Objection Date: July 29, 1996, Objector: Hercules Incorporated, Contact: Rebecca Trainor at (202) 482–0666

A–823–801, The Ukraine, Solid Urea, Objection Date: July 19, 1996, Objector: Ad Hoc Committee of Domestic Nitrogen Producers, Contact: Thomas Barlow at (202) 482–0410

A–843–801, Turkmenistan, Solid Urea, Objection Date: July 19, 1996, Objector: Ad Hoc Committee of Domestic Nitrogen Producers, Contact: Thomas Barlow at (202) 482–0410

A–844–801, Uzbekistan, Solid Urea, Objection Date: July 19, 1996, Objector: Ad Hoc Committee of Domestic Nitrogen Producers, Contact: Thomas Barlow at (202) 482–0410

Dated: October 4, 1996.

Barbara R. Stafford,

Deputy Assistant Secretary for AD/CVD Enforcement.

[FR Doc. 96–26352 Filed 10–11–96; 8:45 am]

BILLING CODE 3510–DS–M

[A–201–820]

Notice of Postponement of Preliminary Antidumping Duty Determination: Fresh Tomatoes From Mexico

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

EFFECTIVE DATE: October 15, 1996.

FOR FURTHER INFORMATION CONTACT: Judith Rudman or Jennifer Katt, Office of AD/CVD Enforcement, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone (202) 482–0192 or (202) 482–0498, respectively.

POSTPONEMENT OF PRELIMINARY DETERMINATION: On April 18, 1996, the Department of Commerce (the Department) initiated an antidumping duty investigation of fresh tomatoes from Mexico (61 FR 18377, April 25, 1996).

In accordance with section 733(c)(1)(A) of the Tariff Act of 1930 (the Act), on July 26, 1996, the petitioners [1] made a timely request for an extension of the period within which the preliminary determination must be made. In accordance with section 733(c)(1)(A) of the Act and section 353.15(c) of the Department's regulations, on August 5, 1996, we published the *Notice of Postponement of Preliminary Antidumping Duty Determination: Fresh Tomatoes from Mexico* (61 FR 40607), postponing our preliminary determination in this investigation until no later than October 7, 1996.

The Department is further postponing the preliminary determination in this investigation until no later than October 28, 1996. This further postponement is necessary to provide additional time for the Department to consider certain novel issues which have been raised by the parties. The respondent parties have been cooperating in this investigation and thus, further postponement is appropriate.

This notice is published pursuant to section 733(c)(2) of the Act, and 19 CFR 353.15(d).

Dated: October 7, 1996.

Barbara R. Stafford,

Deputy Assistant Secretary Import Administration.

[FR Doc. 96–26357 Filed 10–11–96; 8:45 am]

BILLING CODE 3510–DS–P

[1] The petitioners in this investigation are: The Florida Tomato Growers Exchange; the Florida Tomato Exchange; the Tomato Committee of the Florida Fruit and Vegetable Association; the South Carolina Tomato Association; the Gadsden County Tomato Growers Association; and an Ad Hoc Group of Florida, California, Georgia, Pennsylvania, South Carolina, and Virginia Tomato Growers.

[A–570–815]

Sulfanilic Acid From the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review

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

ACTION: Notice of final results and partial rescission of antidumping duty administrative review.

SUMMARY: On June 7, 1996, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on sulfanilic acid from the People's Republic of China (PRC). This review covers the period August 1, 1994 through July 31, 1995.

EFFECTIVE DATE: October 15, 1996.

FOR FURTHER INFORMATION CONTACT: Karin Price or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–4733.

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 (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

Background

On June 7, 1996, the Department published in the Federal Register (61 FR 29073) the preliminary results of its administrative review of the antidumping duty order on sulfanilic acid from the PRC (57 FR 37524, August 19, 1992). We conducted a hearing on July 24, 1996. We have now completed the administrative review in accordance with section 751 of the Act.

Scope of the Review

Imports covered by this review are all grades of sulfanilic acid, which include technical (or crude) sulfanilic acid, refined (or purified) sulfanilic acid and sodium salt of sulfanilic acid.

Sulfanilic acid is a synthetic organic chemical produced from the direct sulfonation of aniline with sulfuric acid. Sulfanilic acid is used as a raw material in the production of optical brighteners, food colors, specialty dyes, and concrete additives. The principal differences between the grades are the undesirable quantities of residual aniline and alkali insoluble materials present in the sulfanilic acid. All grades are available as dry, free flowing powders.

Technical sulfanilic acid contains 96 percent minimum sulfanilic acid, 1.0 percent maximum aniline, and 1.0 percent maximum alkali insoluble materials. Refined sulfanilic acid contains 98 percent minimum sulfanilic acid, 0.5 percent maximum aniline and 0.25 percent maximum alkali insoluble materials.

Sodium salt is a powder, granular or crystalline material which contains 75 percent minimum equivalent sulfanilic acid, 0.5 percent maximum aniline based on the equivalent sulfanilic acid content, and 0.25 percent maximum alkali insoluble materials based on the equivalent sulfanilic acid content.

This merchandise is classifiable under Harmonized Tariff Schedule (HTS) subheadings 2921.42.22 and 2921.42.90. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

This review covers 13 manufacturers/exporters of sulfanilic acid from the PRC, and the period August 1, 1994 through July 31, 1995.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results. We received written comments from Yude Chemical Industry Co. (Yude), Zhenxing Chemical Industry Co. (Zhenxing), Sinochem Hebei Import and Export Corporation (Sinochem Hebei), PHT International, Inc. (PHT), and New Chemic (U.S.A.), Inc. (New Chemic) (collectively, respondents); and from the petitioner, Nation Ford Chemical Company. At the request of PHT and the petitioner, a public hearing was held on July 24, 1996.

Comment 1

Petitioner argues that, because sales to the United States of sulfanilic acid produced by Yude and Zhenxing were made by China National Chemical Construction Corporation (CNCCC), Yude and Zhenxing are not the proper respondents in this case. Instead, petitioner contends that CNCCC is the proper respondent.

Petitioner states that, in the preliminary results, the Department considered sales to PHT, the U.S. importer, of sulfanilic acid produced by Yude and Zhenxing to be constructed export price (CEP) sales because PHT is affiliated with Yude and Zhenxing. However, petitioner notes that Yude and Zhenxing are not related to CNCCC, Yude and Zhenxing sold the sulfanilic acid to CNCCC, CNCCC exported the sulfanilic acid produced by Yude and Zhenxing to the United States after purchasing the sulfanilic acid, and CNCCC, not PHT, paid Yude and Zhenxing for the sulfanilic acid. As a result, petitioner contends that CNCCC is the proper respondent in this review with respect to these sales, and that Yude and Zhenxing are not entitled to a separate margin and should receive the PRC-wide rate of 85.20 percent. Petitioner further argues that CNCCC is a named respondent in this review and did not respond to the questionnaire sent to it by the Department. Accordingly, petitioner claims that the margin which should be assigned to CNCCC, as the exporter, should be based on facts available and should be the PRC-wide rate of 85.20 percent.

