



DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-813]

Certain Preserved Mushrooms from India: Final Results of Antidumping Duty Administrative Review; 2011 - 2012

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

SUMMARY: On November 6, 2012, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on certain preserved mushrooms from India. The period of review is February 1, 2011, through January 31, 2012. We invited interested parties to comment on the preliminary results, but we received no comments. We made no changes for the final results of review, and assigned to Agro Dutch Industries Limited an antidumping duty margin based upon the application of adverse facts available.

EFFECTIVE DATE: [Insert date of publication in the *Federal Register*.]

FOR FURTHER INFORMATION CONTACT: Katherine Johnson or Terre Keaton Stefanova, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone (202) 482-4929 or (202) 482-1280, respectively.

Background

On November 6, 2012, the Department published the preliminary results of the administrative review of the antidumping duty order on certain preserved mushrooms

(mushrooms) from India.<sup>1</sup> We invited interested parties to comment on the Preliminary Results, but we received no comments.

The Department has conducted this administrative review in accordance with section 751(a)(1) of the Tariff Act of 1930, as amended (the Act).

#### Period of Review

The period of review is February 1, 2011, through January 31, 2012.

#### Scope of the Order

The merchandise subject to the order is certain preserved mushrooms, whether imported whole, sliced, diced, or as stems and pieces. The preserved mushrooms covered under this order 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. Preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces. Included within the scope of this order are “brined” mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing.

Excluded from the scope of this order are the following: (1) All other species of mushroom, including straw mushrooms; (2) all fresh and chilled mushrooms, including “refrigerated” or “quick blanched mushrooms”; (3) dried mushrooms; (4) frozen mushrooms;

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<sup>1</sup> See Certain Preserved Mushrooms: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 77 FR 66580 (November 6, 2012) (Preliminary Results).

and (5) “marinated,” “acidified” or “pickled” mushrooms, which are prepared or preserved by means of vinegar or acetic acid, but may contain oil or other additives.

The merchandise subject to this order is currently classifiable under subheadings 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, 2003.10.0153 and 0711.51.0000 of the Harmonized Tariff Schedule of the United States (HTSUS).<sup>2</sup> Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

#### Application of Adverse Facts Available

In the Preliminary Results, we found that Agro Dutch Industries Limited (Agro Dutch) did not act to the best of its ability in this administrative review because it failed to respond to all of the requisite sections of the Department’s questionnaire. Therefore, pursuant to sections 776(a)(2) and (b) of the Tariff Act of 1930, as amended (the Act), we assigned it a rate of 114.76 percent as adverse facts available (AFA). No interested party submitted comments on the Preliminary Results, and there is no additional information on the record of this review that would cause us to reconsider our preliminary decision. Thus, for the final results, we continue to find that, by failing to provide information we requested, necessary information is missing from the record and Agro Dutch did not act to the best of its ability. Accordingly, we continue to find that the use of AFA is warranted for this company under sections 776(a)(2) and (b) of the Act.<sup>3</sup>

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<sup>2</sup> We have revised the HTSUS item numbers for the merchandise subject to this order to reflect the current HTSUS schedule available on the International Trade Commission’s website at <http://www.usitc.gov/tata/hts/bychapter/index.htm>.

<sup>3</sup> See Preliminary Results, and accompanying Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Certain Preserved Mushrooms from India.

As we explained in the Preliminary Results, the rate of 114.76 percent selected as the AFA rate for Agro Dutch is the highest calculated margin on the record of this proceeding. Further, as discussed in the Preliminary Results, we continue to find that the use of the rate of 114.76 percent is sufficiently high to ensure that Agro Dutch does not benefit from failing to cooperate to the best of its ability in our review by refusing to respond to all of the requisite sections of our questionnaire. In addition, we consider the 114.76 percent rate corroborated “to the extent practicable” in accordance with section 776(c) of the Act.<sup>4</sup>

#### Final Results of the Review

We made no changes to our preliminary results. Therefore, we are assigning the following dumping margin to Agro Dutch for the period February 1, 2011, through January 31, 2012.

<u>Manufacturer/Exporter</u>	<u>Percent Margin</u>
Agro Dutch Industries Limited	114.76

#### Assessment Rates

The Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries, in accordance with 19 CFR 351.212(b). The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of these final results of review. For Agro Dutch’s U.S. sales, we will base the assessment rate assigned to the corresponding entries on AFA, as noted above.

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<sup>4</sup> See Preliminary Results and accompanying Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Certain Preserved Mushrooms from India for a full discussion of our corroboration analysis.

### Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of certain preserved mushrooms from India entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: 1) the cash deposit rate for Agro Dutch will be the rate established in the final results of this administrative review; 2) for previously reviewed or investigated companies not participating in this review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; 3) if the exporter is not a firm covered in this review, a previous review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and 4) the cash deposit rate for all other manufacturers or exporters will continue to be 11.30 percent, the all-others rate established in the Notice of Amendment of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Preserved Mushrooms From India, 64 FR 8311 (February 19, 1999). These deposit requirements, when imposed, shall remain in effect until further notice.

### Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221.

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Paul Piquado  
Assistant Secretary  
for Import Administration

February 13, 2013  
(Date)