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Sunset Reviews
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November 30, 2020

MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Results of the
Expedited Sunset Reviews of the Antidumping Duty Orders on
Certain Preserved Mushrooms from Chile, India, Indonesia, and
the People's Republic of China

I. SUMMARY

We analyzed the substantive responses of the domestic interested parties¹ in these sunset reviews of the antidumping duty (AD) orders² covering certain preserved mushrooms (mushrooms) from Chile, the People's Republic of China (China), India, and Indonesia, and recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. No respondent interested party submitted a substantive response. Accordingly, we conducted expedited (120-day) sunset reviews of the *AD Orders*.³ The following is a complete list of the issues that we address in these expedited sunset reviews:

¹ The domestic interested parties include Giorgio Foods, Inc.; L.K. Bowman Co., a division of Hanover Foods Corporation; Sunny Dell Foods, LLC; and the Mushroom Company (formerly, Mushroom Canning Company) (collectively, domestic interested parties).

² This is the fourth sunset review of these AD orders. See *Notice of Antidumping Duty Order: Certain Preserved Mushrooms from Chile*, 63 FR 66529 (December 2, 1998) (*Mushrooms Chile Order*); *Notice of Amendment of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Preserved Mushrooms from the People's Republic of China*, 64 FR 8308 (February 19, 1999) (*Mushrooms China Amended LTFV Final*); *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) (*Mushrooms India Amended LTFV Final*); and *Notice of Antidumping Duty Order: Certain Preserved Mushrooms from Indonesia*, 64 FR 8310 (February 19, 1999) (*Mushrooms Indonesia Order*) (collectively, *AD Orders*).

³ See *Procedures for Conducting Five-year (Sunset) Reviews of Antidumping and Countervailing Duty Orders*, 70 FR 62061 (October 28, 2005) (Commerce normally will conduct an expedited sunset review where respondent interested parties provide an inadequate response).



1. Likelihood of Continuation or Recurrence of Dumping;
2. Magnitude of the Dumping Margins Likely to Prevail.

II. BACKGROUND

On August 4, 2020, the Department of Commerce (Commerce) published the notice of initiation of the fourth sunset reviews of the *AD Orders*, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).⁴ On August 18, 2020, Commerce received timely and complete notices of intent to participate in these sunset reviews from the domestic interested parties, within the deadline specified in 19 CFR 351.218(d)(1)(i).⁵ The domestic interested parties claimed interested party status under section 771(9)(C) of the Act as manufacturers in the United States of the domestic like product.⁶

On September 2, 2020, the domestic interested parties filed timely and adequate substantive responses, within the deadline specified in 19 CFR 351.218(d)(3)(i).⁷ Commerce did not receive substantive responses from any respondent interested party. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), we deem that the respondent interested parties did not provide an adequate response to the notice of initiation and, therefore, Commerce conducted expedited (120-day) sunset reviews of the *AD Orders*.

III. SCOPE OF THE *AD ORDERS*

The products covered in the sunset reviews of the *AD Orders* on certain preserved mushrooms from Chile, China, India, and Indonesia are certain preserved mushrooms, whether imported whole, sliced, diced, or as stems and pieces. The preserved mushrooms covered under these 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. Preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces. 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.

⁴ See *Initiation of Five-Year (Sunset) Reviews*, 85 FR 47185 (August 4, 2020).

⁵ See Domestic Interested Parties’ Letter, “Five-Year (“Sunset”) Review of the Antidumping Duty Orders on Certain Preserved Mushrooms from Chile, India, Indonesia, and the People’s Republic of China – Domestic Interested Parties’ Notice of Intent to Participate,” dated August 18, 2020 (Notice of Intent to Participate Letter).

⁶ See Notice of Intent to Participate Letter.

⁷ See Domestic Interested Parties’ Letters, “Five-Year (Fourth Sunset) Review of Antidumping Duty Order on Certain Preserved Mushrooms from Chile – Domestic Interested Parties’ Substantive Response to Notice of Initiation,” dated September 2, 2020 (Domestic Interested Parties’ Substantive Response for Chile); “Five-Year (Fourth Sunset) Review of the Antidumping Duty Order on Certain Preserved Mushrooms from India – Domestic Interested Parties’ Substantive Response to Notice of Initiation,” dated September 2, 2020 (Domestic Interested Parties’ Substantive Response for India); “Five-Year (Fourth Sunset) Review of the Antidumping Duty Order on Certain Preserved Mushrooms from Indonesia – Domestic Interested Parties’ Substantive Response to Notice of Initiation,” dated September 2, 2020 (Domestic Interested Parties’ Substantive Response for Indonesia); and “Five-Year (Sunset) Review of the Antidumping Duty Order on Certain Preserved Mushrooms from the People’s Republic of China – Domestic Interested Parties’ Substantive Response to Notice of Initiation,” dated September 2, 2020. (Domestic Interested Parties’ Substantive Response for China).

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; (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.⁸

The merchandise subject to the orders 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, 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 these orders is dispositive.

