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Investigation
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DATE: August 31, 2016

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh 
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Results of the
2014-2015 Antidumping Duty Administrative Review of Certain
Preserved Mushrooms from India

I. Summary

We analyzed the comments of Himalya International Limited (Himalya) in the 2014-2015 administrative review of the antidumping duty order on certain preserved mushrooms from India. As a result of our analysis, and based on our findings at verification, we made changes to the margin calculations from the preliminary results. We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. Below is the complete list of the issues in this administrative review for which we received comments from Himalya:

- Comment 1: Allocation of Costs on a Fresh Mushroom Equivalent Basis
- Comment 2: Adjustment to Ocean Freight Expense
- Comment 3: Exclusion of U.S. Sales of Non-Prime Merchandise from Margin Calculations

II. Background

On March 9, 2016, the Department of Commerce (the Department) published the preliminary results of this antidumping duty administrative review.¹ The administrative review covers one producer and exporter of the subject merchandise to the United States, Himalya. The period of review (POR) is February 1, 2014, through January 31, 2015.

¹ See Certain Preserved Mushrooms from India: Preliminary Results of Antidumping Duty Administrative Review; 2014-2015, 81 FR 12463 (March 9, 2016) (Preliminary Results), and accompanying Decision Memorandum entitled "Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Certain Preserved Mushrooms from India; 2014-2015" (Preliminary Decision Memorandum). The Preliminary Decision Memorandum is herein incorporated by reference.

From April 4 through 8, 2016, we verified the reported sales and cost information at Himalya's facility in India, in accordance with section 782(i) of the Tariff Act of 1930, as amended (Act). On June 29, 2016, we requested that Himalya submit revised U.S. and home market databases to incorporate verification findings. We received the revised databases from Himalya on July 5, 2016.

We invited parties to comment on the Preliminary Results. On June 21, 2016, Himalya submitted a case brief.² The petitioner, Monterey Mushrooms, Inc., did not file a case or rebuttal brief. Based on our analysis of the comments received, as well as our findings at verification, we recalculated the weighted-average dumping margin for Himalya from the Preliminary Results.

III. 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.

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, 0711.51.0000, 0711.90.4000, 2003.10.0027, 2003.10.0031, 2003.10.0037, 2003.10.0043 and 2003.10.0047 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

IV. Margin Calculations

We calculated constructed export price (CEP) and normal value (NV) using the same methodology as stated in the Preliminary Results,³ except for the following changes:

1. We recalculated growing labor and energy costs. See Comment 1, below.

² See letter from Himalya entitled "Certain Preserved Mushrooms from India: Himalya International Limited (Himalya's) Case Brief," dated June 21, 2016.

³ See Preliminary Results and accompanying Preliminary Decision Memorandum.

2. We recalculated the reported fixed overhead expense to include the canning labor and canning energy costs.⁴
3. We recalculated the other variable overhead expense in order to allocate this expense between mushroom growing and canning.⁵
4. We recalculated Himalya's interest expense ratio to include certain financial expenses which Himalya excluded from its calculation.⁶
5. We excluded one U.S. sale which was made prior to the POR.⁷
6. We recalculated the inventory carrying costs for one U.S. sale to account for additional time in inventory.⁸
7. We corrected the reported international freight, U.S. warehousing, and U.S. duty expenses for one U.S. sale based on verification findings.⁹
8. We removed the reported packing expenses for certain home market sales which we verified were not packed.¹⁰

V. Discussion of the Issues

Comment 1: Allocation of Costs on a Fresh Mushroom Equivalent Basis

Himalya reported its direct material, labor, and energy costs using a fresh-mushroom equivalent cost allocation methodology.¹¹ That is, Himalya divided the total material costs by a mushroom quantity adjusted to consider all mushrooms harvested as if they were the 32-35 mm size sold for the fresh mushroom market. For the preliminary results, in accordance with our normal methodology,¹² we recalculated Himalya's direct material cost using the actual quantities of fresh mushrooms sold and fresh mushrooms consumed in the production of canned mushrooms.¹³

Himalya maintains that it is appropriate to allocate the cost of materials on the equivalent production quantity of fresh mushrooms because it produces all sizes of mushrooms (*i.e.*, fresh mushrooms and mushrooms for canning) from the same harvest. According to Himalya, the quantity of inputs, *i.e.*, compost and spawn, is the same regardless of the size of mushrooms grown. Himalya explains that from one bag of input, the cost per kilogram of input material will

⁴ See Memorandum to the File "Final Results Margin Calculation for Himalya International Limited" dated concurrently with this memorandum (Final Results Calculation Memo).

