) and 824(a). The Order to Show Cause also notified Shani that should no request for a hearing be filed within 30 days, its hearing right would be deemed waived.

According to the DEA investigative file, the Order to Show Cause was sent by certified mail to Shani at its proposed registered location in Oklahoma city, Oklahoma. The return receipt indicated that the show cause order has been forwarded by the United States Postal Service to Shani at a second location where it was received on August 28, 2002. DEA has not received a request for hearing or any other reply from Shani or anyone purporting to represent the company in this matter.

Therefore, the Administrator of DEA, finding that (1) thirty days having passed since receipt of the Order to Show Cause, and (2) no request for hearing having been received, concludes that Shani has waived its hearing right. *See Aquí Enterprises*, 67 FR 12576 (2002). After considering relevant

SUPPLEMENTARY INFORMATION: Battle Mountain Gold Company (BMG), a wholly owned subsidiary of Newmont Mining Corporation, has been approved to expand its current operations near Battle Mountain, Nevada, to include mining and beneficiation of gold, silver, and copper ores. The proposed Phoenix Project would require up to an additional 4,308 acres of disturbance. BMG would develop the Phoenix and Reona pits and expand the Midas and Iron Canyon pits. Mining these ore deposits would be coupled with excavating and beneficiating low-grade gold ore stockpiles associated with the previous Tomboy, Northeast Extension, and Fortitude mining operations. Beneficiation operations would include heap leach facility expansion and new milling facilities. The projected mine life is up to 28 years, followed by 5 years of reclamation.

Dated: December 2, 2003.

Gerald M. Smith,

Field Manager, Battle Mountain Field Office.

[FR Doc. 04-3484 Filed 2-18-04; 8:45 am]

BILLING CODE 4310-HC-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR 120 5882 CC99; HAG# 04-0101]

Notice of Public Meeting, Coos Bay Resource Advisory Committee Meeting

February 12, 2004.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Bureau of Land Management (BLM) Coos Bay District Resource Advisory Committee (RAC) Meeting as identified in section 205(f)(2) of the Secure Rural Schools and Community Self-Determination Act of 2000, Public Law 106-393 (the Act).

SUMMARY: The BLM Coos Bay District RAC will be meeting on February 26, 2004 from 1 p.m. until 4:30 p.m. at the North Bend Public Library. The North Bend Public Library is located at 1800 Sherman Avenue in North Bend, Oregon. The purpose of this meeting will be for the RAC to discuss funding for an organic noxious weed control project, discuss RAC communication issues, and elect a Chairperson.

FOR FURTHER INFORMATION CONTACT: Sue Richardson, District Manager, at 756-0100 or Glenn Harkleroad, District Restoration Coordinator, at 751-4361 or glenn_harkleroad@or.blm.gov. The mailing address for the BLM Coos Bay District Office is 1300 Airport Lane, North Bend, Oregon 97459.

SUPPLEMENTARY INFORMATION: Additional information about the Coos Bay RAC agenda can be found at www.or.blm.gov/coosbay. A meeting agenda will be posted at this site as the meeting date nears.

Dated: February 12, 2004.

Richard Conrad,

Acting: Coos Bay District Manager.

[FR Doc. 04-3585 Filed 2-18-04; 8:45 am]

BILLING CODE 4310-33-M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

California Bay-Delta Public Advisory Committee Public Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the California Bay-Delta Public Advisory Committee will meet on March 11, 2004. The agenda for the meeting will include staff updates on the February meeting of the California Bay-Delta Authority; consideration of subcommittee recommendations; and discussion of the CALFED Bay-Delta Program priorities, the Delta Improvements Package, surface storage investigations, and implementation of the CALFED Bay-Delta Program with State and Federal agency representatives.

DATES: The meeting will be held Thursday, March 11, 2004, from 9 a.m. to 5 p.m. If reasonable accommodation is needed due to a disability, please contact Pauline Nevins at (916) 445-5511 or TDD (800) 735-2929 at least 1 week prior to the meeting.

ADDRESSES: The meeting will be held at the California Bay-Delta Authority offices at 650 Capitol Mall, 5th Floor, Bay-Delta Room, Sacramento, California.

FOR FURTHER INFORMATION CONTACT:

Heidi Rooks, California Bay-Delta Authority, at (916) 445-5511, or Diane Buzzard, U.S. Bureau of Reclamation, at (916) 978-5022.

SUPPLEMENTARY INFORMATION: The Committee was established to provide recommendations to the Secretary of the Interior, other participating Federal agencies, the Governor of the State of California, and the California Bay-Delta Authority on implementation of the CALFED Bay-Delta Program. The Committee makes recommendations on annual priorities, integration of the eleven Program elements, and overall

balancing of the four Program objectives of ecosystem restoration, water quality, levee system integrity, and water supply reliability. The Program is a consortium of State and Federal agencies with the mission to develop and implement a long-term comprehensive plan that will restore ecological health and improve water management for beneficial uses of the San Francisco/Sacramento and San Joaquin Bay Delta.

Committee and meeting material will be available on the California Bay-Delta Authority Web site at <http://calwater.ca.gov> and at the meeting. This meeting is open to the public. Oral comments will be accepted from members of the public at the meeting and will be limited to 3-5 minutes.

(Authority: The Committee was established pursuant to the Department of the Interior's authority to implement the Fish and Wildlife Coordination Act, 16 U.S.C. 661 *et seq.*, the Endangered Species Act, 16 U.S.C. 1531 *et seq.*, and the Reclamation Act of 1902, 43 U.S.C. 371 *et seq.*, and the acts amendatory thereof or supplementary thereto, all collectively referred to as the Federal Reclamation laws, and in particular, the Central Valley Project Improvement Act, Pub. L. 102-575)

February 2, 2004.

Allan Oto,

Special Projects Officer, Mid-Pacific Region.

[FR Doc. 04-3586 Filed 2-18-04; 8:45 am]

BILLING CODE 4310-MN-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-776-779 (Review)]

Preserved Mushrooms from Chile, China, India, and Indonesia

AGENCY: United States International Trade Commission.

ACTION: Notice of Commission determinations to conduct full five-year reviews concerning the antidumping duty orders on preserved mushrooms from Chile, China, India, and Indonesia.

SUMMARY: The Commission hereby gives notice that it will proceed with full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) to determine whether revocation of the antidumping duty orders on preserved mushrooms from Chile, China, India, and Indonesia would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the reviews will be established and announced at a later date. For further information concerning the conduct of these reviews and rules

of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: February 6, 2004.