Respondents reply that Yude and Zhenxing are the proper respondents because they set the export price, and these sales were properly reported and treated as CEP sales. According to respondents, PHT negotiates the export price with Yude and Zhenxing directly, and CNCCC simply processes the paperwork. Respondents contrast this situation with a typical sale involving a PRC trading company, in which the U.S. importer negotiates the export price with the trading company, not the factory, and the trading company sources the product from the factory, even though the U.S. importer often knows of and specifies the factory in its order. Respondents further note that the invoices to PHT are from either Yude or Zhenxing, not from CNCCC, and that, prior to the establishment of the joint ventures, the invoices were from CNCCC. Respondents cite the Department's proposed regulations, which state that the Department will normally use the date of invoice as the date of sale. As a result, respondents argue, since the invoice date establishes the date of sale, and since invoices are between either Yude and Zhenxing and PHT or between PHT and its unaffiliated U.S. customers, the first unrelated U.S. sale is between PHT and its unrelated U.S. customers, and Yude and Zhenxing are the proper respondents.

Department's Position

We disagree with petitioner, and have continued to consider these sales to be CEP sales made by Yude and Zhenxing. We found at verification that CNCCC's role in the sale of the merchandise to the United States is limited to processing paperwork, such as packing lists, and arranging for shipments, and that CNCCC receives a profit for these activities. We also found that PHT talks to the factories two or three times each year to negotiate the price between PHT and the factories, and that the price paid to the factory is fairly constant. We did find that PHT pays CNCCC, who then pays the factories. However, payment is made this way because the factories are small and do not have foreign exchange bank accounts, and the transaction between CNCCC and the factories is made in renminbi. *See* page 3 of the May 30, 1996 PHT verification report. Since the price to PHT is determined through negotiations with Yude and Zhenxing, and CNCCC's role is limited to processing paperwork, Yude and Zhenxing are the proper respondents in this review, and we have reviewed PHT's sales to its unaffiliated customers. As in the preliminary results of review, Yude and Zhenxing have received a separate rate, and CNCCC has received a rate based on facts available because it did not respond to the questionnaire.

Comment 2

Petitioner argues that use of Indian import prices of aniline as the surrogate value for aniline is inappropriate. Petitioner contends that the domestic market prices of aniline reported in *Chemical Business* and *Chemical Weekly* should be used as surrogate values because they accurately reflect the prices paid for aniline by Indian manufacturers of sulfanilic acid. It notes that the import value of aniline used for the preliminary results of review is less than half the prices reported in *Chemical Business* and *Chemical Weekly*.

Petitioner states that, in selecting surrogate values for a factors-of-production analysis, the Department attempts to calculate values for raw materials in a manner which closely approximates the actual costs of the raw materials paid by manufacturers in the surrogate country market. As support, petitioner cites to 19 U.S.C. § 1677b(c), the *Final Determination of Sales at Less Than Fair Value: Coumarin from the People's Republic of China* (59 FR 66895, December 28, 1994) (*Coumarin*), and the *Notice of Final Determination of Sales at Less Than Fair Value: Saccharin from the People's Republic of China* (59 FR 58818, November 15, 1994) (*Saccharin*).

Petitioner contends that the data it submitted from *Chemical Business* and *Chemical Weekly* provide the most accurate source of surrogate values for aniline, and points to the consistency of the data reported in those publications as an indication of the accuracy and reliability of that data. It states that the fact that the import value of aniline is so much lower than the prices reported in *Chemical Business* and *Chemical Weekly* is evidence that the prices in those publications are more reliable. Petitioner notes that these publications have been used as sources of surrogate values in other cases, including the *Notice of Final Determination of Sales at Less Than Fair Value: Sebacic Acid from the People's Republic of China* (59 FR 28053, May 31, 1994) (*Sebacic Acid*) and the *Notice of Final Determination of Sales at Less Than Fair Value: Bicycles from the People's Republic of China* (61 FR 19026, April 30, 1996) (*Bicycles*), and were also used to determine surrogate values for sulfuric acid and activated carbon in the preliminary results of this review. According to petitioner, it makes no sense for the Department to use *Chemical Business* and *Chemical Weekly* for two surrogate values in this review, but to reject them for valuing aniline.

Petitioner further argues that there is nothing on the record to suggest that the PRC producers only use aniline imported into the PRC, or that Indian manufacturers of sulfanilic acid only use imported aniline. Without substantial evidence pointing to import values as the source for the surrogate values, it believes that the Department

should not rely on the low import values.

Moreover, petitioner contends that the Indian import statistics used by the Department for the preliminary results reflect the value of the aniline at the foreign port of export, and, therefore, the cost to produce aniline in the country of exportation, not India. As a result, the import statistics do not reflect costs incurred by Indian sulfanilic acid manufacturers and should be rejected.

Petitioner also claims that reliance on Indian import statistics assumes that Indian sulfanilic acid producers can purchase aniline in bulk quantities at low per-unit prices, noting that chemicals such as aniline are imported in large quantities by Indian importers. By contrast, Indian sulfanilic acid producers are small operations without the need or ability to purchase, store, or use large volumes of aniline, and would pay a higher per-unit cost than do Indian importers of such chemicals. Petitioner argues that the reported Indian domestic prices of aniline in *Chemical Business* and *Chemical Weekly* reflect the development of the Indian industry, which is similar to that of the Chinese industry and consists of smaller facilities without modern, efficient methods of production.

Petitioner contends that respondents' argument in comments submitted before the preliminary results that the Department should disregard the domestic prices of aniline, a petroleum-based product, in *Chemical Business* and *Chemical Weekly* because India is not a petroleum producing country, resulting in artificially high domestic aniline prices, is unfounded. Petitioner states that respondents have not offered support for this claim, and notes that leading aniline exporters, such as Japan or the Netherlands, do not produce large amounts of petroleum. Accordingly, petitioner contends that petroleum production does not determine the price of aniline.

Petitioner further contends that the import prices should not be used because they cover a period prior to the period of review and do not include imports during four months of the period of review. According to petitioner, by contrast, the data provided by petitioner in *Chemical Business* and *Chemical Weekly* cover the entire period of review.

Lastly, petitioner argues that the Department has considered whether Indian import statistics merit consideration as surrogate values in other cases. Petitioner cites specifically to *Coumarin,* in which the Department found that Indian import statistics for chlorine were aberrational because they varied sharply from ''numerous examples of alternative price sources,'' and therefore did not use the import values for chlorine. Instead, the Department used non-publicly available price quotes supplied by the petitioner. Petitioner also notes that counsel for respondents has argued in other cases that import values were aberrational and should not be used as surrogate values, citing to the *Final Determination of Sales at Less Than Fair Value: Sulfur Dyes, Including Sulfur Vat Dyes, from the People's Republic of China* (58 FR 7537, February 8, 1993), and *Saccharin.* Petitioner contends that the situation in this case is no different, because a number of sources of information on the record of this review indicate that the value of aniline is at least two times greater than the import value used by the Department in the preliminary results of review.

