



UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
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January 14, 2015

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for the Preliminary Results of the
Antidumping Duty New Shipper Review of Dezhou Kaihang in
Certain Preserved Mushrooms from the People's Republic of
China

I. SUMMARY

In response to a request from an interested party, the Department of Commerce (the Department) is conducting a new shipper review (NSR) for Dezhou Kaihang Agricultural Science Technology Co., Ltd. (Dezhou Kaihang) with respect to the antidumping duty (AD) order on certain preserved mushrooms from the People's Republic of China (PRC). The period of review (POR) is February 1, 2013, through February 28, 2014.¹ The Department preliminarily determines that Dezhou Kaihang is a new shipper and has made a sale at a price below normal value (NV).

If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. We intend to issue final results no later than 90 days from the issuance of these preliminary results, pursuant to section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the Act).

¹ The Department extended the review period for this new shipper review by 28 days until February 28, 2014 to capture the entry associated with the sale made by Dezhou Kaihang during the POR. See 19 CFR 351.214(f)(2)(ii); Certain Preserved Mushrooms from the People's Republic of China; Initiation of New Shipper Review; 2013-2014, 79 FR 17505 (March 28, 2014) (Initiation Notice).



II. BACKGROUND

On February 27, 2014, Dezhou Kaihang requested an NSR.² On March 28, 2014, the Department initiated this NSR for Dezhou Kaihang.³ On September 4, 2014, we extended the deadline for issuing our preliminary results by 120 days, until January 14, 2015.⁴

Information and Comments Submitted in this New Shipper Review

On April 1, 2014, the Department issued its initial AD questionnaire to Dezhou Kaihang.⁵ On April 8, 2014 Sunny Dell Foods Inc. (Sunny Dell), a domestic interested party, submitted comments on the information set forth in Dezhou Kaihang's NSR Request.⁶ On May 23, 2014, Dezhou Kaihang submitted its response to Section A of the AD Questionnaire.⁷ On May 28, 2014, Dezhou Kaihang submitted comments concerning selection of a surrogate country.⁸ On June 11, 2014, petitioner Monterey Mushrooms Inc. (Monterey Mushrooms) also submitted comments concerning selection of a surrogate country.⁹ On June 16, 2014, Dezhou Kaihang submitted its response to Sections C and D of the AD Questionnaire.¹⁰ On June 30, 2014, Dezhou Kaihang submitted its importer's response to the AD questionnaire.¹¹ On July 2, 2014, Monterey Mushrooms and Dezhou Kaihang submitted additional comments concerning selection of a surrogate country.¹² On July 14, 2014, Monterey Mushrooms submitted rebuttal surrogate

² See Letter from Dezhou Kaihang Agricultural Science Technology Co., Ltd. to the Secretary of Commerce Re: "Certain Preserved Mushrooms from China: Request for New Shipper Review," dated February 27, 2014 (Dezhou Kaihang NSR Request).

³ See Initiation Notice.

⁴ See Memorandum from John K. Drury to Christian Marsh Re: "Certain Preserved Mushrooms from the People's Republic of China: Extension of Deadline for the Preliminary Results of the New Shipper Review," dated September 4, 2014.

⁵ See Letter from Angelica L. Mendoza to Dezhou Kaihang Agricultural Science Technology Co., Ltd. Re: "Certain Preserved Mushrooms from the People's Republic of China: New Shipper Review," dated April 1, 2014 (AD Questionnaire).

⁶ See Letter from Sunny Dell Foods Inc. to Secretary of Commerce Re: "Certain Preserved Mushrooms from the People's Republic of China: Comments on Factual Information Submitted by Dezhou Kaihang," dated April 8, 2014.

⁷ See Letter from Dezhou Kaihang Agricultural Science Technology Co., Ltd. to the Secretary of Commerce Re: "Certain Preserved Mushrooms from China: Submission of Dezhou Kaihang's Section A Response China," dated May 23, 2014 (Dezhou Kaihang Section A Response).

⁸ See Letter from Dezhou Kaihang Agricultural Science Technology Co., Ltd. to the Secretary of Commerce Re: "Certain Preserved Mushrooms from China: Surrogate Country Selections," dated May 28, 2014 (Dezhou Kaihang May 28, 2014 Surrogate Country Comments).

⁹ See Letter from Monterey Mushrooms to Secretary of Commerce Re: "2013/2014 New Shipper Review of Certain Preserved Mushrooms from the People's Republic of China- Petitioner's Comments on the Department's List of Potential Surrogate Countries," dated June 11, 2014.

¹⁰ See Letter from Dezhou Kaihang Agricultural Science Technology Co., Ltd. to the Secretary of Commerce Re: "Certain Preserved Mushrooms from China: Submission of Dezhou Kaihang's Section C and Response," dated June 16, 2014 (Dezhou Kaihang Section C and D Response).

¹¹ See Letter from Dezhou Kaihang Agricultural Science Technology Co., Ltd. to the Secretary of Commerce Re: "Certain Preserved Mushrooms from China: Submission of Dezhou Kaihang's Importer Response," dated June 30, 2014 (Importer Response).

