Paragraph 7, Sentence 1, should read ''Signed in Washington, DC, this 7th day of October, 2002.''

Dated: October 31, 2002.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 02–28526 Filed 11–7–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Materials Processing Equipment Technical Advisory Committee; Notice of Open Meeting

The Materials Processing Equipment Technical Advisory Committee will meet on December 5, 2002 at 9 a.m. in room 6087B of the Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC. The committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials processing equipment and related technology.

Agenda

1. Election of Chairman.
2. Presentation of papers or comments by the public.
3. Update on the Wassenaar Arrangement with discussion on machine tool issues.
4. Review of laser measuring equipment.

The meeting will be open to the public and a limited number of seats will be available. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to the following address: Ms. Lee Ann Carpenter, Advisory Committees MS: 3876, Bureau of Industry and Security, U.S. Department of Commerce, Washington, DC 20230.

For more information contact Lee Ann Carpenter at 202–482–2583.

Dated: November 5, 2002.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 02–28466 Filed 11–7–02; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

National Infrastructure Advisory Council; Notice of Partially Closed Meeting

The National Infrastructure Advisory Council (NIAC) will meet on Tuesday, November 26, 2002, from 2 p.m. until 4 p.m. at the Truman Room of the White House Conference Center, 726 Jackson Place, NW., Washington, DC 20503. Limited seating will be available for the open sessions of the meeting. Reservations are not accepted. The Council advises the President of the United States on the security of information systems for critical infrastructure supporting other sectors of the economy, including banking and finance, transportation, energy, manufacturing, and emergency government services. At this meeting, the Council will continue deliberations concerning comments it is formulating for the President concerning the draft National Strategy to Secure Cyberspace.

Agenda

Open Session

I. Welcome—Mr. Davidson, Mr. Clarke, and Mr. Juster.
II. Review and approval of Summary of Conclusions from November 15 meeting.

Closed Session

III. Closed briefing—PCIPB Staff.
IV. Discussion of NIAC comments on draft National Strategy to Secure Cyberspace—Mr. Davidson, NIAC members, PCIPB Staff.
V. Adoption of NIAC comments—NIAC members.

Open Session

VI. NIAC Priorities—Mr. Davidson and Mr. Clarke.
VII. New Business.
VIII. Adjourn.

Written comments may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Council members, the Council suggests that presenters forward the public presentation materials, ten days prior to the meeting date, to the following address: Ms. Wanda Rose, Critical Infrastructure Assurance Office, Bureau of Industry and Security, U.S. Department of Commerce, Room 6095, 14th Street & Constitution Avenue, NW., Washington, DC 20230.

The Office of the Chief Financial Officer and Assistant Secretary for Administration, U.S. Department of Commerce, formally determined on September 19, 2002, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of this Council and of any Subcommittees thereof, dealing with information, the premature disclosure of which would be likely significantly to frustrate implementation of proposed agency action shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act, 5 U.S.C. 552b(c)(9)(B). The remaining series of meetings or portions thereof will be open to the public.

For more information contact Eric T. Werner on (202) 482–7470.

Dated: November 8, 2002.

Eric T. Werner,

Council Liaison Officer.

[FR Doc. 02–28712 Filed 11–7–02; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–007]

Barium Chloride From the People's Republic of China: Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review

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

ACTION: Notice of Preliminary Results and Rescissions in Part of Antidumping Duty Administrative Review of Barium Chloride from the People's Republic of China.

SUMMARY: In response to a request from the petitioner, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on barium chloride from the People's Republic of China (PRC). The period of review (POR) is October 1, 2000 through September 30, 2001. The petitioner requested a review of 11 exporters. One company reported that it had no shipments of subject merchandise to the United States during the POR, and we have confirmed that claim with the U.S. Customs Service (Customs). Accordingly, we are preliminary rescinding the review with respect to this firm. Because the remaining exporters have not responded to our questionnaire, we have preliminary determined to use facts otherwise available for cash-deposit and assessment purposes for all producers/exporters of the subject merchandise.

We invite interested parties to comment on these preliminary results. Parties who submit comments are requested to submit with each argument: (1) A statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: November 8, 2002.

FOR FURTHER INFORMATION CONTACT: John Conniff or Drew Jackson, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–1009 or (202) 482–4406, 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. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (2001).

Period of Review

The POR is October 1, 2000 through September 30, 2001.