FOR FURTHER INFORMATION CONTACT:

Mary Messer (202-205-3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION: On February 6, 2004, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c)(5) of the Act. The Commission found that the domestic interested party group response to its notice of institution (68 FR 62322, November 3, 2003) was adequate. The respondent interested party group response concerning preserved mushrooms from Indonesia was also found by the Commission to be adequate but the respondent interested party group responses concerning preserved mushrooms from Chile, China, and India were found by the Commission to be inadequate. The Commission also determined that other circumstances warranted conducting full reviews of all subject orders. A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's web site.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: February 13, 2004.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04-3605 Filed 2-18-04; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-53,916]

Diamond Crown Company, New York, NY; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on December 31, 2003 in response to a worker petition filed by a company official on behalf of workers at Diamond Crown Company, New York, New York.

The petitioner has requested that the petition be withdrawn. Consequently, this investigation has been terminated.

Signed at Washington, DC, this 3rd day of February, 2004.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04-3566 Filed 2-18-04; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-53,222]

Eastman Kodak Company Film Finishing Operations Rochester, NY; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on November 21, 2003, applicable to workers of Eastman Kodak Company, Film Finishing Operations located in Rochester, New York. The notice was published in the **Federal Register** on December 29, 2003 (68 FR 74979).

At the request of a company official, the Department reviewed the certification for workers of the subject firm. The workers produce 35mm consumer film and associated components.

The review shows that the company provided information in response to questions from the Department with respect to Alternative Trade Adjustment Assistance (ATAA) that were not addressed in the decision document. The Department has determined that this information together with consumer film industry information warrants

ATAA certification for workers of the subject firm.

Therefore, the Department is amending the certification to reflect its finding.

The amended notice applicable to TA-W-53,222 is hereby issued as follows:

All workers of the Eastman Kodak Company, Film Finishing Operations, Rochester, New York, who became totally or partially separated from employment on or after October 10, 2002, through two years from the date of certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for Alternative Trade Adjustment Assistance under Section 246 of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 11th day of February 2004.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04-3571 Filed 2-18-04; 8:45 am]

BILLING CODE 4510-10-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-53,830]

J.S. Technos Corporation A Subsidiary of Bosch Corporation Russellville, KY; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, investigation was initiated on December 18, 2003 in response to a worker petition filed by a company official on behalf of the workers at J.S. Technos, a subsidiary of Robert Bosch Corporation, Russellville, Kentucky.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC this 4th day of February 2004.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04-3569 Filed 2-18-04; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-53,893]

Johnston Industries, Inc., Dewitt, IA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on December

announcing the initiation of the administrative review of the antidumping duty order on honey from the People's Republic of China. The period of review (POR) is December 1, 2002, to November 30, 2003. This review is now being rescinded for Anhui Native Produce Import & Export Corp., ("Anhui Native"), and Foodworld International Club, Ltd. ("Foodworld") because the requesting party withdrew its request.

EFFECTIVE DATE: March 10, 2004.

FOR FURTHER INFORMATION CONTACT:

Helen Kramer or Abdelali Elouaradia, Enforcement Group III, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Room 7866, Washington, D.C. 20230; telephone (202) 482-0405 or (202) 482-1374, respectively.

SUPPLEMENTARY INFORMATION:

Scope of Review

The merchandise under review is honey from the PRC. The products covered are natural honey, artificial honey containing more than 50 percent natural honey by weight, preparations of natural honey containing more than 50 percent natural honey by weight, and flavored honey. The subject merchandise includes all grades and colors of honey whether in liquid, creamed, comb, cut comb, or chunk form, and whether packaged for retail or in bulk form. The merchandise under review is currently classifiable under item 0409.00.00, 1702.90.90 and 2106.90.99 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under review is dispositive.

Background

On December 10, 2001, the Department of Commerce (the Department) published in the **Federal Register** an antidumping duty order covering honey from the People's Republic of China (PRC). See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; Honey from the People's Republic of China*, 66 FR 63670 (December 10, 2001). On December 2, 2003, the Department published a *Notice of Opportunity to Request an Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation*, 68 FR 67401. On December 31, 2003, the American Honey Producers Association and the

Sioux Honey Association (collectively, petitioners), requested, in accordance with section 351.213(b) of the Department's regulations, an administrative review of the antidumping duty order on honey from the PRC covering the period December 1, 2002, through November 30, 2003.

The petitioners requested that the Department conduct an administrative review of entries of subject merchandise made by 20 Chinese producers/exporters, which included Anhui Native and Foodworld. On January 14, 2004, the petitioners filed a letter withdrawing their request for review of Henan Native Produce and Animal By-Products Import & Export Company, High Hope International Group Jiangsu Foodstuffs Import & Export Corp., Jinan Products Industry Co., Ltd., and Native Produce and Animal Import & Export Co. On January 22, 2003, the Department initiated the review for the remaining 16 companies. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 68 FR 3009. The petitioners subsequently withdrew their request for review of Foodworld and Anhui Native on February 13, 2004 and February 18, 2004, respectively.

Rescission of Review

The applicable regulation, 19 CFR 351.213(d)(1), states that if a party that requested an administrative review withdraws the request within 90 days of the publication of the notice of initiation of the requested review, the Secretary will rescind the review. The petitioners withdrew their review request with respect to Anhui Native and Foodworld within the 90-day deadline, in accordance with 19 CFR 351.213(d)(1). Since the petitioners were the only party to request an administrative review of Anhui Native and Foodworld, we are rescinding this review of the antidumping duty order on honey from the PRC covering the period December 1, 2002, through November 30, 2003, with respect to Anhui Native and Foodworld.

This notice is issued and published in accordance with sections 751 and 777(i) of the Act and 19 CFR 351.213(d)(4).

Dated: March 2, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 04-5383 Filed 3-9-04; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-337-804, A-533-813, A-560-802, A-570-851]

Certain Preserved Mushrooms from Chile, India, Indonesia and the People's Republic of China; Final Results of Expedited Sunset Reviews of Antidumping Duty Orders

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

ACTION: Notice of Final Results of Expedited Sunset Reviews of Antidumping Duty Orders on Certain Preserved Mushrooms from Chile, India, Indonesia, and the People's Republic of China.

SUMMARY: On August 1, 2003, the Department of Commerce ("the Department") published the notice of initiation of sunset reviews on Certain Preserved Mushrooms from Chile, India, Indonesia, and the People's Republic of China. On the basis of the notice of intent to participate, and the adequate substantive comments filed on behalf of a domestic interested party and inadequate response (in this case, no response) from respondent interested parties, we determined to conduct expedited (120-day) sunset reviews. As a result of these reviews, we find that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping at the levels listed below in the section entitled "Final Results of Review."

EFFECTIVE DATE: March 10, 2004.

FOR FURTHER INFORMATION CONTACT:

Alessandra Cortez or Ozlem Koray, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-5925 or (202) 482-3675.

