

DATE: April 17, 2008

MEMORANDUM TO: David M. Spooner
Assistant Secretary
for Import Administration

FROM: Stephen J. Claeys
Deputy Assistant Secretary
for Import Administration

REGARDING: Antidumping Duty New Shipper Review on Certain Preserved
Mushrooms from the People's Republic of China ("PRC")

SUBJECT: Issues and Decision Memorandum for the Final Results

Summary

The respondent in this case is Ayecue International SLU and its affiliated producer Ayecue (Liaocheng) Foodstuff Co., Ltd. (collectively, "Ayecue"). The period of review ("POR") is February 1, 2006, through January 31, 2007. On January 28, 2008, the Department published Certain Preserved Mushrooms From the People's Republic of China: Preliminary Results of the Antidumping Duty New Shipper Review, 73 FR 4822 (January 28, 2008) ("Preliminary Results").

We gave interested parties an opportunity to comment on the Preliminary Results. We have analyzed the case briefs of interested parties and made certain changes to our margin calculation. We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. Below is a complete list of the issues for which we received comments from interested parties.

List of Issues

Comment 1: Whether the Department Should Use Contemporaneous Financial Statement Data

Administrative Determinations and Court Cases

1. Folding Metal Tables and Chairs from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 72 FR 71355 (December 17, 2007) and accompanying Issues and Decision Memorandum ("Folding Chairs from the PRC").

Discussion of the Issues

Comment 1: Whether the Department Should Use Contemporaneous Financial Statement Data

Ayecue states that in the Preliminary Results, the Department used the 2005-2006 annual report of Agro Dutch Industries Limited (“Agro Dutch”) to value fresh mushrooms and averaged data from the 2005-2006 annual reports of Agro Dutch and Flex Foods Limited (“Flex Foods”) to calculate surrogate value financial ratios. Ayecue notes that on January 18, 2008, it submitted the 2006-2007 annual reports of Agro Dutch and Flex Foods and that these reports, unlike the 2005-2006 annual reports, are contemporaneous with the POR. Given that the Department has contemporaneous data on the record of this proceeding, Ayecue argues that the Department should use this information to value fresh mushrooms and financial ratios for the final results.

No interested party submitted rebuttal comments.

Department’s Position: We agree with Ayecue. Section 773(c)(1)(B) of the Tariff Act of 1930, as amended (the “Act”), requires the Department to value the factors of production, such as fresh mushrooms, based “on the best available information regarding the values of such factors in a market economy country or countries considered to be appropriate by the administering authority.” Section 351.408(c)(4) of the Department’s regulations further stipulates that the Department normally will value materials, overhead, selling and general expenses, and profit using “non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country.” Moreover, the Department’s criteria for choosing surrogate companies to value financial ratios are the availability of contemporaneous financial statements, comparability to the respondent’s experience, and publicly available information. See Folding Chairs from the PRC at Comment 1(c).

In the Preliminary Results, the Department found that the 2005-2006 financial statements from Agro Dutch and Flex Foods were appropriate to use as the basis of the surrogate financial ratios because these statements are publicly available, indicate that Agro Dutch and Flex Foods have production experiences comparable to Ayecue, and are contemporaneous as they covered two months of the POR. See Preliminary Results, 72 FR at 4826. We did not use the 2006-2007 financial statements from these companies because Ayecue placed them on the record on the day the Preliminary Results were signed.

For the final results, the Department has reviewed the 2006-2007 financial statements from Agro Dutch and Flex Foods. We find that these financial statements are appropriate to use in calculating the surrogate financial ratios because they are publicly available and continue to indicate that Agro Dutch and Flex foods have comparable production experiences to Ayecue. In addition, we note that the 2006-2007 financial statements are more contemporaneous than the 2005-2006 statements, in that they cover 10 months of the POR, rather than two months as do the 2005-2006 statements. Therefore, given the Department’s preference for contemporaneous financial statements, the Department, for the final results, has revised its calculations and based

the surrogate financial ratios on the 2006-2007 annual reports of Agro Dutch and Flex Foods. See Memorandum from Thomas Martin, International Trade Compliance Analyst, to the File, “Final Results Analysis Memorandum for Ayecue International SLU and Ayecue (Liaocheng) Foodstuff Co., Ltd.,” dated April 17, 2008 (“Final Results Analysis Memorandum”).

With respect to the Ayecue’s request to value fresh mushrooms with the 2006-2007 financial statement from Agro Dutch, rather than this company’s 2005-2006 financial statement, we agree for the same reasons as stated above. Therefore, we have revised our calculation of the surrogate value for fresh mushrooms to be based on Agro Dutch’s 2006-2007 financial statement. See Final Results Analysis Memorandum.

Recommendation

Based on our analysis of the comments received, we recommend adopting the above position. If this recommendation is accepted, we will publish the final results of this review and the final dumping margin for certain preserved mushrooms from the PRC in the Federal Register.

Agree

Disagree

David M. Spooner
Assistant Secretary
for Import Administration

Date