Background

On October 17, 1984, the Department published in the **Federal Register** (49 FR 40635) the antidumping duty order on barium chloride from the PRC (antidumping duty order). On October 1, 2001, the Department published in the **Federal Register** (66 FR 49923) a notice of ''Opportunity to Request Administrative Review'' of antidumping duty order covering the period October 1, 2000 through September 30, 2001. In response to the notice of opportunity to request an administrative review for this POR, the petitioner, Chemical Products Corporation (CPC) requested by letter dated October 31, 2001 that the Department conduct an administrative review of the following Chinese manufacturers/exporters of the subject merchandise: Zhangjiaba Salt Chemical Plant (Zhangjiaba), Hebei Xinji Chemical Plant, Tianjin Chemical Industry Corporation, Qingdao Red Star Chemical Group Co., Tianjin Bohai Chemical United Import/Export Company, Sichuan Emeishan Salt Chemical Industry Group Company, Ltd., Hengnan, Kunghan, Linshu, Tangshan, and China National Chemicals Import and Export Corporation (Sinochem).

On November 21, 2001, the Department published a notice of initiation of an administrative review of the producers/exporters named by the petitioner in its review request (66 FR 58432). On December 21, 2001, we received a letter from Zhangjiaba stating that ''during the * * * POR, Zhangjiaba Chemical made no shipments or sales of subject barium chloride to the United States.''

On January 14, 2002, the Department sent antidumping questionnaires to all of the parties named in the notice of initiation for whom we could find addresses.[1] We requested that the PRC Ministry of Foreign Trade and Economic Cooperation (MOFTEC) deliver the questionnaires to four named parties for whom we could not find addresses. Subsequently, four questionnaires sent directly to named parties by the Department were returned as undeliverable due to incorrect addresses or contact information. On January 30, 2002, the Department sent copies of the questionnaire to MOFTEC requesting that it deliver them to the four parties for whom the questionnaires were returned. On March 4, 2002, we sent letters to all of the parties named in the notice of initiation requesting that they notify the Department in writing by March 18, 2002, if they did not have any U.S. Customs entries, sales or shipments of the subject merchandise during the POR. With the exception of the December 21, 2001, letter from Zhangjiaba, we received no response from any of the parties from whom we requested information.

On February 11, 2002, the petitioner submitted a request that the Department calculate a new adverse facts available margin for the PRC-wide entity. In the submission, the petitioner included Indian factor values, factor usage rates (based on its production experience), and an average U.S. price (based on U.S. import values during the POR) with which to calculate a new PRC-wide margin. On August 23, 2002, Zhangjiaba submitted comments opposing the petitioner's request. The petitioner responded to Zhangjiaba's comments on September 6, 2002. For a complete discussion of the issue raised by the petitioner, see the ''Adverse Facts Available Rate'' section of this notice below.

Pursuant to section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of the preliminary results of an administrative review if it determines that it is not practicable to complete the preliminary results of a review within the statutory time limit of 245 days. On July 8, 2002, in accordance with the Act, the Department extended the time limit for the preliminary results of this review until September 30, 2002. *See Barium Chloride from the People's Republic of China: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review,* 67 FR 45088 (July 8, 2002). On August 8, 2002, the Department again extended the time limit for the preliminary results. *See Barium Chloride from the People's Republic of China: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review,* 67 FR 51535 (August 8, 2002). The second extension was until October 31, 2002.

The Department is conducting this administrative review in accordance with section 751 of the Act.

Scope of the Review

The imports covered by this review are shipments of barium chloride, a chemical compound having the formulas BaCl2 or BaCl2-2H2O, currently classifiable under item number 2827.39.45.00 of the Harmonized Tariff Schedule of the United States (HTSUS).[2] Although the HTSUS item number is provided for convenience and for Customs purposes, the written description remains dispositive.

Preliminary Partial Rescission

We are preliminarily rescinding this review with respect to Zhangjiaba because it reported that it made no shipments of subject merchandise to the United States during the POR and our review of Customs data supports that assertion.

Separate Rates Determination

In proceedings involving nonmarket economy (NME) countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping deposit rate. It is the Department's policy to assign all exporters of merchandise subject to review in an NME country this single

[1] Section A of the questionnaire requests separate rates information and general information concerning a company's corporate structure, business practices, sales practices and products, including the merchandise under consideration. Section C requests a complete listing of U.S. sales of the merchandise under consideration. Section D requests information regarding the factors of production of the merchandise under consideration. Section E requests information regarding further manufacturing of the merchandise under consideration in the United States.