Respondents contend that the Department should continue to use import prices for valuing aniline, as was done in the less-than-fair-value (LTFV) investigation of this case (*see Final Determination of Sales at Less Than Fair Value: Sulfanilic Acid from the People's Republic of China* (57 FR 29705, July 6, 1992) (*Sulfanilic Acid*)). They state that the Department's primary objective in a review is to calculate antidumping margins as accurately as possible for the PRC producers/exporters, citing the *Final Determinations of Sales at Less Than Fair Value: Oscillating Fans and Ceiling Fans from the People's Republic of China* (56 FR 55271, October 25, 1991) (*Fans*). To do so, the Department must determine the actual cost of aniline for an Indian manufacturer that produces sulfanilic acid for export. They state that the evidence on the record of this review shows that Indian sulfanilic acid producers use imported aniline to produce sulfanilic acid for export. They note that they have submitted to the record a letter from an Indian sulfanilic acid producer stating that it uses imported aniline to produce sulfanilic acid for export, a letter from an Indian sulfanilic acid exporter describing in detail how an Indian producer uses imported aniline for export without paying import duties, and a letter from a sulfanilic acid end user stating that Indian sulfanilic acid producers could not use domestic aniline to produce sulfanilic acid for export because their prices would not be competitive. They contend that since there is no publicly available published information regarding the source of aniline for Indian sulfanilic acid producers, the Department must rely on this next best information to show that imported aniline is used by Indian sulfanilic acid producers. They further note that there is nothing on the record showing that Indian manufacturers use domestically-produced aniline to produce sulfanilic acid for export.

According to respondents, the domestic Indian aniline market is inefficient and protected by high tariffs. Therefore, respondents argue, Indian-produced aniline is very expensive, and the Indian government allows aniline to be imported duty free for production of sulfanilic acid for export. Respondents contend that petitioner fails to take into account that Indian sulfanilic acid producers use different aniline inputs for producing sulfanilic acid for the domestic and export markets. Respondents state that, while the prices reported in *Chemical Business* and *Chemical Weekly* may reflect the cost of domestically-produced aniline, they do not reflect the cost of imported aniline used to produce sulfanilic acid for export and should therefore be rejected in favor of import prices.

They further claim that the Indian import prices are not aberrational, stating that they are close to the world market price and have remained relatively steady during the period of review. They argue that the fact that the import prices are very stable reflects a consistency in grade, type, and quality of the aniline imported into India. Lastly, respondents note that the Department is not required to choose one source of surrogate information to value all factors in the face of evidence that it will lead to inaccurate results, and that the Department has access to Indian import statistics covering the entire period of review.

Department's Position

We disagree with petitioner. The evidence placed on the record of this review by the respondents indicates that Indian sulfanilic acid producers use imported aniline in their production process when they produce sulfanilic acid for export (*see* Appendix 2B of respondents' April 11, 1996 submission). Therefore, these values best approximate the cost paid by the sulfanilic acid exporters in India, and we have continued to use import prices reported in the *Monthly Statistics of the Foreign Trade of India, Volume II—Imports (Indian Import Statistics*) to value aniline for the final results of review, as in the LTFV investigation of this case (*see* our response to Comment 1 in *Sulfanilic Acid*). For the final results of review, we have used import statistics for the months of the period of review which were unavailable at the

time of the preliminary results of review.

With regard to petitioner's argument that the import statistics reflect the value at the port of export, we note that the introductory comments to the *Indian Import Statistics* state that the values are reported on a CIF (cost, insurance, freight) basis (*see* our response to Comment 3). Therefore, we disagree with petitioner that the import values are inappropriate because they reflect only the cost to produce in the country of exportation.

Contrary to petitioner's argument that it does not make sense to reject *Chemical Business* and *Chemical Weekly* for aniline but to use them for other factors, we believe that we can use different sources for valuing different factors when we find that the surrogate values are appropriate. Therefore, it is not inappropriate to use the *Indian Import Statistics* to value aniline and to use *Chemical Business* and *Chemical Weekly* to value other factors.

Comment 3

Petitioner argues that, if the Department continues to use import prices as the surrogate value for aniline, the import prices should be adjusted to account for ocean freight from the port of export to India, Indian port terminal and brokerage charges, the Indian importers' mark-up, and the Indian import duty, in order to approximate costs incurred by Indian sulfanilic acid producers. Petitioner contends that the aniline import values relied upon by the Department in the preliminary results are FOB values at the foreign port of export, and, therefore, do not include such costs. Petitioner states that the ultimate purchaser of the aniline, the Indian sulfanilic acid producer, would clearly be charged these expenses, and that an upward adjustment is necessary to reflect the total cost of the aniline. Petitioner contends that even the respondents have acknowledged the fact that the import values should be adjusted upwards, citing the letter from a sulfanilic acid end user, submitted by respondents, in which the end user stated that when determining an appropriate delivered price to a sulfanilic acid producer in India, one must ''add typical ocean freight and delivery charges.'' Petitioner suggests that the profit margin reported to the Department by PHT be used to make the adjustment for the importer's markup.

With regard to import duties, petitioner states that aniline imported into India during the period of review was subject to an *ad valorem* duty of 85 percent which was not added to the surrogate value for aniline in the preliminary results of this review. According to petitioner, the letter from the sulfanilic acid exporter provided by the respondents, which states that import duties on aniline are not collected when the sulfanilic acid is exported, does not demonstrate that this 85 percent duty should not be included in the surrogate value. Petitioner notes that the Department has previously concluded that the import duty exemption for aniline was a countervailable subsidy under the U.S. law, citing the *Preliminary Affirmative Countervailing Duty Determination: Sulfanilic Acid from India* (57 FR 35784, August 11, 1992), and argues that the alleged forgiveness of import duties, a countervailable subsidy, does not warrant the disregarding of the import duty in the factors-of-production analysis.

Respondents reply that the Department should not make any adjustments to the import value of aniline. They state that, in previous cases, such as *Sebacic Acid, Saccharin,* and the *Notice of Final Determination of Sales at Less Than Fair Value; Polyvinyl Alcohol from the People's Republic of China* (61 FR 14057, March 29, 1996) (*Polyvinyl Alcohol*), the Department has eliminated from the surrogate values excise taxes, freight, and all other charges associated with the surrogate values because the Department already adds amounts for freight charges and other markups. Respondents note that, in this review, the Department has added to the surrogate value for aniline freight costs for transporting the aniline from the supplier in the PRC to the sulfanilic acid factory and PRC brokerage and handling costs. Therefore, respondents contend, the petitioner is arguing that the Department double count such expenses.