⁵ *Id.*

⁶ See Memorandum to The File, "Verification of the Sales and Cost Responses of Himalya International Limited in the Antidumping Duty Administrative Review of Certain Preserved Mushrooms from India," dated June 9, 2016 (Himalya Verification Report) at 25; and Final Results Calculation Memo.

⁷ See Himalya Verification Report at 15; and Final Results Calculation Memo.

⁸ See Himalya Verification Report at 17; and Final Results Calculation Memo.

⁹ See Himalya Verification Report at 16; and Final Results Calculation Memo.

¹⁰ See Himalya Verification Report at 15; and Final Results Calculation Memo.

¹¹ See Response to 2nd Supplemental Questionnaire, dated February 10, 2016, at 9-13.

¹² See Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Administrative Review, 70 FR 37757 (June 30, 2005) (Mushrooms from India Review); Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from India, 63 FR 72246, 72249 (December 31, 1998) (Mushrooms from India Investigation); and Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from Indonesia, 63 FR 72268 (December 31, 1998) (Mushrooms from Indonesia).

¹³ See Preliminary Results Calculation Memo.

decrease as the size of the mushroom increases due to the increased weight of the larger mushrooms. In addition, Himalya explains that, although it tracks the quantity of fresh mushrooms consumed in the production of canned mushrooms in the normal course of business, it does not separately track the quantity of inputs (i.e., compost and spawn) consumed in the production of either fresh or canned mushrooms. Therefore, Himalya argues that, in order to allocate the overall cost of inputs consumed over the production quantity of mushrooms, it is appropriate to convert the POR production quantity of fresh mushrooms (of different sizes) into the equivalent size of fresh mushrooms (of the same size). Himalya submits that if it had used different sized bags to harvest the different sizes of mushrooms, it would have reported the specific cost. Himalya claims that, given the fact that it does not trace the cost of raw materials consumed for mushrooms sold as fresh versus mushrooms destined for canning, its methodology is the best available. Himalya points out that the Department stated in the Himalya Verification Report that all mushrooms are grown in the same bags of uniform size from the point at which spawn is mixed with compost, and the bags are transferred to the mushroom house for growing and harvesting without regard to eventual fresh or canned mushroom sale.¹⁴

Furthermore, Himalya maintains that the Department's preliminary re-allocation of its direct material costs based on actual production quantity results in a higher cost for canned mushrooms. According to Himalya, the Department's calculation is based on fresh mushrooms of a larger size, which are a by-product, and, therefore, cost less. Himalya provides an example in its case brief to support its argument that the direct material cost for canned mushrooms should be lower than the cost of producing fresh mushrooms because Himalya cans mushrooms only when the fresh mushrooms grow to larger sizes, thereby providing a higher output for this by-product. According to Himalya, the methodology used by the Department to allocate the cost of direct material between fresh mushrooms (i.e., size 32-35 mm mushrooms) and mushrooms used to produce canned mushrooms (i.e., size 40-45 mm mushrooms) results in the same per-kilogram cost for fresh mushrooms, irrespective of size and output. Himalya believes that this methodology incorrectly increases the cost of canned mushrooms, arguing that it does not make sense for a by-product to cost more than a fresh mushroom. Therefore, Himalya requests that the Department use its direct material cost as reported for the final results.

DOC Position:

In previous preserved mushrooms proceedings, the Department consistently applied a weight-based methodology to allocate fresh mushroom growing costs, assigning the same cost to the fresh mushrooms grown by a respondent and used in the production of preserved mushrooms without regard to mushroom style (i.e., whole, sliced or "stems and pieces").¹⁵ Simply stated, the cost generating elements of growing mushrooms for both preserved and fresh, whole or pieces, large or small mushrooms are identical.¹⁶ In the current administrative review, the facts are no different. Accordingly, on that basis we relied upon a weight-based methodology because it reasonably reflected the costs of producing the subject merchandise. The respondent's fresh mushroom equivalent allocation methodology understates the cost of canned mushrooms because

¹⁴ See Himalya Verification Report at 18-19.