[2] The scope reflects the HTS item number currently in effect.

rate, unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. Because none of the companies for which an administrative review has been requested for this POR has demonstrated that it is entitled to a separate rate, all are deemed to be included in the PRC-wide entity and will be assigned a single margin as discussed below.

Facts Available

Section 776(a)(1) of the Act mandates that the Department shall, subject to section 782(d) of the Act, use facts available in reaching its determination if necessary information is not available on the record of an antidumping proceeding. In addition, section 776(a)(2) of the Act mandates that the Department use facts available when an interested party or any other person: (A) Withholds information requested by the Department; (B) fails to provide requested information by the requested date or in the form and manner requested; (C) significantly impedes an antidumping proceeding; or (D) provides information that cannot be verified. In the instant review, none of the named respondents, other than Zhangjiaba, answered the Department's questionnaire. Thus, pursuant to section 776(a) of the Act, the margin for the PRC-wide entity must be based on facts available.[3]

In selecting from among the facts otherwise available, section 776(b) of the Act provides that if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with a request for information, the Department may use an inference that is adverse to the interests of the party. This section of the Act goes on to note that such an adverse inference may include reliance on information derived from the petition, a final determination in an antidumping investigation or review, or any other information placed on the record. Because all but one of the named respondents failed to reply to our questionnaire and our inquiry regarding shipments, we preliminarily determine that these entities did not act to the best of their abilities to comply with our requests. Therefore, pursuant to section 776(b) of the Act, we are basing the margin for the PRC-wide entity on adverse facts available.

[3] Since we received no responses to our questionnaire, section 782(d) of the Act, which directs the Department to provide parties with an opportunity to remedy deficient responses, is not applicable.

Adverse Facts Available Rate

Although the Department's general practice is to use as an adverse facts available rate, the highest rate from any segment of the proceeding, including the current segment (*see Sigma Corp.* v. *U.S.,* 117 F.3rd 1401, 1411 (Fed. Cir. July 7, 1997) (stating that Commerce has a ''long-standing practice of assigning to respondents who fail to cooperate with Commerce's investigation the highest margin calculated for any party in the less-than-fair-value investigation or in any administrative review''), the petitioner urges the Department to base the adverse facts available rate on information it placed on the record of this review, rather than using the highest rate from any segment of the proceeding. (*i.e.,* 60.84 percent, the rate calculated in the 1985–1986 administrative review that is currently applicable to all imports of subject merchandise). Specifically, the petitioner contends that the 60.84 percent rate is not an appropriate adverse facts available rate because it is based on outdated information which does not reflect current market conditions and it has neither stopped injurious dumping nor induced named respondents to participate in administrative reviews subsequent to the 1985–1986 review. According to the petitioner, since the 1985–1986 POR, there have been various changes in the process used by Chinese companies to produce barium chloride and in the prices of inputs used in that production process. Therefore, the petitioner claims that it is likely that a recalculated adverse facts available rate, based on the information it has placed on the record, would reflect current marketplace behavior better than the 1985–1986 margin. The petitioner also claims that a recalculated margin would enable the Department to meet its obligation to ''determin(e) current margins as accurately as possible.'' *See Rhone Poulenc, Inc.* v. *U.S.,* 899 F.2d 1185, 1191 (Fed. Cir. 1990). In addition, the petitioner points to the more than 150 percent increase in the volume of U.S. imports of barium chloride from the PRC between the years 1996 and 2000, and the extremely low U.S. import prices for barium chloride, as evidence that the existing adverse facts available rate has provided neither a sufficient incentive for PRC producers to begin trading barium chloride fairly in the United States, nor a sufficient restraint on imports to ameliorate the effects of unfair trade on the U.S. industry. *See* Memorandum to the File from Drew Jackson regarding factual information used in our analysis, dated concurrently with this notice (Factual Information Memorandum).

In urging the Department to calculate an adverse facts available rate based on the information it submitted, the petitioner points out that section 776(b) of the Act permits the Department to calculate an adverse facts available rate based upon information from the petition, other administrative reviews, or any other information placed on the record. The petitioner contends that the information it placed on the record of this review (*i.e.,* Customs import data, factor values from publicly available sources, and factor usage information based on its own expertise as a manufacturer of barium chloride) satisfies the statutory requirements for use by the Department as facts available under sections 773(c) (outlining NME methodology) and 776(b) (use of adverse inferences) of the Act.