Respondents also state that they have submitted evidence to the record of this review showing that, pursuant to the Indian government's duty drawback program, Indian importers of aniline import the chemical duty free and export the sulfanilic acid without the payment of the import duty. Therefore, the import duty would not be included in the cost of the aniline to the sulfanilic acid producer.

Respondents further argue that the Department should not add to the surrogate value for aniline an amount for the importer's markup. First, respondents state that the petitioner has not submitted any evidence as to what the importer's markup would be for aniline. Further, since the surrogate value should be as close as possible to the price at the factory gate and the import value of aniline represents the closest approximation of the actual aniline cost to the Indian manufacturer, it should not include any upward adjustments after importation which would artificially inflate the aniline cost.

Department's Position

We agree with petitioner that, in order for the surrogate values to reflect the true costs to India for the raw materials, the surrogate values should include freight to India. However, the introductory notes to the *Indian Import Statistics,* used to determine the surrogate value for aniline, state that the values reported are reported on a CIF basis. Thus, the reported import values include the costs of transporting the merchandise to India, and an adjustment for ocean freight from the port of export to India and for Indian port terminal and brokerage charges is not necessary. This does not double count freight charges, as argued by respondents. We add freight costs to the cost of manufacturing to account for costs for transporting the raw materials from the suppliers of the raw materials to the factory producing the subject merchandise, not freight to the surrogate country.

We also disagree that we should add an importer's markup to the surrogate value. There is no evidence on the record of the review indicating who imports the aniline, the sulfanilic acid producer or an importer who sells the aniline to the sulfanilic acid producer. Accordingly, there is no basis for determining that an importer's markup would be included in the price to the Indian sulfanilic acid producer and for adjusting the surrogate value for such a markup.

With respect to petitioner's argument that we should include an amount for import duties in the surrogate value for aniline, we note that respondents have placed on the record evidence showing that the import duty is not paid when the sulfanilic acid is exported. Therefore, we disagree with petitioner, and have not made an adjustment for import duties.

Comment 4

Petitioner argues that the Department should deduct commissions paid by PHT from the U.S. starting price. Respondents reply that, if the Department decides to make an adjustment for commissions, it should only make the adjustment to those sales for which a commission expense was incurred, as verified by the Department.

Department's Position

We agree with petitioner that such commissions should be deducted in calculating CEP. However, as noted in the May 30, 1996 analysis memorandum, commissions have already been deducted. The commission amounts deducted were the verified amounts.

Comment 5

Petitioner argues that, if CNCCC is not treated as the respondent, then the Department should deduct from the U.S. starting price the profit earned by CNCCC for these sales. Petitioner contends that this profit is a commission earned for export services rendered and would be paid by Yude, Zhenxing, and PHT.

Department's Position

We agree with petitioner. The amount paid to CNCCC for processing paperwork on each sale was paid by PHT and is directly related to each sale. Therefore, this amount should be deducted in the calculation of CEP.

Comment 6

Petitioner argues that the Department should use facts available to value sales it claims that the Department was unable to verify. Petitioner cites to the PHT verification report to show that the Department found at verification a pattern of inconsistencies in PHT's monthly sales account balances between April and September 1995. Specifically, petitioner notes that PHT was unable to account for the difference between the ending sales account balance for June and the beginning sales account balance for July. According to petitioner, the lack of documentation and internal control calls into question the integrity of the reported June and July sales information. As a result, petitioner argues that the Department could not verify the June and July sales and should use facts available for any sales made by PHT in June and July 1995. As facts available, petitioner suggests the highest margin calculated for any sale made by PHT which the Department was able to verify.

Respondents reply that the September 1995 ending balance in PHT's sales account matches the total sales revenue amount reported on PHT's end-of-year financial statement and tax return. Further they note that, at verification, PHT informed the Department that the reason for any differences between the ending balance in the sales account for one month and the beginning balance for the next month is due to manual adjustments made at the end of each month to account for errors. They further state that there is no indication that the relatively small amount of the difference between the June ending balance and the July beginning balance has anything to do with sulfanilic acid. Moreover, respondents state that the PHT verification report indicates that the Department was able to verify that all sales of sulfanilic acid during the period of review had been reported.

Department's Position

We disagree with petitioner. At verification, we were unable to use PHT's sales account (*i.e.*, PHT's accounting system used to prepare its financial statements) to determine whether all sales of sulfanilic acid had been reported. However, we were able to review internal worksheets kept by PHT in the ordinary course of business listing all sales of all products. These worksheets tied to PHT's financial statements and tax returns. From these worksheets, we were able to determine that all sales of sulfanilic acid made by PHT during the period of review had been reported. *See* page 5 of the PHT verification report. As we are satisfied that all sales were reported, we have not used facts available for PHT's June and July sales.

Comment 7

Respondents argue that the Department should exclude from the U.S. sales database certain sales made by PHT to the petitioner because, they claim, the Department has ''no jurisdiction'' over these sales. Respondents state that, on May 2, 1996, they submitted to the Department documents establishing that these sales should be excluded from the analysis. However, the Department returned the submission on May 20, 1996 stating that, because the documents were submitted after verification, it could not accept them.

Petitioner responds that PHT's sales to the petitioner were reported by the respondents, were verified by the Department, and should not be excluded from the analysis. Petitioner argues that the respondents' arguments are based entirely on their May 2, 1996 submission, which petitioner believes did not raise any jurisdictional issues or provide any reasons for disregarding these sales. Moreover, petitioner argues that this submission was submitted to the Department after verification and after the deadline for submission of factual information set forth in section 353.31 of the Department's regulations, and was therefore returned by the Department. It notes that the Department stated in its letter returning the submission that it would not consider the information in its preliminary or final results of review. According to petitioner, respondents never disputed the fact that the submission was untimely, and, without this submission, there is no support for respondents' ''jurisdictional'' argument.

Department's Position

We disagree with respondents. On May 2, 1996, Yude and Zhenxing submitted new information which we returned as untimely filed. As stated in our May 20, 1996 letter, we had not requested such information, and the information was submitted after the deadline for submission of factual information provided in section 353.31(a)(11) of our regulations. We also stated that this information was submitted after the verification which took place at PHT. At verification, we verified PHT's sales to petitioner, and found nothing which would indicate that these sales were not properly included in the analysis.

Respondents' claim that the information contained in its May 2, 1996 submission raised a ''jurisdictional'' issue is unfounded. Because Yude and Zhenxing made undisputed sales to the United States during the period of review, they are parties subject to this review, and we may examine or, for proper cause supported by information on the record, decline to examine all of their sales of subject merchandise during the period of review, whether to the United States, in the home market, or to third countries. We do not need to demonstrate ''jurisdiction'' on a sale-by-sale basis. Yude's and Zhenxing's objection to our analysis of the sales at issue, therefore, raises no ''jurisdictional'' issue. It is simply a challenge to our selection of sales for the U.S. database, which we need not address on its merits because it was raised after the deadline for submitting new factual information and because the alleged facts upon which it is based can no longer be verified. Accordingly, we have included these sales in our analysis.