IV. HISTORY OF THE AD ORDERS

On October 22, 1998, Commerce published its final affirmative determination in the less-than-fair-value (LTFV) investigation of mushrooms from Chile.⁹ On December 2, 1998, following an affirmative injury determination by the International Trade Commission (ITC),¹⁰ Commerce published the AD order on mushrooms from Chile.¹¹

Chile: Commerce found a weighted-average dumping margin of 148.51 percent for producer/exporter Nature’s Farms Products (Chile) S.A., based on total adverse facts available (AFA), and for all others.

On December 31, 1999, Commerce published its affirmative final determinations of sales at LTFV in the AD investigations of mushrooms from China, India, and Indonesia.¹² On February 19, 2000, following affirmative injury determinations by the ITC,¹³ Commerce published the AD orders for these countries in the *Federal Register*.¹⁴ The following is Commerce’s finding for each country:

China: Commerce found a weighted-average dumping margin of 162.47 percent for Tak Fat Trading Co.; 151.15 percent for Shenzhen Cofry Cereals, Oils & Foodstuffs Co.; 121.47 percent

⁸ On June 19, 2000, Commerce 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. On February 9, 2005, this decision was upheld by the United States Court of Appeals for the Federal Circuit. See *Tak Fat v. United States*, 396 F.3d 1378 (Fed. Cir. 2005).

⁹ See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from Chile*, 63 FR 56613 (October 22, 1998) (*Chile LTFV Final*).

¹⁰ See *Certain Preserved Mushrooms from Chile*, 63 FR 66575 (December 2, 1998).

¹¹ See *Mushrooms Chile Order*.

¹² See *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) (*China LTFV Final*); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from India*, 63 FR 72246 (December 31, 1998) (*India LTFV Final*); and *Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from Indonesia*, 63 FR 72268 (December 31, 1998) (*Indonesia LTFV Final*).

¹³ See *Certain Preserved Mushrooms from China, India, and Indonesia*, 64 FR 9178 (February 24, 1999).

¹⁴ See *Mushrooms China Amended LTFV Final*; *Mushrooms India Amended LTFV Final*; and *Mushrooms Indonesia Order*.

for China Processed Food I&E Co./Xiamen Jiahua I&E Trading Company, Ltd.; 142.11 percent for nine separate rate applicants;¹⁵ and 198.63 percent for the China-Wide Entity.

India: Commerce found a weighted-average dumping margin of 6.28 percent for Agro Dutch Foods Ltd.; 14.91 percent for Ponds (India) Ltd.; 243.87 percent for Alpine Biotech Ltd. and Mandeep Mushrooms Ltd. based on total AFA; and 11.30 percent for all others.

Indonesia: Commerce found a weighted-average dumping margin of 7.94 percent for PT Dieng Djaya/PT Surya Jaya Abadi Perkasa; 22.84 percent for PT Zeta Agro Corporation;¹⁶ and 11.26 percent for all others.

Since the issuance of the most recent continuation of the *AD Orders*,¹⁷ Commerce has completed one administrative review of the subject merchandise from China¹⁸ and India.¹⁹ With respect to the final results of the administrative review of mushrooms from China covering the period February 1, 2015, through January 31, 2016, Commerce found a dumping margin of 0.00 percent for Dezhou Kaihang Agricultural Science Technology Co. Ltd. and determined that Zhangzhou Hongda Import & Export Trading Co., Ltd. and Zhangzhou Gangchang Canned Foods Co., Ltd. Fujian and Zhangzhou Gangchang Canned Foods Co., Ltd. did not have any reviewable entries during the period of review.²⁰ With respect to India, Commerce completed one administrative review covering the period February 1, 2014 through January 31, 2015 and found a dumping margin of 6.61 percent for Himalya International, Ltd. (Himalya) in the final results.²¹

With the exception of these segments, there have been no other completed administrative reviews (including new shipper reviews), scope inquiries or duty absorption findings in connection with the *AD Orders* since the issuance of the most recent continuation of the *AD Orders*.

Accordingly, except as noted above, the *AD Orders* remain in effect for all producers and exporters of mushrooms from Chile, China, India, and Indonesia.

¹⁵ The separate rate applicants include Gerber (Yunnan) Food Co.; Jiangsu Cereals, Oils & Foodstuffs Group Import and Export Corporation; Fujian Provincial Cereals, Oils & Foodstuffs I&E Corp.; Putian Cannery Fujian Province; Xiamen Gulong I&E Co., Ltd.; General Canned Foods Factory of Zhangzhou; Zhejiang Cereals, Oils & Foodstuffs I&E Corp.; Shanghai Foodstuffs I&E Corp.; and Canned Goods Co. of Raoping.

¹⁶ PT Zeta Agro Corporation was revoked from the *Mushrooms Indonesia Order* on July 2, 2003. See *Final Results of Antidumping Duty Administrative Review: Certain Preserved Mushrooms from Indonesia and Final Determination to Revoke Order in Part*, 68 FR 39521 (July 2, 2003).

¹⁷ See *Certain Preserved Mushrooms from Chile, India, Indonesia and the People's Republic of China: Continuation of the Antidumping Duty Orders*, 80 FR 53104 (September 2, 2015) (2015 Continuation Notice).

¹⁸ See *Certain Preserved Mushrooms from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2015-2016*, 82 FR 30841 (July 3, 2017) (2015-2016 China Mushrooms Final Results).

