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Date: June 1, 2015

MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Certain Preserved Mushrooms from the People's Republic of China: Issues and Decision Memorandum for the Final Results in the 2013/2014 Administrative Review

SUMMARY:

The Department of Commerce (the Department) analyzed a joint case brief submitted by Zhangzhou Gangchang Canned Foods Co., Ltd. (Gangchang) and Linyi City Kangfa Foodstuff Drinkable Co., Ltd. (Kangfa) (collectively, Respondents), and a rebuttal brief submitted by petitioner Monterey Mushrooms, Inc. (Petitioner) in the 2013/2014 administrative review of the antidumping duty order covering certain preserved mushrooms from the People's Republic of China (the PRC). Following the Preliminary Results,[1] and our analysis of the comments received, we made changes to the margin calculations for these final results (Final Results). We recommend that you approve the positions described in the "Discussion of the Issues" section of this Issues and Decision Memorandum.

BACKGROUND:

The Department published the Preliminary Results on December 3, 2014.[2] On, March 13, 2015, the Department extended the deadline for issuing the Final Results by 60 days.[3] The revised deadline for issuing the Final Results of this review is now June 1, 2015. On January 9, 2015, Respondents submitted their case brief.[4] On January 21, 2015, Petitioner submitted a rebuttal brief.[5]

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[1] See Certain Preserved Mushrooms From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2013/2014, 79 FR 71746 (December 3, 2014) (Preliminary Results).
[2] See Preliminary Results.
[3] See Memorandum dated March 13, 2015 from Michael J. Heaney to Christian Marsh Re: Certain Preserved Mushrooms from the People's Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Review: 2013-2014.
[4] See January 9, 2015 letter from Gangchang and Kangfa to Secretary of Commerce Re: Certain Preserved Mushrooms from the People's Republic of China; Submission of Respondents' Case Brief (Respondents Case Brief).
[5] See January 21, 2015 letter from Monterey Mushrooms to Secretary of Commerce Re: Petitioner's Rebuttal Brief

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 certain preserved mushrooms covered under this order are the species Agaricus bisporus and Agaricus bitorquis. "Certain Preserved Mushrooms" refers 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. Certain 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.[6]

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

Discussion of the Issues

Comment 1: Land Rent

Respondents contend that the Department incorrectly included a surrogate value for land rent in its calculation of normal value (NV). Respondents argue that because they each purchased mushrooms from affiliates who "self-produced" fresh mushrooms on their own land, an addition to NV for land rent is inappropriate.[7] Respondents further contend that the "mere use of land in the mushroom cultivation process does not result in land rental costs."[8] Respondents further argue that any land rent costs which they could incur would be included within the selling and general expenses of Setas Colombianas S.A. (the Colombian company used to calculate surrogate financial ratios in the Preliminary Results), the financial statements of which contain a

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(Petitioner Rebuttal Brief).

[6] 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. On February 9, 2005, the United States Court of Appeals for the Federal Circuit upheld this decision. See Tak Fat v. United States, 396 F.3d 1378 (Fed. Cir. 2005).

[7] See Respondents Case Brief at 3.

[8] Id. at 4.

line item for lease payments. Respondents thus aver that any additional adjustment for land rent would represent double counting of this expense.

Petitioner contends that Respondents' assertion that they purchase mushrooms from affiliates who own their own land is unsupported by any record evidence.[9] Petitioner also argues that there is no evidence (e.g., deeds or other ownership documentation) which establishes that the affiliated growers owned the land on which they operated.

Department's Position

We agree with Respondents. From the description of the production process provided by both Gangchang and Kangfa we find no evidence suggesting that land was a specific input which was consumed in the production process.[10] Moreover, we find that land represents an expense that is generally classified in the surrogate financial ratios as an element of overhead or selling, general & administrative expenses (SG&A). In this case, we note that the surrogate financial statements include a line item for "Leases" at note 20, and we have no basis on the record to conclude or suspect that all types of rent expenses would not be included in this line item. Additionally, we note that treatment of land as an overhead or SG&A expense is consistent with the description of the production process provided by both Gangchang and Kangfa.[11] Based upon the foregoing, we have removed land rent from the factors of production in these Final Results.[12]

Comment 2: Well Water and Casing Soil

Respondents contend that they obtain well water and casing soil free of charge. Respondents assert that "assigning a surrogate value to an input that was obtained free of charge" fails "to replicate the manner in which the respondent produced the subject merchandise."[13] Respondents further argue that the costs associated with digging dirt, and the electricity costs associated with pumping well water are included in the overhead costs which the Respondents reported to the Department. Respondents aver that making a separate adjustment for casing soil and well water results in the double counting of these two expenses. Respondents cite to Certain Frozen Fish Fillets and to Shrimp from the PRC as cases wherein the Department determined that the value of water was included within overhead costs and instead valued only the energy inputs consumed in pumping the water.[14] Respondents further argue that the CIT has held assigning a positive

[9] See Petitioner Rebuttal Brief at 32.

[10] See Gangchang July 28, 2014 Section D Response at D-2-D7; see also Kangfa July 28, 2014 Section D Response at D-3-D-7.

[11] See Exhibit D-1 of Gangchang July 28, 2014 Section D Response; see also exhibit D-1 of Kangfa's July 28, 2014 Response.

[12] See Memorandum to the File from Michael J. Heaney "Analysis of Data Submitted by Zhangzhou Gangchang Canned Foods Co., Ltd. (Gangchang) in the Final Results of Administrative Review of the Antidumping Duty Order on Certain Preserved Mushrooms from the People's Republic of China (PRC)" dated June 2, 2015 at 2 (Gangchang Final Analysis Memorandum); see also Memorandum to the File from Michael J. Heaney "Analysis of Data Submitted by Linyi City Kangfa Foodstuff Drinkable Co., Ltd. in the Final Results of Administrative Review of the Antidumping Duty Order on Certain Preserved Mushrooms from the People's Republic of China (PRC)" dated June 2, 2015 (Kangfa Final Analysis Memorandum) at 2

[13] See Respondents Case Brief at 5.

[14] See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty New Shipper Reviews 2011-2012, 78 FR 39708 (July 2, 2013), and Accompanying Issues and Decision Memorandum at Comment 8 (Certain Frozen Fish Fillets); see also Third Administrative Review of Frozen Warmwater Shrimp From the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative

surrogate value for water to be "improper" and "distortive" when it is evident that respondents did not pay for water obtained from rivers and wells.[15]

Specifically in the case of water, Respondents argue that they obtained water free of charge. Moreover, Respondents aver that the overhead costs associated with obtaining well water were fully reported for Respondents and their growers: either in their reporting of total electricity consumption or as overhead in the case of Gangchang's affiliated grower (which purportedly consumed no electricity in its mushroom growing process).[16] Additionally, Respondents suggest that there is no evidence that Setas Colombianas S.A. paid for water from a utility.[17] Accordingly, Respondents believe it is likely that Setas Colombianas S.A. also received its water for free, and any value imputed to water obtained by respondents should be considered overhead expenses fully taken into account by application of the surrogate financial ratios. Thus, the Department should remove any surrogate values for water from its calculations.