SUPPLEMENTARY INFORMATION:

Background

On August 1, 2003, the Department published the notice of initiation of sunset reviews of the antidumping duty orders on Certain Preserved Mushrooms from Chile, India, Indonesia, and the People's Republic of China pursuant to section 751(c) of the Tariff Act of 1930, as amended (the "Act").¹ The Department received the Notices of Intent to Participate on behalf of a domestic interested party, the Coalition

¹ *Initiation of Five-Year (Sunset) Reviews*, 68 FR 45219 (August 1, 2003)

for Fair Preserved Mushroom Trade (collectively the “Coalition”)², within the deadline specified in section 351.218(d)(1)(i) of the *Department’s Regulations (Sunset Regulations)*. The Coalition claimed interested party status under Section 771(9)(C) of the Act as a U.S. producer of a domestic like product. We received complete substantive responses in the sunset reviews from the Coalition within the 30–day deadline specified in the *Department’s Regulations* under section 351.218(d)(3)(i).

We did not receive a substantive response from any respondent interested parties to these proceedings. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C), the Department conducted expedited, 120–day reviews of these antidumping duty orders.

Scope of Review

The products covered under the Certain Preserved Mushrooms orders are imported whole, sliced, diced, or as stems and pieces. The “preserved mushrooms” covered under the orders 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. Included within the scope of these orders are “brined” mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing. Also included within the scope of these orders, as of June 19, 2000, are marinated, acidified, or pickled mushrooms containing less than 0.5 percent acetic acid.

Excluded from the scope of these orders 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; and (4) frozen mushrooms. The merchandise subject to these orders were previously classifiable under subheadings 2003.10.0027, 2003.10.0031, 2003.10.0037, 2003.10.0043, 2003.10.0047, 2003.10.0053, and 0711.90.4000 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 these orders is dispositive. As of January 1, 2002, the HTSUS codes are as follows: 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, 2003.10.0153, 0711.51.0000.

Analysis of Comments Received

All issues raised in these cases by the Coalition are addressed in the “Issues and Decision Memorandum” (“Decision Memo”) from Ronald K. Lorentzen, Acting Director, Office of Policy, Import Administration, to James J. Jochum, Assistant Secretary for Import Administration, dated March 3, 2004, which is hereby adopted by this notice. The issues discussed in the Decision Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the margin likely to prevail if the orders were to be revoked. Parties can find a complete discussion of all issues raised in these reviews and the corresponding recommendations in this public memorandum, which is on file in room B–099 of the main Commerce Building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at <http://ia.ita.doc.gov/frn>, under the heading “March 2004.” The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Review

We determine that revocation of the antidumping duty orders on Certain Preserved Mushrooms from Chile, India, Indonesia, and the People’s Republic of China would be likely to lead to continuation or recurrence of dumping at the following percentage weighted–average margins:

Chile Manufacturers/Exporters	Weighted Average Margin Percent
Nature’s Farm Products (Chile) S.A.	148.51
Ravine Foods	148.51
All Others	148.51
India Manufacturers/Exporters	Weighted Average Margin Percent
Agro Dutch Foods Ltd	6.28
Ponds (India) Ltd	14.91
Alpine Biotech Ltd	243.87
Mandeep Mushrooms Ltd	243.87
All Others	11.30
Indonesia Manufacturers/Exporters	Weighted Average Margin Percent
PT Dieng Djaya/PT Surya Jaya Abadi Perkasa	7.94
PT Zeta Agro Corporation	*revoked
All Others	11.26
PRC Manufacturers/Exporters	Weighted Average Margin Percent
China Processed Food I&E Co./Xiamen Jiahua I&E Trading Company, Ltd	121.47
Tak Fat Trading Co	162.47

*Effective as of February 1, 2002, the antidumping duty order with respect to PT Zeta Agro Corporation was revoked. See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation Opportunity To Request Administrative Review, 67 FR 4549 (February 1, 2002).

²The Coalition includes L. K. Bowman, Inc., Monterey Mushrooms Inc., Mushroom Canning Company, and Sunny Dell Foods Inc.

PRC Manufacturers/Exporters	Weighted Average Margin Percent
Shenzhen Cofry Cereals, Oils, & Foodstuffs Co., Ltd	151.15
Gerber (Yunnan) Food Co	198.63 ³
Jiangsu Cereals, Oils & Foodstuffs Group Import & Export Corporation	142.11
Fujian Provincial Cereals, Oils & Foodstuffs I&E Corp	142.11
Putian Cannery Fujian Province	142.11
Xiamen Gulong I&E Co., Ltd	142.11
General Canned Foods Factory of Zhangzhou	142.11
Zhejiang Cereals, Oils & Foodstuffs I&E Corp	142.11
Shanghai Foodstuffs I&E Corp/142.11 Canned Goods Co. of Raoping	142.11
PRC-wide Rate	198.63

³In the more recent administrative review of certain preserved mushrooms from the People's Republic of China, the Department applied an adverse facts available rate for Gerber (Yunnan) Co., of 198.63 which differs from the rate calculated for Gerber in the underlying investigation. See *Certain Preserved Mushrooms From the People's Republic of China: Final Results and Partial Rescission of the New Shipper Review and Final Results and Partial Rescission of the Third Antidumping Duty Administrative Review*, 68 FR 41304 (July 11, 2003)

This notice also serves as the only reminder to parties subject to administrative protective orders ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing the results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: March 3, 2004.

Joseph A. Spetrini,
Acting Assistant Secretary for Import Administration.

[FR Doc. 04-5382 Filed 3-9-04; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-428-825]

Stainless Steel Sheet and Strip in Coils from Germany; Antidumping Duty Administrative Review; Extension of Time Limit for Preliminary Results

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

ACTION: Notice of extension of time limits.

SUMMARY: The Department of Commerce (the Department) is extending the time limits for the preliminary results of the 2002-2003 administrative review of the antidumping duty order on stainless steel sheet and strip in coils from Germany. This review covers one manufacturer/exporter of the subject merchandise to the United States and

the period July 1, 2002 through June 30, 2003.

EFFECTIVE DATE: March 10, 2004.

FOR FURTHER INFORMATION CONTACT:

Patricia Tran at (202) 482-1121 or Robert James at (202) 482-0649, Antidumping and Countervailing Duty Enforcement Group III, Office Eight, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: On August 22, 2003, in response to requests from the respondent and petitioners, we published a notice of initiation of this administrative review in the **Federal Register**. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 68 FR 50750 (August 22, 2003). Pursuant to the time limits for administrative reviews set forth in section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Tariff Act), the current deadlines are April 1, 2004 for the preliminary results and July 30, 2004, for the final results. It is not practicable to complete this review within the normal statutory time limit due to a number of significant case issues such as: the reporting of downstream sales, and the reporting of physical product characteristics. Therefore, the Department is extending the time limits for completion of the preliminary results until July 30, 2004 in accordance with section 751(a)(3)(A) of the Tariff Act. The deadline for the final results of this review will continue to be 120 days after publication of the preliminary results.

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

Dated: March 3, 2004.

Joseph A. Spetrini,
Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 04-5386 Filed 3-9-04; 8:45 am]

BILLING CODE 3510-DS-P

COMMODITY FUTURES TRADING COMMISSION

Fees for Product Review and Approval

AGENCY: Commodity Futures Trading Commission.

