

## DEPARTMENT OF COMMERCE

## International Trade Administration

[A-570-851]

**Certain Preserved Mushrooms from the People's Republic of China: Notice of Partial Rescission of Sixth New Shipper Review**

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

**ACTION:** Notice of Partial Rescission of Sixth New Shipper Review.

**EFFECTIVE DATE:** October 16, 2003.

**FOR FURTHER INFORMATION CONTACT:** Brian Smith or Jim Mathews, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-1766 or (202) 482-2778, respectively.

**SUPPLEMENTARY INFORMATION:****Background**

On February 28, 2003, Primera Harvest (Xiangfan) Co., Ltd. (Primera Harvest) and Xiamen International Trade & Industrial Co., Ltd. (XITIC) requested a new shipper review of their sales. On March 28, 2003, the Department published a notice of initiation of an antidumping duty new shipper review on certain preserved mushrooms from the People's Republic of China with respect to these companies. See *Certain Preserved Mushrooms from the People's Republic of China: Initiation of Antidumping Duty New Shipper Review*, 68 FR 15152.

After analyzing XITIC's May 23, 2003, questionnaire responses, the Department determined that XITIC did not produce the subject merchandise that it exported. Rather, XITIC exported subject merchandise that was produced by Inter-Foods D.S. Co., Ltd. Therefore, pursuant to CFR 351.214(b)(ii)(B), XITIC failed to provide the proper new shipper certification. (See Memorandum to the File from Brian Smith and Jim Mathews, International Trade Compliance Analysts, dated August 7, 2003). On August 7, 2003, the Department sent copies of this memorandum to the interested parties. The memorandum stated that the parties had two weeks from the date of receipt to comment on the Department's decision to rescind this new shipper review. No party filed comments during the period stipulated the memorandum. Accordingly, we are rescinding the new shipper review with respect to XITIC.

**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.<sup>1</sup>

The merchandise subject to this order is 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<sup>2</sup> ("HTS"). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

**Period of Review**

The period of review is February 1, 2002, through January 31, 2003.

**Partial Rescission of Review**

Section 351.214(b)(ii)(B) states that a request for a new shipper review must contain a certification from the person

that produced or supplied the subject merchandise to the person requesting the review that that producer or supplier did not export the subject merchandise to the United States during the period of investigation. Due to XITIC's failure to provide the necessary certification from the producer or supplier of the subject merchandise and its misleading statements in the submitted certification that suggested that it was both the exporter and producer of subject merchandise, we are rescinding, in part, this new shipper review on certain preserved mushrooms from the People's Republic of China as to XITIC. This review will continue with respect to Primera Harvest.

**Notification**

Bonding will no longer be permitted to fulfill security requirements for shipments from XITIC of certain preserved mushrooms from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) 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 doubled antidumping duties.

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(a). Timely written notification of the return/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 these determinations and notice in accordance with sections 751(a)(2)(B)(iv) and 777(i) of the Act, as amended, and 19 CFR 351.214(f)(3).

Dated: October 9, 2003.

**Jeffrey May,**

*Acting Assistant Secretary for Import Administration.*

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

<sup>2</sup> Prior to January 1, 2002, the HTS subheadings were as follows: 2003.10.0027, 2003.10.0031, 2003.10.0037, 2003.10.0043, 2003.10.0047, 2003.10.0053, and 0711.90.4000.