At a minimum, Respondents argue that should the Department continue to value water as a separate production input, the Department should differentiate between water used for industrial and agricultural applications.[18] Specifically, Respondents assert that because they reported their growers' water consumption separately from their own, the Department should assign a value for "agricultural" water rather than a value for "industrial water" to the water consumed by the growers.[19] Citing to Taian Ziyang,[20] Respondents argue that the CIT has determined that industrial water usage fails to represent the best available information to value agricultural water usage.[21]

With regard to casing soil, Respondents contend that they obtained this input from dirt that was obtained "without monetary payment."[22] Respondents further argue that their reported factors of production fully reflect all relevant charges because they include the labor hours consumed in digging up dirt (i.e., the labor associated with hand digging dirt from vacant grounds in the village in the case of Gangchang's grower, and the labor associated with using a back hoe to dig dirt from Kangfa's grower's lands) and the calcium carbonate purchases which were mixed with the dirt.[23] Finally, Respondents argue that there is no evidence on the record that Setas Colombianas S.A. paid for casing soil. Respondents suggest that Setas Colombianas S.A., like the Respondents themselves, obtained casing soil free of charge rendering the expenses in question an element of overhead and attributing a separate value to the casing soil represents a double counting of the expense in question.[24]

Respondents alternatively contend that if the Department continues to assign a positive value to casing soil in the Final Results, it must not double count land inputs by valuing both land rent

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Review, 74 FR 46465 (September 10, 2009), and Accompanying Issues and Decision Memorandum at Comment 3B (Shrimp from the PRC).

[15] See Respondents Case Brief at 6 (citing Taian Ziyang, 637 F. Supp. 2d at 1130-1131 (CIT 2009).

[16] Id. at 10-11.

[17] Id. at 12.

[18] Id.

[19] Id.

[20] Taian Ziyang Food Company, Ltd. v. United States, 637 F. Supp. 2d 1093, 1138-1141 (CIT 2009) (Taian Ziyang)

[21] Id. at 12 (citing Taian Ziyang, 637 F. Supp. 2d at 1132-1133).

[22] Id. at 7.

[23] Id. at 8

[24] Id. at 9.

and casing soil. Respondents note that in an earlier review of this order, the Department did not assign a value to casing soil on the basis that doing so would double count land rental.

Petitioner asserts that Respondents' claims regarding free usage of casing soil are implausible.[25] Petitioner further argues that Respondents claim regarding free usage of water must fail based upon Respondents' "inability to properly and fully document the cost of obtaining water, i.e., electrical pumping costs."[26]

With regard to casing soil, Petitioner assert that pictures submitted by Gangchang that document the location from which Gangchang's grower obtained dirt[27] "shows a veritable quarry being dug."[28] Similarly, the picture submitted by Kangfa of its grower's lands shows a flat field and equipment, instead of dirt being dug from around the growing sheds using a back hoe. Moreover, Petitioner asserts that the sheer volume of casing soil consumed in cultivating fresh mushrooms during the POR would have required that the Respondents' growers dig up—free of cost—exorbitantly high quantities of soil.[29] Petitioner also asserts that the implausibility of Respondents' assertions is further reflected in the number of labor hours and workers devoted to digging dirt, which suggests a completely implausible rate of production.[30]

Petitioner further notes that even if Respondents were truly able to obtain dirt free of charge, the statutory construct requires the Department "to construct the product's normal value as it would have if the {non-market economy} country were a market economy country."[31] Petitioner argues that were Respondents suppliers to grow fresh mushrooms in a market economy country they "would have to incur costs to obtain dirt used in producing casing soil."[32] Petitioner further notes that in a prior review of this proceeding, the Department rejected arguments made by respondent COFCO that COFCO obtained soil and sea water free of charge and that those inputs should, therefore, not have been valued.[33] Petitioner contends that in that review, consistent with the precedent established in Pacific Giant,[34] the Department assigned a positive surrogate value to these production inputs of COFCO.[35]

Additionally, Petitioner disputes Respondents' assertions that an adjustment for casing soil results in double counting of casing soil expenses. First, Petitioner argues that an amount of 48,754 Colombian pesos relating to Setas Colombianas S.A.'s acquisition of agricultural inputs could relate to acquisition of casing soil, and that cost is included in the MLE denominator in the Department's surrogate financial ratios.[36] Second, Petitioner asserts that there are no other

[25] See Petitioner Rebuttal Brief at 14.
[26] Id.
[27] Id. at 15-7 referencing Gangchang September 17, 2014 Supplemental Response at Exhibit S1-17 and Kangfa's September 17, 2014 Supplemental Response at SQ1-14.
[28] Id. at 15.
[29] Id. at 17-19.
[30] Id. at 19-20.
[31] Id. at 22, citing Rhodia Inc. v. United States, 185 F. Supp. 2d 1343, 1351 (CIT 2001) (Rhodia).
[32] Id.
[33] Id., citing Certain Preserved Mushrooms From the People's Republic of China: Final Results and Final Rescission, in Part, of Antidumping Duty Administrative Review, 70 FR 54361 (September 14, 2005) and Accompanying Issues and Decision Memorandum at Comment 2A (2003/2004 Mushroom Review)
[34] See Pacific Giant, Inc. v. United States, 223 F. Supp. 2d 1336, 1342 (CIT 2002) (Pacific Giant).
[35] See 2003/2004 Mushroom Review at Comment 2A.
[36] See Petitioner Rebuttal Brief at 23.

production-related expenses included within Setas Colombianas S.A.'s factory overhead expenses that could potentially include casing soil.[37] Because the only portion of the financial ratio calculations that could plausibly include casing soil are captured in the MLE denominator, there is no casing soil the overhead (or SG&A) numerator and no possible double counting.

Finally, Petitioner disputes Respondents' argument that assigning a positive value to casing soil and land rent results in double counting of the same input. Specifically, Petitioner contends that Gangchang's supplier obtained dirt from publicly owned lands in a nearby village and not from its own land.[38] Second, Petitioner argues that the volume of dirt consumed by Kangfa belie Kangfa's claim that Kanga obtained dirt free of charge, also indicating that a separate charge for dirt is needed.[39]

Regarding Respondents' claims related to water, Petitioner asserts that in the instant case, water serves both as a direct material input and as an energy input, both of which must be valued for the Final Results.[40] With regards to its use as an energy input, Petitioner acknowledges that in previous proceedings involving water obtained for free by respondents, the Department valued the energy costs associated with pumping water instead of the water itself. However, Petitioner notes that in 2011-2012 Chlorinated Iscocyanurates,[41] the Department assigned a direct value to water in a situation where the respondent did not isolate the specific electricity usage associated with pumping water.[42] Petitioner indicates that in the instant case, neither Gangchang nor Kangfa reported separate electricity costs for itself or its growers, nor have they shown that they even tracked such consumption. Moreover, Gangchang's grower reported that it did not consume any electricity in the mushroom growing business, which cannot be plausible.

