

Dated: August 20, 1996.

Jeffrey P. Bialos,

*Principal Deputy Assistant Secretary for  
Import Administration.*

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[A-122-047]

### **Elemental Sulphur From Canada; Preliminary Results of Antidumping Duty Administrative Reviews**

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

**ACTION:** Notice of preliminary results of  
antidumping duty administrative  
reviews.

**SUMMARY:** In response to requests by  
respondents and a U.S. producer, the  
Department of Commerce (the  
Department) is conducting two  
administrative reviews of the  
antidumping finding on elemental  
sulphur from Canada. The reviews cover  
the periods December 1, 1992 through  
November 30, 1993, and December 1,  
1993 through November 30, 1994.

As a result of the reviews, we have  
preliminarily determined that sales have  
been made below foreign market value  
(FMV). If these preliminary results are  
adopted in our final results of  
administrative reviews, we will instruct  
U.S. Customs to assess antidumping  
duties equal to the difference between  
United States price (USP) and FMV.

Interested parties are invited to  
comment on these preliminary results.  
Parties who submit argument in these  
proceedings are requested to submit  
with each argument (1) a statement of  
the issue and (2) a brief summary of the  
argument.

**EFFECTIVE DATE:** August 29, 1996.

**FOR FURTHER INFORMATION CONTACT:**  
Karin Price or Maureen Flannery, Office  
of Antidumping Compliance, 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.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On December 17, 1973, the  
Department of the Treasury published  
in the Federal Register (38 FR 34655)  
the antidumping finding on elemental  
sulphur from Canada. On November 26,  
1993 and December 6, 1994, the  
Department published in the Federal  
Register notices of opportunity to  
request an administrative review of this  
antidumping finding for the periods

December 1, 1992 through November  
30, 1993 (58 FR 62326), and December  
1, 1993 through November 30, 1994 (59  
FR 62710), respectively.

With respect to the 1992/1993  
administrative review, on December 30,  
1993, Pennzoil Sulphur Company  
(Pennzoil), a domestic producer of  
elemental sulphur, requested that we  
conduct an administrative review of  
Alberta Energy Co., Ltd. (Alberta),  
Allied-Signal Inc. (Allied), Brimstone  
Export (Brimstone), Burza Resources  
(Burza), Fanchem, Husky Oil Ltd.  
(Husky), Mobil Oil Canada, Ltd. (Mobil),  
Norcen Energy Resources (Norcen),  
Petrosul International (Petrosul),  
Saratoga Processing Co., Ltd. (Saratoga),  
and Sulbow Minerals (Sulbow). On  
December 21, 1993, Petrosul requested  
revocation of the finding with respect to  
itself. The review was initiated on  
January 18, 1994 (59 FR 2593).

With respect to the 1993/1994  
administrative review, on December 29,  
1994, Pennzoil requested that we  
conduct an administrative review of  
Alberta, Husky, Mobil, Norcen, and  
Petrosul. On December 28, 1994,  
Petrosul requested revocation of the  
finding with respect to itself, and, on  
December 30, 1994, Mobil requested an  
administrative review of its sales. The  
review was initiated on January 13,  
1995 (60 FR 3193).

The Department is conducting these  
reviews in accordance with section 751  
of the Tariff Act of 1930, as amended  
(the Act).

##### **Scope of the Review**

Imports covered by these reviews are  
shipments of elemental sulphur from  
Canada. This merchandise is classifiable  
under Harmonized Tariff Schedule  
(HTS) subheadings 2503.10.00,  
2503.90.00, and 2802.00.00. Although  
the HTS subheadings are provided for  
convenience and for U.S. Customs  
purposes, the written description of the  
scope of this finding remains  
dispositive.

The periods of review are December 1,  
1992 through November 30, 1993, and  
December 1, 1993 through November  
30, 1994. The 1992/1993 review covers  
eleven companies, and the 1993/1994  
review covers five companies.