Further, the petitioner notes that the Department has used new record information in administrative reviews to calculate antidumping rates higher than that alleged in the petition or found in earlier proceedings where the new information was probative and verified. Citing *Stainless Steel Plate in Coils from Belgium: Final Results of Antidumping Duty Administrative Review,* 66 FR 56272 (Nov. 7, 2001) (*SSPC from Belgium*), the petitioner points out that the Department has used financial ratio information from the publicly available financial reports of a non-cooperating respondent to calculate a margin that was higher than any margin alleged in the petition or calculated during a previous review. Additionally, the petitioner notes that in *Petroleum Wax Candles from the People's Republic of China: Final Results of the Antidumping Duty Administrative Review,* 66 FR 14545 (Mar. 13, 2001) (*Petroleum Wax Candles*), although the Department rejected the proposed calculation submitted by the petitioner in that case as being inconsistent with the methods of calculating normal value, it nevertheless acknowledged that, where an adverse inference is warranted, the use of ''any other information placed on the record'' is an appropriate source of information for calculating an adverse facts available margin.

Zhangjiaba contends that the Department should dismiss the petitioner's argument because its assertions are unsubstantiated and its request unsupported by the cases to which it cited. In particular, Zhangjiaba notes that the petitioner provided nothing to support its claim that there have been changes in the production process and input prices for barium chloride since the 1985–1986 POR, nor

did it provide anything to support the alleged increase in the volume of barium chloride imported into the United States. In addition, Zhangjiaba maintains that the petitioner has not shown that the factors of production it provided for the recalculation have any relevance to the PRC producer's factors of production, nor has it shown that the prices of U.S. imports of barium chloride from the PRC have decreased or not kept pace with the costs of production in the PRC. Moreover, Zhangjiaba argues that the petitioner's reliance on *SSPC from Belgium* is misplaced because, unlike the petitioner in *SSPC from Belgium,* the petitioner here has placed non-publicly available and uncorroborated information on the record, and therefore, the Department may not rely upon this information to calculate an adverse facts available rate. Additionally, Zhangjiaba notes that the courts have required some connection between the data used to calculate a dumping margin and the respondents' actual dumping margins, and that the data used must be neither aberrationally high nor based on uncorroborated information. Citing *F. Lli De Cecco di Filipino Fara S. Martino S.p.A* v. *United States,* 216 F.3d 1027, 1033 (Fed. Cir. 2000) (*De Cecco*), Zhangjiaba notes that a federal circuit court has found that ''Congress could not have intended for (the Department's) discretion to include the ability to select unreasonably high rates with no relationship to respondent's actual dumping margin.'' *See F. Lli De Cecco di Filipino Fara S. Martino S.p.A* v. *United States.* Zhangjiaba also points out that in *Petroleum Wax Candles* the Department rejected the petitioner's proposed calculations.

Further, with respect to its own situation, Zhangjiaba contends that it should not receive an adverse facts available rate because, given that it had no shipments during the POR, it did not fail to supply anything requested of it by the Department. Zhangjiaba goes on to note that an adverse facts available rate can only be applied to a respondent that withholds information, fails to provide requested information, significantly impedes an investigation, or provides information that cannot be used.[4] Finally, Zhangjiaba notes that in the final results of the sunset review (64 FR 5633 (February 4, 1999)), the most recent determination in this proceeding, the Department found that revocation of the order on barium chloride from the PRC would likely lead to dumping at 14.50 percent.[5] In the absence of any evidence on the record that the magnitude of dumping has increased, Zhangjiaba argues that there is no basis for recalculating the PRC-wide rate; however, if the PRC-wide rate is changed, it should be changed to 14.50 percent, the rate identified in the most recent determination.