With regards to the consumption of water as a direct material input, Petitioner asserts that there is no information from either Respondent which explains how (or even if) Respondents specifically segregated water pumping station electricity and reported it in their consumption figures.[43] Petitioner further notes that electricity usage that was reported for the canning mushroom workshops must also pertain to other production operations (i.e., moving the conveyor belt).[44] Moreover, Petitioner asserts that beyond its use as an energy input, the Department must also incorporate the value of water utilized in the production of the subject merchandise.[45] Petitioner believes that it would be inappropriate to refrain from assigning a surrogate value to water when used as a direct material input, and Jinan Yipin does not address that situation.

Furthermore, as with casing soil Petitioner notes that there is no evidence of double counting of water or water pumping electricity in the surrogate value financial ratios. Specifically, Petitioner

[37] Id.
[38] Id. at 24.
[39] Id.
[40] Id. at 25.
[41] Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review 2011-2012, 79 FR 4875 (January 30, 2014) and Accompanying Issues and Decision Memorandum at Comment 1E (2011-2012 Chlorinated Isocyanurates).
[42] See Petitioner Rebuttal Brief at 25-26 citing 2011-2012 Chlorinated Isocyanurates.
[43] Id. at 28.
[44] Id. at 28-29.
[45] Id. at 29.
[46] See section 773(c)(1) of the Act.

notes that there is no explicit or implicit mention of energy costs or water in the factory overhead of the financial statements of Setas Colombianas S.A., and all expenses for production were allocated from cost of goods sold (COGS) to the MLE denominator as materials, labor, or energy.

Finally, Petitioner disputes Respondents' assertion that that the Department should differentiate between agricultural and industrial applications. Petitioner notes that Respondents and their growers consume water in a variety of applications throughout the production process; while the growers may consume "agricultural" water, Gangchang's and Kangfa's canning operations necessarily require potable water (i.e., use of water in the canning stage) that is of a higher quality than general industrial use water (i.e., used in the cleaning of machinery). Additionally, Petitioner notes that neither Respondent has submitted any potential surrogate values which could serve to value agricultural water and, as such, their argument requests that the Department rely on information that is not even on the administrative record of this review. For these reasons, Petitioner argues that the Department should continue to use the Colombian data to value water usage which were utilized in the Preliminary Results.

Department's Position

Respondents have not accurately characterized the Department's practice with respect to the valuation of so-called "free" inputs. Consistent with section 773(c) of the Tariff Act of 1930, as amended ("the Act"), the Department is determining normal value using a factor of production methodology. As part of its calculations, the Department values the factors of production using the "best available information" regarding the value of those factors in a market economy country or countries considered to be appropriate.[46] For purposes of section 773(c)(3) of the Act, factors of production include the "*quantities* of raw materials employed" without reference to the cost of those materials to the respondent in an NME country (emphasis added). As a result, the CIT in Pacific Giant held that the Department correctly determined to value water as a factor of production where it was used for more than incidental purposes.[47]

Casing soil and water both represent production inputs which carry an economic worth and are used for more than incidental purposes in the mushroom production process. Therefore, we agree with Petitioner that the instant case is analogous to the CIT's decision in Pacific Giant and adhered to in the 2003/2004 Mushroom Review, wherein the Department assigned positive surrogate values to respondent COFCO's soil and sea water inputs notwithstanding COFCO's claim that it obtained these inputs free of charge.[48]

While we maintain that water and casing soil represent separate and distinct production inputs, we note that in other proceedings involving claims of "free" water, instead of valuing water separately as a factor of production, the Department has sometimes determined that it is appropriate to value the energy inputs consumed in pumping the water. However, this determination has been contingent upon a respondent's ability to isolate and separately report its electricity charges related to pumping water from the wells.[49]

[46] See section 773(c)(1) of the Act.
[47] See Pacific Giant, 223 F. Supp. 2d at 1346.
[48] Id.; see also 2003/2004 Mushroom Review at Comment 2A.
[49] See 2011-2012 Chlorinated Isocyanurates, and accompanying Issues and Decision Memorandum at Comment

Here, Respondents have failed to establish that either input has been captured elsewhere in Respondents' factor of production responses. Neither Gangchang nor Kangfa has separately reported the electricity consumed in pumping water for themselves or their affiliated growers. Although Kangfa and Gangchang claim that their total reported electricity factor of production encompasses this information, there is nothing on the record to support this bare assertion. Indeed, Respondents have not claimed, or provided evidence to demonstrate, that they even separately metered their water consumption (further, Gangchang claims that its grower consumed no electricity at all).

Under these circumstances, where respondents have not separately reported their pumping costs, the Department's practice has been to continue to include water as a separate factor of production.[50] Accordingly, for these Final Results, we have continued to assign a value to the two water factors of production (WATER_1 and WATER_2).

Similarly, as with water, we note that the suppliers of both Gangchang and Kangfa use extensive amounts of dirt in the growing of fresh mushrooms.[51] The volume of soil consumed by both Respondents evinces the significance of casing soil as an element of mushroom production. As soil is a factor of production in mushroom production, pursuant to section 773(c) of the Act, even if the soil was free to respondents, we still value this soil as an input or, if appropriate and record evidence permits, value the means of extracting the soil from the ground. As Petitioner has observed, Respondents' claims that they received free soil, incurring only labor costs, are not supported by a reasonable reading of the record.[52] Nonetheless, even if we were to credit Respondents' assertions, we would still find it necessary to value casing soil as a separate input pursuant to section 773(c) of the Act. As previously stated, our practice is to value all factors of production that are consumed in producing subject merchandise. It is undisputed that Respondents consumed casing soil in producing subject merchandise. Respondents claim that all relevant labor costs associated with digging the dirt have been included in their total labor factor of production and, as such and similar to our practice with respect to well water, Respondents claim that we should remove casing soil as an input. However, nothing on the record establishes this assertion, and Respondents have not even claimed that they separately track the labor hours associated with digging soil. Therefore, consistent with the precedent established in Pacific Giant, we have assigned a positive surrogate value to casing soil, and we have continued to make an adjustment for this production element in these Final Results.

We do not find that continuing to value water and soil inputs results in double counting water or soil in the surrogate financial ratios. Initially, we find that the quantity of water and soil used in the production of mushrooms and the fact that the water is absorbed into the final product warrants valuing water and soil as direct materials with a surrogate value, rather than treating

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5E; Certain Non-Frozen Apple Juice Concentrate from the People's Republic of China, 75 FR 81564 (December 28, 2010), and accompanying Issues and Decision Memorandum at Comment 1A.

[50] See, e.g., 2011-2012 Chlorinated Iscocyanurates, and accompanying Issues and Decision Memorandum at Comment 5E; Certain Non-Frozen Apple Juice Concentrate from the People's Republic of China, 75 FR 81564 (December 28, 2010), and accompanying Issues and Decision Memorandum at Comment 1A.