¹⁹ See *Certain Preserved Mushrooms from India: Final Results of Antidumping Duty Administrative Review; 2014-2015*, 81 FR 62081 (September 8, 2016) (2014-2015 India Mushrooms Final Results).

²⁰ See *2015-2016 China Mushrooms Final Results*.

²¹ See *2014-2015 India Mushrooms Final Results*.

Sunset Reviews

2004 Sunset Reviews

On March 10, 2004, Commerce published the notice of the final results of the first sunset reviews of the *AD Orders* in which it determined that the revocation of the AD orders on mushrooms from Chile, India, Indonesia, and China would be likely to lead to the continuation or recurrence of dumping.²² On November 1, 2004, the ITC published its determination that the revocation of the *AD Orders* on mushrooms from these countries would be likely to lead to continuation or recurrence of material injury to a U.S. industry within a reasonably foreseeable time.²³ Based on these results, Commerce published a notice of continuation of the *AD Orders* on November 17, 2004.²⁴

2009 Sunset Reviews

On December 18, 2009, Commerce published the notice of the final results of the second sunset reviews of the *AD Orders* in which it determined that the revocation of the *AD Orders* on mushrooms from Chile, India, Indonesia, and China would be likely to lead to the continuation or recurrence of dumping.²⁵ On April 15, 2010, the ITC published its determination that the revocation of the *AD Orders* on mushrooms from these countries would be likely to lead to continuation or recurrence of material injury to a U.S. industry within a reasonably foreseeable time.²⁶ Based on these results, Commerce published a notice of continuation of the *AD Orders* on April 28, 2010.²⁷

2015 Sunset Reviews

On July 8, 2015, Commerce published the notice of the final results of the third sunset reviews of the *AD Orders* in which it determined that the revocation of the *AD Orders* on mushrooms from Chile, India, Indonesia, and China would be likely to lead to the continuation or recurrence of dumping.²⁸ On August 24, 2015, the ITC published its determination that the revocation of the *AD Orders* on mushrooms from these countries would be likely to lead to continuation or recurrence of material injury to a U.S. industry within a reasonably foreseeable time.²⁹ Based on

²² See *Certain Preserved Mushrooms from Chile, India, Indonesia and the People's Republic of China: Final Results of Expedited Sunset Reviews of Antidumping Duty Orders*, 69 FR 11384 (March 10, 2004) (*Sunset Review 2004*).

²³ See *Certain Preserved Mushrooms from Chile, China, India, and Indonesia*, 69 FR 63408 (November 1, 2004).

²⁴ See *Continuation of Antidumping Duty Orders on Certain Preserved Mushrooms from Chile, the People's Republic of China, India, and Indonesia*, 69 FR 67308 (November 17, 2004).

²⁵ See *Certain Preserved Mushrooms from Chile, India, Indonesia and the People's Republic of China: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 74 FR 67170 (December 18, 2009), and accompanying Issues and Decision Memorandum (IDM).

²⁶ See *Preserved Mushrooms from Chile, China, India, and Indonesia; Determinations*, 75 FR 19658 (April 15, 2010).

²⁷ See *Certain Preserved Mushrooms from Chile, India, Indonesia, and the People's Republic of China: Notice of Continuation of Antidumping Duty Orders*, 75 FR 22369 (April 28, 2010).

²⁸ See *Certain Preserved Mushrooms from Chile, India, Indonesia and the People's Republic of China: Final Results of Expedited Third Sunset Reviews of Antidumping Duty Orders*, 80 FR 39053 (July 8, 2015) (*Sunset Review 2015*).

²⁹ See *Preserved Mushrooms from Chile, China, India, and Indonesia; Determination*, 80 FR 51310 (August 24, 2015).

these results, Commerce published a notice of continuation of the *AD Orders* on September 2, 2015.³⁰

V. LEGAL FRAMEWORK

In accordance with section 751(c)(1) of the Act, Commerce is conducting these sunset reviews to determine whether revocation of the *AD Orders* would be likely to lead to a continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making this determination, Commerce shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews, and the volume of imports of the subject merchandise for the periods before and after the issuance of the *AD Orders*.

In accordance with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (URAA) (specifically the SAA),³¹ the House Report,³² and the Senate Report,³³ Commerce's determinations of likelihood will be made on an order-wide, rather than a company-specific, basis.³⁴ In addition, Commerce normally determines that revocation of an AD order is likely to lead to continuation or recurrence of dumping when: (a) dumping continued at any level above *de minimis* after issuance of the order; (b) imports of the subject merchandise ceased after issuance of the order; (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly; or (d) there are declining import volumes accompanied by the continued existence of dumping margins after the issuance of the order.³⁵ Alternatively, Commerce normally will determine that revocation of an AD order is not likely to lead to continuation or recurrence of dumping where dumping was eliminated after issuance of the order and import volumes remained steady or increased.³⁶

In addition, as a base period of import volume comparison, it is Commerce's practice to use the one-year period immediately preceding the initiation of the investigation, rather than the level of pre-order import volumes, as the initiation of an investigation may dampen import volumes and, thus, skew the comparison.³⁷ Also, when analyzing import volumes for second and subsequent sunset reviews, Commerce's practice is to compare import volumes during the year preceding initiation of the underlying investigation to import volumes since the issuance of the last continuation notice.³⁸

³⁰ See *2015 Continuation Notice*.