Comment 8

Respondents argue that the Department should extend the deadline for allowing Sinochem Hebei to submit its questionnaire response and should accept Sinochem Hebei's questionnaire response. Respondents cite as support *Bowe-Passat* v. *United States*, 17 CIT 335, 1993 WL 179269 (1993), in which the Court of International Trade (CIT) stated that the Department routinely accepts data after the deadlines and found that the Department acted

arbitrarily and capriciously in rejecting plaintiff's submission of facts.

Respondents contend that the facts of this case are unique. Respondents state that the previous administrative review, covering the period August 1, 1993 through July 31, 1994 (93/94 review), was initiated in September 1994, and that verification of that review was conducted during May and July 1995. Respondents note that they were informed that the preliminary results of the 93/94 review were scheduled to be issued in August 1995, but that the results were not issued until May 1996, despite letters and phone calls by counsel for respondents and the Embassy of the PRC. In the preliminary results of the 93/94 review, published on May 20, 1996, Sinochem Hebei received a margin of 2.01 percent.

Respondents continue that the Department conducted verification of the current review in April 1996, before the verification reports from the 93/94 review were issued. In the current review, Sinochem Hebei received an 85.20 percent margin for failing to respond to the questionnaire. Respondents submit that Sinochem Hebei would have responded to the Department's questionnaire in the current review within the time frame specified in the questionnaire had it known its preliminary margin from the 93/94 review at the time its response in the current review was due.

Respondents note that, while the margin is assigned to the exporter, Sinochem Hebei, the U.S. importer is the party which must bear the consequences as a result of the retroactive nature of the antidumping review process. They contend that New Chemic, an importer of subject merchandise from Sinochem Hebei during this period of review, would be ''wiped out'' as a result of this retroactive duty. Respondents state that the purpose of the antidumping law is to determine margins as accurately as possible, in accordance with the goals of fairness, accuracy, and predictability, citing to *Fans*, 56 FR at 55275 (Comment 1). They argue that the failure of the Department to issue the preliminary results of the 93/94 review in a timely manner unnecessarily penalizes the U.S. importer, does not serve the purpose of the antidumping duty law, and is contrary to the intent of the U.S. Congress in protecting the U.S. industry. They further claim that denying New Chemic the right to have Sinochem Hebei's response considered by the Department would unfairly and unjustly destroy a small business because of the Department's delay in issuing the preliminary results of the 93/94 review.

Petitioner responds that the Department cannot accept Sinochem Hebei's questionnaire response after verification and after publication of the preliminary results of review. Petitioner states that Sinochem Hebei, as a named respondent, was sent a questionnaire by the Department on October 6, 1995 and was represented by counsel. Sinochem Hebei disregarded the deadlines for responding to the questionnaire, and its counsel withdrew its appearance on behalf of Sinochem Hebei. Petitioner notes that the Department assigned to Sinochem Hebei the PRC-wide rate of 85.20 percent in the preliminary results because it did not respond to the questionnaire. Petitioner further notes that Sinochem Hebei's questionnaire response was submitted to the Department several weeks after the preliminary results of the review had been published, and contends that the Department cannot allow respondents to dictate how and when they should respond to questionnaires.

According to petitioner, respondents' argument that Sinochem Hebei would have responded to the questionnaire had it known the adverse consequences for not doing so is unavailing. Petitioner notes that Sinochem Hebei had counsel which knew that failure to submit timely requests for information can lead to adverse consequences in the form of facts available, and that the questionnaire sent to Sinochem Hebei stated this.

Department's Position

We disagree with respondents. In this administrative review, Sinochem Hebei was originally represented by U.S. counsel and actively requested an administrative review of its own sales. We note that petitioner also requested a review of Sinochem Hebei's sales. Accordingly, on October 6, 1995, we sent a questionnaire to Sinochem Hebei. Sinochem Hebei was required to respond to the questionnaire by the applicable due dates, which were October 27, 1995 for Section A of the questionnaire and November 20, 1995 for Sections C and D of the questionnaire. Sinochem Hebei did not submit a questionnaire response or request an extension of time for filing its questionnaire response by these deadlines pursuant to section 353.31(b)(3) of our regulations, and Sinochem Hebei's counsel withdrew its representation of Sinochem Hebei on November 29, 1995, after the due dates for Sinochem Hebei's questionnaire responses. Section 776(a)(2)(B) of the Act provides that if an interested party fails to provide necessary information by the deadline for submission, the Department *shall* use the facts available in reaching the applicable determination. The fact that the results of the 93/94 review of this case were not yet issued did not relieve Sinochem Hebei of its legal responsibility to respond to the Department's questionnaire for the current review period as requested by the Department. Each antidumping review is a separate proceeding covering merchandise entering the United States during a specific time period, and the facts of each review are considered separately based on information submitted for that proceeding. Therefore, in the preliminary results of this review, we correctly assigned a margin to Sinochem Hebei based on facts available.

We note that New Chemic requested on June 19, 1996, more than seven months after Sinochem Hebei's questionnaire response was due, that we extend the deadline for accepting Sinochem Hebei's questionnaire response. We also note that Sinochem Hebei submitted a questionnaire response on June 28, 1996, after the preliminary results of this review were published, and that we returned this response on July 23, 1996. We cannot extend Sinochem Hebei's time to respond to the questionnaire. Our regulations require that Sinochem Hebei submit any request for extension in writing before the time limit for submitting the information expires (*see* section 353.31(b)(3)). Therefore, the request for extension was untimely, and, further, it was not submitted by Sinochem Hebei. Moreover, section 353.31(a)(ii) of our regulations states that submissions of factual information are to be submitted not later than the earlier of the date of publication of the notice of preliminary results or 180 days after the publication of the notice of initiation of the review. The preliminary results of this administrative review were published in the Federal Register on June 7, 1996, and the notice of initiation was published on September 15, 1995. Therefore, the questionnaire response was untimely and was correctly rejected.

We also note that Sinochem Hebei was involved in the LTFV investigation of this case and in the 93/94 review, and, in both of those proceedings, responded to the Department's requests for information. Further, in both of those proceedings, we verified the reported information at Sinochem Hebei's facilities in the PRC. Therefore, Sinochem Hebei was not unfamiliar with the way in which antidumping proceedings are conducted, and could

have consulted either its own counsel or the Department regarding the consequences of not responding to the questionnaire. The questionnaire sent to Sinochem Hebei provided the name and telephone number of the appropriate Department official to contact if it had any questions or if it was unable to respond to the questionnaire within the specified time limits. Furthermore, any claims as to what Sinochem Hebei ''would have done'' had the 93/94 preliminary results been issued prior to the time its response was due are purely speculative. New Chemic, which was required to post antidumping duty deposits on imports of the subject merchandise from the PRC, knew or should have known that these deposits were not necessarily equivalent to the antidumping rates which will ultimately be assessed on such entries and should have sought the cooperation of its supplier at an appropriate stage in the review process.