[51] See Gangchang September 17, 2014 Supplemental Response at Exhibit S1-17 (Gangchang Supplemental Questionnaire); see also Kangfa September 17, 2014 Supplemental Response at SQ1-14 (Kangfa Supplemental Questionnaire).

[52] See Gangchang September 17, 2014 Supplemental Response at Exhibit S1-17; see also Kangfa's September 17, 2014 Supplemental Response at SQ1-14.

water and soil as overhead. Moreover, we find no evidence that would tie the specific usage of water by Respondents to any overhead accounts that are included with the financial statement of Setas Colombianas S.A., the source of financial statements in this review. We also note that the section in Setas Colombianas S.A.'s financial statement that relates to COGs does not break out the individual raw materials included within that section; as a result, nothing contradicts our conclusion that water would be captured in this line item (as opposed to in overhead).

This finding comports with the Department's general practice of considering overhead to include only water used for standard workplace operations such as cleaning the floors or machinery, for plumbing purposes, for drinking water for employees, etc. When water is used for more than incidental workplace activities, and is a significant input into the product itself, the Department will usually treat water as a raw material and find that the amount of water used in production is too large to be accounted for in the company's factory overhead.[53] Therefore, in light of our practice, and the absence of any contrary indication in the financial statement, we find that we have not double counted water in these Final Results. Finally, we reach the same conclusion with respect to casing soil, which for similar reasons, we do not consider or have reason to believe is included in overhead and would instead expect to be included within COGs.

Regarding the Respondents' arguments related to the proper value to attribute to water inputs, we dispute Respondents' assertion that the Department should distinguish between water utilized as an "agricultural" input and water employed in "industrial" applications. As Petitioner has noted, beyond the water tariff schedules of Empresas Publicas de Medellin (EPM), a Colombian utility company, there are no alternative data available to represent the surrogate value of water.[54] Because Respondents have submitted no alternative sources of data that could serve to distinguish between "agricultural" and "industrial" water applications, and because Respondents do not dispute that a portion of their water consumption is appropriately characterized as "industrial" in nature, their claim that the Department should differentiate between such claimed "agricultural" and "industrial" applications is without merit.

Finally, in light of our determination to not include land rent among Respondents' factors of production for purposes of these Final Results, we find Respondents' argument that valuing both land rent and casing soil results in impermissible double counting of these inputs to be moot.

Comment 3: Labor Cost

Respondents note that in the Preliminary Results, the Department used the International Labor Organization (ILO) Chapter 6A sub-classification 15 ("manufacture of food products and beverages") to represent labor expenses. While Respondents believe that this rate may be appropriate for valuing labor factors of production related to Respondents' processing of fresh mushrooms and packing of preserved mushrooms for shipment, Respondents assert that this

[53] See, e.g., Automotive Replacement Glass Windshields From the People's Republic of China: Final Results of Administrative Review, 69 FR 61790 (October 21, 2004) ("Normally, the Department values water directly and not in factory overhead when water is used for more than incidental purposes, is required for a particular segment of the production process, or appears to be a significant input in the production process.").

[54] The applicable EPM tariff schedule for water is set forth at Exhibit 16 of the September 15, 2014 letter from Monterey Mushrooms to Secretary of Commerce Re:15th Administrative Review of Certain Preserved Mushrooms from the People's Republic of China-Petitioner Comments and Information Regarding Surrogate Values (Monterey Mushrooms' Surrogate Value Comments).

same rate is inappropriate for use in valuing labor associated with the growers' cultivation of fresh mushrooms. In lieu of sub-classification 15, Respondents assert that the Department should use data from Chapter 5A of the ILO Yearbook of Labor Statistics ("monthly wages for workers employed in the agricultural, hunting, and fishing sector") to value the labor employed in cultivating fresh mushrooms.[55] Respondents assert that the Department should obtain these Chapter 5A data prior to issuing these Final Results.[56] Respondents contend that obtaining these data is particularly important in this review because labor incurred in the growing stage greatly exceeds the labor incurred in the canning and processing stage.[57]

Because labor devoted to cultivation of mushrooms exceeds that devoted to canning and processing mushrooms, Respondents argue that use of the sub-classification 15 data is "distortive."[58] Respondents further assert that the Department could derive for both Gangchang and Kangfa separate amounts for the labor incurred in the cultivation of mushrooms as opposed to the labor incurred in the canning and processing of mushrooms.[59] Respondents argue that the Department should use these data to assign a separate surrogate value to the labor incurred in the cultivation of fresh mushrooms.

Petitioner argues that Respondents had numerous opportunities to place alternative surrogate values on the record, yet chose not to submit such information.[60] Petitioner cites to QVD Food,[61] and to Taian Ziyang, to support the precedent that respondents bear the burden of creating an adequate record.[62] Finally, Petitioner asserts that neither Kangfa nor Gangchang separately reported the labor associated from growing mushrooms as opposed to the labor incurred in processing mushrooms.[63] As such, the Department cannot assign separate values to these types of labor as proposed by Respondents.

Department's Position

We agree with Petitioner. Chapter 5A labor data are not on the record of this review. Although Respondents had the opportunity to submit alternative surrogate value data, Respondents failed to submit any sources for valuing labor on the record of this review Because Chapter 6A sub-classification 15 data represents the best available information on the record to value labor, we have continued to rely on these labor data in the Final Results.[64]

Although Respondents imply that we should locate and place Chapter 5A data on the record for these Final Results, we disagree. As the Federal Circuit found in QVD Food, "the burden of creating an adequate record lies with {interested parties} and not with Commerce."[65] While the

[55] See Respondents Case Brief at 14.
[56] Id.
[57] Id.
[58] Id. at 15.
[59] Id.
[60] See Petitioner Rebuttal Brief at 2.
[61] See QVD Food Co. v. United States, 658 F.3d 1318, 1324-1325 (Fed Cir. 2011) (QVD Food)
[62] See Petitioner Rebuttal Brief at 2.
[63] Id. at 3.
[64] The applicable Chapter 6A Schedule 15 data is set forth at Exhibit 21of Monterey Mushrooms' Surrogate Value Comments.
[65] See QVD Food, 658 F.3d at 1324 (quoting Tianjin Mach. Imp. & Exp. Corp. v. United States, 806 F. Supp. 1008, 1015 (CIT 1992)) ("QVD is in an awkward position to argue that Commerce abused its discretion by not relying on

Department has the ability to place information on the record in its proceedings, it is the responsibility of interested parties to the proceeding, not the Department's responsibility, to do so. Accordingly, we find Respondents' arguments on this point unavailing.

Moreover, notwithstanding Respondents' failure to submit Chapter 5A data on the record of this review, we note that Respondents cite no evidence to support their bare assertion that Chapter 5A presents a better surrogate value source to value their growers' labor than the Chapter 6A data. As noted in Labor Methodologies, the Department's expressed preference is to rely on Chapter 6A data, as we consider those data to best capture certain direct and indirect labor costs (e.g., bonuses and gratuities, meals, and other payments in kind, workers' housing, social security payments, training costs, other miscellaneous elements of labor cost, and taxes) which are elements of labor cost.[66] For these reasons, in these Final Results, we have continued to use Chapter 6A data as the best available information to value labor expenses.

