DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–047]

Elemental Sulphur From Canada: Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty administrative review of elemental sulphur from Canada.

SUMMARY: The Department of Commerce (''the Department'') is conducting an administrative review of the antidumping duty order on elemental sulphur from Canada in response to requests from the petitioner, Freeport-McMoRan Sulphur, Inc. (''Freeport''), and the respondent, Husky Oil, Ltd. (''Husky''). The period of review (''POR'') is from December 1, 1996 through November 30, 1997.

We preliminarily determine that respondent, Husky, has sold subject merchandise at not less than normal value (''NV'') during the POR. Husky has requested revocation from the order, but, as explained in the *Revocation* section below, we preliminarily determine that Husky has not met the threshold requirements to be considered for revocation. If these preliminary results are adopted in our final results of this administrative review, we will instruct the U.S. Customs Service not to assess antidumping duties on suspended entries.

We invite interested parties to comment on these preliminary results. Parties who submit arguments in this segment of the proceeding should also submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: January 6, 1999.

FOR FURTHER INFORMATION CONTACT: Brandon Farlander or Rick Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0182 or (202) 482–3818, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351, 62 FR 27296 (May 19, 1997).

Background

On December 17, 1973, the Department of the Treasury published in the **Federal Register** (38 FR 34655) the antidumping finding on elemental sulphur from Canada. On December 5, 1997, the Department published in the **Federal Register** (62 FR 64353) a notice of opportunity to request an administrative review of this antidumping finding for the period December 1, 1996 through November 31, 1997.

On December 31, 1997, in accordance with 19 CFR 351.213(b), Freeport requested that we conduct an administrative review of Husky and any other company that exported Husky-produced sulphur to the United States during the POR. Also, on December 31, 1997, Husky requested that we conduct an administrative review and further requested that the Department revoke the antidumping order as to Husky. We published a notice of initiation of this antidumping duty administrative review on January 26, 1998 (63 FR 3702). On June 26, 1998, petitioner submitted a request that the deadline for the preliminary results in this review be extended by 75 days in order to develop the administrative record with respect to revocation. On July 29, 1998, the Department published in the **Federal Register** an extension of the deadline for the preliminary results of review to November 1, 1998 (63 FR 40391). On August 19, 1998, the Department published in the **Federal Register** a further extension of the deadline for the preliminary results of review to December 31, 1998 (63 FR 44420). The Department is conducting this administrative review in accordance with section 751 of the Act. As outlined below, we preliminarily determine a *de minimis* margin of 0.37 percent for Husky, but that Husky has not met the threshold requirement to be considered for revocation.

Verification

As provided in section 782(i) of the Act, from September 23, 1998 to October 2, 1998, we verified sales and cost information provided by Husky, using standard verification procedures, including an examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public versions of the verification reports and are on file in the Central Records Unit (''CRU'') located in room B–099 of the main Department of Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C. For changes to Husky's costs based on verification findings, see *Calculation of CV* section below.

Scope of the Review

Imports covered by this review are shipments of elemental sulphur from Canada. This merchandise is classifiable under Harmonized Tariff Schedule (''HTS'') subheadings 2503.10.00, 2503.90.00, and 2802.00.00. Although the HTS subheadings are provided for convenience and for U.S. Customs purposes, the Department's written description of the scope of this order remains dispositive. The POR is December 1, 1996 through November 30, 1997.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products covered by the *Scope of the Review* section above, which were produced and sold by the respondent in the home market during the POR, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. For all of Husky's U.S. sales, there were identical sales in the home market on which to base comparisons.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (''LOT'') as the EP or CEP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on constructed value (''CV''), that of the sales from which we derive selling, general and administrative (''SG&A'') expenses and profit. For EP, the LOT is also the level of the starting-price sale, which is usually from the exporter to the importer. For CEP, it is the level of the constructed sale from the exporter to the affiliated importer.

To determine whether NV sales are at a different LOT than EP or CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make an

LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales (which we note is not the case for Husky), if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the differences in the levels between NV and CEP sales affect price comparability, we adjust NV under section 773(A)(7)(B) of the Act (the CEP offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Plate from South Africa,* 62 FR 61731 (November 19, 1997).

In the present review, Husky did not request a LOT adjustment or CEP offset. To ensure that no such adjustment was necessary, in accordance with the principles discussed above, we examined information regarding the distribution systems in both the United States and Canadian markets, including the selling functions, classes of customer, and selling expenses.

In the home market, Husky reported that it sold through one sales channel: to end-users. The selling functions associated with this channel included inventory maintenance, freight and delivery arrangements, and credit services. Hence, we preliminarily determine that there is one LOT in the home market.