As a result, for the final results, we have continued to base Sinochem Hebei's margin on facts available. As facts available, we have used the highest rate from any segment of the proceeding, 85.20 percent, the rate from the LTFV investigation of this case.

Comment 9

Respondents contend that, in past cases, the Department has not deducted indirect selling expenses and profit in the calculation of the CEP because of the difficulty in isolating expenses used in surrogate country values. Therefore, such expenses could be double counted. As support, respondents cite to *Fans,* in which the Department determined that there was insufficient information to adjust the surrogate country expenses; therefore, the Department stated that, for purchase price sales, it would be unfair to make an upward adjustment to foreign market value (FMV) for selling expenses incurred on the U.S. sales without making a downward adjustment to FMV for selling, general, and administrative (SG&A) expenses, and that, for exporter's sales price sales, an adjustment for selling expenses should not be made since these expenses could not be isolated. Respondents also note that the Department made similar determinations in numerous other cases, such as the *Notice of Final Determination of Sales at Less Than Fair Value: Pure Magnesium from Ukraine* (60 FR 16432, March 30, 1995) and Saccharin.

Respondents contend that the implementation of the URAA does not require a change in this policy. They argue that a comparison of the statute in effect prior to January 1, 1995 and the statute in effect since that date shows that there has been no significant change in the law requiring the Department to reconsider its past position. Moreover, respondents state that Congress' failure to amend the law in this respect is tantamount to approval, citing *United States* v. *Federal Ins. Co.,* 805 F.2d 1012, 1017 (Fed. Cir. 1986), *cert. denied,* 481 U.S. 1048 (1987).

In addition, respondents argue that the Department provided an inadequate explanation of its reasons for changing its position in *Bicycles.* They state that an analysis of the public record in *Bicycles* appears to indicate that the reason for the change is based on a change in the statutory language. Therefore, respondents claim that, at a minimum, the Department should provide an extensive analysis to justify such a change in its longstanding policy.

Petitioner responds that the plain meaning of the law under which this review is being conducted requires that the Department deduct from CEP indirect selling expenses and profit, and note that the Department made the same deductions in *Bicycles.* It cites to section 772(d)(3) of the Act to show that the Department must deduct from CEP all selling expenses, including both direct and indirect selling expenses, and profit. Petitioner contests respondents' argument that the Department's deduction of indirect selling expenses and profit was incorrect because it is inconsistent with practice prior to the 1994 amendments to the law. It contends that the amended law requires the deduction of indirect selling expenses and profit from CEP, without exception for non-market-economy (NME) country cases, and that the Department changed its practice in order to comply with the provisions of the amended law, as was done in *Bicycles.* According to petitioner, the fact that Congress allegedly failed to expressly reject the Department's prior practice in this area does not constrain the Department from adopting a new practice under the changed language of the amended law. Further, the amended law did make relevant changes in this respect because it now requires a deduction for indirect selling expenses and for profit, as is discussed in the Statement of Administrative Action (SAA) accompanying the URAA (*see* SAA at 153).

Petitioner further argues that the respondents have not made an argument that deductions to CEP for direct selling expenses are improper. According to petitioner, section 772(d)(1) of the Act, which states that ''any selling expenses'' be deducted, includes both direct and indirect selling expenses, and it is impossible to interpret the section as permitting the deduction of some selling expenses but not others.

Department's Position

We disagree with respondents. As discussed in *Bicycles,* section 772(c)(2)(d)(1) of the Act states that CEP shall be reduced by the amount of expenses incurred by or for the account of the producer or exporter, or the affiliated seller in the United States, in selling the subject merchandise, and section 772(c)(2)(d)(3) of the Act states that CEP shall be reduced by the amount of profit allocated to such expenses. The statute provides no exceptions for NME cases. Consequently, we have continued to deduct from CEP all selling expenses, including indirect selling expenses, and CEP profit, as we did in *Bicycles.* We note that we have been following this practice in recent cases (*see, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Melamine Institutional Dinnerware Products from the People's Republic of China* (61 FR 43337, August 22, 1996)).

Comment 10

Respondents contend that, if the Department persists in making circumstance-of-sale adjustments to U.S. price for direct selling expenses, then it should make a similar adjustment to normal value (NV), which is authorized by section 773(a)(6)(C)(iii) of the Act. Failure to do so, according to respondents, results in inherently unfair results. Respondents argue that the data from the *Reserve Bank of India Bulletin* used for the preliminary results of this review to determine surrogate values for factory overhead, SG&A expenses, and profit can be used to calculate the adjustments necessary to NV for direct selling expenses, such as commissions, advertising, and credit.

Petitioner responds that there is nothing in the SAA or in *Bicycles* which states that circumstance-of-sale adjustments to NV are required by deductions made to CEP. Petitioner further argues that the respondents incorrectly cite to section 773(a)(6)(C)(iii) of the Act for authority for the circumstance-of-sale adjustment. According to petitioner, that section of the Act is superseded by the statutory provisions relevant to this review, *i.e.,* the NME country provisions provided for by section 773(c) of the Act. Petitioner states that application of section 773(c) of the Act is premised on a finding that a determination under section 773(a) of the Act regarding NV

is not appropriate, and that a circumstance-of-sale adjustment pursuant to section 773(a) of the Act therefore must be rejected.

Petitioner states that if the Department makes a circumstance-of-sale adjustment as requested by respondents, it cannot accept respondents' calculation of the adjustment for credit and should not make a reduction to NV for this expense. Petitioner contends that the expense cited to by respondents as a credit expense is really an interest expense, which is a general and administrative expense, not a selling expense.

Department's Position

We do not believe that circumstance-of-sale adjustments to NV are either necessarily required by the statute or by the existence of deductions made to CEP. As discussed in *Bicycles,* section 773(a)(6)(C) of the Act allows NV to be increased or decreased for differences in circumstances of sale as long as it has been established to the satisfaction of the administering authority that such adjustments are warranted.

In this case, we do not have enough information about the selling expenses included in the surrogate SG&A expenses to make such an adjustment to NV or to determine whether such an adjustment is warranted. Therefore, for the final results, we have not made such an adjustment to NV.