¹² See Letter from Monterey Mushrooms to Secretary of Commerce Re: "2013/2014 New Shipper Review of Certain Preserved Mushrooms from the People's Republic of China- Petitioner's Comments on the Department's

country selection comments.¹³ On July 17, 2014, Monterey Mushrooms filed comments regarding surrogate values to be used in this review.¹⁴ On July 30, 2014, the Department issued a supplemental questionnaire to Dezhou Kaihang.¹⁵ On August 20, 2014 and August 28, 2014, Dezhou Kaihang filed its response to our July 30, 2014 supplemental questionnaire.¹⁶ On December 15, 2014, both Dezhou Kaihang and Monterey Mushrooms filed additional comments regarding the surrogate values to be used in this review.¹⁷ On December 23, 2014, Monterey Mushrooms filed rebuttal comments in response to Dezhou Kaihang's December 15, 2014 filing.¹⁸

III. SCOPE OF THE ORDER

The products covered by this order are certain preserved mushrooms, whether imported whole, sliced, diced, or as stems and pieces. The 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"

Selection of Primary Surrogate Country," dated July 2, 2014 (Monterey Mushrooms July 2, 2014 Surrogate Country Comments); see also Letter from Dezhou Kaihang Agricultural Science Technology Co., Ltd. to the Secretary of Commerce Re: "Certain Preserved Mushrooms from China: Surrogate Country Selection Comments," dated July 2, 2014 (Dezhou Kaihang July 2, 2014 Surrogate Country Comments)..

¹³ See Letter from Monterey Mushrooms to Secretary of Commerce Re: "2013/2014 New Shipper Review of Certain Preserved Mushrooms from the People's Republic of China- Rebuttal of Dezhou Kaihang's Surrogate Country Selection Comments," dated July 14, 2014.

¹⁴ See Letter from Monterey Mushrooms to Secretary of Commerce Re: "2013/2014 New Shipper Review of Certain Preserved Mushrooms from the People's Republic of China- Petitioner's Comments Concerning Surrogate Value Selection," dated July 17, 2014 (Monterey Mushrooms July 17, 2014 Surrogate Value Comments).

¹⁵ See Letter from Angelica L. Mendoza to Dezhou Kaihang Agricultural Science Technology Co., Ltd. requesting additional information, dated July 30, 2014 (Supplemental Questionnaire).

¹⁶ See Letter from Dezhou Kaihang Agricultural Science Technology Co., Ltd. to the Secretary of Commerce Re: "Certain Preserved Mushrooms from China: Submission of Dezhou Kaihang's Supplemental Response," dated August 20, 2014 (August 20, 2014 Supplemental Response); see also Letter from Dezhou Kaihang Agricultural Science Technology Co., Ltd. to the Secretary of Commerce "Re-Submission of Dezhou Kaihang's Response to Questions 25, 28 and 29 of the Supplemental Questionnaire," dated August 28, 2014 (August 28, 2014 Supplemental Response).

¹⁷ See Letter from Dezhou Kaihang Agricultural Science Technology Co., Ltd. to the Secretary of Commerce Re: "Certain Preserved Mushrooms from China: Submission of Surrogate Value Information," dated December 15, 2014 (Dezhou Kaihang December 15, 2014 Surrogate Value Submission); see also Letter from Monterey Mushrooms to Secretary of Commerce Re: "20th New Shipper Review of Certain Preserved Mushrooms from the People's Republic of China- Petitioner's Submission of Surrogate Value Information," dated December 15, 2014 (Monterey Mushrooms December 15, 2014 Surrogate Value Comments).

¹⁸ See Letter from Monterey Mushrooms to Secretary of Commerce Re: "20th New Shipper Review of Certain Preserved Mushrooms from the People's Republic of China- Petitioner's Submission of Factual Information Rebutting Dezhou Kaihang's Surrogate Value Data," dated December 23, 2014.

mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing.¹⁹

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.

IV. DISCUSSION OF THE METHODOLOGY

A. Bona Fide Sale Analysis

For this review, consistent with the Department’s practice, we investigated the bona fide nature of the sale made by Dezhou Kaihang during the POR. In evaluating whether a sale in an NSR is commercially reasonable, and therefore bona fide, the Department considers, inter alia, such factors as: (1) the timing of the sale; (2) the price and quantity of the sale; (3) the expenses arising from the transaction; (4) whether the goods were resold at a profit; and (5) whether the transaction was made on an arm’s-length basis.²⁰ Accordingly, the Department considers a number of factors in its bona fide sale analysis, “all of which may speak to the commercial realities surrounding an alleged sale of subject merchandise.”²¹ In TTPC, the Court of International Trade (CIT) also affirmed the Department’s decision that any factor which indicates that the sale under consideration is not likely to be typical of those which the producer will make in the future is relevant,²² and found that the weight given to each factor investigated will depend on the circumstances surrounding the sale.²³ Finally, in New Donghua, the CIT affirmed the Department’s practice of evaluating the circumstances surrounding a sale in a new shipper review so that a respondent does not unfairly benefit from an atypical sale and obtain a

¹⁹ 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 U.S. Court of Appeals for the Federal Circuit upheld the Department’s decision. See Tak Fat Trading Co. v. United States, 396 F.3d 1378 (Fed. Cir. 2005).

²⁰ See, e.g., Tianjin Tiancheng Pharmaceutical Co., Ltd. v. United States, 366 F. Supp. 2d 1246, 1250 (CIT 2005) (TTPC).

²¹ See Hebei New Donghua Amino Acid Co., Ltd. v. United States, 374 F. Supp. 2d 1333, 1342 (CIT 2005) (New Donghua) (citing Fresh Garlic From the People’s Republic of China: Final Results of Antidumping Administrative Review and Rescission of New Shipper Review, 67 FR 11283 (March 13, 2002)).

²² TTPC, 366 F. Supp. 2d at 1250.

²³ Id. at 1263.

lower dumping margin than the producer's usual commercial practice would dictate.²⁴ Where the Department finds that a sale is not bona fide, the Department will exclude the sale from its dumping margin calculations.