ACTION: Annual update of fees for product approval.

SUMMARY: The Commission charges fees to designated contract markets and registered derivatives transaction execution facilities to recover the costs of its review of requests for approval of products. The calculation of the fees to be charged for the upcoming year is based on an average of actual program costs, as explained below. The new fee schedule is set forth below.

EFFECTIVE DATE: March 10, 2004.

FOR FURTHER INFORMATION CONTACT: Richard A. Shilts, Deputy Director for Market and Product Review, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, (202) 418-5260.

SUPPLEMENTARY INFORMATION:

I. Summary of Fees

Fees charged for processing requests for product review and approval:

Single Applications

- A single futures contract or an option on a physical—\$6,000.
- A single option on a previously-approved futures contract—\$1,000.
- A combined submission of a futures contract and an option on the same futures contract—\$6,500.

Multiple Applications

For multiple contract filings containing related contracts, the product review and approval fees are:

- A submission of multiple related futures contracts—\$6,000 for the first contract, plus \$600 for each additional contract;
- A submission of multiple related options on futures contracts—\$1,000 for

complainant's and respondents' hearings. In order to allow sufficient time for the further fact finding, the Commission extended the target date for completion until May 12, 2004. The ALJ issued his additional findings on December 30, 2003. The parties to the investigation filed comments on the additional findings on January 12, 2004, and response comments on January 20, 2004.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.45(c) of the Commission's Rules of Practice and Procedure (19 CFR 210.45(c)).

Issued: May 12, 2004.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04-11190 Filed 5-17-04; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-776-779 (Review)]

Certain Preserved Mushrooms From Chile, China, India, and Indonesia

AGENCY: United States International Trade Commission.

ACTION: Scheduling of full five-year reviews concerning the antidumping duty orders on certain preserved mushrooms from Chile, China, India, and Indonesia.

SUMMARY: The Commission hereby gives notice of the scheduling of full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the antidumping duty orders on certain preserved mushrooms from Chile, China, India, and Indonesia would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: May 12, 2004.

FOR FURTHER INFORMATION CONTACT: Christopher J. Cassise (202-708-5408), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain

information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—On February 6, 2004, the Commission determined that responses to its notice of institution of the subject five-year reviews were such that full reviews pursuant to section 751(c)(5) of the Act should proceed (69 FR 7793, February 19, 2004). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's web site.

Participation in the reviews and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in these reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the reviews need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the reviews. A party granted access to BPI following publication of the Commission's notice of institution of the reviews need not reapply for such access. A separate service list will be maintained by the

Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the reviews will be placed in the nonpublic record on August 19, 2004, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with these reviews beginning at 9:30 a.m. on September 9, 2004, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before September 1, 2004. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on September 3, 2004, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is September 2, 2004. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is September 20, 2004; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the reviews on or before September 20, 2004. On October 8, 2004, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before October 12, 2004, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section

201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR. 68036 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: May 13, 2004.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04-11220 Filed 5-17-04; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP(OJJDP) Docket No. 1399]

Office of Juvenile Justice and Delinquency Prevention: Meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, Justice.

ACTION: Notice of meeting.

SUMMARY: The Coordinating Council on Juvenile Justice and Delinquency Prevention (Council) is announcing the June 4, 2004, meeting of the Council.

DATES: Friday, June 4, 2004, from 9:30 a.m. to 1 p.m.

ADDRESSES: The meeting will take place at the White House Conference Center (Truman Room), 726 Jackson Place, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Timothy Wight, Designated Federal Official for the Coordinating Council on Juvenile Justice and Delinquency Prevention, OJJDP, by telephone at (202) 514-2190, or by e-mail at WightT@ojp.usdoj.gov.

SUPPLEMENTARY INFORMATION: The Coordinating Council on Juvenile

Justice and Delinquency Prevention, established pursuant to section 3(2)A of the Federal Advisory Committee Act (5 U.S.C. App. 2), will meet to carry out its advisory functions under section 206 of the Juvenile Justice and Delinquency Prevention Act of 2002, 42 U.S.C. 5601, *et seq.* Documents such as meeting announcements, agendas, minutes, and interim and final reports will be available on the Council's Web page at <http://www.ojjdp.ncjrs.org/council/index.html>. (You may also verify the status of the meeting at that Web address.)

The agenda for this meeting will include: (a) Review of past Council actions, (b) coordination of mentoring programs, and (c) discussion of the Final Report of the White House Task Force for Disadvantaged Youth.

Written Comments: Interested parties may submit written comments by May 21, 2004, to Timothy Wight, Designated Federal Official for the Coordinating Council on Juvenile Justice and Delinquency Prevention, OJJDP, at WightT@ojp.usdoj.gov. The Coordinating Council on Juvenile Justice and Delinquency Prevention expects public statements presented at its meetings will not be repetitive of previously submitted statements. No oral comments will be permitted at this meeting.

For security purposes, members of the public who wish to attend the meeting must pre-register by calling the Juvenile Justice Resource Center at 301-519-6473 (Daryel Dunston) or 301-519-5790 (Karen Boston), no later than May 21, 2004. To register on-line, please go to <http://www.ojjdp.ncjrs.org/council/meetings.html>. Space is limited.

Note: Photo identification will be required for admission to the meeting.

Dated: May 12, 2004.

J. Robert Flores,

Administrator, Office of Juvenile Justice and Delinquency Prevention, and Vice-Chair, Coordinating Council on Juvenile Justice and Delinquency Prevention.

[FR Doc. 04-11129 Filed 5-17-04; 8:45 am]

BILLING CODE 4410-18-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Susan Harwood Training Grant Program, FY 2004 Budget

Announcement Type: Initial announcement of availability of funds and solicitation for grant applications.

Catalog of Federal Domestic Assistance No.: 17.502.

DATES: Grant applications must be received by the OSHA Office of Training and Education in Arlington Heights, Illinois, by 4:30 p.m. (central time) on Friday, June 18, 2004.

SUMMARY: This notice contains all of the necessary information and forms needed to apply for grant funding. The U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) awards funds to nonprofit organizations to provide training and education programs or to develop training materials for employers and workers about safety and health topics selected by OSHA. Any nonprofit organization, including community-based and faith-based organizations, that is not an agency of a State or local government, is eligible to apply. State or local government-supported institutions of higher education are eligible to apply in accordance with 29 CFR part 95. This notice announces grant availability for two different categories of Susan Harwood Training grants. General descriptions of the two categories of grants are provided below.

Targeted Topic Grants

The Targeted Topic category grants are available to nonprofit organizations to conduct training for employers and employees on four different occupational safety and health topic areas selected by OSHA.

