

Composition (percent weight): C: 0.20 max., Si: 0.55 max., Mn: 1.60 max., P: 0.030 max., S: 0.030 max., Cr: 0.40 max., Ti: 0.005–0.020, B: 0.004 max. NK–EH–500 has the following specifications: (a) Physical Properties: Thickness ranging from 6–50 mm, Brinell Hardness: 477 min.; (b) Heat Treatment: Controlled heat treatment; and (c) Chemical Composition (percent weight): C: 0.35 max., Si: 0.55 max., Mn: 1.60 max., P: 0.030 max., S: 0.030 max., Cr: 0.80 max., Ti: 0.005–0.020, B: 0.004 max.

The merchandise subject to these orders is currently classifiable in the HTSUS under subheadings: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7225.40.3050, 7225.40.7000, 7225.50.6000, 7225.99.0090, 7226.91.5000, 7226.91.7000, 7226.91.8000, 7226.99.0000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise covered by these orders is dispositive.

Analysis of Comments Received

All issues raised in these reviews are addressed in the Issues and Decision Memorandum from Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration, dated August 1, 2005. (“Decision Memorandum”), which is hereby adopted by this notice. The issues discussed in the accompanying Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margin likely to prevail if the orders were revoked. Parties can find a complete discussion of all issues raised in these reviews and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099, of the main Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at <http://ia.ita.doc.gov/frn>, under the heading “August 2005.” The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Sunset Reviews

The Department determines that revocation of the AD Orders on CTL Plate from France, India, Indonesia, Italy, Japan, and the Republic of Korea

would likely lead to continuation or recurrence of dumping at the rates listed below:

Exporter/Manufacturer	Margin Percentage
France.	
Usinor, S.A.	10.41
All Others	10.41
India.	
Steel Authority of India, Ltd.	42.39
All Others	42.39
Indonesia.	
PT Gunawan Dianjaya/ PT Jaya Pari Steel Corporation	50.80
PT Krakatau Steel	52.42
All Others	50.80
Italy.	
Palini and Bertoli S.p.A.	7.85
All Others	7.85
Japan.	
Kawasaki Steel Corporation	10.78
Kobe Steel, Ltd.	59.12
Nippon Steel Corporation	59.12
NKK Corporation	59.12
Sumitomo Metal Industries, Ltd.	59.12
All Others	10.78
Republic of Korea.	
Dongkuk Steel Mill Co., Ltd.	2.98
All Others	2.98

Notification regarding Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (“APO”) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing the results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: August 1, 2005.

Joseph A. Spetrini,
Acting Assistant Secretary for Import Administration.
[FR Doc. E5–4249 Filed 8–5–05; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–878]

Saccharin From the People’s Republic of China: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (“the Department”) is conducting the first administrative review of the antidumping duty order on saccharin from the People’s Republic of China (“PRC”) covering the period December 27, 2002, through June 30, 2004. We have preliminarily determined that sales have been made below normal value. If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection (“CBP”) to assess antidumping duties on entries of subject merchandise during the period of review (“POR”) for which the importer-specific assessment rates are above *de minimis*.

Interested parties are invited to comment on these preliminary results. We will issue the final results no later than 120 days from the date of publication of this notice.

EFFECTIVE DATE: August 8, 2005.

FOR FURTHER INFORMATION CONTACT: Blanche Ziv or Steve Williams, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4207 and (202) 482–4619, respectively.

Background

On July 9, 2003, the Department published in the **Federal Register** the antidumping duty order on saccharin from the PRC. See *Notice of Antidumping Duty Order: Saccharin from the People’s Republic of China*, 68 FR 40906 (July 9, 2003). On July 1, 2004, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on saccharin from the PRC for the period December 27, 2002, through June 30, 2004. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 69 FR 39903 (July 1, 2004). On July 26, 2004, Shanghai Fortune Chemical Co., Ltd. (“Shanghai Fortune”), an exporter and producer of subject merchandise,

requested an administrative review of its sale(s) to the United States during the POR. On July 30, 2004, PMC Specialities Group, Inc. ("the petitioner") requested an administrative review pursuant to 19 CFR 351.213(b) of the following nine companies: Suzhou Fine Chemicals Group Co. ("Suzhou Chemicals"), Shanghai Fortune, Kaifeng Xinghua Fine Chemical Factory ("Kaifeng Chemical"), Productos Aditivos, S.A. ("Productos Aditivos"), Kenko Corporation, Tianjin North Food, Tianjin Changjie Chemical Co., Ltd. ("Tianjin Changjie"), Daiwa Kenko Company Limited ("Daiwa Kenko"), and Beta Udyog Ltd. ("Beta Udyog"). On August 30, 2004, the Department published in the **Federal Register** a notice of the initiation of the antidumping duty administrative review of saccharin from the PRC for the period December 27, 2002, through June 30, 2004. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 69 FR 52857 (August 30, 2004).

On March 24, 2005, the Department published a notice in the **Federal Register** extending the time limit for the preliminary results of review until July 31, 2005.¹ See *Saccharin From the People's Republic of China: Notice of Extension of Time Limit for Preliminary Results of Antidumping Administrative Review*, 70 FR 15066 (March 24, 2005).

On April 8, 2005, the Department requested from CBP copies of all customs documents pertaining to the entry of saccharin from the PRC exported by Shanghai Fortune during the POR. See the "Request for U.S. Entry Documents—Saccharin from the People's Republic of China (A570878002)" memorandum dated April 8, 2005, which is on file in the Central Records Unit ("CRU"), room B-099 of the main Department building.