The Department preliminarily finds that the sale of subject merchandise made by Dezhou Kaihang was on a bona fide basis. Specifically, the Department preliminarily finds that: (1) the timing of the sale does not indicate that the sale might not be bona fide;²⁵ (2) record evidence indicates that the prices and quantities of the sales are commercially reasonable and not atypical of normal business practices of mushroom exporters;²⁶ (3) there is no evidence to suggest that Dezhou Kaihang incurred any extraordinary expenses arising from the transactions;²⁷ and (4) the new shipper sale was made between Dezhou Kaihang and its unaffiliated U.S. customer at arm's length.²⁸ Therefore, based on the totality of the circumstances surrounding the sale, the Department preliminarily finds that Dezhou Kaihang's sale of subject merchandise to the United States is bona fide for the purposes of this NSR.

B. Non-Market Economy Country Status

In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is a nonmarket economy (NME) country shall remain in effect until revoked by the administering authority. As such, the Department continues to treat the PRC as an NME in this proceeding. Accordingly, we calculated NV using the factors of production (FOP) methodology in accordance with section 773(c) of the Act, which applies to NME countries.

C. Separate Rates

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assessed a single antidumping duty rate.²⁹ In the Initiation Notice, the Department notified Dezhou Kaihang of the application process by which it could obtain separate rate status in this NSR.³⁰ It is the Department's policy to assign all exporters of subject merchandise in an NME country a

²⁴ New Donghua, 374 F. Supp. 2d at 1344.

²⁵ See Dezhou Kaihang NSR Request at Attachment 2, which supports the sales information reported by Dezhou Kaihang in its Section C Response; see also Memorandum from Michael J. Heaney to Rich Weible Re: "Bona Fide Sales Analysis of Dezhou Kaihang Agricultural Science Technology Co., Ltd. (Dezhou Kaihang) in the Antidumping Duty New Shipper Review of Certain Preserved Mushrooms from the PRC," dated January 14, 2015, at 3-4 (Bona Fide Memorandum).

²⁶ See Dezhou Kaihang NSR Request at Attachment 2; see also Bona Fide Memorandum at 3-4.

²⁷ See Dezhou Kaihang Section C and Section D Response at C-16 to C-32; see also Bona Fide Memorandum at 5.

²⁸ See Importer Response at 1-2; see also Dezhou Kaihang August 20, 2014 Supplemental Response at 3, which details the equity structure of NKS Processed Foods LLC; see also Bona Fide Memorandum at 5. The information set forth in the Importer Response along with the shareholder data provided in Dezhou Kaihang's August 20, 2014 Supplemental Response and August 28, 2014 Supplemental Response indicate no evidence of any equity relationship between Dezhou Kaihang and its U.S. customer. We further note that in its August 28, 2014 Supplemental Response Dezhou Kaihang made public the identity of its U.S. customer.

²⁹ See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries.

³⁰ See Initiation Notice at 17506.

single NME-wide rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.³¹ Exporters can demonstrate this independence by demonstrating the absence of both de jure and de facto governmental control over export activities.³² The Department analyzes each entity's export independence under a test first articulated in Sparklers and as further developed in Silicon Carbide.³³ However, if the Department determines that a company is wholly foreign-owned or located in a market economy (ME), then a separate rate analysis is not necessary to determine whether it is independent from government control.³⁴

D. Separate Rate Recipient

1. Wholly Chinese-Owned Company

Dezhou Kaihang reported that it is a wholly Chinese-owned company that is privately owned and controlled.³⁵ According to Dezhou Kaihang's business license, it is incorporated as a limited liability company.³⁶ We analyzed whether Dezhou Kaihang demonstrated the absence of both de jure and de facto governmental control over its export activities.

2. Absence of De Jure Control

The Department considers the following de jure criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses, (2) any legislative enactments decentralizing control of companies, and (3) other formal measures by the government decentralizing control of companies.³⁷ The evidence provided by Dezhou Kaihang supports a preliminary finding of an absence of de jure government control based upon the following: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses, (2) the existence of applicable legislative enactments decentralizing control of companies, and (3) the implementation of formal measures by the government decentralizing control of companies.³⁸

3. Absence of De Facto Control

Typically, the Department considers four factors in evaluating whether a respondent is subject to de facto government control of its export functions: (1) whether the export prices (EPs) are set by or are subject to the approval of a government agency, (2) whether the respondent has

³¹ Id.

³² Id.

³³ See Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China, 56 FR 20588 (May 6, 1991) (Sparklers); see also Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China, 59 FR 22585 (May 2, 1994) (Silicon Carbide).

³⁴ See, e.g., Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles from the People's Republic of China, 72 FR 52355, 52356 (September 13, 2007).

³⁵ See Dezhou Kaihang Section A Response at A-2.

³⁶ See Dezhou Kaihang Section A Response at Attachment 2.

³⁷ See Sparklers, 56 FR at 20589.

³⁸ See Dezhou Kaihang's Section A Response at A-3 to A-4.

authority to negotiate and sign contracts and other agreements, (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management, and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding de facto disposition of profits or financing of losses.³⁹ The Department determined that an analysis of control is critical in determining whether Dezhou Kaihang is, in fact, subject to a degree of governmental control, which would preclude the Department from assigning a separate rate. The evidence provided by Dezhou Kaihang supports a preliminary finding of an absence of de facto government control based upon (1) Dezhou Kaihang setting its own EPs independent of the government and without the approval of a government authority, (2) Dezhou Kaihang having the authority to negotiate and sign contracts and other agreements, (3) Dezhou Kaihang maintaining autonomy from the government in making decisions regarding the selection of management, and (4) Dezhou Kaihang retaining the proceeds of its export sales and making independent decisions regarding disposition of profits or financing of losses.⁴⁰

As a result of our analysis, the Department preliminarily finds that Dezhou Kaihang established that it qualifies for a separate rate under the criteria established by Sparklers and Silicon Carbide.