³¹ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol 1 (1994) (SAA).

³² See H. Rep. No. 103-826, pt. 1 (1994) (House Report).

³³ See S. Rep. No. 103-412 (1994) (Senate Report).

³⁴ See SAA at 879; see also House Report at 56.

³⁵ See SAA at 889-90; House Report at 63-64; and Senate Report at 52; see also *Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*; *Policy Bulletin*, 63 FR 18871, 18872 (April 16, 1998) (*Sunset Policy Bulletin*).

³⁶ See SAA at 889-90; see also *Sunset Policy Bulletin*.

³⁷ See, e.g., *Stainless Steel Bar from Germany*; *Final Results of the Sunset Review of the Antidumping Duty Order*, 72 FR 56985 (October 5, 2007) (*Stainless Steel Bar*), and accompanying IDM at Comment 1.

³⁸ See *Ferrovanadium from the People's Republic of China and the Republic of South Africa: Final Results of the Expedited Second Sunset Reviews of the Antidumping Duty Orders*, 79 FR 14216 (March 13, 2014), and accompanying IDM.

Further, section 752(c)(3) of the Act states that Commerce shall provide to the ITC the magnitude of the margin of dumping likely to prevail if the order were revoked. Generally, Commerce selects the dumping margin from the final determination in the investigation, as this is the only calculated rate that reflects the behavior of exporters without the discipline of an order in place.³⁹ However, in certain circumstances, a more recently calculated rate may be more appropriate (e.g., “if dumping margins have declined over the life of an order and imports have remained steady or increased, Commerce may conclude that exporters are likely to continue dumping at the lower rates found in a more recent review.”)⁴⁰

Finally, pursuant to section 752(c)(4)(A) of the Act, a dumping margin of zero or *de minimis* shall not by itself require Commerce to determine that revocation of an AD order would not be likely to lead to a continuation or recurrence of sales at LTFV.⁴¹

Regarding the margin of dumping likely to prevail, in the *Final Modification for Reviews*, Commerce announced that in five-year (*i.e.*, sunset) reviews, it will not rely on weighted-average dumping margins that were calculated using the zeroing methodology that was the subject of the *Final Modification for Reviews*.⁴² However, Commerce explained in the *Final Modification for Reviews* that it “retain{s} the discretion, on a case-by-case basis, to apply an alternative methodology, when appropriate” in both investigations and administrative reviews pursuant to section 777A(d)(1)(B) of the Act.⁴³ In the *Final Modification for Reviews*, Commerce stated that “only in the most extraordinary circumstances” would it rely on margins other than those calculated and published in prior determinations.⁴⁴ Commerce further stated that, apart from the “most extraordinary circumstances,” it would “limit its reliance to margins determined or applied during the five-year sunset period that were not determined in a manner found to be WTO-inconsistent” and that it “may also rely on past dumping margins recalculated pursuant to Section 129 proceedings, dumping margins determined based on the use of total AFA, and dumping margins where no offsets were denied because all comparison results were positive.”⁴⁵

Below we address the comments submitted by the domestic interested parties.

³⁹ See SAA at 890; and *Sunset Policy Bulletin* at section II.B.1; see also, e.g., *Persulfates from the People’s Republic of China: Notice of Final Results of Expedited Second Sunset Review of Antidumping Duty Order*, 73 FR 11868 (March 5, 2008), and accompanying IDM at Comment 2.

⁴⁰ See SAA at 890-91; see also *Sunset Policy Bulletin* at section II.B.2.

⁴¹ See *Folding Gift Boxes from the People’s Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 72 FR 16765 (April 5, 2007) (*Folding Gift Boxes*), and accompanying IDM at Comment 1.

⁴² See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012) (*Final Modification for Reviews*).

⁴³ *Id.*, 77 FR at 8105-6.

⁴⁴ *Id.*, 77 FR at 8103.

⁴⁵ *Id.*, 77 FR at 8109.

VI. DISCUSSION OF THE ISSUES

1. Likelihood of Continuation or Recurrence of Dumping

Domestic Interested Parties' Comment(s):

- Revocation of the *AD Orders* would likely lead to continued dumping by the subject producers/exporters of certain preserved mushrooms.⁴⁶
- In determining whether revocation of an AD order would be likely to lead to continuation or recurrence of dumping, Commerce considers whether: (1) dumping continued at any level above *de minimis* after the issuance of the order; (2) imports of the subject merchandise ceased after issuance of the order; or (3) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.⁴⁷
- In the *Final Modification for Reviews*, Commerce emphasized that it “looks to whether dumping is likely to continue *at any level* after the issuance of the order” and that “there is no requirement that all dumping margins determined during that period form the basis for deciding whether the order should be continued.”⁴⁸ Commerce also reiterated that if dumping margins declined over the five-year period, or if there were no dumping margins calculated by Commerce during the five-year sunset period, decreased import volumes may provide another basis to determine that dumping is likely to continue or recur if the pricing discipline of the AD order is removed.⁴⁹
- With respect to each country, the record indicates that the AD order has been effective in limiting dumping, and that subject imports from each country would likely again increase to pre-order levels if the AD order is revoked.⁵⁰

Commerce's Position:

As discussed above, drawing on the guidance provided in the legislative history accompanying the URAA,⁵¹ Commerce normally determines that revocation of an AD order is likely to lead to continuation or recurrence of dumping where: (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the

⁴⁶ See Domestic Interested Parties' Substantive Response for Chile at 11; Domestic Interested Parties' Substantive Response for China at 47; Domestic Interested Parties' Substantive Response for India at 24; and Domestic Interested Parties' Substantive Response for Indonesia at 13.