In response to Zhangjiaba's comments, the petitioner reasserts its position that it is appropriate for the Department to calculate an adverse facts available margin using information placed on the record of this review because the adverse facts available rate previously used in this proceeding is more than 15 years old and does not take into account changes in sales and input prices or changes in the methodology used by the Department of NME cases. The petitioner notes that in *Sodium Thiosulphate from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 57 FR 58792 (Dec. 11, 1992) (*Sodium Thiosulphate from the PRC*, the Department recalculated the facts available rate (at that time referred to as the best information available (BIA) rate) using information placed on the record by the petitioner because the previous BIA rate was ''no longer sufficiently adverse to induce respondents to submit timely accurate, and complete responses,'' (the Department continued to follow this approach in the final results of that review). The petitioner also contends that updating the adverse facts available rate is consistent with the language and policy of the Act. The petitioner argues that in the absence of subpoena power, the Department's only incentive to induce respondents to participate in antidumping proceedings is the potential that a producer will receive an adverse facts available dumping margin. The petitioner also notes that the adverse facts available margin serves the important policy goal of ensuring that respondents who choose not to participate in the process do not obtain more favorable rates than cooperating parties.

Additionally, the petitioner argues that an adverse facts available rate that is not sufficient to compel cooperation by respondents is subject to change. Citing *Steel Wire Rope from the Republic of Korea: Final Results of Antidumping Duty Administrative Review and Revocation on Part of Antidumping Duty Order*, 63 FR 17986 (April 13, 1998) (*Steel Wire Rope*), the petitioner notes that the Department determined that an adverse facts available rate calculated during a previous administrative review did not offer an adequate sanction to induce the respondents to cooperate in the proceeding, and therefore it revised the adverse facts available rate from 1.51 percent to 13.79 percent.

Moreover, the petitioner dismisses Zhangjiaba's claim that the Department has no basis for using facts otherwise available or deriving an adverse inference with respect to Zhangjiaba. The petitioner points out that in *Final Determination of Sales at Less Than Fair Value: Foundry Coke Products from the People's Republic of China*, 66 FR 39487 (July 31, 2001), the Department determined that a producer of subject merchandise that made no shipments during the POR was not entitled to a separate rate. Therefore, the petitioner argues that Zhangjiaba, which reported that it made no shipments of barium chloride to the United States during the POR, is not entitled to a separate rate and should receive the PRC-wide rate.

Additionally, the petitioner claims that Zhangjiaba's assertions about an increase in imports of barium chloride into the United States are without merit. The petitioner contends that its statement that U.S. imports of barium chloride from the PRC rose by more than 150 percent between 1996 and 2000 is a statement of fact appropriately filed within the deadline for submitting factual information (interested parties may submit factual information on the record within 140 days after the last day of the anniversary month for the review; *see* 19 CFR 351.301(b)(2)). The petitioner argues that, according to the Department's regulations, it is not required to provide any additional support for its statement. Moreover, the petitioner claims that any party that takes issue with this statement should provide their own factual information as rebuttal.

Furthermore, the petitioner dismisses Zhangjiaba's claim that its information cannot be used to relocate the PRC-wide margin because the information is not public, is uncorroborated, and is unrelated to the PRC barium chloride industry. The petitioner notes that while it did supply proprietary consumption quantities for factors, the Act does not require that all information submitted for the Department's consideration in calculating margins be public information (*e.g.,* petition rates are invariably based on sensitive information). *See* section 776(b)(4) of this Act. Moreover, the petitioner claims

[4] Zhangjiaba citing section 776(a) of the Act. (19 U.S.C. 1677e(a)).

[5] Consistent with the guidance provided in the *Sunset Policy Bulletin*, the Department found that revocation of the order on barium chloride from the PRC would likely lead to dumping at the rate from the investigation. The investigation margin is 14.50 percent.

that the information it submitted to the Department has probative value because it consists of U.S. government imports statistics, which need not be corroborated, factor values from sources consistently used by the Department, and consumption quantities which can be relied upon based on the petitioner's extensive experience as a producer of barium chloride. Further, the petitioner maintains that in claiming that the petitioner's data is not related to the Chinese barium chloride industry's factors of production, Zhangjiaba has failed to recognize that the Department must seek other sources of information in light of the consistent failure of named respondents to submit information requested by the Department.

Finally, the petitioner argues that the margin from the sunset review is irrelevant because it is the margin from the investigation which reflects the behavior of exporters without the discipline of the order, rather than current market conditions, and thus it does not serve as an appropriate measure of dumping during the instant POR.