E. Surrogate Country

When the Department is reviewing imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's FOPs, valued in a surrogate market economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market economy countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.⁴¹

In this NSR, the Department determined that Bulgaria, Colombia, Ecuador, Indonesia, South Africa, and Thailand are countries at the same level of economic development as the PRC.⁴² On May 21, 2014, the Department invited parties to comment on the selection of a surrogate country and surrogate values.

³⁹ See Silicon Carbide, 59 FR at 22587; see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China, 60 FR 22544, 22545 (May 8, 1995).

⁴⁰ See Dezhou Kaihang's Section A Response at A-6 to A-10.

⁴¹ See Import Administration Policy Bulletin 04.1, "Non-Market Economy Surrogate Country Selection Process," (March 1, 2004) (Policy Bulletin) available at <http://enforcement.trade.gov/policy/bull04-1.html>.

⁴² See Memorandum from Carole Showers, Director, Office of Policy, to Richard Weible, Director, Office VI; "Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Certain Preserved Mushrooms (Mushrooms) from the People's Republic of China ("China")," dated May 7, 2014 (Surrogate Country List) which is set forth as Attachment 1 to a letter to all interested parties from Angelica L. Mendoza Re: "New Shipper Review of Certain Preserved Mushrooms from the People's Republic of China ("PRC"): Request for Surrogate Country and Surrogate Value Comments and Information," dated May 21, 2014. The Department notes that the six countries referenced in the Surrogate Country List are part of a non-exhaustive list of countries that are at a level of economic development comparable to the PRC.

The Department generally selects a surrogate country that is at the same level of economic development as the NME country unless it is determined that none of the countries are viable options because (a) they either are not significant producers of comparable merchandise, (b) do not provide sufficient reliable sources of publicly available surrogate value data, or (c) are not suitable for use based on other reasons.⁴³ Surrogate Countries that are not at the same level of economic development as the NME Country, but still at a level of economic development comparable to the NME country, are selected only to the extent that data considerations outweigh the difference in levels of economic development.

Both Monterey Mushrooms and Dezhou Kaihang submitted comments regarding surrogate country selection. Monterey Mushrooms argued that Colombia was the most comparable economically to the PRC and was a significant producer of mushrooms during the POR.⁴⁴ Dezhou Kaihang argued that in addition to Bulgaria, Colombia, Ecuador, Indonesia, South Africa, and Thailand, the Department should consider selecting surrogate values from thirty-two other source countries.⁴⁵ Dezhou Kaihang also suggested that India could serve as a potential surrogate country.⁴⁶ Additionally, on July 2, 2014, Dezhou Kaihang argued that Indonesia represents a preferable source of surrogate values relative to Colombia because Indonesia is a larger exporter of mushrooms than is Colombia.⁴⁷

1. Economic Comparability

Consistent with Departmental practice, we identified a number of countries that are at a comparable level of economic development as the PRC, based on per capita gross national income as reported in the most current annual issue of the World Development Report.⁴⁸ Thus, the Department considers Bulgaria, Colombia, Ecuador, Indonesia, South Africa, and Thailand to be at a comparable level of economic development as the PRC.

2. Significant Producers of Identical or Comparable Merchandise

Section 773(c)(4)(B) of the Act requires the Department, to the extent possible, to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Because the statute does not define “significant” or “comparable” the Department looks to other sources such

⁴³ See, e.g., Silica Bricks and Shapes From the People’s Republic of China: Preliminary Determination of Antidumping Duty Investigation and Postponement of Final Determination, 78 FR 37204 (June, 20, 2013), and accompanying Preliminary Decision Memorandum at section entitled, “Surrogate Country” (where the Department selected Ukraine as the surrogate country because all of the countries that the Department found to be at the same level of economic development as the PRC did not provide sufficient reliable sources of publicly available SV data).

⁴⁴ See generally Monterey Mushrooms July 2, 2014 Surrogate Country Comments; see also Monterey Mushrooms July 17, 2014 Surrogate Value Comments.

⁴⁵ See Dezhou Kaihang May 28, 2014 Surrogate Country Comments at 2. These countries are: 1) Albania; 2) Algeria; 3) Angola; 4) Armenia; 5) Azerbaijan; 6) Belarus; 7) Bosnia and Herzegovina; 8) Cabo Verde; 9) Dominica; 10) Dominican Republic; 11) El Salvador; 12) Fiji; 13) Grenada; 14) Iraq; 15) Jamaica; 16) Jordan; 17) Kosovo; 18) Macedonia; 19) Maldives; 20) Marshall Islands; 21) Montenegro; 22) Namibia; 23) Peru; 24) Serbia; 25) St. Lucia; 26) St. Vincent; 27) Timor; 28) Tonga; 29) Tunisia; 30) Turkmenistan; 31) Tuvalu; and 32) Ukraine.

⁴⁶ Id.

⁴⁷ See Dezhou Kaihang July 2, 2014 Surrogate Country Comments at 2.

⁴⁸ See Surrogate Country List.

as the Policy Bulletin for guidance on defining comparable merchandise. The Policy Bulletin states that “in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise.”⁴⁹ Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country. The Department has determined whether merchandise is comparable to the subject merchandise on the basis of similarities in physical form and the extent of processing or on the basis of production factors (physical and non-physical) and factor intensities. Where, as here, there is no production information, the Department has relied upon export data from potential surrogate countries.