Comment 4: Glass Jars and Metal Caps

Respondents argue that the glass jar and metal cap surrogate values used by the Department in the Preliminary Results "are plainly aberrational."[67] Respondents note that the surrogate value assigned to glass jars is almost as high as that assigned to metal cans.[68] Respondents aver, however, that glass jars which are "made from heated sand" should "logically be significantly cheaper on a per weight basis than metal cans, which are made from steel."[69] Respondents further protest that metal caps (which are also made from processed steel similar to metal cans) are priced "almost twice as high as the per unit surrogate price for metal cans."[70]

Respondents further assert that the application of the glass jar and metal cap surrogate values utilized in the Preliminary Results yields "absurdly high margins for the relatively small number of U.S. sales of preserved mushrooms in glass jars."[71] As an example, Respondents cite to several product-specific control numbers (CONNUMs) sold by Gangchang wherein the surrogate value assigned to the glass jar and metal cap alone exceeded that of the gross sales price of the mushrooms sold during the POR.[72] Respondents state that it is inconceivable that a manufacturer in a market economy country would package its product in a container, the cost of which exceeded the gross sales price of the item. Respondents assert that these margin results thus evince that the surrogate value for glass jars and metal caps are "aberrational" and defy commercial reality.[73]

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evidence that QVD itself failed to introduce into the record.").

[66] See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor; Request for Comment, 76 FR 9544, 9545 (February 18, 2011) (Labor Methodologies); Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor, 76 FR 36092 (June 21, 2011).

[67] See Respondents Case Brief at 17.

[68] Id.

[69] Id.

[70] Id.

[71] Id. at 17-18.

[72] Id. at 18-19.

[73] Id. at 19 citing to Yangzhou Bestpak Gifts & Crafts Co., Ltd. v. United States, 716 F. 3d 1370, 1378 (Fed. Cir. 2013) (Yangzhou Bestpak).

Additionally, Respondents believe that the surrogate values selected for glass jars and metal caps are insufficiently specific to the inputs being valued. Respondents cite Longkou Haimeng, Zhengzhou Harmoni and Shandong as precedent for the principle that the Department must derive surrogate values that are specific "to the subject merchandise."[74] Respondents further note that in the 2010/2011 Mushroom Review of the instant case, the Department recognized the importance of product specificity.[75] Citing Hebei Metal and Taian Ziyang, Respondents further argue that if the surrogate value is not specific enough, satisfaction of the other surrogate value criteria considered by the Department is of little relevance.[76] Consistent with the position taken in the 2009/2010 Mushroom Review with regards to cow manure and the cited cases, Respondents assert that the Department should utilize surrogate values for glass jars and metal caps that are more specific to the production input in question.[77]

Respondents also contend that as in Carbazole Violet Pigment and Freshwater Crawfish, the Department should reject use of a basket tariff provision in favor of a surrogate value which is more specific to that utilized by the Respondents.[78] Respondents also argue that the CIT has rejected use of import statistic data based on a basket tariff provision when data that are more specific to the production input are available.[79] Respondents further assert that the administrative record establishes that both Gangchang and Kangfa sold mushrooms in small jars with correspondingly small metal caps.[80] For purposes of matching the surrogate values for glass jars and metal caps that were utilized by both Respondents, Respondents assert that the Department should utilize data from a country deemed comparable in economic development to the PRC for which the surrogate value data more closely approximates the smaller jar sizes that are utilized by both Respondents (i.e., data from countries that break out import statistics for six digit HTS items to eight digit HTS items, which isolate values for smaller jars and caps).[81]

Petitioner notes that with regard to alternative surrogate value sources, Respondents have submitted no other information upon which the Department could rely to determine surrogate values for either glass jars or metal caps.[82] Petitioner further argues that Respondents have provided no information to support their unsubstantiated assertion that the manufacture of glass

[74] Id. citing Longkou Haimeng Mach. Co. v. United States, 581 F. Supp. 2d 1344, 1363 (CIT 2008 (Longkou Haimeng), Zhenzhou Harmoni Spice Co., Ltd. v. United States, 617 F. Supp. 2d 1281, 1297 (CIT 2009) (Zhengzhou Harmoni), and Shandong Huarong Gen. Corp. v. United States, 159 F. Supp. 2d 714, 719 (CIT 2001) (Shandong).
[75] See Certain Preserved Mushrooms from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 77 FR 55808 (September 11, 2012), and Accompanying Issues and Decision Memorandum at Comment 3 (2010/2011 Mushroom Review).
[76] See Respondents Case Brief at 20 (citing Hebei Metal & Minerals Imp. & Exp. Corp. v. United States, 366 F. Supp. 2d 1264, 1193 and n3 (CIT 2004) (Hebei Metal) and to Taian Ziyang, 783 F. Supp. 2d at 1330).
[77] Id. at 21 (citing Certain Preserved Mushrooms From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Rescission in Part, 76 FR 56732 (September 14, 2011), and Accompanying Issues and Decision Memorandum at Comment 2 (2009/2010 Mushroom Review)).
[78] Id. citing to Carbazole Violet Pigment 23 from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 75 FR 36630 (June 28, 2010), and Accompanying Issues and Decision Memorandum at Comment 3 (Carbazole Violet Pigment) and Freshwater Crawfish Tail Meat from the People's Republic of China; Final Results of New Shipper Review, 64 FR 27961, 27962 (May 24, 1999) (Freshwater Crawfish Tail Meat).
[79] Id. citing to Jinyan Yipin Corporation Ltd. v. United States, 800 F. Supp. 2d 1226 1296 (CIT 2011) (Jinyan Yipin) and to Polyethylene Retail Carrier Bag Comm. v. United States, 29 CIT 1418, 1443-44 (CIT 2005) (Polyethylene Retail Carrier Bag).
[80] Id. at 22.
[81] Id. at 22-23.
[82] See Petitioner Rebuttal Brief at 4.

jars is less expensive than the manufacture of metal cans.[83] Petitioner also asserts that there is no information on the record which establishes that the Colombian HTS values for either glass jars or metal caps are "aberrational."[84] Finally, Petitioner argues that all of the CIT decisions cited by Respondents "involve the Court's review of the Department's selection among alternative surrogate values that were part of the administrative record."[85] However, in the instant case, Petitioner argues Respondents' failure to submit alternative surrogate value information render the judicial opinions cited by Respondents inapposite.[86]

Department's Position

We agree with Petitioner. As Petitioner has noted, the only sources for valuing glass jars and metal caps on this record are those which Petitioner submitted along with its surrogate value comments.[87] Those sources—for jars, import data from Colombia for HTS subheadings 7010.90,[88] and for metal caps, import data from Colombia for HTS subheading 8309.90[89]—indisputably encompass the inputs being valued. Respondents have submitted no alternative surrogate value data points which could potentially be utilized to value either glass jars or metal caps. Thus, because there are no alternative data which could serve as comparison points to the Colombian HTS data that are on the record of this proceeding, Respondents' reliance on Longkou Haimeng, Zhengzhou Harmoni, Shandong, Hebei Metal, and Taian Ziyang is inapposite. Those cases address the reasonableness of the Department's selection from among more than one surrogate value source; they do not stand for the proposition that the Department must independently locate and place alternative surrogate value sources on the record where a party suggests that another non-record source might be more specific. As noted in the preceding comments it was not the Department's, but rather Respondents' burden, to place on the record surrogate value data the Respondents would propose the Department use.