Section 776(b) of the Act permits the Department to base adverse facts available upon ''any other information placed on the record.'' The issue before the Department here, is whether the facts in this case provide a sufficient basis for calculating the adverse facts available rate using information placed on the record of this review, rather than using as adverse facts available the highest margin from any segment of the proceeding. In making this determination, it is instructive to consider the guidance regarding adverse inferences provided by the Statement of Administrative Act (SAA) and the courts. In employing adverse inferences, the SAA instructs the Department to consider ''the extent to which a party may benefit from its own lack of cooperation,'' noting that adverse inferences are made ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully. *See* H.R. Doc. 103–316, Vol. 1 at 80 (1994). However, with respect to selecting an adverse facts available rate, the Court of International Trade (CIT) noted that Congress ''intended for an adverse facts available rate to be a reasonably accurate estimate of the respondents's actual rate, albeit with some built-in increase intended as a deterrence to non-compliance.'' *See DeCecco*, 216 F.3d at 1032. Furthermore in *Ferro Union, Inc.* v. *United States*, 44 F Supp.2d 1310, 1335 (CIT 1999) (*Ferro Union*), the CIT noted that ''Commerce cannot select a rate which focuses only on inducing the exporter to cooperate and ignores the interest in selecting a margin which relates to the past practices of the industry.'' The Court went on to note that ''Commerce must assure itself that the margin it applies is relevant and not outdated, or lacking a rational relationship to {the respondent}.'' *See Ferro Union,* 44 F. Supp.2d at 1335.

In light of the above, we have examined sales prices and import trends concerning PRC barium chloride to determine whether the highest margin calculated in any segment of this proceeding is sufficiently adverse to induce cooperation from the named respondents (*i.e.*, we considered the extent to which the named respondents may benefit from their lack of cooperation). Over the 16 years following the 1985–1986 POR, prices for the majority of U.S. imports of barium chloride from the PRC have remained virtually unchanged. The average unit value (AUV) of barium chloride imported from the PRC into the United States during the instant POR is 238.97 U.S. dollars per metric tone while the AUV of barium chloride imports during the 1985–1986 POR is 232.46 U.S. dollars per metric tone. *See* Factual Information Memorandum. With respect to the normal value of PRC barium chloride, pursuant to the Department's NME methodology, we have examined the constructed value rather than actual sales prices. Given that none of the named respondents provided any information on which to base constructed value, we calculated constructed value using the factors of production data provided by the petitioner. We valued the factors of production using surrogate values from India. For details regarding our selection of India as the surrogate country, see the ''Calculation of the Adverse Facts Available Rate'' section of this notice below. Comparing constructed value to the AUV of imports of subjected merchandise during the instant POR yields a margin significantly greater than the 60.84 percent margin calculated in the 1985–1986 administrative review (the highest margin calculated in any segment of this proceeding). The foregoing analysis suggests that the 60.84 percent margin from the 1985–1986 administrative review may not bear a rational relationship to the practices of the PRC-wide entity during the instant POR because input values have increased significantly and, therefore, the margin no longer reflects current market behavior. More importantly, it indicates the margin is not adverse, as respondents would benefit from use of this margin.

The production costs calculated from the data submitted by the petitioner are based on surrogate values derived from transactions that are contemporaneous with the instant POR, and, based on our corroboration standard, we believe it is reasonable to preliminarily find that a rational relationship does exist between the margin calculated using these data and the practices of the PRC-wide entity during the instant POR. *See* the ''Corroboration'' section of this notice below.

With respect to the question of whether the 60.84 percent margin calculated in the 1985–1986 administrative review is sufficiently adverse to induce cooperation from the named respondents, we note that since completing the 1985–1986 administrative review, the Department has conducted one administrative review of the antidumping duty order on barium chloride from the PRC (the 1997–1998 administrative review).[6] The firms named as respondents in the instant administrative review were also named as respondents in the 1997–1998 administrative review. None of these firms responded to the questionnaire issued in the 1997–1998 administrative review. In addition, the Department conducted a sunset review of the antidumping duty order on barium chloride from the PRC in which it received no response from any respondent interested party. However, U.S. Customs records indicate that at least one named respondent exported subject merchandise to the United States during he instant POR. *See* Factual Information Memorandum. Moreover, import statistics from the International Trade Commission confirm the petitioner's assertion that the volume of imports of barium chloride from the PRC has increased approximately 158 percent between the years 1996 and 2000. In fact, the quantity of barium chloride imported into the United States from the PRC has increased by 170.5 percent between the years 1996–2001. *See* Factual Information Memorandum. Despite the fact that the volume of U.S. imports of barium chloride from the PRC is increasing—and there are indications that at least some of the named respondents are participating in the U.S.