¹⁵ See Mushrooms from India Investigation at Comment 1; Mushrooms from Indonesia at Comment 7; and Mushrooms from India Review at Comment 5.

¹⁶ See Mushrooms from India at Comment 1.

it assigns a higher growing cost on a per-kilogram basis to mushrooms sold as fresh and a lower growing cost on a per-kilogram basis to the mushrooms that were canned. The Department's weight-based allocation methodology assigns the same growing cost on a per-kilogram basis to mushrooms irrespective of whether the mushrooms are sold as fresh or canned. As such, the Department's methodology correctly assigns the costs to the mushrooms and does not result in a higher cost for canned mushrooms, but rather assigns the same growing costs to all mushrooms, regardless of whether they are sold fresh or in cans. Therefore, consistent with our longstanding practice, as stated above, we continue to calculate a single weighted-average cost of the grown fresh mushrooms used to produce the subject merchandise, irrespective of mushroom style or size, in the final results of this review.

In addition to the re-allocation of direct material cost for the final results, we similarly re-allocated the growing direct labor and growing energy costs because we verified that Himalya used the same fresh mushroom-equivalent methodology to calculate these costs as it used to calculate the direct material cost.¹⁷

Comment 2: Adjustment to Ocean Freight Expense

Himalya argues that the Department should continue to allow a reduction to its international freight expenses in the final results, as it did in the preliminary results. Himalya adds that a discussion of this adjustment was included in documentation submitted to the Department on September 17, 2015, and resubmitted on September 29, 2015.

DOC Position:

We agree and will continue to include the reduction to Himalya's international freight expenses in the final results. At verification, we examined documentation supporting Himalya's claim that it is eligible for this adjustment.¹⁸

Comment 3: Exclusion of U.S. Sales of Non-Prime Merchandise from Margin Calculations

Himalya asserts that the Department should not include its U.S. sales of defective non-prime merchandise in the final results margin calculation. Himalya maintains that the Department verified that the merchandise at issue was rejected by one customer and later sold as defective non-prime merchandise to another customer at a discounted price. Therefore, Himalya argues that comparing its domestic sales of prime merchandise to its U.S. sales of defective non-prime merchandise would not constitute an apples-to-apples comparison.

DOC Position:

With respect to Himalya's sales of defective non-prime merchandise in the U.S. market, we stated in the Preliminary Results that the Department's normal practice is to match sales of non-prime merchandise in the U.S. market with sales of non-prime merchandise in the home

¹⁷ See Himalya Verification Report at 20-21; and Final Results Calculation Memo.

¹⁸ See Himalya Verification Report at 15.

market.¹⁹ If there are no comparable sales in the home market, the U.S. sales of non-prime merchandise are matched to constructed value (CV). Himalya did not sell non-prime merchandise in the home market.²⁰ Accordingly, we compared Himalya's non-prime merchandise sales in the U.S. market to CV.

In addition, pursuant to section 772(b) of the Act, the Department is instructed to determine the margin for CEP sales based on the "price at which the subject merchandise is first sold (or agreed to be sold) in the United States... to a purchaser not affiliated with the producer or exporter." In this instance, although the original sale was cancelled, the merchandise was eventually resold during the POR. Therefore, we will include the re-sale, i.e., the first sale after importation to an unaffiliated purchaser in the United States, in our analysis.


VI. Recommendation

Based on our analysis of the comments received, we recommend adopting the above positions. If this recommendation is accepted, we will publish the final results of the review and the final weighted-average dumping margin for Himalya in the Federal Register.

✓

Agree

Disagree



Paul Piquado
Assistant Secretary
for Enforcement and Compliance

31 AUGUST 2016

(Date)

¹⁹ See Preliminary Results at 6; see also, Notice of Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From The Netherlands, 66 FR 50408 (October 3, 2001), and accompanying Issues and Decision Memorandum at Comment 9.

²⁰ See letter from Himalya entitled "Submission of Post Verification Sales Databases," dated July 5, 2016.