In the U.S. market, Husky reported two sales channels: (1) To end-users; and (2) to resellers. Husky's U.S. sales through the second sales channel were made via a Canadian reseller. Husky knows that sales through this channel are destined for the U.S. market, hence, Husky classifies all its sales in the reseller sales channel as U.S. sales. We examined the selling functions performed for each of the two U.S. sales channels. Both sales channels involved inventory maintenance, freight and delivery arrangements, and credit services. Based on the above information, we preliminarily determine that there is one LOT in the United States.

Based on our analysis of the selling functions performed for sales in the home market and EP sales in the U.S. market, we preliminarily determine that there is not a significant difference in the selling functions performed in the U.S. and home markets and that these sales are made at the same LOT. Therefore, an LOT adjustment is not appropriate.

Fair Value Comparisons

To determine whether sales of subject merchandise to the United States were made at less than fair value, we compared the EP to the NV. In accordance with section 777A(d)(2), we calculated monthly weighted-average prices for NV and compared these to individual EP transactions.

Export Price

For calculation of the price to the United States, we used EP, in accordance with section 772(a) of the Act, because Husky's subject merchandise was sold to the first unaffiliated purchaser in either Canada (shipped directly from the producer to the U.S. purchaser) or the United States prior to importation, and use of the CEP methodology was not otherwise warranted. We calculated EP based on free on board (f.o.b.) plant or delivered prices to unrelated customers. We made deductions to the starting price for movement expenses (inland freight, brokerage and handling, and tank car leasing expenses) pursuant to section 772(c)(2) of the Act. For a further explanation of how we calculated EP, *see Memorandum to the File: Analysis Memorandum for the Preliminary Results of Review,* December 31, 1998 (''*Analysis Memo*''). Because Husky invoices its customers, in all cases, after shipment, we have used Husky's shipment date as the date of sale for the United States in accordance with 19 CFR 351.401(i).

Normal Value

We compared the aggregate volume of Husky's home market sales of the foreign like product and U.S. sales of the subject merchandise to determine whether the volume of the foreign like product Husky sold in Canada was sufficient, pursuant to section 773(a)(1)(C) of the Act, to form a basis for NV. Because Husky's volume of home market sales of the foreign like product was greater than five percent of its U.S. sales of subject merchandise, in accordance with section 773(a)(1)(B)(i) of the Act, we have based the determination of NV upon Husky's home market sales of the foreign like product. Moreover, there is no evidence on the record indicating a particular market situation in the exporting country that would not permit a proper comparison of home market and U.S. prices. *See* section 773(a)(1)(C)(iii) of the Act. Thus, we based NV on the prices at which the foreign like product was first sold for consumption in Canada, in the usual commercial quantities, in the ordinary course of trade, and at the same LOT as the EP sales.

After testing home market viability and whether home market sales were at below-cost prices, we calculated NV as noted in the ''Price-to-Price Comparisons'' and ''Price-to-CV Comparison'' sections of this notice.

Cost of Production (''COP'') Analysis

Because the Department determined, in the most recently completed review, that Husky made sales in the home market at prices below the cost of producing the subject merchandise (*see, e.g., Notice of Preliminary Results of Review: Elemental Sulphur from Canada,* 62 FR 969 (January 7, 1997)), the Department determines in this review that there are reasonable grounds to believe or suspect that Husky made sales in the home market at prices below the cost of producing the merchandise. *See* section 773(b)(2)(A)(ii) of the Act. As a result, the Department initiated a cost of production inquiry in this case on February 2, 1998, to determine whether Husky made home market sales during the POR at prices below their respective COPs within the meaning of section 773(b) of the Act.

We conducted the COP analysis described below.

A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of Husky's cost of materials and fabrication for the foreign like product, plus amounts for home market selling, general and administrative expenses (''SG&A''), interest expenses, and packing costs. We used home market sales and COP information provided by Husky in its questionnaire responses. We made the following changes to Husky's reported costs based on our verification findings: (1) We included ''interest on subordinated shareholders' loans'' and ''Dividends on Class C shares'' in the calculation of the financial expense ratio (Husky omitted these costs from its calculation of COP and CV); (2) we revised the reported cost of sales (''COS'') figure used in the calculation of the financial expense ratio to exclude several costs used in Husky's calculation of the financial expense ratio; (3) we included certain miscellaneous and non-operating expense items in the calculation of the general and administrative (''G&A'') expense ratio; and (4) we revised the reported COS figure used in the calculation of the G&A ratio to exclude several costs. *See Memorandum to the File, ''Preliminary Cost Calculations for Husky Oil, Ltd.''*, dated December 31, 1998 and the *Cost Verification Report,* dated December 1, 1998.