OSHA Training Materials Development Grants

The OSHA Training Materials Development category grants are available to nonprofit organizations to develop, evaluate, and validate training materials on four different occupational safety and health topic areas selected by OSHA. The materials are to be tailored to the industry or hazard and selected target audience. Training materials are to be developed in portable formats that are suitable for hard-copy publication and distribution and for Internet publication and distribution. The materials are intended for use by employers, employees, and other interested parties for the conduct of training or for self-study.

ADDRESSES: Grant applications must be sent to the attention of: Grants Officer, U.S. Department of Labor, OSHA, Office of Training and Education—OETP, 2020 S. Arlington Heights Road, Arlington Heights, Illinois 60005-4102.

SUPPLEMENTARY INFORMATION:

EXPLANATION OF COMMISSION DETERMINATION ON ADEQUACY
in
Preserved Mushrooms from Chile, China, India, and Indonesia,
Inv. Nos. 731-TA-776-779 (Review)

On February 6, 2004, the Commission unanimously determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c)(5) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675(c)(5). The Commission, in consultation with the Department of Commerce, grouped these reviews because they involve the same domestic like product.¹

With regard to each of the reviews, the Commission determined that the domestic interested party group response to the notice of institution was adequate. The Commission received an adequate response with company specific data from the Coalition for Fair Preserved Mushroom Trade, which consists of four domestic producers of preserved mushrooms. Because the Commission received an adequate response from domestic producers accounting for a substantial percentage of U.S. production, the Commission determined that the domestic interested party group response was adequate.

In the review concerning subject imports from Indonesia, the Commission received an adequate joint response with company-specific data from five producers and exporters of the subject merchandise: P.T. Dieng Djaya, P.T. Sura Jaya Abadi Perkasa, P.T. Karya Kompos Bagas, P.T. Eka Timur Raya, and P.T. Indo Evergreen Agro Business Corp. Because the Commission received an adequate response representing a substantial percentage of subject imports from Indonesia, the Commission determined that the respondent interested party group response was adequate for the review concerning Indonesia. Accordingly, the Commission determined to proceed to a full review in *Preserved Mushrooms from Indonesia*.

The Commission did not receive a response from any respondent interested parties in the reviews concerning subject imports from Chile, China, or India. However, the Commission determined to conduct full reviews to promote administrative efficiency in light of its decision to conduct a full review with respect to the review concerning Indonesia.

¹ See 19.U.S.C. § 1675(c)(5)(D).

APPENDIX B
HEARING WITNESSES

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject: Certain Preserved Mushrooms from Chile, China, India, and Indonesia
Invs. Nos.: 731-TA-776-779 (Review)
Date and Time: September 9, 2004 - 9:30 a.m.

Sessions were held in connection with these investigations in the Main Hearing Room, 500 E Street, SW, Washington, DC.

Opening Remarks:

In Support of the Continuation of Orders (**Michael J. Coursey**, Collier Shannon Scott, PLLC)
In Support of the Revocation of Orders (**Jay C. Campbell**, White & Case LLP)

In Support of the Continuation of the Antidumping Duty Orders:

Collier Shannon Scott, PLLC
Washington, DC
on behalf of

The Coalition for Fair Preserved Mushrooms Trade

Robert W. Shelton, President, L.K. Bowman Co.
Shah Kazemi, President, Monterey Mushrooms, Inc.
Dennis Newhard, President, Mushroom Canning Co.
Patrick J. McGrath, Director, Georgetown Economic Services, LLC
Michael T. Kerwin, Economist, Georgetown Economic Services, LLC

Michael J. Coursey--OF COUNSEL
Kathleen W. Cannon
Adam H. Gordon

In Support of the Revocation of the Antidumping Duty Orders:

Neville Peterson LLP
Washington, DC
on behalf of

General Mills, Inc.

Duane Larson, Mushroom Buyer, General Mills, Inc.

George W. Thompson--OF COUNSEL

White & Case LLP
Washington, DC
on behalf of

PT Dieng Djaya
PT Surya Jaya Abadi Perkasa
PT Karya Kompos Bagas
PT Eka Timur Raya
PT Indo Evergreen Agro Business Corp.

Frank H. Morgan--OF COUNSEL
Jay C. Campbell

Rebuttal/Closing Remarks

In Support of the Continuation of Orders (**Michael J. Coursey**, Collier Shannon Scott, PLLC)
In Support of the Revocation of Orders (**Frank H. Morgan**, White & Case LLP)

APPENDIX C
SUMMARY DATA

Table C-1
Certain preserved mushrooms: Summary data concerning the U.S. market, 1998-2003

(Quantity=1,000 pounds drained weight, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per pound; period changes=percent, except where noted)