On May 17, 2005, we received documentation from CBP regarding our April 8, 2005, request for Shanghai Fortune's entry information. On June 21, 2005, we placed on the record the entry documentation received from CBP in response to our April 8, 2005, request for information on the shipment of saccharin from the PRC exported by Shanghai Fortune during the POR. See the "Results of Request for Assistance from Customs and Border Protection on U.S. Entry Documents" memorandum dated June 21, 2005, which is on file in the CRU.

¹ Because the due date (*i.e.*, July 31, 2005) for these preliminary results falls on a Sunday, the actual date of signature is extended to the next business day (*i.e.*, August 1, 2005).

Respondents

On September 1, 2004, we issued an antidumping duty questionnaire to Suzhou Chemicals, Shanghai Fortune, Kaifeng Chemical, Productos Aditivos, Kenko Corporation, Tianjin North Food, Tianjin Changjie, and Beta Udyog.² We confirmed that all parties named above signed for and received our mailing of the antidumping duty questionnaires. See the "Issuing antidumping questionnaire to respondents without legal counsel" memorandum dated December 8, 2004 ("*Receipt Confirmation Memo*"), which is on file in the CRU. Because we did not receive a response to the antidumping duty questionnaire, the Department issued letters on November 18, 2004, and March 15, 2005 to Suzhou Chemicals, Tianjin Changjie, Beta Udyog, Kaifeng Chemical, and Tianjin North Food, notifying these companies of the consequences of not responding to the Department's antidumping duty questionnaire. Suzhou Chemicals, Tianjin Changjie, Beta Udyog, Kaifeng Chemical, and Tianjin North Food did not respond to the Department's questionnaire or to the Department's warning letter. See the "The PRC-Wide Rate and Use of Facts Otherwise Available" section below for further information regarding these companies.

Shanghai Fortune

On October 21, 2004, Shanghai Fortune submitted its response to the Department's antidumping duty questionnaire. The Department issued supplemental questionnaires to Shanghai Fortune on January 24 and 28, April 13, May 13, June 14, July 7 and 22, 2005. Shanghai Fortune submitted responses to these supplemental questionnaires on February 8 and 18, April 28, May 27, June 21, July 12 and 26, 2005. The Department also issued a supplemental questionnaire to Shanghai Fortune's U.S. customer, Richwell Group, Inc. ("Richwell") on April 18, 2005. Richwell submitted a response to this supplemental questionnaire on April 25, 2005.

Daiwa-Kenko

On February 2, 2005, we sent an antidumping duty questionnaire to Daiwa-Kenko to confirm its affiliation

² We did not send a questionnaire to Daiwa-Kenko because of its affiliation with Shanghai Fortune, identified during the investigation. See *Notice of Final Determination of Sales at Less Than Fair Value: Saccharin From the People's Republic of China*, 68 FR 27530 (May 30, 2003) ("*LTFV Investigation*") and the "Investigation of Saccharin from the People's Republic of China for the period of January 1, 2002 through June 30, 2002; Analysis of Affiliation for Shanghai Fortune Chemical Co., Ltd." memorandum dated December 18, 2002.

with Shanghai Fortune and its operating status with respect to the merchandise under review. Acknowledging its affiliation with Daiwa-Kenko, Shanghai Fortune responded to the Department's questionnaire on behalf of Daiwa-Kenko on March 3, 2005. Thus, for the purpose of these preliminary results, we continue to find Daiwa-Kenko and Shanghai Fortune affiliated pursuant to section 771(33)(A) of the Tariff Act of 1930, as amended ("the Act"). Pursuant to 19 CFR 351.303(g), Shanghai Fortune certified that Daiwa-Kenko did not manufacture, purchase, sell or export shipments of the subject merchandise during the POR.

Kenko Corporation and Productos Aditivos

In December 2004, we received notification from Kenko Corporation (located in Japan) and Productos Aditivos (located in Spain), asserting that the merchandise they exported to the United States during the POR was not of PRC origin. See the "Cooperative pro se Respondents Located in Japan and Spain" memorandum dated December 8, 2004, which is on file in the CRU. On December 16, 2004, we issued modified questionnaires to Kenko Corporation and Productos Aditivos requesting certain information regarding each company's corporate structure and affiliations, as well as certifications regarding the origin of their merchandise.

We received a response to our modified questionnaire from Productos Aditivos on January 5, 2005. In its response, Productos Aditivos stated that all of its sales of subject merchandise sold to the United States during the POR were produced by its own production facilities in Spain. As such, it had no sales of PRC saccharin subject to the antidumping duty order and to this review. On July 5, 2005, Productos Aditivos certified that the information submitted in its December 30, 2005, submission was accurate in accordance with section 351.303(g) of the Department's regulations.

On February 17, 2005, we received a response to our modified questionnaire from Kenko Corporation demonstrating that its merchandise sold to the United States during the POR was of Japanese origin and thus not subject to the antidumping duty order on saccharin from the PRC and to this review. On July 5, 2005, Kenko Corporation certified that the information submitted in its February 17, 2005, submission was accurate in accordance with 19 CFR 351.303(g).

Period of Review

The POR is December 27, 2002, through June 30, 2004.

Scope of the Order

The product covered by this antidumping duty order is saccharin. Saccharin is defined as a non-nutritive sweetener used in beverages and foods, personal care products such as toothpaste, table top sweeteners, and animal feeds. It is also used in metalworking fluids. There are four primary chemical compositions of saccharin: (1) Sodium saccharin (American Chemical Society Chemical Abstract Service ("CAS") Registry #128-44-9); (2) calcium saccharin (CAS Registry #6485-34-3); (3) acid (or insoluble) saccharin (CAS Registry #81-07-2); and (4) research grade saccharin. Most of the U.S.-produced and imported grades of saccharin from the PRC are sodium and calcium saccharin, which are available in granular, powder, spray-dried powder, and liquid forms.