Moreover, we find unconvincing Respondents' comparison of the Colombian HTS values for glass jars to those of metal cans as a basis for finding that the Colombian HTS values for glass jars are aberrational. Glass jars and metal cans represent completely different products which are produced from entirely different materials, and Respondents cite no evidence establishing that glass jars are necessarily less expensive than metal jars. Similarly, with regard to metal caps, there are no alternative surrogate values or any other evidence that would establish that the metal cap surrogate values employed by the Department are "aberrational." Ultimately, Respondents' arguments that the surrogate values for glass jars and metal caps are aberrational is pure speculation. However, Respondents have provided no evidence which would establish as "aberrational" the Colombian HTS values for glass jars and metal caps. Accordingly, for the reasons cited above, in these Final Results, we continue to find that Colombian HTS data for

[83] Id. at 5.
[84] Id.
[85] Id. (Petitioner emphasis).
[86] Id. at 5-6.
[87] See exhibit 13 (glass jars) and exhibit 14 (metal caps) of Monterey Mushrooms' Surrogate Value Comments.
[88] The Colombian HTS category for 7010.90 reads "Glass Articl. For Conveyance/Packing of Goods Neso". See November 25, 2014 Memorandum from Michael J. Heaney to the File Re: Administrative Review of Certain Preserved Mushrooms from the People's Republic of China: Surrogate Values for the Preliminary Results at Attachment 3 (Preliminary Surrogate Value Memorandum).
[89] The Colombian HTS category for 8309.90 reads "Stoppers, Caps, Lids Seals Etc. Nes, Prts. Bs. Metl." See Preliminary Surrogate Value Memorandum at Attachment 3.

7010.90 and 8309.90 represent the best (and indeed, the only) available information on the record regarding the value of glass jars and metal caps, respectively.

Comment 5: Compost Offset

Respondents dispute the Department's assignment of a value for cow manure as the surrogate value assigned to value the used compost that Respondents sold to local farmers as organic fertilizer. Respondents assert that while cow manure is one of several inputs used to make compost, "used compost is a distinct product from cow manure."[90] Respondents assert that the Department should derive a surrogate value for compost from the Colombian HTS item 3101.00 "Animal Or Vegetable Fertilizers, Including Mixed Or Chemically Treated: Fertilizers Made by Mixing Or Vegetable Products." Respondents further assert that to the extent that this surrogate value exceeds the sum of the underlying surrogate values of the compost (i.e., in the case of Gangchang, cow dung, straw, calcium phosphate, lime, soil, and water; in the case of Kangfa, cow dung, straw, gypsum, lime, urea, soil, water) the Department can cap the surrogate value of compost by the surrogate value of all of the inputs that underlie the value of the compost.

Petitioner argues that Respondents have submitted no surrogate values regarding the value of commercial fertilizer in Colombia. Petitioner further argues that since the spent compost is a "manure-related by-product" which is sold subsequent to the sale of fresh mushrooms (at which point a significant portion of the nutrient content has been absorbed into the mushrooms), it is "illogical" to assign a surrogate value for the compost produced by Respondents which corresponds to the value of commercial fertilizer (which is intended for the provision of growing nutrients).[91] Petitioner argues that because it is possible to value the inputs that remain in spent compost, the Department should base the surrogate value of compost upon the values set forth by Petitioner in its November 7, 2014 Preliminary Methodology Comments.[92]

Department's Position

We agree with Respondents that the surrogate value of their compost is separate and distinct from the surrogate value of manure. Accordingly, in these Final Results we have recalculated the value of compost based upon the values on the record of the individual items contained in the spent compost that Respondents subsequently resold.[93] We find that the resulting value constitutes the best available information on the record regarding the input in question because it assigns a surrogate value to the compost sold by Respondents that more closely reflects the constituent composition of the compost itself. As Respondents note, the compost which they subsequently resold includes in addition to manure, other elements such as straw, calcium phosphate, gypsum, urea, lime, and water.[94]

However, despite Respondents' suggestion that it would be appropriate to simply sum the surrogate values of all the inputs into the spent compost, we note that compost is generated after

[90] See Respondents Case Brief at 24.
[91] See Petitioner Rebuttal Brief at 6.
[92] Id. citing November 7, 2014 letter from Monterey Mushrooms to Secretary of Commerce Re: 15th Administrative Review of Certain Preserved Mushrooms from the People's Republic of China-Petitioner's Comments in Advance of Preliminary Results at Attachments 1 and 2.
[93] See Gangchang Final Analysis Memorandum at 2; see Kangfa Final Analysis Memorandum at 2.
[94] See Gangchang Supplemental Response at 11; see also Kangfa Supplemental Response at 11.

the end of the growing process, which entails that a portion of the nutrient value of the compost would be absorbed in the growing process.[95] Moreover, both Respondents have reported the nutrients of the recoverable elements contained within their compost.[96] Also, in their November 7, 2014 submission, Petitioner calculated the surrogate value of these inputs that were contained within the compost recovered by Respondents based upon the recoverable nutrients reported by Respondents.[97] Because this calculation incorporates the actual inputs contained in Respondents' spent compost, for these Final Results we have used these data to calculate the value of the spent compost which was respectively sold by Gangchang and Kangfa.[98]

We believe that this represents the best available information on the record regarding the value of this byproduct. We disagree with Respondents that we should instead value the spent compost using Colombian HTS number 3101.00. First, we note that no party has put the surrogate value for Colombian HTS item 3101.00 on the record of this review, and, as previously noted, interested parties bear the burden of creating an adequate record. Additionally, Respondents have not provided any evidence linking their spent compost (a byproduct of the production process, after which a portion of the intrinsic nutrient value has been absorbed due to its use in the cultivation of fresh mushrooms), to an HTS category covering animal and vegetable fertilizers. Respondents provide no evidence that spent compost is commercially or physically similar to the category of items covered by HTS 3101.00. For these reasons, we find that the approach outlined above, which derives from Respondents' own reported data, represents the best available information regarding the correct value of this byproduct.