B. Test of Home Market Prices

We compared the POR-long weighted average COP for Husky, adjusted where appropriate (see above), to its home

market sales of the foreign like product as required under section 773(b) of the Act. In determining whether to disregard home market sales made at prices less than the COP, we examined whether: (1) Within an extended period of time, such sales were made in substantial quantities; and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time.

C. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product within an extended period of time are at prices less than the COP, we do not disregard any below-cost sales of that product because the below-cost sales are not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product during the extended period are at prices less than the COP, we determine such sales to have been made in ''substantial quantities.'' *See* section 773(b)(2)(C)(i) of the Act. The extended period of time for this analysis is the POR. *See* section 773(b)(2)(B) of the Act. Because each individual price was compared against the POR-long weighted average COP, any sales that were below cost were also at prices which did not permit cost recovery within a reasonable period of time. *See* section 773(b)(2)(D). We compared the COP for liquid sulphur to the reported home market prices less any applicable movement charges. Pursuant to section 773(b)(2)(C) of the Act, we concluded that Husky's below cost sales were made in substantial quantities because the volume of these sales represented more than 20 percent of the volume of sales under consideration for the determination of NV. We also concluded that these below-cost sales were made within an extended period of time (*i.e.*, within the POR) within the meaning of section 773 of the Act. *See Statement of Administrative Action* (''SAA''), accompanying the Uruguay Round Agreements Act, at 832.

D. Calculation of CV

In accordance with section 773(e)(1) of the Act, we calculated Husky's CV based on the sum of Husky's cost of materials, fabrication, SG&A, interest expenses and profit. We calculated the COPs included in the calculation of CV as noted above in the ''Calculation of COP'' section of this notice. In accordance with section 773(e)(2)(A) of the Act, we based SG&A and profit on the amounts incurred and realized by Husky in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in Canada.

Price-to-Price Comparisons

We based NV on the home market prices to unaffiliated purchasers (Husky made no sales to affiliated parties). Home market prices were based on ex-factory or delivered prices. We made adjustments, where applicable, for movement expenses in accordance with section 773(a)(6)(B) of the Act. We also made adjustments for differences in circumstances of sale (''COS'') in accordance with 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 by deducting home market direct selling expenses (credit) and adding U.S. direct selling expenses (credit).

Price-to-CV Comparisons

In accordance with section 773(a)(4) of the Act, we based NV on CV if we were unable to find suitable home market sales of the foreign like product. We made adjustments to CV in accordance with section 773(a)(8) of the Act. For comparisons to EP, we made COS adjustments by deducting home market direct selling expenses and adding U.S. direct selling expenses.

Revocation

As noted, Husky has requested revocation pursuant to 19 CFR 351.222, which, at subsection (d), authorizes the Department to treat unreviewed intervening years as reviewed periods for purposes of its revocation analysis. However, the Department's policy is not to apply this regulation retroactively to include periods subject to review under earlier versions of the regulations. As we explained in a recent administrative review of the countervailing duty order on agricultural tillage tools from Brazil, ''[a]lthough section 351.222(d) of the Department's regulations provides that the Secretary may revoke the order in part when there are unreviewed years in the period upon which revocation is based, the regulations do not provide for the application of this provision retroactively to review periods that would have been controlled by the Department's pre-Uruguay Round regulations.'' *See* June 11, 1998 Letter from Barbara Tillman, Director, Office of CVD/AD Enforcement VI, to Randolph J. Stayin, Barnes & Thornburg. *See also Certain Agricultural Tillage Tools From Brazil; Preliminary Results of Countervailing Duty Administrative Review*, 63 FR 37532, 37533 (July 13, 1998) (''The Department considered Marchesan's revocation request and determined that the company did not meet the requirements to be considered for revocation from the countervailing duty order.'') (affirmed in final results at 63 FR 52685). Likewise, in *Frozen Concentrated Orange Juice From Brazil; Final Results of Antidumping Duty Administrative Review*, 63 FR 26145, 26146 (May 12, 1998), the Department declined to apply new section 351.222 retroactively to include periods that would have been reviewed under pre-URAA regulatory authority in its revocation analysis.

Because the Department does not apply section 351.222(d) of the new regulations retroactively, any unreviewed periods that apply to the three-consecutive-year revocation requirement must be periods reviewed under Part 351. Husky's 1995–96 POR thus cannot be considered the second of three consecutive PORs in this revocation analysis. Therefore, because Husky has not satisfied the threshold requirement that revocation be based upon sales ''at not less than normal value for a period of at least three consecutive years,'' we do not reach the additional criteria for revocation enumerated at 19 CFR 351.222 (b)(2) (ii) and (iii).