The merchandise subject to this order is classifiable under subheading 2925.11.00 of the *Harmonized Tariff Schedule of the United States* ("HTSUS") and includes all types of saccharin imported under this HTSUS subheading, including research and specialized grades. Although the HTSUS subheading is provided for convenience and the customs purposes, the Department's written description of the scope of this order remains dispositive.

Preliminary Partial Rescissions of Administrative Reviews

Pursuant to 19 CFR 351.213(d)(3), we have preliminarily determined that Daiwa-Kenko, Kenko Corporation, and Productos Aditivos did not make shipments of subject merchandise to the United States during the POR. In support of these preliminary results, the responses of these companies indicate that: (1) Daiwa-Kenko did not manufacture, purchase, sell or export shipments of the subject merchandise to the United States during the POR; (2) the saccharin exported to the United States during the POR by Kenko Corporation was produced by a Japanese manufacturer in Japan; and (3) the saccharin exported to the United States during the POR by Productos Aditivos was produced by Productos Aditivos in Spain. Additionally, we conducted a data query of CBP entry information on all saccharin entries made during the POR from Hong Kong, Japan, Spain and the PRC to substantiate their claims that and/or determine whether they made no shipments of subject merchandise

during the POR. Based on the data obtained from CBP, we found no information indicating that there were other U.S. entries of the subject merchandise during the POR from these companies other than the information reported to the Department by Daiwa-Kenko, Kenko Corporation and Productos Aditivos.

Therefore, for the reasons mentioned above and based on the results of our queries, we are preliminarily rescinding the administrative review with respect to Daiwa-Kenko, Kenko Corporation and Productos Aditivos because we found no evidence that these companies made shipments of the subject merchandise during the POR in accordance with 19 CFR 351.213(d)(3).

Non-Market Economy Country Status

In every case conducted by the Department involving the PRC, the PRC has been treated as a non-market economy ("NME") country. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Preliminary Results 2001-2002 Administrative Review and Partial Rescission of Review*, 68 FR 7500 (February 14, 2003). None of the parties to this proceeding has contested such treatment. Accordingly, we calculated normal value ("NV") in accordance with section 773(c) of the Act, which applies to NME countries.

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base normal value on the NME producer's factors of production, 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 the factors of production, the Department shall utilize, to the extent possible, the prices or costs of factors of production 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. The sources of the surrogate factor values are discussed under the "Normal Value" section below and in the "Factors Valuations for the Preliminary Results of the Administrative Review" memorandum, dated August 1, 2005

("Factor Valuation Memo"), which is on file in the CRU.

The Department has determined that India, Indonesia, Sri Lanka, the Philippines, and Egypt are countries comparable to the PRC in terms of economic development. See the "Antidumping Duty Administrative Review of Saccharin from the People's Republic of China (PRC): Request for a List of Surrogate Countries" memorandum dated December 16, 2004, which is on file in the CRU.

Customarily, we select an appropriate surrogate country based on the availability and reliability of data from the countries that are significant producers of comparable merchandise. For PRC cases, the primary surrogate country has often been India if it is a significant producer of comparable merchandise. In this case, we have found that India is a significant producer of comparable merchandise. See the "2002-2004 Administrative Review of the Antidumping Duty Order of Saccharin from the People's Republic of China: Selection of a Surrogate Country" memorandum dated April 26, 2005 ("Surrogate Country Memo"), which is on file in the CRU.

The Department is using India as the primary surrogate country, and, accordingly, has calculated NV using Indian prices to value the PRC producer's factors of production, when available and appropriate. See *Surrogate Country Memo* and *Factor Valuation Memo*. We have obtained and relied upon publicly available information wherever possible.

In accordance with 19 CFR 351.301(c)(3)(ii), for the final results in an antidumping administrative review, interested parties may submit publicly available information to value factors of production within 20 days after the date of publication of these preliminary results.

Affiliation-Shanghai Fortune

In its April 25, 2005, submission, Richwell, Shanghai Fortune's U.S. customer, stated that the president and one hundred percent owner of the company and the owner and general manager of Shanghai Fortune³ are cousins. As detailed in our September 1, 2004, original questionnaire and in our April 18, 2005, supplemental questionnaire, an affiliated person is: (1) A family member; (2) an officer or director of an organization and that organization; (3) partners; (4) employers and their employees; and (5) any person

³ We note that the Shanghai Fortune is controlled by a board of directors, which is controlled by the owner and general manager of Shanghai Fortune.

or organization directly or indirectly owning, controlling, or holding with power to vote, five percent or more of the outstanding voting stock or shares of any organization and that organization. In addition, affiliates include: (6) any person who controls any other person and that other person; and (7) any two or more persons who directly control, are controlled by, or are under common control with, any person. See section 771(33) of the Act.

In order to find affiliation between companies, the Department must find that at least one of the criteria listed above is applicable. Here, where each cousin holds one hundred percent ownership in his company, we consider each cousin and his company to be affiliated under section 771(33)(E) of the Act. Further, we find that each cousin's ownership and position in senior management within the two companies places him in a position of legal and operational control of the company and in a position to impact decisions concerning the production, pricing or cost of the subject merchandise. Thus, affiliation between the cousins and their respective companies is also established under section 771(33)(G) of the Act.