⁴⁷ See Domestic Interested Parties' Substantive Response for Chile at 13; Domestic Interested Parties' Substantive Response for China at 49; Domestic Interested Parties' Substantive Response for India at 25; and Domestic Interested Parties' Substantive Response for Indonesia at 15.

⁴⁸ See Domestic Interested Parties' Substantive Response for Chile at 13-14; Domestic Interested Parties' Substantive Response for China at 49-50; Domestic Interested Parties' Substantive Response for India at 26; and Domestic Interested Parties' Substantive Response for Indonesia at 16; and *see also Final Modification for Reviews*.

⁴⁹ *Id.*; and *see also Final Modification of Reviews* at 8103.

⁵⁰ See Domestic Interested Parties' Substantive Response for Chile at 16; Domestic Interested Parties' Substantive Response for China at 53; Domestic Interested Parties' Substantive Response for India at 28; and Domestic Interested Parties' Substantive Response for Indonesia at 19-20.

⁵¹ See, e.g., SAA at 889.

issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.⁵²

Consistent with the legal framework laid out above and in section 752(c)(1)(A) of the Act, we first considered the weighted-average dumping margins determined in the investigations in these proceedings. As stated above, in the investigations, Commerce found dumping margins of 148.51 percent for Chile; 121.47 to 198.63 percent for China; 6.28 to 243.87 percent for India; and 7.94 to 22.84 percent for Indonesia.⁵³

There have been no administrative or new shipper reviews conducted in the proceedings involving Chile or Indonesia since the issuance of the *2015 Continuation Notice* for these countries. Accordingly, based on the dumping margins in the investigations of these proceedings, any entries of subject merchandise from these countries after issuance of the *2015 Continuation Notice* continued to be assessed at above *de minimis* rates. As noted, there have been administrative reviews conducted in the proceedings involving China and India since the issuance of the *2015 Continuation Notice* for these countries, and entries of subject merchandise from these countries after the issuance of the *2015 Continuation Notice* have also been assessed at above *de minimis* rates.

In addition, pursuant to section 752(c)(1)(B) of the Act and in accordance with Commerce's practice, in order to determine whether revocation of an AD order would be likely to lead to continuation of dumping, Commerce considers the volume of imports of the subject merchandise for the one-year period immediately preceding the initiation of the investigation as a base period for comparison to the sunset review period.⁵⁴ In these sunset reviews for all countries, we examined import volumes from 1997 (the year prior to the LTFV investigations) as compared to import volumes during this sunset review period (*i.e.*, 2016-2020). As discussed below, Commerce examined import volume data submitted by domestic interested parties.⁵⁵

Chile:

Subsequent to the imposition of the AD order, imports of mushrooms from Chile ceased and have never resumed.⁵⁶ The complete withdrawal by Chilean producers/exporters from the U.S. market indicates that they are not able to sell subject merchandise in any volumes in the U.S. market under the discipline of the order. In addition, we note that the margin (*i.e.*, 148.51 percent) established in the LTFV investigation remains in effect for all Chilean producers/exporters.

As stated in the *Final Modification for Reviews*, “{i}f the dumping margins determined in a manner not found to be WTO-inconsistent in these disputes indicate that dumping continued with the discipline of the order in place, those dumping margins alone can form the basis for a

⁵² *Id.* at 889-890; see also *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Notice of Final Results of Expedited Sunset Review of Antidumping Duty Order*, 74 FR 5819 (February 2, 2009), and accompanying IDM at 3; and *Folding Gift Boxes from China* IDM at 5.

⁵³ See *AD Orders*.

⁵⁴ See *Stainless Steel Bar* IDM at Comment 1.

⁵⁵ See Attachment to this memorandum (for import data in pounds and calculated rates of change comparing the pre-order and sunset period volumes). Source: ITC Data Web.

⁵⁶ *Id.*

determination that dumping will continue or recur if the order were to be revoked.”⁵⁷ Here, we note that the calculation of this margin was WTO-consistent. That is, the calculation was not affected by zeroing because all of the comparison results for the respondent were positive and, therefore, we did not deny offsets when aggregating these results.⁵⁸ Moreover, the margin calculated for the sole respondent was also assigned as the All-Others rate.

Furthermore, in the *Final Modification for Reviews*, Commerce noted that decreased import volumes may also provide a basis to determine whether dumping is likely to recur or continue if the order is revoked.⁵⁹ Our review of the available data indicates that Chilean imports of subject merchandise did not enter under the applicable HTS categories.⁶⁰ No imports from Chile supports a conclusion that exporters and importers of subject merchandise are declining to enter into transactions at dumped prices that would have been made prior to the possible application of antidumping duties, and likely would be made again if the possibility of antidumping duties were removed.