[6] The Department rescinded its administrative reviews of the order on barium chloride from the PRC covering the period October 1, 1986 through September 30, 1987 (the petitioner withdrew its request for review) and October 1, 1990 through September 30, 1991 (the sole respondent made no shipments of barium chloride to the United States).

market at the 60.84 percent antidumping duty rate—none of the respondents have participated in the Department's two most recent administrative reviews of barium chloride from the PRC. This fact, when considered in light of our concerns as to whether the 60.84 percent margin reflects the current practices of the PRC-wide entity, leads us to conclude that the 60.84 margin is not sufficiently adverse to induce cooperation from the named respondents. Because the margin calculated from the information placed on the record by the petitioner bears a rational relationship to the practices of the PRC-wide entity during the instant POR and is higher than the 60.84 percent rate, we find it reasonable to use the margin as adverse facts available. Furthermore, with respect to the 14.50 percent margin advocated by Zhangjiaba, we agree with the petitioner that this is not an appropriate measure of dumping in this review because, as noted above, information placed on the record of this review indicates that production costs, and hence constructed value, have change significantly and, therefore, the margin no longer reflects current market behavior. Moreover, even without the information provided by the petitioner, the 14.50 percent rate would not reflect an adverse inference in light of the 60.84 percent rate that is currently applicable to all imports of subject merchandise. Based on the foregoing, including virtually constant AUVs, likely increases in factor values, and significant increases in import volumes, we have preliminary decided to calculate the PRC-wide rate using information placed on the record of this review by the petitioner.

As noted above, this approach was taken by the Department in previous cases in which it considered the adverse facts available rate to be inappropriate. *See, e.g., Sodium Thiosulphate from the PRC.*

Further, with respect to Zhangjiaba's claim that it should not receive an adverse facts available rate because it did not fail to supply anything requested of it by the Department, we note that Zhangjiaba shipped no subject merchandise to the United States during this POR, and thus, it is not possible to conduct an antidumping analysis of the company. Therefore, we are preliminary rescinding this review with respect to Zhangijaba. Because Zhangjiaba has never been assigned a separate rate, there is no basis to assign Zhangjiaba a rate distinct from the PRC-wide rate. *See Final determination of Sales at Less Than Fair Value: Foundry Coke Products From the People's Republic of China,* 66 FR 39487 (July 31, 2001) and accompanying Decision Memorandum at Comment 8.

Calculation of the Adverse Facts Available Rate

We have calculated an adverse facts available rate for the PRC-wide entity using the factor usage rates, average U.S. price, and certain surrogate values placed on the record of this review by the petitioner. Where possible, we have updated or revised the surrogate values placed on the record by the petitioner to include Indian import statistics covering the entire POR. Additionally, where the petitioner has used price lists to value a factor, we have valued the factor using Indian import statistics covering the entire POR.

The Department has identified India as an appropriate surrogate for the PRC in each segment of this proceeding in which it calculated an antidumping duty margin. *See, e.g., Final Determination of Sales at Less Than Fair Value; Barium Chloride From the People's Republic of China,* 49 FR 33916 (August 27, 1984) (where the Department stated that ''India would be the most appropriate surrogate selection.''). Moreover, in this review, the Department's Office of Policy has identified as a country at a level of economic development comparable to the PRC. See Memorandum from Jeffrey May to Holly Kuga dated February 28, 2002. Finally, we note that the petitioner placed evidence on the record of this review demonstrating that India is a producer of barium chloride. *See* the petitioner's February 11, 2002 submission at Exhibit 1. Therefore, we find the petitioner's use of India as its source of surrogate values to be appropriate. For details regarding our calculation, see the memorandum from Drew Jackson to The File, ''Calculation of the Adverse Facts Available Rate in the 2000–2001 Administrative Review of Barium Chloride From the People's Republic of China'' dated concurrently with this notice.