We also find that Shanghai Fortune and Richwell, by virtue of the familial relationships of their owners, are affiliated under section 771(33)(A) of the Act. Section 771(33)(A) of the Act states that "members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants" shall be considered affiliated. "The word 'including' in section (A) of 19 U.S.C. 1677(33) is an indication that Congress did not intend to limit the definition of 'family' to the members listed in this section." See *Ferro Union* 44 F. Supp. 2d 1310 (CIT 1999). The Department has also stated that "we find nothing in the statute to prevent it from applying to uncle-nephew relationships, aunt-niece relationships, or cousin-cousin relationships." See *Notice of Final Determination of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars From the Republic of Korea*, 66 FR 33526 (June 22, 2001), and accompanying *Issues and Decision Memorandum* at Comment 1. Also, where two companies are affiliated under section 771(33)(A) of the Act, there is no need to address the issue of control.

See *Structural Steel Beams from Korea; Notice of Final Results of Antidumping Duty Administrative Review*, 70 FR 6837 (February 9, 2005), and accompanying *Issues and Decision Memorandum* at Comment 2. Thus, we find that Shanghai Fortune and

Richwell are affiliated as a consequence of the cousin-to-cousin relationship of the owners of his respective company in accordance with sections 771(33)(A), (E), and (G) of the Act.

Separate Rates

The Department has treated the PRC as an NME country in all past antidumping investigations. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Bulk Aspirin From the People's Republic of China*, 65 FR 33805 (May 25, 2000), and *Notice of Final Determination of Sales at Less Than Fair Value: Certain Non-Frozen Apple Juice Concentrate from the People's Republic of China*, 65 FR 19873 (April 13, 2000). A designation as an NME remains in effect until it is revoked by the Department. See section 771(18)(C) of the Act. Accordingly, there is a rebuttable presumption that all companies within the PRC are subject to government control and thus, should be assessed a single antidumping duty rate.

It is the Department's standard policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (de jure) and in fact (de facto), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in the *Final Determination of Sales at Less than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991), as amplified by the *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*").

For the reasons discussed in the section below entitled "The PRC-Wide Rate and Use of Facts Otherwise Available," we have determined that Suzhou Chemicals, Kaifeng Chemical, Tianjin North Food, Tianjin Changjie, and Beta Udyog do not qualify for a separate rate and are instead part of the PRC entity.

Shanghai Fortune provided the requested separate-rate information in its responses to our original and supplemental questionnaires. Accordingly, consistent with *Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China*, 61 FR 56570 (April 30, 1996), we performed a separate-rates analysis to determine whether Shanghai Fortune is independent from government control.

A. 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; and (2) any legislative enactments decentralizing control of companies.

Shanghai Fortune reported that the subject merchandise was not subject to any government export provisions⁴ or export licensing, and was not subject to export quotas during the POR. Shanghai Fortune also submitted a copy of its business license. We found no inconsistencies with Shanghai Fortune's claims of an absence of restrictive stipulations associated with its business license. Shanghai Fortune submitted copies of statutory and regulatory authority establishing the *de jure* absence of government control over the company. Specifically, the *Administrative Regulations of the People's Republic of China Governing the Registration of Legal Corporations*, issued on June 13, 1988, by the State Council of the PRC, and the *Law of the People's Republic of China of Industrial Enterprises Owned by the Whole People*, effective August 1, 1998, all placed on the record of this review, provide that, to qualify as legal persons, companies must have the "ability to bear civil liability independently" and the right to control and manage their businesses. These regulations also state that, as an independent legal entity, a company is responsible for its own profits and losses. In prior cases, the Department has analyzed these laws and regulations and found that they establish an absence of *de jure* control. See *Notice of Final Determination of Sales at Less Than Fair Value: Manganese Metal from the People's Republic of China*, 60 FR 56045, 56046 (November 6, 1995). We

⁴ Although the respondent states that the Chamber of Commerce for Medicines and Health Products Importers and Exporters has attempted to prevent dumping through a program that sets a price floor and other conditions for exports of saccharin, the Department preliminarily determines that this program does not require us to deny a separate rate to members of the saccharin industry. The Department's separate rate test does not consider, in general, macroeconomic/border-type controls (e.g., export licenses, quotas, and minimum export prices), particularly if these controls are imposed to prevent dumping. Rather, the test focuses on controls over the investment, pricing, and output decision-making process at the individual firm level. See, e.g., *Certain Cut-to-Length Carbon Steel Plate from Ukraine: Final Determination of Sales at Less than Fair Value*, 62 FR 61754, 61757 (November 19, 1997); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 61276, 61279 (November 17, 1997).

have no information in this proceeding that would cause us to reconsider this determination. Thus, we believe that the evidence on the record supports a preliminary finding of an absence of de jure government control based on: (1) An absence of restrictive stipulations associated with the exporter's business license; and (2) the legal authority on the record decentralizing control over the respondent.

B. Absence of De Facto Control

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. See *Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 72255 (December 31, 1998). Therefore, the Department has determined that an analysis of de facto control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude the Department from assigning separate rates. The Department typically considers four factors in evaluating whether each respondent is subject to de facto government control of its export functions: (1) Whether the exporter sets its own export prices independent of the government and without the approval of a government authority; (2) whether the respondent has the 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 its management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.

Shanghai Fortune reported that it is wholly owned by a foreign entity and has asserted the following: (1) There is no government participation in setting export prices; (2) sales managers and authorized employees have the authority to bind sales contracts; (3) it does not have to notify any government authorities of management selections; (4) there are no restrictions on the use of export revenue; (5) it is responsible for financing its own losses; and (6) it does not coordinate prices with other exporters or producers. During our analysis of the information on the record, we found no information indicating the existence of de facto government control. Consequently, we preliminarily find that Shanghai Fortune has met the criteria for the application of a separate rate.