The Department obtained export data from the Global Trade Atlas (GTA) for Bulgaria, Colombia, Ecuador, Indonesia, South Africa, and Thailand for Harmonized Tariff Schedule (HTS) sub-headings 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, 2003.10.0153, and 0711.51.0000. Based on these data, the Department has found that record evidence demonstrates that Bulgaria, Colombia, Ecuador, Indonesia, South Africa, and Thailand are all significant producers of comparable merchandise.

3. Data Availability

When evaluating surrogate value data, the Department considers several factors, including whether the surrogate values are publicly available, contemporaneous with the POR, representative of broad-market averages, tax- and duty-exclusive, and specific to the input being valued.⁵⁰ The Department’s preference is to satisfy the breadth of these aforementioned selection factors.⁵¹

Having considered the record evidence submitted by interested parties, we preliminarily select Colombia as the surrogate country for valuing Dezhou Kaihang’s FOPs. The Department’s practice is to seek to “value all factors in a single surrogate country.”⁵² As noted above, Bulgaria, Colombia, Ecuador, Indonesia, South Africa, and Thailand are all significant producers of comparable merchandise, and are at a comparable level of economic development to the PRC.⁵³ However, as discussed below, with the exception of land rent,⁵⁴ there are reliable, publicly-available data from Colombia that permit the Department to value all of Dezhou Kaihang’s production inputs from this surrogate value source. Moreover, these Colombian data are generally publicly available, contemporaneous with the period of review, exclusive of duties

⁴⁹ See Policy Bulletin.

⁵⁰ See, e.g., Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and New Shipper Reviews; 2010-2011, 78 FR 17350 (March 21, 2013), and accompanying Issues and Decision Memorandum at Comment I(C).

⁵¹ Id.

⁵² See 19 CFR 351.408(c)(2).

⁵³ See Memorandum to the File, “Administrative Review of Certain Preserved Mushrooms the People’s Republic of China: Surrogate Values for the Preliminary Results of New Shipper Review” (Surrogate Values Memorandum) at Attachment 1, dated concurrently with this notice.

⁵⁴ In this regard, we note that there is no information on the record of this review which permits the Department to value land rent from either Colombian or Indonesian data sources.

and taxes, and represent broad-market averages.⁵⁵ Complete data from Bulgaria, Ecuador, Indonesia, South Africa, or Thailand is not on the record of this review. Specifically, there are no financial data from any of these source countries which would permit the Department to value Dezhou Kaihang's overhead, selling, general and administrative (SG&A), and profit ratios from Indonesian sources.⁵⁶

Therefore, in accordance with section 773(c)(4) of the Act and 19 CFR 351.408(c)(2), the Department preliminarily determines that Colombia is the most appropriate primary surrogate country for purposes of this administrative review. A detailed description of the Colombian surrogate values selected by the Department is provided below in the "Factor Valuations" section of this notice.

V. FAIR VALUE COMPARISONS

Pursuant to 19 CFR 351.414(c)(1), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average EPs (or constructed export prices (CEPs)) (the average-to-average method) unless the Department determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, the Department examines whether to compare weighted-average NVs to the prices of individual export transactions (the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in AD investigations.⁵⁷ In recent investigations and reviews, the Department applied a "differential pricing" analysis to determine whether application of average-to-transaction comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.⁵⁸ The Department finds the differential pricing analysis used in those recent investigations and reviews may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. The Department will continue to

⁵⁵ See 773(c)(4) of the Act; see also Surrogate Values Memorandum at Attachment 1.

⁵⁶ See generally Dezhou Kaihang December 15, 2014 Surrogate Value Submission.

⁵⁷ See Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum at Comment 1.

⁵⁸ See Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 33351 (June 4, 2013) and accompanying Issues and Decision Memorandum at Comment 3; see also Hardwood and Decorative Plywood From the People's Republic of China: Antidumping Duty Investigation, 78 FR 25946 (May 3, 2013), unchanged in Hardwood and Decorative Plywood From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 58273 (September 23, 2013); see also Certain Steel Threaded Rod From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 21101 (April 9, 2013), unchanged in Certain Steel Threaded Rod From the People's Republic of China: Final Results of Third Antidumping Duty Administrative Review; 2011-2012, 78 FR 66330 (November 5, 2013); see also Certain Lined Paper Products From the People's Republic of China: Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review; 2011-2012, 78 FR 34640 (June 10, 2013), unchanged in Certain Lined Paper Products From the People's Republic of China: Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review; 2011-2012, 78 FR 65274 (October 31, 2013).

develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differs significantly among purchasers, regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported customer names. Regions are defined using the reported destination code (*i.e.*, city name, zip code, *etc.*) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region and time period, that the Department uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the "Cohen's *d* test" is applied. The Cohen's *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen's *d* test is calculated when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen's *d* coefficient is used to evaluate the extent to which the net prices to a particular purchaser, region or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen's *d* test: small, medium or large. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant, and the sales in the test group pass the Cohen *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test account for 66 percent or more of the value of total sales, then the identified pattern of EPs that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results

support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen's *d* test as an alternative to the average-to-average method, and application of the average-to-average method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the average-to-average method.

If both tests in the first stage (i.e., the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, we examine whether using only the average-to-average method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average-to-average method only. If the difference between the two calculations is meaningful, this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if 1) there is at least a 25 percent relative change in the weighted-average dumping margin between the average-to-average method and the appropriate alternative method where both rates are above the de minimis threshold, or 2) the resulting weighted-average dumping margin moves across the de minimis threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.

VI. RESULTS OF DIFFERENTIAL PRICING ANALYSIS

In this review, the Department did not apply the Cohen *d* test because Dezhou Kaihang had only one U.S. sale.⁵⁹ Accordingly, the Department used the average to average method to calculate the weighted-average dumping margin for Dezhou Kaihang.