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following weighted-average dumping margin exists for the period December 1, 1996 through November 30, 1997:

Manufacturer/exporter	Margin (percent)
Husky Oil, Ltd.	0.37

The Department will disclose calculations performed in connection with this preliminary determination within five days of the date of publication of this notice. Any interested party may request a hearing within 30 days of publication. Case briefs from interested parties may be submitted not later than 30 days after the date of publication of this notice in the **Federal Register**; rebuttal briefs may be submitted not later than five days thereafter. Any hearing, if requested, will be held 2 days after the scheduled date for submission of rebuttal briefs. Issues raised in the hearing will be limited to those raised in the case briefs. The Department will publish the final results of this administrative review, including its analysis of issues raised in any written comments or at a hearing, not later than 120 days after the date of publication of this notice.

Upon issuance of the final results of this review, the Department shall determine, and the U.S. Customs Service shall assess, antidumping duties

on all appropriate entries. If these preliminary results are adopted in our final results, we will instruct Customs not to assess antidumping duties on the merchandise subject to review. Upon completion of this review, the Department will issue appraisement instructions directly to the Customs Service. If applicable, we will calculate an importer-specific *ad valorem* duty assessment rate based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of that particular importer made during the POR. This is equivalent to dividing the total amount of antidumping duties, which are calculated by taking the difference between statutory NV and statutory EP, by the total statutory EP value of the sales compared, and adjusting the result by the average difference between EP and Customs value for all merchandise examined during the POR.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these administrative reviews, as provided by section 751(a)(1) of the Act: (1) For Husky, no deposit will be required; (2) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (3) the cash deposit rate for all other manufacturers will be the ''all others'' rate made effective by the final results of the 1993–94 administrative review of these orders (*see* 1992–93 and 1993–94 Final Results). These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) 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.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 30, 1998.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–242 Filed 1–5–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–848]

Freshwater Crawfish Tail Meat From the People's Republic of China: Extension of Time Limits for Preliminary Results of New Shipper Antidumping Administrative Review

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

ACTION: Notice of extension of time limits for preliminary results of new shipper review.

EFFECTIVE DATE: January 6, 1999.

FOR FURTHER INFORMATION CONTACT: Michael Strollo, Laurel LaCivita or Maureen Flannery, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone: (202) 482–3782, (202) 482–4236 or (202) 482–3020, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Departments's regulations are to the current regulations, codified at 19 CFR part 351, (April, 1998).

Background

On March 27, 1998, the Department of Commerce (the Department) received a request from Ningbo Nanlian Frozen Foods Company, Ltd. (Ningbo Nanlian) for a new shipper antidumping administrative review of freshwater crawfish tail meat. On May 8, 1998, the Department published its initiation of this new shipper review covering the period of September 1, 1997 through March 31, 1998 (63 FR 25449).

Extension of Time Limits for Preliminary Results

Because of the complexities enumerated in the Memorandum from Joseph A. Spetrini to Robert S. LaRussa, *Extension of Time Limit for the New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China,* dated December 21, 1998, it is not practical to complete this review within the time limits mandated by section 751(a)(2)(B) of the Act.

Therefore, in accordance with section 751(a)(2)(B) of the Act, the Department is extending the time limits for the preliminary results 35 days to February 15, 1999. The final results continue to be due 90 days after the publication of the preliminary results.

Dated: December 30, 1998.

Joseph A. Spetrini,

Deputy Assistant Secretary for AD/CVD Enforcement III.

[FR Doc. 99–249 Filed 1–5–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–803]

Amended Final Results of Antidumping Duty Administrative Reviews Pursuant To Remand From the Court of International Trade: Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Correction

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

ACTION: Amended Final Results of Antidumping Duty Administrative Reviews Pursuant to Remand From the Court of International Trade: Correction.

EFFECTIVE DATE: January 6, 1999.

FOR FURTHER INFORMATION CONTACT: Frank Thomson or Jim Terpstra, AD/CVD Enforcement, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–4793/3965, respectively.

CORRECTION: The Department of Commerce (the Department) inadvertently referenced an incorrect **Federal Register** notice in the ''Amended Final Results'' section of the *Amended Final Results of Antidumping Duty Administrative Reviews Pursuant To Remand From the Court of International Trade: Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China,* 63 FR 55577 (October 16, 1998). The period of review (POR) for these amended final results is