The PRC-Wide Rate and Use of Facts Otherwise Available

All respondents were given the opportunity to respond to the Department's questionnaire. As explained above, we received questionnaire responses from Shanghai Fortune,⁵ Kenko Corporation, and Productos Aditivos. We have calculated a separate rate for Shanghai Fortune. The PRC-wide rate applies to all entries of subject merchandise except for entries from companies that have received their own rate based on the *LTFV Investigation*. As discussed below, we have decided to treat Suzhou Chemicals, Tianjin Changjie, Kaifeng Chemical, Tianjin North Food, and Beta Udyog as part of the PRC-wide entity.

Suzhou Chemicals, Tianjin Changjie, Kaifeng Chemical, Tianjin North Food, and Beta Udyog did not respond to the Department's questionnaire. Section 776(a)(2) of the Act provides that, if an interested party or any other person (A) withholds information that has been requested by the administering authority, or (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782, the Department shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title. Furthermore, under section 782(c) of the Act, a respondent has the responsibility not only to notify the Department if it is unable to provide requested information, but also to provide a "full explanation and suggested alternative forms." Because Suzhou Chemicals, Tianjin Changjie, Kaifeng Chemical, Tianjin North Food, and Beta Udyog did not respond to the questionnaire, we find that, in accordance with sections 776(a)(2)(A) and (B) of the Act, the use of total facts available is appropriate. See, e.g., *Final Results of Antidumping Duty Administrative Review for Two Manufacturers/Exporters: Certain Preserved Mushrooms from the People's Republic of China*, 65 FR 50183, 50184 (August 17, 2000).

Section 776(b) of the Act provides that, if the Department finds that an interested party "has failed to cooperate by not acting to the best of its ability to comply with a request for information," the Department may use information that is adverse to the interests of the party as facts otherwise available. Adverse inferences are appropriate "to ensure that the party does not obtain a

more favorable result by failing to cooperate than if it had cooperated fully." See Statement of Administrative Action ("SAA") accompanying the Uruguay Round Agreements Act, H. Doc. No. 103-316, at 870 (1994). Section 776(b) of the Act authorizes the Department to use as adverse facts available information derived from the petition, the final determination from the *LTFV Investigation*, a previous administrative review, or any other information placed on the record.

On September 1, 2004, the Department issued its antidumping duty questionnaire to Suzhou Chemicals, Tianjin Changjie, Kaifeng Chemical, Tianjin North Food, and Beta Udyog (located in India). We confirmed that the questionnaires we sent to Tianjin Changjie, Beta Udyog, Kaifeng Chemical, and Tianjin North Food were delivered and accepted on November 29 and 24, December 8, and November 26, 2004, respectively. See *Receipt Confirmation Memo*. We also confirmed that a representative of Suzhou Chemicals picked up its questionnaire from the main Commerce building. See *id.* Because they did not provide responses to the Department's questionnaire, the Department is unable to determine whether Suzhou Chemicals, Tianjin Changjie, Kaifeng Chemical, and Tianjin North Food are eligible for a separate rate. Thus, Suzhou Chemicals, Tianjin Changjie, Kaifeng Chemical, and Tianjin North Food have not rebutted the presumption of government control and are presumed to be part of the PRC entity.

As noted above, Beta Udyog (located in India), did not respond to the Department's questionnaire. The Department's consistent practice has been to require companies, regardless of whether wholly owned by a market-economy entity, to respond to the Department's questionnaire. Specifically, information requested in the Section A questionnaire is required in order for the Department to assess whether a particular respondent is entitled to a separate rate. While the Department does not conduct a separate-rates test for respondents wholly owned by companies outside the PRC, the Department still needs to analyze the company's Section A questionnaire response to examine information such as whether the company is registered for business in the foreign country or the PRC, the ownership interests of each branch of the company, the type of working relationship between the exporter, producer and other affiliates, and the volume and value of sales that were made to the United States during the

⁵ As noted above, Shanghai Fortune also responded on behalf of Daiwa-Kenko because of its affiliation with that entity.

POR. See, e.g., *Final Determination of Sales at Less Than Fair Value: Wooden Bedroom Furniture From the People's Republic of China*, 69 FR 67313 (November 17, 2004); *Memorandum to James J. Jochum: Untimely Section A Questionnaire Submission of Decca Furniture Ltd.*, dated September 16, 2004; and *Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Folding Gift Boxes from The People's Republic of China*, 66 FR 40974-75 (August 6, 2001); *Memorandum to the File: Antidumping Duty Investigation on Polyethylene Retail Carrier Bags from the People's Republic of China, Untimely Section A Questionnaire Submission*, dated December 18, 2003. See also *Notice of Final Determination of Sales at Less Than Fair Value: Bicycles from the People's Republic of China*, 61 FR 19026, 19037 (April 30, 1996). Thus, we cannot assess whether Beta Udyog, a company located in India, is entitled to a separate rate because it did not respond to the Department's questionnaire. Therefore, Beta Udyog does not qualify for a separate rate and is instead part of the PRC entity.

The PRC entity (including Suzhou Chemicals, Tianjin Changjie, Kaifeng Chemical, Tianjin North Food, and Beta Udyog) failed to cooperate to the best of its ability in this administrative review, thus making the use of an adverse inference appropriate. Therefore, in accordance with the Department's practice, as adverse facts available, we have preliminarily assigned to the PRC entity the rate of 329.33 percent, the highest rate determined in the current or any previous segment of this proceeding.

Corroboration of Secondary Information

Section 776(c) of the Act provides that when the Department relies on the facts otherwise available and relies on "secondary information," the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at its disposal. Secondary information is defined in the SAA as "information derived from the petition that gave rise to the investigation or review, the final determination concerning subject merchandise, or any previous review under section 751 concerning the subject merchandise." See SAA at 870. The SAA provides that to "corroborate" means simply that the Department will satisfy itself that the secondary information to be used has probative value. See *id.* The SAA also states that independent sources used to corroborate may include, for example, published

price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. See *id.* As noted in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.