VII. DATE OF SALE

Consistent with 19 CFR 351.401(i), Dezhou Kaihang reported the invoice date as the date of sale.⁶⁰ Therefore, because no record evidence indicates that a different date better reflects the date on which the material terms of sale were established, consistent with the Department's practice and 19 CFR 351.401(i), we selected the invoice date as the date of sale in this new shipper review.

⁵⁹ See Memorandum to the File from Michael J. Heaney, "Analysis of Data Submitted by Dezhou Kaihang Agricultural Science Technology Co., Ltd. in the Preliminary Results of the New Shipper Review of the Antidumping Duty Order on Certain Preserved Mushrooms from the People's Republic of China (PRC)," dated January 14, 2015 (Dezhou Kaihang Analysis Memorandum).

⁶⁰ See Dezhou Kaihang's Section C Response at C-10.

VIII. U.S. PRICE

1. Export Price

In accordance with section 772(a) of the Act, we based Dezhou Kaihang's U.S. price on EP, because the first sale to an unaffiliated purchaser was made before the date of importation and the use of CEP was not otherwise warranted by the facts on the record. As appropriate, we deducted foreign inland freight and foreign brokerage and handling from the starting price (or gross unit price), in accordance with section 772(c)(2) of the Act. These services were provided by NME vendors for Dezhou Kaihang's U.S. sale. Therefore, we based the deduction of these movement charges on surrogate values.⁶¹

We determined the best available information for valuing both truck freight and brokerage and handling to be from the World Bank's Doing Business 2014: Colombia report.⁶² This World Bank report gathers information concerning the distance and cost to transport products in a 20-foot container from the largest city in Colombia to the nearest seaport. We calculated the per-unit inland freight costs using the distance from Colombia's largest city, Bogota, to the nearest seaport, Buenaventura. We calculated a per-kilogram/per-kilometer surrogate inland freight rate of 0.0003 U.S. dollars per kilometer/per kilogram based on using the full capacity of a 20-foot container, as reported in the World Bank report.⁶³

We valued foreign brokerage and handling using a price list of export procedures necessary to export a standardized cargo of goods in Colombia. The price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by ocean transport in Colombia that is published in the World Bank's Doing Business 2014: Colombia.⁶⁴

2. Value Added Tax

In 2012, the Department announced a change of methodology with respect to the calculation of EP and CEP to include an adjustment of any un-refunded value-added taxes (VAT) in certain NMEs in accordance with section 772(c)(2)(B) of the Act.⁶⁵ The Department explained that when an NME government imposes an export tax, duty, or other charge on subject merchandise, or on inputs used to produce subject merchandise, from which the respondent was not exempted, the Department will reduce the respondent's EP and CEP prices accordingly by the amount of

⁶¹ See Surrogate Values Memorandum at Attachment 11.

⁶² The Doing Business 2014: Colombia report is attached at Exhibit R-25 of Monterey Mushrooms December 15, 2014 Surrogate Value Comments.

⁶³ See Monterey Mushrooms December 15, 2014 Surrogate Value Comments at Exhibit R-25; see also Surrogate Values Memorandum at Attachment 11.

⁶⁴ See Monterey Mushrooms December 15, 2014 Surrogate Value Comments at Exhibit R-25.

⁶⁵ See Methodological Change for Implementation of Section 772(c)(2)(B) of the Tariff Act of 1930, as Amended, In Certain Non-Market Economy Antidumping Proceedings, 77 FR 36481, 36482-84 (June 19, 2012) (Methodological Change).

the tax, duty or charge paid, but not rebated.⁶⁶ Where the irrecoverable VAT is a fixed percentage of EP or CEP, the Department explained that the final step in arriving at a tax-neutral dumping comparison is to reduce the U.S. EP or CEP downward by this same percentage.⁶⁷

The Department's methodology, as explained above and applied in this review, essentially amounts to performing two basic steps: (1) determining the amount (or rate) of the irrecoverable VAT tax on subject merchandise, and (2) reducing U.S. price by the amount (or rate) determined in step one. Dezhou Kaihang reported the difference of a 17 percent VAT rate and 15 percent VAT refund rate on the Free on Board (FOB) values of export sales of the subject merchandise to calculate the amount for irrecoverable VAT.⁶⁸ For the purposes of these preliminary results, therefore, we removed from U.S. price the difference between the VAT rate and the rebate rate of two percent, which is the irrecoverable VAT, as defined under Chinese tax law and regulation.⁶⁹

IX. NORMAL VALUE

Section 773(c)(1) of the Act provides that the Department shall determine the NV using an FOP methodology if the merchandise under review is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on FOPs because the presence of government controls on various aspects of the NME economy renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies.⁷⁰

X. FACTOR VALUATIONS

In accordance with section 773(c) of the Act, we calculated NV by adding the value of the FOPs, general expenses, profit, and packing costs reported by Dezhou Kaihang. The Department relied on Colombian import data and other publicly available Colombian sources, along with one Philippine source, to calculate surrogate values for Dezhou Kaihang.⁷¹ To calculate NV, the Department multiplied the reported per-unit FOP quantities by publicly available SVs for Dezhou Kaihang. The Department's practice when selecting the best available information for valuing FOPs is to select, to the extent possible, surrogate values which are product-specific,

⁶⁶ Id.; see also 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 5.A.

⁶⁷ See Methodological Change at 36483.

⁶⁸ See Dezhou Kaihang June 16, 2014 Section C Response at Appendix C-2 and Appendix C-3.