Corroboration of Information

Section 776(c) of the Act provides that the Department shall, in using facts otherwise available, to the extent practicable, corroborate secondary information from independent sources reasonably at its disposal. The SAA provides that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. *See* SAA at 870. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. However, where corroboration is not practicable, the Department may use uncorroborated information. *See Steel Wire Rope From the Republic of Korea; Final Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review,* 64 FR 17995, 17996, (April 3, 1999) (noting ''where corroboration is not practicable, the Department may use uncorroborated information''). Publicly available data from independent sources that relate to the relevant time period are generally considered to be both relevant and reliable because they are contemporaneous with the period under consideration and not generated for purposes of the trade action. Therefore, we consider the AUVs and factor values placed on the record of this review to be corroborated. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Non-Malleable Cast Iron Pipe Fittings From the People's Republic of China,* 67 FR 60214, 60214 (September 25, 2002) (wherein the Department found export prices, based on U.S. government statistics, and Indian surrogate values, based on publicly available information, to be sufficiently corroborated).

Due to the lack of information from the named respondents, it is not practicable to corroborate the factor usage rates placed on the record by the petitioner. It is worth noting that the implementing regulation for section 776 of the Act states, ''(t)he fact that the corroboration may not be practicable in a given circumstance will not prevent the Secretary from applying an adverse inference as appropriate and using the secondary information in question.'' *See* 19 CFR 351.308(d) Therefore, given that we have been able to corroborate average unit values and factor values placed on the record by the petitioner, we consider the calculation using the petitioner's facts to be sufficiently corroborated. *See, e.g., Notice of the Final Determination Sales at Less Than Fair Value and Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products from the Russian Federation,* 67 FR 621121–01 (October 3, 2002).

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following weighted-average percentage dumping margin exists for the period October 1, 2000 through September 30, 2001:

Exporter/manufacturer	Margin (percent)
PRC-wide rate	153.88

The Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within 5 days of the date of publication of this notice. *See* § 351.224(b) of the Department's regulations. Interested parties may submit case briefs within 21 days of the date of publication of this notice. Rebuttal briefs, whose content is limited to the issues raised in the case briefs, must be filed within five days after the deadline for the submission of case briefs. *See* §§ 351.309 and 351.310 of the Department's regulations. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette.

In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity comment on arguments raised in case of rebuttal briefs. If a request for a hearing is made, we will tentatively hold the hearing two days after the deadline for submission of rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled date. Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 10 days of the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, oral presentations will be limited to issues raised in the briefs. *See* 19 CFR 351.310(c).

The Department will publish a notice of final results of this administrative review, which will include the results of its analysis of issues raised in any comments, not later than 120 days after the date of publication of these preliminary results.

Duty Assessment Rates

Upon completion of the final results in this administrative review, the Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. We intend to issue assessment instructions to Customs within 15 days of publication of the final results of review. If these preliminary results are adopted in the final results of review, we will direct Customs to assess the resulting assessment rate against the entered customs values for the subject merchandise on each of the importer's entries during the review period.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of barium chloride from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rate for all Chinese exporters will be the rate established in the final results of this review; and (2) for non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the rate applicable to their PRC suppliers. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under § 351.402(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. 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 administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)), 777(i) of the Act (19 U.S.C. 1677f(i)), and 19 CFR 351.221.

Dated: October 31, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–28525 Filed 11–7–02; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–437–804 and A–471–806]

Notice of Antidumping Duty Orders: Sulfanilic Acid From Hungary and Portugal

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

ACTION: Notice of Antidumping Duty Orders: Sulfanilic Acid from Hungary and Portugal.

EFFECTIVE DATE: November 8, 2002.

FOR FURTHER INFORMATION CONTACT: Audrey Twyman or John Brinkmann for Hungary, telephone: (202) 482–3534 or (202) 482–4126, respectively; and S. Anthony Grasso for Portugal, telephone: (202) 482–3853. Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 (''the Act''). In addition, unless otherwise indicated, all citations to the Department of Commerce's (''the Department'') regulations are to 19 CFR part 351 (April 2001).

Scope of Orders

Imports covered by these orders are all grades of sulfanilic acid (''sulfanilic acid'' or ''subject merchandise''), 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 and 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, currently classifiable under the subheading 2921.42.22 of the *Harmonized Tariff Schedule* (''HTS''), contains 96 percent minimum sulfanilic acid, 1.0 percent maximum aniline, and 1.0 percent maximum alkali insoluble materials. Refined sulfanilic acid, also currently classifiable under 2921.42.22 of the HTS, contains 98 percent minimum sulfanilic acid, 0.5 percent maximum aniline, and 0.25 percent maximum alkali insoluble materials.

Sodium salt (sodium sulfanilate), currently classifiable under the HTS subheading 2921.42.90, 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