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Dated: July 29, 2003.

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[FR Doc. 03-19668 Filed 8-1-03; 8:45 am]

BILLING CODE 3510-06-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-851]

Certain Preserved Mushrooms From the People's Republic of China: Intent To Rescind Antidumping Duty New Shipper Review

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

ACTION: Notice of intent to rescind antidumping duty new shipper review.

SUMMARY: In response to requests from Xiamen Zhongjia Imp. & Exp. Co., Ltd. and Zhangzhou Longhai Minhui Industry and Trade Co., Ltd., the Department of Commerce initiated a new shipper review of the antidumping duty order on certain preserved mushrooms from the People's Republic of China. The period of review is February 1, 2002, through July 31, 2002.

For the reasons discussed below, we intend to rescind the new shipper review with respect to both companies listed above. We invite interested parties to comment on this intent to rescind.

EFFECTIVE DATE: August 4, 2003.

FOR FURTHER INFORMATION CONTACT:

Brian C. Smith, Davina Hashmi, or James Mathews, Office of AD/CVD Enforcement 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC, 20230; telephone: (202) 482-1766, (202) 482-0984, and (202) 482-2778, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce ("the Department") initiated a new shipper review covering Xiamen Zhongjia Imp. & Exp. Co., Ltd. ("Zhongjia"), and Zhangzhou Longhai Minhui Industry and Trade Co., Ltd. ("Minhui"), on September 30, 2002. This initiation was based on, among other things, each company's certification that it was both the exporter and producer of the subject merchandise for which it requested a new shipper review. *See Certain*

Preserved Mushrooms from the People's Republic of China: Initiation of New Shipper Antidumping Duty Review, 67 FR 62438 (October 7, 2002) ("Initiation Notice"). On October 8, 2002, the Department issued the antidumping duty questionnaire to both companies.

During the period December 2002 through July 2003, the Department received responses to sections A, C, and D of the Department's original and two supplemental questionnaires from Zhongjia and Minhui. In these responses, Zhongjia and Minhui revealed that they were not the producer of the subject merchandise they exported to the United States during the period of review ("POR").

Scope of the Order

The products covered by this order are 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; 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.¹

The merchandise subject to this order is classifiable under subheading: 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, 2003.10.0153, and

¹ On June 19, 2000, the Department affirmed that "marinated," "acidified," or "pickled" mushrooms containing less than 0.5 percent acetic acid are within the scope of the antidumping duty order. *See "Recommendation Memorandum—Final Ruling of Request by Tak Fat, et al. for Exclusion of Certain Marinated, Acidified Mushrooms from the Scope of the Antidumping Duty Order on Certain Preserved Mushrooms from the People's Republic of China,"* dated June 19, 2000.

0711.51.0000 of the Harmonized Tariff Schedule of the United States ("HTS"). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Intent To Rescind Review

For the reasons stated below, we intend to rescind the new shipper review with respect to Zhongjia and Minhui.

Specifically, we intend to rescind the new shipper review with respect to both companies because neither exporter provided us with the proper certification, pursuant to 19 CFR 351.214(b)(2)(ii)(B), for entitlement to a new shipper review.

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

As the basis for initiating this new shipper review, both Zhongjia and Minhui each stated and certified in its request for review that it was the exporter and producer of the subject merchandise. Therefore, for purposes of initiating this review and based on the certifications provided by both Zhongjia and Minhui in accordance with 19 CFR 351.214(b)(2)(i), the Department was led to believe that both companies also produced the merchandise for which each requested a review (*see* page 1 of Zhongjia's August 30, 2002, submission and page 1 of Minhui's August 30, 2002, submission). Zhongjia and Minhui appeared to be in compliance with the certification requirements for a new shipper which was both an exporter and producer of the subject merchandise for which the new shipper review request had been filed, and it was on this basis the Department initiated a new shipper review for each company (*see* 19 CFR 351.214(b)(i) and *Initiation Notice*, 68 FR at 62439). Relying on the certification provided by each respondent, the Department issued instructions to the U.S. Bureau of Customs and Border Protection ("BCBP") in accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended ("the Act"), which allowed, at the option of the importer, the posting,