⁶⁹ See Dezhou Kaihang Analysis Memorandum at Attachment 1, lines 689-691.

⁷⁰ See, e.g., Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind in Part, 70 FR 39744 (July 11, 2005), unchanged in Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of 2003-2004 Administrative Review and Partial Rescission of Review, 71 FR 2517 (January 17, 2006).

⁷¹ See Surrogate Values Memorandum.

representative of a broad market average, publicly available, contemporaneous with the POR, and exclusive of taxes and duties.⁷²

The FOPs for subject merchandise include: (1) quantities of raw materials employed; (2) hours of labor required; (3) amounts of energy and other utilities consumed; (4) representative capital and selling costs; and (5) packing materials.⁷³ We valued the FOPs that Dezhou Kaihang reported by multiplying the amount of the factor consumed in producing subject merchandise by the average unit surrogate value of the factor derived from the surrogate values selected.

In accordance with section 773(c) of the Act, for merchandise produced by Dezhou Kaihang, the Department calculated NV based on the FOPs reported by Dezhou Kaihang for the POR. The Department used Colombian import statistics to value the raw material and packing material inputs that Dezhou Kaihang used to produce the merchandise under review except where listed below. We used data from the Colombian import statistics in the GTA, published by Global Trade Information Services, Inc. The GTA reports import statistics for Colombia in the original reporting currency and thus these data correspond to the original currency value reported by each country. The record shows that data in the Colombian import statistics, as well as those from the other Colombian sources, are representative of broad market averages, publicly available, contemporaneous with the POR, product-specific, and tax-exclusive.⁷⁴

As appropriate, we added freight costs to the surrogate values that we calculated for Dezhou Kaihang's material inputs to make these prices delivered prices. We calculated these freight costs by multiplying surrogate freight rates by the shorter of the reported distance from the domestic supplier to the factory that produced the subject merchandise or the distance from the nearest seaport to the factory that produced the subject merchandise, as appropriate. Where there were multiple domestic suppliers of a material input, we calculated a weighted-average distance after limiting each supplier's distance to no more than the distance from the nearest seaport to Dezhou Kaihang. This adjustment is in accordance with the decision by the Court of Appeals for the Federal Circuit in Sigma Corp. v. United States, 117 F.3d 1401, 1407-1408 (CAFC1997). We increased the calculated costs of the FOPs for surrogate general expenses and profit.⁷⁵

Other inputs consisted of cow manure, straw, electricity, water, and land rent. To value cow manure, we relied on the valuation methodology for manure published by FeedCattle.com which values cow manure using the nitrogen, phosphate and potassium contained in the manure.⁷⁶ We

⁷² See, e.g., Electrolytic Manganese Dioxide From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR 48195 (August 18, 2008), and accompanying Issues and Decision Memorandum at Comment 2.

⁷³ See section 773(c)(3) of the Act.

⁷⁴ See Surrogate Values Memorandum.

⁷⁵ See Surrogate Values Memorandum at Attachment 14.

⁷⁶ See Monterey Mushrooms December 15, 2014 Surrogate Value Comments at Exhibit R-2A for the Feedcattle.com study; see also Monterey Mushrooms December 15, 2014 Surrogate Value Comments at Exhibits R-2B, R-2C, and R-2D for respective values of nitrogen, phosphate, and potassium; see also Surrogate Values Memorandum at Attachment 3 for Colombian surrogate values of nitrogen, phosphate and potassium.

based our valuation of the nitrogen, phosphate and potassium contained in cow manure upon Colombian GTA values for these production inputs.⁷⁷

To value straw, we used a North Dakota State University study on the relative value of hay as opposed to straw.⁷⁸ We then used the value of hay published by the Colombian newspaper Vanguardia, to determine the value of straw.⁷⁹

We valued electricity using the tariffs for industrial end users published by Empresas Publicas de Medellin (EPM), a Colombian utility company.⁸⁰ We used the tariff schedule provided by EPM to value water.⁸¹

We found no available factors of production information from Bulgaria, Colombia, Ecuador, Indonesia, South Africa, or Thailand to value land rent. Therefore, consistent with the methodology employed in the 2011-2012 review of this proceeding,⁸² we used the national rental values of farmland for vegetable farming in the Philippines, as compiled by the Philippine Bureau of Agricultural statistics to value land rent.⁸³ Moreover, we note that the Philippines is a significant producer of comparable merchandise.⁸⁴

Consistent with 19 CFR 351.408(c)(4), to value the surrogate financial ratios for factory overhead (OH), SG&A expenses, and profit, the Department used the 2013 financial statements of Setas Colombianas S.A (Setas). Setas is a Colombian producer of preserved mushrooms, and it is therefore appropriate to use its financial statements since Setas is a producer of comparable merchandise. Moreover, Setas' financial ratios for OH, SG&A, and profit are comparable to the

⁷⁷ See Surrogate Values Memorandum at Attachment 3. We note that in Blue Field (Sichuan) Food Industrial Co., Ltd. v. United States, 949 F. Supp. 2d 1311, 1331-33 (CIT 2013) (Blue Field), the CIT held that the Department did not support with substantial evidence its determination that Colombian GTA data for manure (HTS category 3101.00) was the best available information to value Blue Field's cow manure input. Specifically, the CIT found, inter alia, that the Department (1) did not explain possible aberrations within the HTS category, and (2) did not reasonably consider whether the Colombian GTA value for manure was specific to the production input used by Blue Field. See id.

⁷⁸ See Monterey Mushrooms December 15, 2014 Surrogate Value Comments at Exhibit R4A.