##### **Applicable Statute and Regulations**

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. Pursuant to section  
291(a)(2)(B) of the Uruguay Round  
Agreements Act (URAA), the provisions  
of that Act apply only to reviews  
requested on or after January 1, 1995.

Thus, although the 1993/1994 review  
was initiated after the effective date of  
the amendments pursuant to the URAA,  
those provisions do not apply to this  
review.

##### **Verification**

As provided in section 776(b) of the  
Act, we conducted verification of the  
sales information provided by Mobil in  
the 1992/1993 administrative review.  
We conducted the verification using  
standard verification procedures,  
including onsite inspection of the  
manufacturer's facilities, the  
examination of relevant sales and  
financial records, and selection of  
original documentation containing  
relevant information. Our verification  
results are outlined in the public  
version of the verification report.

##### **Best Information Available**

We preliminarily determine, in  
accordance with section 776(C) of the  
Act, that the use of best information  
available (BIA) is appropriate for Mobil  
in the 1992/1993 and the 1993/1994  
administrative reviews, for Petrosul in  
the 1992/1993 and the 1993/1994  
administrative reviews, for Norcen in  
the 1992/1993 administrative review,  
and for Allied, Brimstone, Burza,  
Fanchem, and Sulbow in the 1992/1993  
administrative review, and that the use  
of partial BIA is appropriate for Husky  
in the 1992/1993 and the 1993/1994  
administrative reviews. Section 776(c)  
of the Act requires the Department to  
use BIA whenever a company refuses or  
is unable to produce information  
requested in a timely manner or in the  
form required, or otherwise significantly  
impedes an investigation.

In deciding what to use as BIA,  
section 353.37(b) of the Department's  
regulations provide that the Department  
take into account whether a party  
refuses to provide requested information  
or impedes a proceeding. Prior  
Department practice has been to  
determine, on a case-by-case basis, what  
constitutes BIA. When it is necessary to  
base a firm's antidumping margin  
completely on BIA, the Department uses  
a two-tiered approach in its choice of  
BIA. When a company refuses to  
provide the information in the form  
required by the Department or otherwise  
significantly impedes the proceeding  
(first tier), the Department will normally  
assign to that company the higher of (1)  
the highest rate found for any firm in  
the less-than-fair-value (LTFV)  
investigation or a prior administrative  
review, or (2) the highest rate found in  
the current review for any firm. When  
a company substantially cooperates  
with the Department's requests for

information but fails to provide the information requested in a timely manner or in the form required (second tier), the Department will normally assign to that company the higher of (1) the highest rate ever applicable to that company from either the LTFV investigation or a prior administrative review, or (2) the highest calculated rate in the current review for any respondent. See *Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of An Antidumping Duty Order (Antifriction Bearings) (Other Than Tapered Roller Bearings) and Parts Thereof from France, Germany, Italy, Japan, Romania, Singapore, Sweden, Thailand and the United Kingdom* (58 FR 39729, 39739, July 26, 1993). The Department's use of a two-tiered methodology was upheld in *Allied-Signal Aerospace Co. v. United States*, 996 F.2d 1185 (Fed. Cir. 1993).

#### A. Mobil

In both administrative reviews, Pennzoil alleged that Mobil made sales in the comparison market at prices below the cost of production (COP). Based on these allegations, the Department found reasonable grounds to believe or suspect that Mobil's sales were below cost, and initiated cost investigations pursuant to section 773(b) of the Act in each review. In response to our requests for cost information, Mobil submitted cost questionnaire responses and supplemental cost questionnaire responses. However, we have determined that these cost responses cannot be used to calculate margins in either administrative review and have preliminarily determined that total BIA should be applied to Mobil. As Mobil has substantially cooperated with the Department in its requests for information, we have determined to apply second-tier BIA as described above to Mobil for the preliminary results of each review. For a further discussion of the Department's determination that second-tier BIA is appropriate for Mobil, see *Decision Memorandum to Joseph A. Spetrini, Deputy Assistant Secretary for Compliance*, dated June 4, 1996, "Whether to Use Best Information Available for Husky Oil Ltd. and Mobil Oil Canada, Ltd. in the 1992/1993 Administrative Review of Elemental Sulphur from Canada," and *Decision Memorandum to Joseph A. Spetrini, Deputy Assistant Secretary for Compliance*, dated June 4, 1996, "Whether to Use Best Information Available for Husky Oil Ltd. and Mobil Oil Canada, Ltd. in the 1993/1994 Administrative Review of Elemental