Comment 11

Respondents argue that, in contrast to the situation with respect to aniline, there is no evidence on the record of this review which indicates that Indian sulfanilic acid producers use imported activated carbon to produce sulfanilic acid for export. They believe that it makes sense that Indian sulfanilic acid producers would use domestically-produced activated carbon, which is substantially cheaper than imported activated carbon. Respondents thus argue that the Department should use as the surrogate value the export price of activated carbon reported in *Chemical Weekly*, which they submitted to the Department before the preliminary results of review were issued, because it reflects the actual price in the Indian market used to produce sulfanilic acid for export. As support for their argument, they cite to section 773(c)(1) of the Act, which requires the Department to use the best available information for valuing the factors of production *in* the surrogate country (emphasis added).

Respondents also note that in *Polyvinyl Alcohol*, the Department rejected the very same import price for activated carbon in favor of the export price reported in *Chemical Weekly*.

Further, respondents contend that the Department did not take into consideration the quality of the activated carbon used by respondents or the quality of the activated carbon imported into India. Respondents state that the Kirk-Othmer *Encyclopedia of Chemical Technology* designates activated carbon as either gas-phase or liquid-phase absorbents. Respondents argue that, even though the data are old, activated carbon prices from 1976 quoted in that publication indicate that gas-phase activated carbon is more expensive than liquid-phase activated carbon. According to respondents, the factories use liquid-phase activated carbon, as is shown by the production process described in their questionnaire response, whereas the price level of the imported activated carbon indicates that the imports were of the gas-phase activated carbon or specialty grades unsuitable for sulfanilic acid production. Therefore, respondents argue that the Department should determine the types of activated carbon represented by the import figures and decide whether it is appropriate to value respondents' activated carbon with those import prices.

Lastly, they claim that the quantities of imported activated carbon are inadequate for valuing the factories' factors of production because they are much smaller than the quantities used by the factories and purchases by the respondents would be in large quantities which would merit discounts not reflected by these import prices. Respondents further claim that the small quantities are a further indication that the imports are of the more expensive gas-phase activated carbon or are of specialty grades which are not suitable for the production of sulfanilic acid.

Petitioner responds that the Department properly based the surrogate value on the prices reported in *Chemical Weekly* during March and May 1995, the only publicly available data on the record covering this period of review. It notes that the price which the respondents urge the Department to use is from a September 1993 issue of *Chemical Weekly*, nearly one year before the beginning of the period of review. According to petitioner, respondents' argument regarding the valuation of activated carbon is fundamentally at odds with its argument regarding aniline. It notes that the respondents are arguing that the Department use import prices for aniline, but that import prices for activated carbon are aberrational. Petitioner states that, if the import prices for activated carbon are aberrational, then the Department should also find that import prices are also aberrational for aniline.

Petitioner argues that the respondents' submission in its case brief of information from the *Encyclopedia of Chemical Technology* is new factual information which must be rejected and returned to the respondents, and therefore, their arguments based on information in this publication should not be considered.

According to petitioner, respondents reliance on *Polyvinyl Alcohol* is misplaced. Petitioner notes that, in that case, the Department compared import and export prices to other price data to determine which were more reliable. In this proceeding, however, the only publicly available published information from the period of review is that from the March and May 1995 issues of *Chemical Weekly*, and there is no other data from the period of review with which to compare these prices.

Moreover, petitioner contends that the volumes of sales used to determine the surrogate value for the preliminary results are sufficient for use in determining the surrogate value, and note that the value supported by the respondents is based on a smaller volume. Petitioner contends that this weakens respondents' argument that the export data be used as the surrogate value. Petitioner contends, however, that the contemporaneity of the data is more important that the relative volume of the sales in question.

Petitioner lastly contends that the Department should increase the surrogate value for activated carbon by the amount of the 85 percent import duty, in order to approximate the true cost of the activated carbon to the Indian sulfanilic acid manufacturer. It states that because the activated carbon is not physically incorporated into the sulfanilic acid, imports of activated carbon would not be eligible for any import duty exemption upon export of the sulfanilic acid.

Department's Position

We disagree with respondents. There is no evidence on the record of this review which indicates whether Indian sulfanilic acid producers use domestic or imported activated carbon to produce sulfanilic acid. Further, there is no evidence on the record of this review which indicates whether the prices supported by either the respondents or the petitioner are for gas-phase or liquid-phase activated carbon. We note that respondents never stated in their questionnaire responses that they used

a certain type of activated carbon in their production, or indicated in their surrogate value comments that there was more than one type of activated carbon.

In determining the surrogate value used for activated carbon in the preliminary results of review, we considered the information placed on the record by the petitioner and by the respondents. We selected the data submitted by the petitioner because they are more contemporaneous, covering imports during the period of review, than those provided by respondents, which are from a September 1993 issue of *Chemical Weekly* and are for an export during June 1993. Moreover, with respect to respondents' argument that the import prices should not be used because of the small quantity of imports, we note that the price which respondents urge us to use is from an export involving an even smaller quantity. Therefore, for the final results of review, we have continued to use the import prices reported in *Chemical Weekly* during the period of review.

We disagree with petitioner that we should adjust this value for import duties. We calculate surrogate values used to value raw materials on a tax-exclusive basis, as we have discussed in previous cases, such as the *Notice of Final Determination of Sales at Less Than Fair Value: Manganese Metal from the People's Republic of China* (60 FR 56045, November 6, 1995) (*Manganese Metal*). *See* also our response to Comment 12 below. Therefore, it is not appropriate to include in the surrogate values amounts for import duties.

We disagree with petitioner that the information submitted by the respondents from the *Encyclopedia of Chemical Technology* constitutes new information which should be rejected. As the title of the source indicates, the information cited by the respondents in support of their argument that the price used in the preliminary results of review to value activated carbon was incorrect was of a general, definitional nature.

Comment 12

Respondents argue that the Department should calculate a surrogate value for sulfuric acid which is exclusive of taxes. Respondents state that the issues of *Chemical Weekly* used by the Department in the preliminary results to value sulfuric acid clearly state that the sulfuric acid prices contained therein are inclusive of excise and Maharashtra sales taxes. Respondents argue that the Department has a long and consistent history in NME country cases of valuing the factors of production with tax-exclusive prices, citing to *Bicycles, Manganese Metal,* and *Sebacic Acid*. Respondents further cite to *Polyvinyl Alcohol,* in which the Department valued sulfuric acid at exactly the same price from the same source, but adjusted the values to exclude taxes. Respondents note that they submitted documentation on the relevant tax rates to the record of this review.

Petitioner responds that the Department should not revise the surrogate value for sulfuric acid. According to petitioner, there is no evidence on the record concerning the applicable Indian tax rate for sulfuric acid, and, without such information, the Department cannot determine a tax-exclusive price. Petitioner contends that, in *Polyvinyl Alcohol*, the respondent was able to specifically identify the applicable tax rates. Moreover, petitioner argues that the Department only excludes taxes on raw materials where such taxes are refunded upon exportation, and that there is no evidence on the record which indicates whether taxes paid on sulfuric acid are refunded upon exportation. Petitioner notes that, in *Aimcor* v. *United States,* 19 CIT __, Slip Op. 95–130 (July 20, 1995), (*Aimcor*), at 22, the CIT stated that ''material costs, such as value-added taxes must be included in constructed value if they are incurred prior to exportation, with the exception of tax remitted or refunded upon exportation.''