⁷⁹ See id., at Exhibit R4-B; see also Surrogate Values Memorandum at Attachment 6. We note that in Blue Field, the CIT held that the Department did not support with substantial evidence its determination that Colombian GTA data for the HTS category for straw (HTS category 1213.00, "Cereal straw and husks, unprepared, whether or not chopped, ground, pressed or in the form of pellets") was the best available information to value Blue Field's rice straw input. Specifically, the CIT found, inter alia, that the Department (1) did not explain possible aberrations within the HTS category; and (2) did not reasonably consider whether the Colombian GTA value for straw was specific to the production input used by Blue Field. See Blue Field, 949 F. Supp. 2d at 1326-29.

⁸⁰ The applicable EPM tariff schedules are set forth at Exhibit R-15 of Monterey Mushrooms December 15, 2014 Surrogate Value Comments.

⁸¹ See Monterey Mushrooms December 15, 2014 Surrogate Value Comments at Exhibit R-14; see also Surrogate Values Memorandum at Attachment 7.

⁸² See Certain Preserved Mushrooms From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 15683 (March 12, 2013) 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).

⁸³ See Monterey Mushrooms July 17, 2014 surrogate values submission at Exhibit 6; see also Surrogate Values Memorandum at Attachment 8.

⁸⁴ See Surrogate Values memorandum at Attachment 1.

financial ratios of Dezhou Kaihang by virtue of Setas' status as a producer of Colombian preserved mushrooms.⁸⁵

In accordance with the legislative history of the Omnibus Trade and Competitiveness Act of 1988, the Department continues to disregard surrogate values if it has a reason to believe or suspect the inputs reflected in the source data may be subsidized.⁸⁶ In this regard, the Department has previously found that it is appropriate to disregard prices based upon exports from India, Indonesia, South Korea, and Thailand because we have determined that these countries maintain broadly available, non-industry specific export subsidies. Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POR, the Department finds that it is reasonable to infer that all exporters from India, Indonesia, and South Korea may have benefitted from these subsidies.⁸⁷ Additionally, we disregarded prices from NME countries. Finally, we excluded imports that were labeled as originating from an "unspecified" country from the average value, because the Department could not be certain that they were not from either an NME country or a country with general export subsidies.⁸⁸

On June 21, 2011, the Department announced its new methodology to value the cost of labor in NME countries.⁸⁹ In Labor Methodologies, the Department determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country. Additionally, the Department determined that the best data source for industry-specific labor rates is Chapter 6A: Labor Cost in Manufacturing, from the International Labor Organization (ILO) Yearbook of Labor Statistics (Yearbook).

The Department is using data reported under Chapter 6A by the ILO to value Dezhou Kaihang's labor input. In keeping with the Department's preference to use industry-specific wage data, we filtered the ILO data for sub-classification 15, "Manufacture of Food Products and Beverages,"

⁸⁵ See Monterey Mushrooms July 17, 2014 Surrogate Value Comments at Exhibits 26A, 26B, and 26C; see also Surrogate Values Memorandum at Attachment 12.

⁸⁶ See Omnibus Trade and Competitiveness Act of 1988, Conf. Report to Accompany H.R. 3, H.R. Rep. No. 576, 100th Cong., 2nd Sess. (1988) at 590.

⁸⁷ See, e.g., Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia: Final Results of Expedited Sunset Review, 70 FR 45692 (August 8, 2005), and accompanying Issues and Decision Memorandum at 4; Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review, 74 FR 2512 (January 15, 2009), and accompanying Issues and Decision Memorandum at 17, 19-20; and Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order, 75 FR 13257 (March 19, 2010), and accompanying Issues and Decision Memorandum at 4-5 and Certain Frozen Warmwater Shrimp From Thailand: Final Negative Countervailing Duty Determination, 78 FR 50379 (August 19, 2013).

⁸⁸ See Fresh Garlic from the People's Republic of China: Preliminary Results of New Shipper Review, 75 FR 24578, 24582 (May 5, 2010), unchanged in Fresh Garlic From the People's Republic of China: Final Results of New Shipper Review, 75 FR 61130 (October 4, 2010).

⁸⁹ See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor, 76 FR 36092 (June 21, 2011) (Labor Methodologies). This notice followed the Federal Circuit's decision in Dorbest Ltd. v. United States, 604 F.3d 1363, 1372 (CAFC 2010), which held that "{regression-based} method for calculating wage rates {as stipulated by 19 CFR 351.408(c)(3)} uses data not permitted by {the statutory requirements laid out in section 773 of the Act (i.e., 19 U.S.C. § 1677b(c))}."

in Chapter 6A of the ILO Yearbook. We inflated the 2005 data to POR values using the Colombian Wholesale Price Index, as reported by the IMF's International Financial Statistics. This results in a calculated labor rate of 12,679.66 Colombian pesos per hour.⁹¹ Based on the reporting of financial ratios in this review, we find that the facts and information on the record of this review do not warrant or permit an adjustment to the surrogate financial ratios.⁹² Accordingly, we made no offset to the surrogate financial statements in this review.⁹³

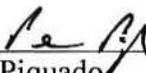
XI CURRENCY CONVERSIONS

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on the exchange rates in effect on the dates of the U.S. sale as certified by the Federal Reserve Bank. These exchange rates are available on Enforcement and Compliance's Web site at <http://enforcement.trade.gov/exchange/index.html>.

XII. RECOMMENDATION

We recommend the above methodology for these preliminary results.

Agree Disagree



Paul Piquado
Assistant Secretary
for Enforcement and Compliance

⁹¹ See Surrogate Values Memorandum at Attachment 10.

⁹² See Labor Methodologies, 76 FR at 36094.

⁹³ See Surrogate Value Memorandum at Attachment 10.