Sulphur from Canada," which are on file in the Central Records Unit (room B-099 of the Main Commerce Building) (BIA memoranda). Accordingly, the rate assigned to Mobil for the 1992/1993 administrative review is 42.80 percent, the rate for Husky from that administrative review. The rate assigned to Mobil for the 1993/1994 administrative review is 11.79 percent, the rate for Husky from that administrative review. For purposes of the final results of review for the 1993/1994 period, we will consider final rates in the 1992/1993 administrative review in determining BIA for Mobil.

#### B. Petrosul

Petrosul, a reseller of elemental sulphur, reported third-country sales in the 1992/1993 administrative review and home-market sales in the 1993/1994 administrative review. In both reviews, Pennzoil alleged that Petrosul made sales in the comparison market at prices below the COP. Based on these allegations, the Department found reasonable grounds to believe or suspect that Petrosul's sales were below cost, and initiated a cost investigation pursuant to section 773(b) of the Act in each review. The statute is concerned specifically with the COP of the merchandise, and Petrosul does not itself produce the elemental sulphur it sells. Department practice in such situations is to compare the production costs of the producer (Petrosul's suppliers/producers), plus the producer's selling, general, and administrative (SG&A) expenses, plus the SG&A expenses of the seller (Petrosul), to the seller's home-market/third-country sales to determine whether sales in the comparison market were made below the COP. See *Final Determination of Sales at Less Than Fair Value: Fresh and Chilled Atlantic Salmon from Norway* (56 FR 7661, February 25, 1991) and *Final Results of Antidumping Duty Administrative Reviews: Oil Country Tubular Goods from Canada* (56 FR 38408, August 13, 1991). Therefore, in each administrative review, the Department requested that Petrosul provide certain cost information, i.e., information regarding its own selling, general, and administrative expenses and profit, and a list of its suppliers of elemental sulphur.

In the 1992/1993 administrative review, Petrosul did not respond to our request for its own cost data. In the 1993/1994 administrative review, Petrosul did not respond to our requests for its own cost data or for a list of its suppliers of elemental sulphur. We have thus preliminarily determined that

Petrosul has not cooperated with the Department in its requests for information, and have determined to apply first-tier BIA as described above to Petrosul for the preliminary results of each review. Accordingly, the rate assigned to Petrosul for the 1992/1993 administrative review is 42.80 percent, the rate for Husky from that administrative review. The rate assigned to Petrosul for the 1993/1994 administrative review is 28.90 percent, the highest final rate applicable to any company in this case, Timshel's rate from the 1986/1987 review of this finding. See *Elemental Sulphur from Canada; Final Results of Antidumping Duty Administrative Review and Revocation in Part* (55 FR 13179, April 9, 1990). For purposes of the final results of review for the 1993/1994 period, we will consider final rates in the 1992/1993 administrative review in determining BIA for Petrosul.

#### C. Norcen

In the course of the 1992/1993 administrative review, Norcen responded that its related company sold sulphur to a U.S. customer, but that the related company did not know whether the sulphur picked up by the U.S. customer at the plant gate in Canada ever entered the United States. Norcen further stated that the related company was never paid for the merchandise. The Department requested that Norcen respond to the questionnaire since the information on the record of the review indicates that these sales may constitute U.S. sales. Norcen responded that it declined to answer the questionnaire. Therefore, we have determined that Norcen has been uncooperative, and have assigned to Norcen the first-tier BIA rate of 42.80 percent, the rate for Husky from that administrative review and the highest rate applicable to any company in this case.