The adverse facts available rate we are applying for the current review was corroborated in the *LTFV Investigation*. See the "Final Determination of Saccharin from the People's Republic of China (PRC): Analysis and Corroboration of the PRC-Wide Rate" memorandum, dated May 13, 2003, which is on file in the CRU. We find that the rate remains contemporaneous with the POR of this review. Finally, the Department received no information to date that warrants revisiting the issue of the reliability of the rate calculation itself. See, e.g., *Certain Preserved Mushrooms from the People's Republic of China: Final Results and Partial Rescission of the New Shipper Review and Final Results and Partial Rescission of the Third Antidumping Duty Administrative Review*, 68 FR 41304, 41307-08 (July 11, 2003).⁶ Thus, the Department finds that the information is reliable.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers from Mexico: Final Results of Antidumping Administrative Review*, 61 FR 6812 (February 22, 1996), the Department disregarded the highest margin in that case as adverse best information available (the predecessor to facts available) because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin. Similarly, the Department does not apply a margin that has been

discredited. See *D&L Supply Co. v. United States*, 113 F.3d 1220, 1221 (Fed. Cir. 1997) (the Department will not use a margin that has been judicially invalidated). None of these unusual circumstances are present here.

As the petition rate is both reliable and relevant, and there is no information on the record of this review that indicates that this rate is invalid or uncharacteristic of the industry, as adverse facts available for the PRC entity (including Suzhou Chemicals, Tianjin Changjie, Kaifeng Chemical, Tianjin North Food, and Beta Udyog), we determine that this rate has probative value. Accordingly, we determine that this rate, the highest rate from any segment of this administrative proceeding (*i.e.*, the calculated rate of 329.33 percent), is in accord with section 776(c) of the Act, which requires that secondary information be corroborated (*i.e.*, have probative value). As a result, the Department determines that the petition rate is corroborated for the purposes of this administrative review and may reasonably be applied to the PRC-wide entity based on each of these respondent's failure to cooperate to the best of its ability in this administrative review as a total adverse facts available rate.

Because this is a preliminary margin, the Department will consider all margins on the record at the time of the final results for the purpose of determining the most appropriate final margin based on total adverse facts available. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation*, 65 FR 1139 (January 7, 2000).

Date of Sale

In its October 21, 2004, questionnaire response to the Department's antidumping duty questionnaire, Shanghai Fortune reported that its date of sale (*i.e.*, the date upon which the material terms of sale were established) was the date of its sales contract (*i.e.*, March 3, 2004) which occurred within the POR. Based on our review of the information on the record regarding Shanghai Fortune's relationship with its U.S. customer, we determined that Shanghai Fortune and its U.S. customer are affiliated under section 771(33) of the Act. See the "Affiliation-Shanghai Fortune" section of this notice for further information.

Accordingly, we are reviewing the first sale made by Shanghai Fortune's U.S. affiliate to the first unaffiliated purchaser in the United States in accordance with section 772(b) of the

⁶The Department relied on the corroboration memorandum from the *LTFV Investigation* to assess the reliability of the petition rate as the basis for an adverse facts available rate in the administrative review.

Act. See the “Constructed Export Price” (“CEP”) section of this notice for further information. Shanghai Fortune reported that the date of this sale by its U.S. affiliate to the first unaffiliated purchaser (*i.e.*, the date the material terms of sale were established) was the date of invoice (*i.e.*, December 16, 2004) which occurred after the POR.⁷

While section 751(a)(2)(A) of the Act states that a dumping calculation should be performed for each entry during the POR, 19 CFR 351.213(e) gives the Department flexibility in this regard by stating that the review can be based on entries, exports, or sales. Indeed, the Department’s normal practice for CEP sales made after importation is to examine each transaction that has a date of sale within the POR and to liquidate POR entries based on the dumping margin calculated on those POR sales. See 19 CFR 351.212 and the preamble to that section of *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27314–15 (May 19, 1997).

We have also recognized that unique circumstances could lead us to base the margin for CEP sales on the sales entered rather than sold during the POR. Here, the respondent requesting an administrative review of its POR entries had only one entry during the POR, but no POR sale upon which to calculate a dumping margin for that entry. Because the entry during the POR can be tied to a sale occurring after the end of the POR and there are no other U.S. sales during the POR that could be considered for examination as a proxy for the post-POR sale, it is appropriate to determine the duties to be assessed on this entry based on the corresponding sale. Therefore, because the purpose of an administrative review is to establish the antidumping duty for entries, as well as to establish a new cash deposit rate (see section 751(a) of the Act), and we are able to tie the sale occurring after the end of the POR to the entry during the POR, we are using this U.S. sale in our margin calculation. Thus, we are conducting this review on the basis of the date of entry within the POR, and linking the entered subject merchandise to the appropriate sale to the unaffiliated U.S. customer.

We will instruct CBP to liquidate the specific entry at the calculated rate. If Shanghai Fortune is a respondent in an administrative review covering the period July 1, 2004, through June 30, 2005, we will exclude this U.S. sale from our margin calculation. See, *e.g.*, *Certain Hot-Rolled Flat-Rolled Carbon*

Quality Steel Products from Brazil; Preliminary Results of Antidumping Duty Administrative Review, 70 FR 17406 (April 6, 2005).

Normal Value Comparisons

To determine whether the sale of saccharin to the United States by Shanghai Fortune was made at less than NV, we compared CEP to NV, as described in the “Constructed Export Price” and “Normal Value” sections of this notice.

Constructed Export Price

In accordance with section 772(b) of the Act, we use CEP methodology when the first sale to an unaffiliated purchaser occurred after importation of the merchandise into the United States. We calculated the CEP for Shanghai Fortune because the sale was made by its U.S. affiliate to an unaffiliated U.S. customer. We based CEP on the packed FOB⁸ price to the first unaffiliated purchaser in the United States.