Item	Reported data						Period changes					
	1998	1999	2000	2001	2002	2003	1998-2003	1998-1999	1999-2000	2000-2001	2001-2002	2002-2003
U.S. consumption quantity:												
Amount	181,796	180,627	198,689	175,264	173,167	187,903	3.4	-0.6	10.0	-11.8	-1.2	8.5
Producers' share (1)	36.4	40.7	31.1	32.3	33.8	25.4	-11.0	4.3	-9.6	1.2	1.6	-8.4
Importers' share (1):												
Chile	3.6	0.0	0.0	0.0	0.0	0.0	-3.6	-3.6	0.0	0.0	0.0	0.0
China	26.4	0.2	4.2	11.0	11.9	25.6	-0.8	-26.3	4.0	6.9	0.8	13.7
India	6.9	17.7	17.3	16.8	13.8	14.4	7.5	10.8	-0.4	-0.5	-3.0	0.6
Indonesia (subject)	14.7	16.1	14.6	12.8	***	***	***	1.4	-1.5	-1.8	***	***
Subtotal	51.6	34.0	36.1	40.7	***	***	***	-17.6	2.1	4.5	***	***
Indonesia (nonsubject)	(2)	(2)	(2)	(2)	***	***	***	0.0	0.0	0.0	***	***
Other sources	12.0	25.3	32.8	27.1	27.5	22.8	10.8	13.3	7.5	-5.7	0.4	-4.7
Total imports	63.6	59.3	68.9	67.7	66.2	74.6	11.0	-4.3	9.6	-1.2	-1.6	8.4
U.S. consumption value:												
Amount	197,702	218,079	228,216	191,659	176,802	187,329	-5.2	10.3	4.6	-16.0	-7.8	6.0
Producers' share (1)	41.9	45.5	35.7	36.0	38.2	29.7	-12.2	3.6	-9.9	0.3	2.2	-8.5
Importers' share (1):												
Chile	3.9	0.0	0.0	0.0	0.0	0.0	-3.9	-3.9	0.0	0.0	0.0	0.0
China	19.0	0.2	3.3	10.0	11.0	23.1	4.2	-18.8	3.1	6.6	1.1	12.1
India	6.6	12.8	14.5	14.3	11.9	11.7	5.2	6.2	1.7	-0.2	-2.4	-0.2
Indonesia (subject)	15.4	18.0	16.9	15.0	***	***	***	2.6	-1.2	-1.8	***	***
Subtotal	44.9	31.0	34.7	39.3	***	***	***	-13.8	3.7	4.6	***	***
Indonesia (nonsubject)	(2)	(2)	(2)	(2)	***	***	***	0.0	0.0	0.0	***	***
Other sources	13.2	23.5	29.6	24.6	24.9	21.3	8.0	10.2	6.2	-5.0	0.2	-3.6
Total imports	58.1	54.5	64.3	64.0	61.8	70.3	12.2	-3.6	9.9	-0.3	-2.2	8.5
U.S. imports from:												
Chile:												
Quantity	6,516	0	0	0	0	0	-100.0	-100.0	(3)	(3)	(3)	(3)
Value	7,683	0	0	0	0	0	-100.0	-100.0	(3)	(3)	(3)	(3)
Unit value	\$1.18	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)
Ending inventory quantity	0	0	0	0	0	0	(3)	(3)	(3)	(3)	(3)	(3)
China:												
Quantity	48,046	320	8,330	19,364	20,594	48,139	0.2	-99.3	2,503.4	132.5	6.4	133.7
Value	37,520	433	7,617	19,117	19,516	43,339	15.5	-98.8	1,657.5	151.0	2.1	122.1
Unit value	\$0.78	\$1.35	\$0.91	\$0.99	\$0.95	\$0.90	15.3	73.4	-32.5	8.0	-4.0	-5.0
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
India:												
Quantity	12,559	32,023	34,439	29,479	23,885	27,010	115.1	155.0	7.5	-14.4	-19.0	13.1
Value	13,022	27,873	33,057	27,442	21,051	21,997	68.9	114.0	18.6	-17.0	-23.3	4.5
Unit value	\$1.04	\$0.87	\$0.96	\$0.93	\$0.88	\$0.81	-21.5	-16.1	10.3	-3.0	-5.3	-7.6
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
Indonesia (subject):												
Quantity	26,666	29,096	29,043	22,417	***	***	***	9.1	-0.2	-22.8	***	***
Value	30,459	39,321	38,493	28,830	***	***	***	29.1	-2.1	-25.1	***	***
Unit value	\$1.14	\$1.35	\$1.33	\$1.29	***	***	***	18.3	-1.9	-3.0	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
Subtotal:												
Quantity	93,786	61,439	71,812	71,259	***	***	***	-34.5	16.9	-0.8	***	***
Value	88,685	67,628	79,167	75,389	***	***	***	-23.7	17.1	-4.8	***	***
Unit value	\$0.95	\$1.10	\$1.10	\$1.06	***	***	***	16.4	0.2	-4.0	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
Indonesia (nonsubject):												
Quantity	(2)	(2)	(2)	(2)	***	***	***	(3)	(3)	(3)	***	***
Value	(2)	(2)	(2)	(2)	***	***	***	(3)	(3)	(3)	***	***
Unit value	(2)	(2)	(2)	(2)	***	***	***	(3)	(3)	(3)	***	***
Ending inventory quantity	(2)	(2)	(2)	(2)	***	***	***	(3)	(3)	(3)	***	***
Other sources:												
Quantity	21,814	45,663	65,136	47,462	47,549	42,838	96.4	109.3	42.6	-27.1	0.2	-9.9
Value	26,158	51,161	67,638	47,239	43,954	39,809	52.2	95.6	32.2	-30.2	-7.0	-9.4
Unit value	\$1.20	\$1.12	\$1.04	\$1.00	\$0.92	\$0.93	-22.5	-6.6	-7.3	-4.2	-7.1	0.5
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
All sources:												
Quantity	115,600	107,102	136,948	118,721	114,615	140,216	21.3	-7.4	27.9	-13.3	-3.5	22.3
Value	114,843	118,789	146,805	122,628	109,220	131,607	14.6	3.4	23.6	-16.5	-10.9	20.5
Unit value	\$0.99	\$1.11	\$1.07	\$1.03	\$0.95	\$0.94	-5.5	11.6	-3.3	-3.6	-7.7	-1.5
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***

Table continued on next page.

Table C-1--Continued
Certain preserved mushrooms: Summary data concerning the U.S. market, 1998-2003

(Quantity=1,000 pounds drained weight, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per pound; period changes=percent, except where noted)

Item	Reported data						Period changes					
	1998	1999	2000	2001	2002	2003	1998-2003	1998-1999	1999-2000	2000-2001	2001-2002	2002-2003
U.S. producers:												
Average capacity quantity	280,405	285,300	287,728	271,155	270,042	200,044	-28.7	1.7	0.9	-5.8	-0.4	-25.9
Production quantity	66,186	67,849	68,932	53,316	50,733	50,161	-24.2	2.5	1.6	-22.7	-4.8	-1.1
Capacity utilization (1)	23.6	23.8	24.0	19.7	18.8	25.1	1.5	0.2	0.2	-4.3	-0.9	6.3
U.S. shipments:												
Quantity	66,196	73,525	61,741	56,543	58,552	47,687	-28.0	11.1	-16.0	-8.4	3.6	-18.6
Value	82,859	99,290	81,411	69,031	67,582	55,722	-32.8	19.8	-18.0	-15.2	-2.1	-17.5
Unit value	\$1.25	\$1.35	\$1.32	\$1.22	\$1.15	\$1.17	-6.6	7.9	-2.4	-7.4	-5.5	1.2
Export shipments:												
Quantity	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***
Ending inventory quantity	14,578	8,902	16,090	12,860	4,841	7,313	-49.8	-38.9	80.7	-20.1	-62.4	51.1
Inventories/total shipments (1) . .	***	***	***	***	***	***	***	***	***	***	***	***
Production workers	330	321	328	270	260	266	-19.4	-2.7	2.2	-17.7	-3.7	2.3
Hours worked (1,000s)	435	433	502	430	402	380	-12.8	-0.5	15.9	-14.3	-6.5	-5.6
Wages paid (\$1,000s)	5,372	5,480	6,999	6,633	6,423	5,988	11.5	2.0	27.7	-5.2	-3.2	-6.8
Hourly wages	\$12.35	\$12.66	\$13.94	\$15.43	\$15.98	\$15.78	27.8	2.5	10.2	10.6	3.6	-1.2
Productivity (pounds per hour) . .	125.6	140.0	133.8	124.0	126.2	132.2	5.2	11.5	-4.4	-7.3	1.8	4.7
Unit labor costs	\$0.10	\$0.09	\$0.10	\$0.12	\$0.13	\$0.12	21.5	-8.0	15.3	19.4	1.8	-5.7
Net sales:												
Quantity	68,133	71,437	64,639	57,251	59,943	49,724	-27.0	4.8	-9.5	-11.4	4.7	-17.0
Value	81,714	98,393	87,008	70,610	69,463	58,139	-28.9	20.4	-11.6	-18.8	-1.6	-16.3
Unit value	\$1.20	\$1.38	\$1.35	\$1.23	\$1.16	\$1.17	-2.5	14.8	-2.3	-8.4	-6.0	0.9
Cost of goods sold (COGS)	74,270	89,167	76,808	64,611	66,246	55,543	-25.2	20.1	-13.9	-15.9	2.5	-16.2
Gross profit or (loss)	7,444	9,226	10,200	5,999	3,217	2,596	-65.1	23.9	10.6	-41.2	-46.4	-19.3
SG&A expenses	6,657	7,183	7,447	6,305	5,729	4,150	-37.7	7.9	3.7	-15.3	-9.1	-27.6
Operating income or (loss)	787	2,043	2,753	(306)	(2,512)	(1,554)	(4)	159.6	34.8	(4)	-720.9	38.1
Capital expenditures	1,215	1,235	1,539	1,353	907	2,706	122.7	1.6	24.6	-12.1	-33.0	198.3
Unit COGS	\$1.09	\$1.25	\$1.19	\$1.13	\$1.11	\$1.12	2.5	14.5	-4.8	-5.0	-2.1	1.1
Unit SG&A expenses	\$0.10	\$0.10	\$0.12	\$0.11	\$0.10	\$0.08	-14.6	2.9	14.6	-4.4	-13.2	-12.7
Unit operating income or (loss) . .	\$0.01	\$0.03	\$0.04	(\$0.01)	(\$0.04)	(\$0.03)	(4)	147.6	48.9	(4)	-684.0	25.4
COGS/sales (1)	90.9	90.6	88.3	91.5	95.4	95.5	4.6	-0.3	-2.3	3.2	3.9	0.2
Operating income or (loss)/ sales (1)	1.0	2.1	3.2	(0.4)	(3.6)	(2.7)	-3.6	1.1	1.1	-3.6	-3.2	0.9