Comment 6: Surrogate Financial Ratios

Respondents assert that the financial statement of Setas Colombianas S.A. "is insufficiently detailed to enable the Department to accurately calculate the surrogate financial ratios."[99] Respondents argue that because note 19 to that statement (which relates to the cost of goods sold) has only one line item that addresses the manufacture of preserved mushrooms, it is impossible for the Department to adequately distinguish between raw material, labor and energy production costs on one hand and overhead costs on the other.[100] Respondents further contend that note 20 to the financial statement of Setas Colombianas S.A. (which details operating costs under administrative and selling expenses) is also insufficiently detailed to distinguish Setas Colombianas S.A.'s production expenses from overhead and SG&A expenses.[101]

Respondents further assert that if the Department continues to rely on the financial statement of Setas Colombianas S.A., it must correct certain errors and assumptions present in the Department's surrogate financial ratio calculations in the Preliminary Results. Specifically, the Department must 1) classify the "fee" reported under "Administrative Expenses" in the financial statement as an administrative expense rather than an overhead expense, 2) exclude taxation

[95] Id.
[96] See Gangchang Supplemental Response at SQ2-5; see also Kangfa supplemental response at SQ2-5.
[97] See November 7, 2014 letter from Monterey Mushrooms to Secretary of Commerce Re: 15th Administrative Review if Certain Preserved Mushrooms from the People's Republic of China- Petitioner's Comments in Advance of Preliminary Results) (Petitioner Pre-Prelim Comments) at 7.
[98] See Gangchang Final Analysis Memorandum at 2; see also Kangfa Final Analysis Memorandum at 2.
[99] See Respondents Case Brief at 25.
[100] Id.
[101] Id.

expenses reported under "Administrative Expenses" in the financial statement from the pool of SG&A expenses, 3) exclude "services" reported under "Administrative Expenses" from manufacturing overhead expenses based upon Respondents' assertion that these services most likely relate to payment of freight-in expenses and should be classified as a manufacturing labor and energy (MLE) expense, 4) exclude "leases" reported under "Administrative Expenses" from the pool of manufacturing overhead expenses and instead classify these as an SG&A expense, 5) remove "depreciation" reported under "Administrative Expenses" as an element of overhead expenses (because Respondents contend that depreciation of plant and equipment has already been taken into account, depreciation of administrative assets should be reported as an SG&A depreciation expense), 6) assign the "various" expenses reflected under "Administrative Expenses" only once to SG&A expense rather than both as an MLE expense and overhead, and 7) altogether exclude from the financial ratios "services" as an element of SG&A expenses based upon the size of the "services" expense and Respondents' assertion that these expenses likely relate to freight charges.[102]

Petitioner contends that the financial statement of Setas Colombianas S.A. is the only financial statement on the record and it remains an appropriate source of surrogate financial ratios. Petitioner notes that in past reviews, the Department utilized (without objection from respondents) the financial statements of Setas Colombianas S.A.[103] Petitioner further argues that note 19 to Setas Colombianas S.A.'s financial statement is only a part of the company's report that provides information on the company's cost of goods sold (COGs). Petitioner argues that note 19 further breaks out the COGs and reports the costs for "agricultural inputs such as spawn, calcium, casing soil, etc."[104] With respect to labor costs, Petitioner further argues note 20 to Setas Colombianas S.A.'s financial statement combined with the social report section establishes that the company sustained 10,394,000 Colombian pesos in total labor costs during the year and spent 1,500,174 and 2,347,245 Colombian pesos on administrative and sales staff, respectively. As a result, the balance, 7,956,754 Colombian pesos, must relate to factory employee costs, which is another element of COGs.[105] Petitioner also notes that Setas Colombianas S.A.'s cash flow statement and note 20 to the financial statement establishes that the company had total annual depreciation costs of 2,939,736 Colombian pesos during the year, of which 36,641 and 49,556 Colombian pesos related to depreciation on administrative assets and sales/marketing asserts. As a result, the balance, 2,855,539 pesos, relates to COGs and this proportion of the total remaining COGs relate to production overhead.[106] The totality of all COGs (21,112,588 Colombian Pesos) can be attributed to energy. Taking the line items together, Petitioner argues that the financial statement of Setas Colombianas S.A. provides a detailed report of the company's COGs.

Regarding Respondents' proposed adjustments to the surrogate financial ratios, Petitioner has no objection to classifying expenses identified in the financial statement as administrative "fees,"

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[102] Id. at 26-27.
[103] See Certain Preserved Mushrooms From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 15833 (March 12, 2013) and accompanying Preliminary Results Issues and Decision Memorandum at 15 (2011-2012 Mushroom Review) (unchanged in Certain Preserved Mushrooms From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 34037 (June 6, 2013)).
[104] See Petitioner Rebuttal Brief at 9.
[105] Id.
[106] Id.

"leases" and "various" charges as SG&A rather than overhead expenses. Petitioner also agrees that "various" administrative expenses should not also be treated as an MLE expense.[107] However, Petitioner opposes the remainder of Respondents' proposed adjustments.

Regarding the recalculation of Setas Colombianas S.A's tax expense, Petitioner cites to 2006-2007 Chlorinated Iscocyanurates,[108] wherein the Department determined that many taxes should be included in calculating surrogate financial ratios except income taxes, value-added taxes (VAT), or excise taxes. Petitioner further argues that because the tax expense in question is reported separately from Setas Colombianas S.A.'s income taxes in the financial statement, and because there is no evidence suggesting that the taxes in question relate to "excise taxes or VAT," the Department should continue to include the line item related to taxes in the SG&A numerator.[109]

Regarding whether to treat services as an MLE expense, Petitioner asserts that there exists no record evidence suggesting that these expenses represent freight-in expenses of purchased raw material pertaining to the "production of goods sold."[110] Citing Activated Carbon, Petitioner notes that rules of accounting dictate that "raw materials inventory on a company's balance sheet is to be valued at a cost that includes all necessary expenditures to acquire such materials and bring them to the desired condition and location for use in the manufacturing process," and the valuation "includes not only the purchase price of the raw material," but also freight-in expenses.[111] As such, there is no reason to consider "Administrative Services" as reflective of freight-in expenses, given that freight-in expenses are already reflected in the raw materials inventory.

Regarding "selling services" (seventh proposed correction above), Petitioner again argues that there is no evidence identifying that these expenses are related to freight. Petitioner argues that it is "more reasonable" to assume that such expenses relate to the purchase of varied support services for Setas Colombianas S.A.'s sales and marketing offices.[112] Based upon Setas Colombianas S.A.'s "broad" classification of these expenses, Petitioner asserts that these expenses are appropriately included as an element of SG&A expenses.[113] According to Petitioner, the Department does not reclassify or "go behind" an expense reported by the surrogate company absent specific information enumerating the components of an expense (citing Activated Carbon).