Thus, given the continued existence of the dumping margin not affected by the zeroing methodology and the continued lack of imports since the issuance of the *2015 Continuation Notice*, Commerce determines that dumping would be likely to continue or recur if the Chile order were revoked, pursuant to section 752(c)(1) of the Act.

India:

The *Final Modification for Reviews* provides that “{i}f the dumping margins determined in a manner not found to be WTO-inconsistent in these disputes indicate that dumping continued with the discipline of the order in place, those dumping margins alone can form the basis for a determination that dumping will continue or recur if the order were to be revoked.”⁶¹ Here, the highest margin in the investigation, *i.e.*, 243.87 percent, was based on the highest rate in the petition as AFA and, as such, did not involve the denial of offsets, and is therefore consistent with the *Final Modification for Reviews*. Given that dumping margins continued to exist at levels above *de minimis* since the last sunset review, Commerce finds that dumping would be likely to continue or recur if the order were revoked, pursuant to section 752(c)(1) of the Act.

Furthermore, in the *Final Modification for Reviews*, Commerce noted that decreased import volumes may also provide a basis to determine whether dumping is likely to recur or continue if the order is revoked.⁶² Our review of the available data indicates that U.S. imports of subject merchandise from India entered under the applicable HTS subheading numbers referenced in the scope during this sunset review period. In 2016, imports of mushrooms from India were 9.35 percent of their 1997 volume and trended downward during the sunset review period, finally ceasing in 2020.⁶³ The fact that imports from India have completely ceased supports a conclusion that exporters and importers of subject merchandise are declining to enter into

⁵⁷ See *Final Modification for Reviews*, 77 FR at 8103.

⁵⁸ See *Sunset Review 2015*.

⁵⁹ See *Final Modification for Reviews*, 77 FR at 8103.

⁶⁰ The applicable HTS subheading numbers are: 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, 2003.10.0153 and 0711.51.0000; see also Attachment to this memorandum.

⁶¹ See *Final Modification of Reviews*, 77 FR at 8103.

⁶² *Id.*, 77 FR at 8109.

⁶³ See Attachment.

transactions at dumped prices that would have been made prior to the possible application of antidumping duties, and likely would be made again if the possibility of antidumping duties were removed.

As explained above, Commerce normally will determine that revocation of an AD order is likely to lead to continuation or recurrence of dumping where dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.⁶⁴ Here, the cessation of imports since the imposition of the order demonstrates that Indian respondents have not been able to sell at pre-order volumes without dumping. Accordingly, pursuant to section 752(c)(1) of the Act, Commerce determines that dumping is likely to continue or recur if the order were revoked.

Indonesia:

As discussed above, there have been no reviews of the Indonesia order since the issuance of the *2015 Continuation Notice*, and thus, since the investigation, above-*de minimis* dumping margins are still in effect. As noted in *Sunset Review 2015*, Commerce recalculated the margin for PT Zeta Agro Corporation, the mandatory respondent with the highest margin in the LTFV investigation, from 22.84 to 16.24 percent because its margin was previously calculated using the zeroing methodology.⁶⁵

In the *Final Modification for Reviews*, Commerce noted that decreased import volumes may also provide a basis to determine whether dumping is likely to recur or continue if the order is revoked.⁶⁶ Our review of the available data indicates that U.S. imports of subject merchandise from Indonesia entered under the applicable HTS subheading numbers referenced in the scope during this sunset review period.⁶⁷ In 2016, imports of mushrooms from Indonesia were 15.22 percent of their 1997 volume, and trended downward during the sunset review period, ending at 0.34 percent of their 1997 volume in 2020.⁶⁸ Thus, there has been a significant decline compared to the volume of pre-order imports. The decreased volume of imports of mushrooms from Indonesia supports a conclusion that exporters and importers of subject merchandise are declining to enter into transactions at dumped prices that would have been made prior to the possible application of antidumping duties, and likely would be made again if the possibility of antidumping duties were removed.

Thus, given the continued existence of a dumping margin not affected by the zeroing methodology and the continued decline of imports since the issuance of the *2015 Continuation Notice*, Commerce determines that dumping would be likely to continue or recur if the Indonesia order were revoked, pursuant to section 752(c)(1) of the Act.

⁶⁴ See SAA at 889-90, House Report at 63-64, and Senate Report at 52; see also *Sunset Policy*, 63 FR at 18872.

⁶⁵ See *Mushrooms Indonesia Order*, 64 FR at 8311, *Sunset Review 2015* and accompanying IDM at 13 (which cites to memorandum entitled “Recalculation of the LTFV Investigation Final Margins,” dated June 30, 2015); and *Final Modification for Reviews*, 77 FR at 8103.

⁶⁶ See *Final Modification of Reviews*, 77 FR at 8109.

⁶⁷ See Attachment.

⁶⁸ *Id.*

China:

The *Final Modification for Reviews* provides that “{i}f the dumping margins determined in a manner not found to be WTO-inconsistent in these disputes indicate that dumping continued with the discipline of the order in place, those dumping margins alone can form the basis for a determination that dumping will continue or recur if the order were to be revoked.”⁶⁹ In the LTFV investigation, the calculation of the China-wide rate was based on the highest margin alleged in the petition and thus did not involve the denial of offsets. We also note that, in the most recently completed review which was conducted after the *Final Modification for Reviews* became effective, Commerce continued to assess above *de minimis* margins. Therefore, given that dumping margins continued to exist at levels above *de minimis* since the last sunset review period, Commerce finds that dumping would likely continue or recur if the order were revoked, pursuant to section 752(c)(1) of the Act.