(1) "Reported data" are in percent and "period changes" are in percentage points.

(2) Imports from PT Zeta Agro are included in Indonesia (subject) for 1998-2001, and reported separately as Indonesia (nonsubject) for 2002 and 2003.

(3) Not applicable.

(4) Undefined.

Note.--Financial data are reported on a fiscal-year basis and may not necessarily be comparable to data reported on a calendar-year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.

Table C-2**Certain preserved mushrooms: U.S. imports from nonsubject-country sources, 1998-2003**

COUNTRY	1998	1999	2000	2001	2002	2003
Quantity (1,000 pounds)						
Netherlands	4,472	18,134	28,347	18,019	20,956	12,456
Mexico	7,202	4,771	6,583	5,038	4,678	4,757
Taiwan	2,681	5,205	10,450	5,490	3,134	4,258
France	24	5,015	6,998	5,489	6,175	2,812
Canada	2,323	6,141	3,472	3,437	3,220	4,040
Spain	2,049	2,989	2,218	2,936	3,748	6,006
Colombia	658	2,044	3,902	3,529	1,604	2,974
Malaysia	151	488	1,508	1,815	2,253	3,223
Subtotal	19,561	44,787	63,479	45,752	45,768	40,526
All other sources	2,253	876	1,657	1,710	1,781	2,312
Total	21,814	45,663	65,136	47,462	47,549	42,838
LDP value (\$1,000)						
Netherlands	4,612	19,054	28,886	17,776	18,860	12,017
Mexico	11,343	7,322	8,295	6,367	5,544	5,456
Taiwan	2,605	5,307	10,565	5,422	3,023	3,885
France	84	5,703	7,456	5,102	6,056	2,667
Canada	2,643	6,678	3,412	3,387	2,546	2,291
Spain	1,691	3,059	2,079	2,375	3,061	5,666
Colombia	742	2,360	3,867	3,156	1,358	2,356
Malaysia	138	395	1,171	1,257	1,388	1,939
Subtotal	23,858	49,878	65,731	44,843	41,836	36,278
All other sources	2,300	1,283	1,907	2,396	2,118	3,531
Total	26,158	51,161	67,638	47,239	43,954	39,809
LDP unit value (\$/pound)						
Netherlands	1.03	1.05	1.02	0.99	0.90	0.96
Mexico	1.57	1.53	1.26	1.26	1.19	1.15
Taiwan	0.97	1.02	1.01	0.99	0.96	0.91
France	3.47	1.14	1.07	0.93	0.98	0.95
Canada	1.14	1.09	0.98	0.99	0.79	0.57
Spain	0.83	1.02	0.94	0.81	0.82	0.94
Colombia	1.13	1.15	0.99	0.89	0.85	0.79
Malaysia	0.92	0.81	0.78	0.69	0.62	0.60
Average	1.22	1.11	1.04	0.98	0.91	0.90
All other sources	1.02	1.46	1.15	1.40	1.19	1.53
Average	1.20	1.12	1.04	1.00	0.92	0.93

Note.--Countries ranked according to total import quantity during 1998-2003.

Source: Compiled from official Commerce statistics (HTS 2003.10.0027, 2003.10.0031, 2003.10.0037, 2003.10.0043, 2003.10.0047, and 2003.10.0053 during 1998-2001; HTS 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, and 2003.10.0153 during 2002-2003).

APPENDIX D

**U.S. PRODUCERS', U.S. IMPORTERS', U.S. PURCHASERS', AND FOREIGN
PRODUCERS' COMMENTS REGARDING THE EFFECTS OF THE
ANTIDUMPING DUTY ORDERS AND THE LIKELY EFFECTS OF
REVOCATION**

U.S. PRODUCERS' COMMENTS REGARDING THE EFFECTS OF THE ORDERS AND THE LIKELY EFFECTS OF REVOCATION

U.S. producers were asked whether they anticipated any changes in the character of their operations or organization relating to the production of certain preserved mushrooms in the future if the antidumping orders were to be revoked. (Question II-4) Their responses were as follows:

* * * * *

U.S. producers were asked whether they anticipated any changes in their production capacity, production, U.S. shipments, purchases, or employment relating to the production of certain preserved mushrooms in the future if the antidumping orders were to be revoked. (Question II-16) Their responses were as follows:

* * * * *

U.S. producers were asked to describe the significance of the existing antidumping orders covering certain preserved mushrooms from Chile, China, India, and Indonesia in terms of their effects on their production capacity, production, U.S. shipments, inventories, purchases, employment, revenues, costs, profits, cash flow, capital expenditures, research and development expenditures, and asset values. (Question II-15) Their responses were as follows:

* * * * *

U.S. IMPORTERS' COMMENTS REGARDING THE EFFECTS OF THE ORDERS AND THE LIKELY EFFECTS OF REVOCATION

U.S. importers were asked whether they anticipated any changes in the character of their operations or organization relating to the importation of certain preserved mushrooms in the future if the antidumping orders were to be revoked. (Question II-4) Their responses were as follows:

* * * * *

U.S. importers were asked whether they anticipated any changes in their imports, U.S. shipments of imports, or inventories of certain preserved mushrooms in the future if the antidumping orders were to be revoked. (Question II-11) Their responses were as follows:

* * * * *

U.S. importers were asked to describe the significance of the existing antidumping orders covering certain preserved mushrooms from Chile, China, India, and Indonesia in terms of their effects on their imports, U.S. shipments of imports, and inventories. (Question II-10) Their responses were as follows:

* * * * *

U.S. PURCHASERS' COMMENTS REGARDING THE EFFECTS OF THE ORDERS AND THE LIKELY EFFECTS OF REVOCATION

U.S. purchasers were asked to describe the likely effects of any revocation of the antidumping orders covering certain preserved mushrooms from Chile, China, India, and Indonesia in terms of (1) its future activities and (2) the U.S. market as a whole. (Question III-35) Their responses were as follows:

* * * * *

FOREIGN PRODUCERS' COMMENTS REGARDING THE EFFECTS OF THE ORDERS AND THE LIKELY EFFECTS OF REVOCATION

Foreign producers were asked whether they anticipated any changes in the character of their operations or organization relating to the production of certain preserved mushrooms in the future if the antidumping orders were to be revoked. (Question II-3) Their responses were as follows:

* * * * *

Foreign producers were asked whether they anticipated any changes in their production capacity, production, home market shipments, exports to the United States and other markets, or inventories relating to the production of certain preserved mushrooms in the future if the antidumping orders were to be revoked. (Question II-15) Their responses were as follows:

* * * * *

Foreign producers were asked to describe the significance of the existing antidumping orders covering certain preserved mushrooms from Chile, China, India, and Indonesia in terms of their effects on their production capacity, production, home market shipments, exports to the United States and other markets, or inventories. (Question II-14) Their responses were as follows:

* * * * *

APPENDIX E

U.S. PURCHASERS' SOURCES OF CERTAIN PRESERVED MUSHROOMS

Table E-1

Certain preserved mushrooms: Sources of product purchased, imported, or produced, by purchaser, by type of firm purchasing, and by countries of origin, 1998-2003

* * * * *

APPENDIX F

**CHANNELS OF DISTRIBUTION BY COUNTRY AND TYPES OF END
USERS, AND BY SIZE OF CONTAINERS**

Table F-1

Certain preserved mushrooms: U.S. producers' and importers' reported U.S. shipments, by channels of distribution, 1998-2003

* * * * *

Table F-2
Certain preserved mushrooms: U.S. imports, by container size and source, 1998-2003

COUNTRY	1998	1999	2000	2001	2002	2003
Quantity (1,000 pounds)						
<u><= 255 grams (1):</u>						
Chile	58	0	0	0	0	0
China	20,254	146	2,685	12,058	6,786	27,655
India	5,155	11,638	10,544	7,163	7,055	5,711
Indonesia	24,490	25,098	26,704	21,186	21,517	21,504
Subtotal	49,958	36,883	39,933	40,408	35,358	54,871
All other	11,018	19,976	29,698	21,530	22,478	19,974
Total	60,975	56,859	69,631	61,937	57,836	74,845
<u>> 255 grams (2):</u>						
Chile	6,457	0	0	0	0	0
China	27,792	174	5,644	7,306	13,808	20,483
India	7,404	20,384	23,895	22,316	16,830	21,299
Indonesia	2,176	3,998	2,340	1,230	1,070	725
Subtotal	43,829	24,556	31,879	30,851	31,708	42,508
All other	10,796	25,687	35,438	25,932	25,071	22,864
Total	54,625	50,243	67,317	56,784	56,780	65,371
Total imports:						
Chile	6,516	0	0	0	0	0
China	48,046	320	8,330	19,364	20,594	48,139
India	12,559	32,023	34,439	29,479	23,885	27,010
Indonesia	26,666	29,096	29,043	22,417	22,587	22,230
Subtotal	93,786	61,439	71,812	71,259	67,066	97,378
All other	21,814	45,663	65,136	47,462	47,549	42,838
Total	115,600	107,102	136,948	118,721	114,615	140,216
Share of quantity (percent)						
<u><= 255 grams (1):</u>						
Chile	0.9	(3)	(3)	(3)	(3)	(3)
China	42.2	45.7	32.2	62.3	33.0	57.4
India	41.0	36.3	30.6	24.3	29.5	21.1
Indonesia	91.8	86.3	91.9	94.5	95.3	96.7
Subtotal	53.3	60.0	55.6	56.7	52.7	56.3
All other	50.5	43.7	45.6	45.4	47.3	46.6
Total	52.7	53.1	50.8	52.2	50.5	53.4
<u>> 255 grams (2):</u>						
Chile	99.1	(3)	(3)	(3)	(3)	(3)
China	57.8	54.3	67.8	37.7	67.0	42.6
India	59.0	63.7	69.4	75.7	70.5	78.9
Indonesia	8.2	13.7	8.1	5.5	4.7	3.3
Subtotal	46.7	40.0	44.4	43.3	47.3	43.7
All other	49.5	56.3	54.4	54.6	52.7	53.4
Total	47.3	46.9	49.2	47.8	49.5	46.6
Total imports:						
Chile	100.0	(3)	(3)	(3)	(3)	(3)
China	100.0	100.0	100.0	100.0	100.0	100.0
India	100.0	100.0	100.0	100.0	100.0	100.0
Indonesia	100.0	100.0	100.0	100.0	100.0	100.0
Subtotal	100.0	100.0	100.0	100.0	100.0	100.0
All other	100.0	100.0	100.0	100.0	100.0	100.0
Total	100.0	100.0	100.0	100.0	100.0	100.0

(1) HTS 2003.10.0027, 2003.10.0031, and 2003.10.0037 during 1998-2001; HTS 2003.10.1027, 2003.10.0131, and 2003.10.0137 during 2002-2003.

(2) HTS 2003.10.0043, 2003.10.0047, and 2003.10.0053 during 1998-2001; HTS 2003.10.0143, 2003.10.0147, and 2003.10.0153 during 2002-2003.

(3) Not applicable.

Source: Compiled from official Commerce statistics.

APPENDIX G
ADDITIONAL PRICE DATA

Table G-1

Certain preserved mushrooms: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 and margins of underselling/(overselling), by quarters, January 2002-December 2003

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Table G-2

Certain preserved mushrooms: Weighted-average f.o.b. prices and quantities of domestic and imported product 2 and margins of underselling/(overselling), by quarters, January 2002-December 2003

* * * * *

Table G-3

Certain preserved mushrooms: Weighted-average f.o.b. prices and quantities of domestic and imported product 3 and margins of underselling/(overselling), by quarters, January 2002-December 2003

* * * * *

Table G-4

Certain preserved mushrooms: Weighted-average f.o.b. prices and quantities of General Mills' sliced mushrooms in 4.5-ounce glass jars, by source, by quarters, January 1998-December 2003

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