Department's Position

We continue to find that the financial statements of Setas Colombianas S.A. represent the "best available information" on the record for valuing surrogate financial ratios within the meaning of

[107] Id.
[108] See Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review 2006-2007, 73 FR 52645 (September 10, 2008), and Accompanying Issues and Decision Memorandum at Comment 5 (2006-2007 Chlorinated Isocyanurates).
[109] See Petitioner Rebuttal Brief at 11.
[110] Id. at 12.
[111] See Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013, 79 FR 70163 (November 25, 2014) and Accompanying Issues and Decision Memorandum at Comment 5 (Activated Carbon).
[112] Id. at 13.
[113] Id. at 14 citing Activated Carbon at Comment 5.

section 773(c)(1) the Act. The Department's preference is to rely on surrogate financial statements from the primary surrogate country that are from a producer of identical or comparable merchandise, contemporaneous with the POR, and publicly available.[114] Consistent with this practice, we find that the financial statement of Setas Colombianas S.A. is reflective of the product in question (because Setas Colombianas S.A. is itself a mushroom producer, and thus a producer of identical merchandise), publicly available, and contemporaneous with the POR.[115] Moreover, we note that the Department has used the financial statements of Setas Colombianas S.A. to calculate surrogate financial ratios in both the 2011-2012 Mushroom Review and the 2010-2011 Mushroom Review of this proceeding.[116] While Respondents claim that the financial statement is insufficiently detailed, we disagree and in any event note that neither Respondents nor any other party has put any additional financial statement data on the record of this review which could serve as an alternative source of surrogate financial ratio data. Accordingly, we have continued to utilize the Setas Colombianas S.A. financial statement data in these Final Results.

Regarding, the reclassification of certain financial expenses proposed by Respondents, we agree that Setas Colombianas S.A's "fees," "leases," and "various" expenses should be classified as SG&A expenses rather than overhead expenses. Because each of these expenses relate to the general expenses of Setas Colombianas S.A. rather than to overhead expenses, we have reclassified the line items relating to "fees," "leases," and "various" as SG&A expenses in these Final Results.[117] Additionally, we also agree with Respondents that there is nothing in Setas Colombianas S.A.'s "various" expenses that would tie these expenses to Setas Colombianas S.A.'s MLE expense. Therefore, we have removed these "various" expenses from the pool of MLE expenses used to calculate surrogate financial ratios employed in the Final Results.[118]

However, in these Final Results we disagree with Respondents' assertion that taxes should be removed from the pool of administrative expenses incurred by Setas Colombianas S.A. As noted in 2006-2007 Chlorinated Isocyanurates, and consistent with the position taken in Polyethylene Retail Carrier Bags, it is the Department's "practice to include rates and taxes in the surrogate ratio for SG&A expenses unless the taxes are related to the income or VAT category."[119]

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[114] See Certain Steel Nails From the People's Republic of China: Final Results of the Fourth Antidumping Duty Administrative Review, 79 FR 19316 (April 8, 2014), and accompanying Issues and Decision Memorandum at Comment 2.

[115] See, e.g., First Administrative Review of Certain Polyester Staple Fiber From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 75 FR 1336 (January 11, 2010), and accompanying Issues and Decision Memorandum at Comment 1.

[116] See 2011-2012 Mushroom Review Preliminary Results Issues and Decision Memorandum at 15 (unchanged in the Final Results); see also Certain Preserved Mushrooms From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Rescission in Part; 77 FR 13264, 13269 (March 6, 2012) (unchanged in 2010-2011 Mushroom Review).

[117] See Gangchang Final Analysis Memorandum at Attachment 1; see also Kangfa Final Analysis Memorandum at Attachment 1.

[118] Id.

[119] See 2006-2007 Chlorinated Isocyanurates and Accompanying Issues and Decision Memorandum at Comment 5 citing Polyethylene Retail Carrier Bags from the People's Republic of China: Final Results of the Administrative Review and Partial Rescission of Review, 73 FR 14216 (March 17, 2008) and Accompanying Issues and Decision Memorandum at Comment 2 (Polyethylene Retail Carrier Bags); see also Certain Tissue Paper Products From the People's Republic of China: Final Results and Partial Rescission of the 2007-2008 Antidumping Duty Administrative Review and Determination Not to Revoke in Part, 74 FR 52176 (October 9, 2009) and

Though our general practice is to select surrogate values on a tax neutral basis to create a tax neutral comparison, financial statements represent the overall operations of a company, which can include tax liabilities in the normal course of operation. Therefore, we have determined that inclusion of these taxes when not related to income, VAT, or excise taxes accurately reflects the financial experience of a surrogate company.

From our review of Setas Colombianas S.A.'s financial statements, we find that income taxes are clearly accounted for elsewhere in the financial statement, and we find nothing in the line item for taxation included within administrative expenses that individually itemizes the taxes in question or that ties the amount for taxes to income, VAT, or excise taxes. Moreover, Respondents have provided no additional information to support their speculation that the taxes that they incurred should be removed from the financial ratio analysis employed by the Department, nor do Respondents cite any evidence that the line item for "taxes" in the financial statements is inclusive of income, VAT, or excise taxes. Accordingly, in these Final Results, we have treated the tax item in question in the same manner that was employed in our Preliminary Results.

We also disagree with Respondents' claims that the "services" expenses reported under "Selling Expenses" and "Administrative Expenses" should be removed from the SG&A calculation and the manufacturing overhead calculation, respectively. There is no evidence in this review that would tie any of these "services" to freight-in or to other freight–related expenses, and Respondents have cited no support for their contrary propositions. Moreover, with respect to "services" classified under "Administrative Expenses," we agree with Petitioner that general accounting practice dictates that raw materials inventory on a company's balance sheet are generally "valued at a cost that includes all necessary expenditures to acquire such materials and bring them to the desired condition and location for use in the manufacturing process," and the valuation "includes not only the purchase price of the raw material," but also freight-in expenses.[120] Accordingly, there is no reason to consider "services" classified under "Administrative Expenses" to reflect freight-in expenses. We thus find without merit Respondents' assertion that these "services" expense were "double counted" by virtue of their inclusion in the pool of Setas Colombianas S.A.'s SG&A expenses.

Finally, we also disagree with the reclassification of depreciation expense proposed by Respondents. Based upon the nature of the depreciation expense at issue here, we find it reasonable to assign both the 2,855,539 and 34,641 depreciation amounts to overhead. As Petitioner has noted, Setas Colombianas S.A.'s cash flow statement and note 20 to the financial statement establish that the company had total annual depreciation costs of 2,939,736 Colombian pesos during the year, of which 34,641 and 49,556 Colombian pesos, respectively, related to depreciation on administrative assets and sales/marketing assets. Moreover, the remaining pool of depreciation expense is not listed as elements of either COGs or SG&A. Additionally, there is no evidence that the 34,641 depreciation expense which is listed in note 20 as "Operating Expense" depreciation expense comes from the same pool of expenses as the 2,855,539 amount of expense that is included within manufacturing overhead. Thus, we maintain that depreciation expenses not reported as operational costs or traceable to sales or direct manufacturing activities are classified within overhead. We, therefore, continue to find it reasonable to assign to

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Accompanying Issues and Decision Memorandum at Comment 6.

[120] See Activated Carbon, at Accompanying Issues and Decision Memorandum at Comment 5.

overhead both the 2,855,539 amount and the 34,641 depreciation amount included in note 20 to Setas Colombianas' financial statements.

Recommendation

Based on our analysis of the comments received, we recommend adopting the position set forth in the "Department's Position" sections, above. If these recommendations are accepted, we will publish these Final Results, including the final dumping margins for all companies subject to this review, in the Federal Register.

Agree ✓ Disagree_____

Ronald K Lorentzen

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

June 1, 2015

Date