Department's Position

We agree with respondents that the surrogate values used to value the raw materials should be exclusive of taxes, as we have discussed in previous cases, such as *Manganese Metal*. The issues of *Chemical Weekly*, contained in Attachment 3 of the May 30, 1996 factor value memorandum, used to determine the surrogate value for sulfuric acid in the preliminary results of this review, state that the prices reported for sulfuric acid are inclusive of Excise and Maharashtra taxes. Accordingly, we have adjusted the surrogate value or sulfuric acid to exclude taxes for the final results of review. To adjust the prices to exclude taxes, we have used the *Central Excise Tariff of India, 1994–95*, submitted to the record of this review by respondents in their April 11, 1996 submission and used to determine the tax-exclusive surrogate value for sulfuric acid in *Manganese Metal* and *Polyvinyl Alcohol*.

We disagree with petitioner that *Aimcor* is relevant in NME country cases. *Aimcor* deals with the construction of NV in market economy cases pursuant to section 773(e) of the Act, and with material costs incurred as a result of the taxes levied by the country whose sales of the subject merchandise to the United States constitute the U.S. price to which that NV is compared. In this case, by way of contrast, the NV being calculated (by applying Indian surrogate values to the PRC factors) is a surrogate for material costs in the PRC for comparison to the U.S. sales of the Chinese merchandise. Therefore, Indian value-added taxes, which do not affect PRC sales to the United States, should be removed from such surrogate costs.

Comment 13

Respondents note that, in determining surrogate values for overhead, SG&A expenses, and profit, the Department used data contained in the April 1995 *Reserve Bank of India Bulletin*. In making its calculation, respondents argue that the Department arbitrarily and without explanation allocated 50 percent of the expenses in three categories, ''provident fund,'' ''salaries, wages and bonuses,'' and ''employees' welfare expenses,'' to SG&A expenses and 50 percent to the cost of manufacture. As a result, the cost of manufacturing is understated and the overhead rate, SG&A rate, and profit rate are overstated. They contend that 100 percent of these three categories should be applied to the cost of manufacture, as was done in *Polyvinyl Alcohol*.

Department's Position

We agree with respondents that 100 percent of these labor categories should be included in the cost of manufacturing. In the absence of any information to the contrary, it makes sense that most of these expenses would be applicable to the cost of manufacturing rather than to SG&A expenses. In addition, we note that in *Polyvinyl Alcohol*, although we did not use information from the *Reserve Bank of India Bulletin* as surrogate values for overhead, SG&A expenses, and profit, we compared values from this source to values from financial statements from Indian producers; in each instance, we allocated 100 percent of these labor categories to the cost of manufacturing. We have also reexamined our classification of other categories in the *Reserve Bank of India Bulletin*, and have determined that several cateogries were misclassified in the preliminary results of review. This has been corrected for the final results.

Clerical Errors

Respondents contend that the Department made three clerical errors in

its preliminary results. First, they state that, in valuing activated carbon, the Department left out an importation in May 1995. Second, they argue that, in calculating the cost of packing materials, the Department used the wrong weights for the bags used to pack the sulfanilic acid. Third, they state that the Department inaccurately determined the freight cost for transporting the raw materials between the supplier factories and the sulfanilic acid factories. We have reviewed the calculations, and agree that these errors were made. They have been corrected for the final results.

Non-Shippers

Baoding and Hainan Garden stated that they did not have shipments during the period of review, and we confirmed this with the United States Customs Service. Therefore, we are treating them as non-shippers for this review, and are rescinding this review with respect to these companies. *See 19 CFR Parts 351, 353, and 355 Antidumping Duties; Countervailing Duties; Proposed Rule*, section 351.213(d)(3) (61 FR 7365, February 27, 1996). The cash deposit rates for these firms will continue to be the rates established in the most recently completed final determination.

Final Results of Review

As a result of our review of the comments received, we have determined that the following margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Yude Chemical Industry Company.	8/1/94–7/31/95	*16.86
Zhenxing Chemical Industry Company.	8/1/94–7/31/95	*16.86
PRC Rate [1]	8/1/94–7/31/95	85.20

*Yude and Zhenxing have been collapsed for the purposes of this administrative review. However, we have listed them separately on this chart for Customs purposes.

[1] This rate will be applied to all firms which have not demonstrated that they are separate from the PRC government, including, but not limited to, the following firms for which a review was requested: China National Chemical Construction Corporation, Beijing Branch; China National Chemical Construction Corporation, Qingdao Branch; Jinxing Chemical Factory; Mancheng Xinyu Chemical Factory, Beijing; Mancheng Xinyu Chemical Factory, Shijiazhuang; Shunping Lile; Sinochem Hebei Import and Export Corporation; Sinochem Qingdao; and Sinochem Shandong.

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of these final results for all shipments of sulfanilic acid from the PRC 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 rates for reviewed companies named above which have separate rates will be the rates for those firms listed above; (2) for the companies named above which were not found to have a separate rate, as well as for all other PRC exporters, the cash deposit rate will be the highest margin ever in the LTFV investigation or in this or prior administrative reviews, the PRC-wide rate; and (3) the cash deposit rate for non-PRC exporters of subject merchandise from the PRC will be the rate applicable to the PRC supplier of that exporter. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 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 notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CR 353.34(d)(1). Timely written notification of the return/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 sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: October 7, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–26358 Filed 10–11–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–570–815]

Sulfanilic Acid From the People's Republic of China; Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On May 20, 1996, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on sulfanilic acid from the People's Republic of China (PRC). This review covers the period August 1, 1993 through July 31, 1994.

EFFECTIVE DATE: October 15, 1996.

FOR FURTHER INFORMATION CONTACT: Karin Price or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–4733.

Applicable Statute

Unless otherwise indicated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

Background

On May 20, 1996, the Department published in the Federal Register (61 FR 25196) the preliminary results of its administrative review of the antidumping duty order on sulfanilic acid from the PRC (57 FR 37524, August 19, 1992). We conducted a hearing on July 24, 1996. We have now completed the administrative review in accordance with section 751 of the Tariff Act of 1930 (the Act).

Scope of the Review

Imports covered by this review are all grades of sulfanilic acid, which include technical (or crude) sulfanilic acid, refined (or purified) sulfanilic acid and sodium salt of sulfanilic acid.

Sulfanilic acid is a synthetic organic chemical produced from the direct sulfonation of aniline with sulfuric acid. Sulfanilic acid is used as a raw material in the production of optical brighteners, food colors, specialty dyes, and concrete additives. The principal differences between the grades are the undesirable quantities of residual aniline and alkali insoluble materials present in the sulfanilic acid. All grades are available as dry, free flowing powders.