For Shanghai Fortune, we made adjustments to the gross unit price for foreign inland freight from processing facility to port of exit, foreign brokerage and handling, international ocean freight, marine insurance, U.S. inland freight from port to warehouse, other U.S. transportation expenses, U.S. brokerage and handling expenses, and U.S. import duties.

In accordance with section 772(d)(1) of the Act, we also deducted those selling expenses associated with economic activities occurring in the United States, including credit expenses, inventory carrying costs and indirect selling expenses. We also made an adjustment for profit in accordance with section 772(d)(3) of the Act.

Because some movement expenses were provided by NME companies, we valued those charges based on surrogate values in India. See *Factor Valuation Memo*.

For a more detailed explanation of the company-specific adjustments that we made in the calculation of the dumping margins for these preliminary results, see the “Analysis for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Saccharin from the People’s Republic of China: Shanghai Fortune Chemical Co., Ltd.” memorandum dated August 1, 2005 (“*Shanghai Fortune Analysis Memo*”), which is on file in the CRU.

⁸ The details of the FOB destination are proprietary information. Thus, due to the proprietary nature of this data, we are unable to provide this information in this preliminary results notice.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using a factors-of-production methodology if: (1) The merchandise is exported from a non-market economy country; and (2) 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 will base NV on factors of production because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our normal methodologies.

Factors of production include: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. We used factors of production reported by Shanghai Fortune for materials, energy, labor, and packing.

In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to value factors of production, but when a producer sources an input from a market economy and pays for it in market-economy currency, the Department will normally value the factor using the actual price paid for the input. See 19 CFR 351.408(c)(1). See also *Lasko Metal Products v. United States*, 43 F.3d 1442, 1445–46 (Fed. Cir. 1994). However, when the Department has reason to believe or suspect that such prices may be distorted by subsidies, the Department will disregard the market-economy purchase prices and use surrogate values to determine the NV. See *Notice of Amended Final Determination of Sales at Less than Fair Value: Automotive Replacement Glass Windshields from the People’s Republic of China (“PRC”)*, 67 FR 11670 (March 15, 2002).

Shanghai Fortune reported that its international ocean freight was sourced from a market economy, but paid for in a non-market-economy currency (*i.e.*, RMB). Pursuant to 19 CFR 351.408(c)(1), we did not use the actual price paid by Shanghai Fortune for this input because it was not paid for in a market-economy currency.

Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by Shanghai Fortune for the POR. To calculate NV, the reported per-unit factor quantities were multiplied by

⁷ See Shanghai Fortune’s May 27, 2005, Supplemental Questionnaire Response at Attachment 1.

publicly available Indian surrogate values with the exception of the surrogate value for ocean freight, which we obtained from an international freight company. In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to Indian import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory where appropriate. This adjustment is in accordance with the decision of the Court of Appeals for the Federal Circuit in *Sigma Corp. v. United States*, 117 F. 3d 1401 (Fed. Cir. 1997). For a detailed description of all surrogate values used for respondents, see the *Factor Valuation Memorandum*.

Except as noted below, we valued many of the raw material inputs using the weighted-average unit import values derived from Indian import statistics as published in the *Monthly Statistics of the Foreign Trade of India* ("MSFTI"). See *Factor Valuation Memorandum*. The Indian Import Statistics we obtained were reported in Indian rupees and are contemporaneous with the POR. Consistent with the *Final Determination of Sales at Less than Fair Value: Certain Automotive Replacement Glass Windshields From the People's Republic of China*, 67 FR 6482 (February 12, 2002) and accompanying *Issues and Decision Memorandum*, we excluded Indian import data reported in the *MSFTI* for Korea, Thailand, and Indonesia in our surrogate value calculations. In addition to the Indian import statistics data, we used information from the Indian trade publication, *Indian Chemical Weekly* ("ICW"), to value certain chemical inputs. Where we could not obtain publicly available information contemporaneous with the POR with which to value factors, we adjusted the surrogate values using the Indian Wholesale Price Index ("WPI") as published in the *International Financial Statistics* of the International Monetary Fund.

Shanghai Fortune reported that it sourced all of its raw material inputs within the PRC. Therefore, we have used Indian import statistics or *ICW* to value each of these inputs. Shanghai Fortune reported that during the production process of saccharin, it recovered and recycled certain chemical products for resale. However, Shanghai Fortune provided no supporting documentation to demonstrate that

these by-products were sold during the POR. The amount of by-products reused or sold during the POR is an integral part of the factor calculation for by-products. See *Notice of Final Determination of Sales at Less Than Fair Value: Urea Ammonium Nitrate Solutions from Belarus*, 68 FR 9055 (February 27, 2003) ("The Department allows such credits, but only for the amount of the by-product/recovery actually sold or reused."). See also *Issues and Decision Memorandum for the Final Determination of the Antidumping Duty Investigation of Saccharin from the People's Republic of China*, 68 FR 27530 (May 20, 2003), at Comment 6. For these preliminary results, we have not allowed a by-product offset for the amounts reported in its responses or for any smaller amount because Shanghai Fortune did not demonstrate that any of its sales of by-products took place during the POR. See *Factor Valuation Memorandum* and *Shanghai Fortune Analysis Memo*. However, the Department has issued a supplemental questionnaire on this issue and will consider any additional factually supported information and source documents timely submitted by Shanghai Fortune for the final results of this review.