Furthermore, in the *Final Modification for Reviews*, Commerce noted that decreased import volumes may also provide a basis to determine whether dumping is likely to recur or continue if the order is revoked.⁷⁰ Our review of the available data indicates that U.S. imports of subject merchandise from China entered under the applicable HTS subheading numbers referenced in the scope during this sunset review period. In 2016, imports of mushrooms from China were 5.60 percent of their 1997 volume and trended downward during the sunset review period, ending at 0.16 percent of their 1997 volume in 2020.⁷¹ The fact that imports from China have significantly declined compared to the volume of pre-order imports supports a conclusion that exporters and importers of subject merchandise are declining to enter into transactions at dumped prices that would have been made prior to the possible application of antidumping duties, and likely would be made again if the possibility of antidumping duties were removed.

As explained earlier, Commerce normally will determine that revocation of an AD order is likely to lead to continuation or recurrence of dumping where dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.⁷² Here, the substantial decline of imports since the imposition of the order demonstrates that Chinese respondents have not been able to sell at pre-order volumes without dumping. Accordingly, pursuant to section 752(c)(1) of the Act, Commerce determines that dumping is likely to continue or recur if the order were revoked.

2. Magnitude of the Dumping Margins Likely to Prevail

Domestic Interested Parties’ Comments:

Citing the *Final Modification for Reviews*, *Sunset Policy Bulletin*, and the SAA, the domestic interested parties request that Commerce report to the ITC the AD margins that were determined in the respective original investigations.⁷³

⁶⁹ See *Final Modification of Reviews*, 77 FR at 8103.

⁷⁰ *Id.*, 77 FR at 8109.

⁷¹ See Attachment.

⁷² See SAA at 889-90, House Report at 63-64, and Senate Report at 52; see also *Sunset Policy*, 63 FR at 18872.

⁷³ See Domestic Interested Parties’ Substantive Response for Chile at 16; Domestic Interested Parties’ Substantive Response for China at 54; Domestic Interested Parties’ Substantive Response for India at 29-30; and Domestic Interested Parties’ Substantive Response for Indonesia at 20.

- In determining the magnitude of the dumping margins likely to prevail in the event of revocation, the SAA and Commerce's *Sunset Reviews Policy Bulletin* state that the agency will normally select the dumping margins established in the investigation.⁷⁴
- Commerce, confirming the instructions set forth in the SAA, has made clear that the magnitude of the margin of dumping in most cases is to be the company-specific, final margins from the agency's original LTFV investigation, as those margins best reflect the behavior of the respondents free of the constraints of an AD order.⁷⁵
- Furthermore, in the *Final Modification for Reviews*, Commerce stated that it will continue to rely on dumping margins that are not WTO-inconsistent, including margins that were calculated using AFA and margins where no offsets were denied.⁷⁶ Therefore, though the margins applied to certain respondent companies in the original investigations for India and China were assigned using AFA, Commerce may rely on these margins in finding that dumping is likely to continue if the orders are revoked. Accordingly, the dumping margins that should be reported to the ITC are the margins from the investigations, specifically: (1) for Chile, 148.51 percent for Nature's Farm Products (Chile) S.A. and All Others;⁷⁷ (2) for China, weighted-average margins up to 198.63 percent;⁷⁸ (3) for India, weighted-average margins up to 243.87 percent;⁷⁹ and (4) for Indonesia, 7.94 percent for PT Dieng Djaya/PT Surya Jaya Abadi Perkasa and 11.26 percent for All Others.⁸⁰
- This conclusion is consistent with the SAA, Commerce's *Sunset Policy Bulletin*, and the *Final Modification for Reviews*.⁸¹

Commerce's Position:

Section 752(c)(3) of the Act provides that the administering authority shall provide to the ITC the magnitude of the margin of dumping that is likely to prevail if an order were revoked.⁸² Commerce prefers selecting a margin from the investigation because such rates are the only calculated rates that reflect the behavior of manufacturers, producers, and exporters without the discipline of an order or suspension agreement in place.⁸³ Under certain circumstances,

⁷⁴ *Id.*

⁷⁵ See Domestic Interested Parties' Substantive Response for Chile at 17; Domestic Interested Parties' Substantive Response for China at 54; Domestic Interested Parties' Substantive Response for India at 29-30; and Domestic Interested Parties' Substantive Response for Indonesia at 21.

⁷⁶ See Domestic Interested Party's Substantive Responses for Chile at 17-18; Domestic Interested Party's Substantive Responses for India at 30; Domestic Interested Party's Substantive Responses for Indonesia at 21; and Domestic Interested Party's Substantive Responses for China at 56 (citing *Final Modification for Reviews* at 8109).

⁷⁷ See Domestic Interested Parties' Substantive Response for Chile at 18.

⁷⁸ See Domestic Interested Parties' Substantive Responses for China at 56.