Energy and Water: To value electricity, we used values from the International Energy Agency to calculate a surrogate value in India for 2000, and adjusted for inflation. No interested parties submitted information or comments regarding these surrogate values and the Department was unable to find a more contemporaneous surrogate value. Because this data was not contemporaneous with the POR, we adjusted the International Energy Agency 2000 Indian price for inflation. See *Factor Valuation Memorandum*. To value steam coal, we used data obtained from the Indian publication, *Teri Energy Data Directory & Yearbook* ("Teri Data"). The *Teri Data* is publicly available and is contemporaneous with the POR. See *id.* To value water and steam, we used the rates from the website maintained by the Maharashtra Industrial Development Corporation (<http://www.midcindia.org/>) which shows industrial water rates from various areas within the Maharashtra Province, India ("Maharashtra Data"). The Maharashtra data is publicly available, and is contemporaneous with the POR. See *id.*

Labor: We valued labor, consistent with 19 CFR 351.408(c)(3), using the PRC regression-based wage rate as reported on Import Administration's home page, Import Library, Expected Wages of Selected NME Countries,

revised in November 2004, <http://ia.ita.doc.gov/wages/02wages/02wages.html>. The source of this wage rate data on the Import Administration's web site is the Yearbook of Labour Statistics 2002, ILO, (Geneva: 2002), Chapter 5B: Wages in Manufacturing. The years of the reported wage rates range from 1996 to 2001. Because this regression-based wage rate does not separate the labor rates into different skill levels or types of labor, we have applied the same wage rate to all skill levels and types of labor reported by the respondent. See *id.*

Packing Materials: We used Indian import statistics to value material inputs for packing. See *id.*

Movement Expenses: We valued the foreign inland freight rate based on an average of truck rates that were published in the Indian publication *Chemical Weekly* during the POR. We valued foreign brokerage and handling charges based on an average value calculated in *Notice of Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From India*, 66 FR 50406 (October 3, 2001), *Certain Forged Stainless Steel Flanges from India: Final Results of Antidumping New Shipper Review*, 63 FR 25824 (May 11, 1998), and *Notice of Final Determination of Sales at Less than Fair Value: Carbazole Violet Pigment 23 from India*, 69 FR 67306 (November 17, 2004). We adjusted data not contemporaneous with the POR when appropriate. For ocean freight, we used the rate quotes from the website maintained by Maersk Sealand (<http://www.maersksealand.com>) for the movement of containers from the PRC to the west coast of the United States. For marine insurance, we relied on rate quotes from RJG Consultants (<http://www.rjgconsultants.com>) dating from the POR for the movement of containers from the PRC to the west coast of the United States.

Factory Overhead, Selling, General and Administrative Expenses, and Profit: To value factory overhead, selling, general and administrative expenses, and profit, we used the 2003 audited financial statements for Atul Limited, an Indian chemical producer that manufactures many of the intermediate raw materials used in the production of saccharin and utilizes many production processes that are similar to those used in the production of saccharin. For a full discussion of the calculation of these ratios from Atul Limited's financial statements, see *Factor Valuation Memorandum*.

Currency Conversion

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(s) as certified by the U.S. Federal Reserve Bank.

Preliminary Results of the Review

We preliminarily find that the following weighted-average dumping margins exist for the period December 27, 2002, through June 30, 2004:

SACCHARIN FROM THE PRC

Producer/manufacturer/exporter	Weighted-average margin (percent)
Shanghai Fortune Chemical Co., Ltd	137.79
PRC-wide entity ⁹	329.33

⁹The PRC-wide entity includes: Suzhou Chemicals, Tianjin Changjie, Kaifeng Chemical, Tianjin North Food, and Beta Udyog.

The Department will disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. See 19 CFR 351.309(c)(ii). Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 35 days after the date of publication of these preliminary results of review. See 19 CFR 351.309(d).

Any interested party may request a hearing within 30 days of publication of these preliminary results. See 19 CFR 351.310(c). Requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If we receive a request for a hearing, we plan to hold the hearing three days after the deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of the final results of this administrative review. If these preliminary results are adopted in our final results of review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated an exporter/importer (or customer)-specific assessment rate or value for merchandise subject to this review. Because Shanghai Fortune reported entered values, for these preliminary results we divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales for each applicable importer. For duty-assessment rates calculated on this basis, we will direct CBP to assess the resulting percentage margin against the entered customs values for the subject merchandise on each of the applicable importer's/customer's entries during the review period.

Cash-Deposit Requirements

The following cash-deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Shanghai Fortune will be the rate listed in the final results of review (except where the rate is *de minimis*, i.e., less than 0.5 percent, no cash deposit will be required); (2) for previously investigated companies not listed above that have separate rates, the cash-deposit rate will continue to be the company-specific rate published in the *LTFV Investigation*; (3) the cash-deposit rate for all other PRC exporters will be 329.33 percent, the current PRC-wide rate; and (4) the cash-deposit rate for all other non-PRC exporters will be the rate applicable to the PRC supplier of that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping

duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these preliminary results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b).

Dated: August 1, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. E5-4252 Filed 8-5-05; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-351-806]

Silicon Metal From Brazil: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to requests by Globe Metallurgical (petitioner) and Camargo Correa Metais S.A. (CCM) the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on silicon metal from Brazil. The period of review (POR) is July 1, 2003, through June 30, 2004.

We preliminarily determine that CCM did not sell subject merchandise at less than normal value (NV) during the POR. If these preliminary results are adopted in our final results of this administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties based on the difference between the export price (EP) and NV. We invite interested parties to comment on the preliminary results.

EFFECTIVE DATE: August 8, 2005.

FOR FURTHER INFORMATION CONTACT: Maisha Cryor at (202) 482-5831 or Mark Manning at (202) 482-5253, AD/CVD Operations, Office IV, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1991, the Department published in the **Federal Register** the