⁷⁹ See Domestic Interested Parties' Substantive Response for India at 30.

⁸⁰ See Domestic Interested Parties' Substantive Responses for Indonesia at 22.

⁸¹ See Domestic Interested Party's Substantive Responses for Brazil at 15; see also Domestic Interested Party's Substantive Responses for India at 15-16; Domestic Interested Party's Substantive Responses for Japan at 27; Domestic Interested Party's Substantive Responses for Korea at 15-16; Domestic Interested Party's Substantive Responses for Mexico at 18; and Domestic Interested Party's Substantive Responses for Thailand at 15.

⁸² See, e.g., *Certain Hot-Rolled Carbon Steel Flat Products from Argentina, the People's Republic of China, India, Indonesia, Kazakhstan, Romania, South Africa, Taiwan, Thailand, and Ukraine; Final Results of Expedited Sunset Reviews of the Antidumping Duty Orders*, 71 FR 70506 (December 5, 2006), and accompanying IDM at Comment 2.

⁸³ See *Eveready Battery Co. v. United States*, 77 F. Supp. 2d 1327, 1333 n.9 (CIT 1999); and SAA at 890.

however, Commerce may select a more recently calculated margin to report to the ITC.⁸⁴ As explained above, in accordance with the *Final Modification for Reviews*, Commerce will not rely on weighted-average dumping margins that were calculated using the zeroing methodology.⁸⁵

As discussed above, since the publication of *Sunset Review 2015*, Commerce has conducted administrative reviews of the AD orders on mushrooms from India and China, but no administrative reviews of the AD orders on mushrooms from Chile and Indonesia. Consistent with the final results of the *Sunset Review 2015*, we find that the AD margins in the LTFV investigations are probative of the behavior of manufacturers/exporters from these countries if the orders were revoked because these margins are the only margins which reflect the behavior of these manufacturers/exporters absent the discipline of the orders. Furthermore, for the reasons described above and summarized below, we have determined that each of these margins is not affected by the zeroing methodology, because, in accordance with the *Final Modification for Reviews*, these rates are either based on petition margins or are calculated rates where no offsets were denied because all comparison results were positive.⁸⁶ Thus, Commerce determines that the magnitude of the margin of dumping likely to prevail in the event of revocation of these orders would be weighted-average margins up to the following percentages:

Chile: 148.51 percent (margin not affected by the zeroing methodology because all of the comparison results for the respondent were positive and, therefore, we did not deny offsets when aggregating).⁸⁷

China: 198.63 percent (margin not affected by the zeroing methodology because it is an AFA rate based entirely on the highest margin alleged in the petition).⁸⁸

India: 243.87 percent (margin not affected by the zeroing methodology because it is an AFA rate based entirely on the highest margin alleged in the petition).⁸⁹

Indonesia: 16.24 percent (margin has been recalculated without using the zeroing methodology).⁹⁰

VII. FINAL RESULTS OF SUNSET REVIEWS

For the reasons stated above, we determine that revocation of the *AD Orders* on mushrooms from Chile, India, Indonesia, and China would likely lead to continuation or recurrence of dumping and that the magnitude of the margins of dumping likely to prevail would be weighted-average margins up to 148.51 percent for Chile, 198.63 percent for China, 243.87 percent for India, and 16.24 percent for Indonesia.

⁸⁴ See section 752(c)(3) of the Act; and *Final Results of Full Sunset Review: Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide from the Netherlands*, 65 FR 65294 (November 1, 2000), and accompanying IDM at Comment 3, “Magnitude of the Margin Likely to Prevail.”

⁸⁵ See *Final Modification for Reviews*, 77 FR at 8103.

⁸⁶ *Id.*

⁸⁷ See *Mushrooms Chile Order*, 63 FR at 66529.

⁸⁸ See *Mushrooms China Amended LTFV Final*, 64 FR at 8310.

⁸⁹ See *Mushrooms India Amended LTFV Final*, 64 FR at 8312.

⁹⁰ See *Sunset Review 2015*.

VIII. RECOMMENDATION

Based on our analysis of the substantive responses received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of these sunset reviews in the *Federal Register* and notify the ITC of our determinations.

☒

Agree

☐

Disagree

11/30/2020

X



Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

Attachment

Country	Unit	1997	2016	2017	2018	2019	2020
Chile	LBS	5,429,000	0	0	0	0	0
	% of 1997 Vol.		0.00%	0.00%	0.00%	0.00%	0.00%
Country	Unit	1997	2016	2017	2018	2019	2020
China	LBS	67,151,000	3761000	2524000	1495000	423000	108000
	% of 1997 Vol.		5.60%	3.76%	2.23%	0.63%	0.16%
Country	Unit	1997	2016	2017	2018	2019	2020
India	LBS	9,950,000	930,000	100,000	0	0	0
	% of 1997 Vol.		9.35%	1.01%	0.00%	0.00%	0.00%
Country	Unit	1997	2016	2017	2018	2019	2020
Indonesia	LBS	31,791,000	4840000	1831000	1476000	423000	108000
	% of 1997 Vol.		15.22%	5.76%	4.64%	1.33%	0.34%

Source: U.S. International Trade Commission import data for HTSUS subheadings 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, 2003.10.0153 and 0711.51.0000.