#### D. Allied, Brimstone, Burza, Fanchem, and Sulbow

In the 1992/1993 administrative review, Allied, Brimstone, Burza, Fanchem, and Sulbow did not respond to the questionnaire. Therefore, we have determined that these companies have been uncooperative, and have assigned to them the first-tier BIA rate of 42.80 percent, the rate for Husky from that administrative review and the highest rate applicable to any company in this case.

#### E. Husky

We have determined that the use of partial BIA is appropriate for Husky for the 1992/1993 and the 1993/1994 administrative reviews (see BIA

memoranda). As discussed in the BIA memoranda, in addition to other deficiencies in its responses, Husky did not comply with the Department's request that it report costs for all facilities accounting for at least 90 percent of its production volume in either review, and, in the 1992/1993 review, did not report cost-of-manufacturing data for its U.S. sales of powdered sulphur, as requested. However, since we are able to calculate a margin for Husky in each review using data which Husky has provided, we have determined that partial BIA is appropriate. Accordingly, we have used Husky data as partial BIA for the missing data. For the facility for which no sulphur costs were reported, we used the highest cost of manufacturing calculated for any facility for which costs were reported and the production volume of the facility for which costs were not reported to calculate the weighted-average cost of manufacturing. We have assigned, as BIA for each of Husky's sales of powdered sulphur in the 1992/1993 review, the highest weighted-average margin in that review, calculated on the basis of Husky's sales of liquid and formed sulphur.

#### United States Price

For both administrative reviews, the Department has based USP for Husky on purchase price, in accordance with section 772(b) of the Act, because the merchandise was sold to unrelated U.S. purchasers prior to importation. We calculated purchase price based on f.o.b. plant or delivered prices to unrelated customers. We made adjustments, where applicable, for discounts, brokerage and handling, foreign inland freight, tank car expenses, and U.S. duties, in accordance with section 772(d)(2) of the Act. In addition, when U.S. sales were compared to home-market sales, we adjusted USP for the Canadian Goods and Services Tax (GST), in accordance with our practice outlined in the following section on *Value Added Tax*. No other adjustments were claimed or allowed.

#### Value Added Tax

In light of the Federal Circuit's decision in *Federal Mogul v. United States*, CAFC No. 94-1097, the Department has changed its treatment of home market consumption taxes. Where merchandise exported to the United States is exempt from the consumption tax, the Department will add to USP the absolute amount of such taxes charged on the comparison sales in the home market. This is the same methodology that the Department adopted following the decision of the Federal Circuit in

*Zenith v. United States*, 988 F. 2d 1573, 1582 (1993), and which was suggested by that court in footnote 4 of its decision. The Court of International Trade (CIT) overturned this methodology in *Federal Mogul v. United States*, 834 F. Supp. 1391 (1993), and the Department acquiesced in the CIT's decision. The Department then followed the CIT's preferred methodology, which was to calculate the tax to be added to USP by multiplying the adjusted USP by the foreign market tax rate; the Department made adjustments to this amount so that the tax adjustment would not alter a "zero" pre-tax dumping assessment.

The foreign exporters in the *Federal Mogul* case, however, appealed that decision to the Federal Circuit, which reversed the CIT and held that the statute did not preclude the Department from using the "Zenith footnote 4" methodology to calculate tax-neutral dumping assessments (i.e., assessments that are unaffected by the existence or amount of home market consumption taxes). Moreover, the Federal Circuit recognized that certain international agreements of the United States, in particular the General Agreement on Tariffs and Trade (GATT) and the Tokyo Round Antidumping Code, required the calculation of tax-neutral dumping assessments. The Federal Circuit remanded the case to the CIT with instructions to direct the Department to determine which tax methodology it will employ.

The Department has determined that the "Zenith footnote 4" methodology should be used. First, as the Department has explained in numerous administrative determinations and court filings over the past decade, and as the *Federal Circuit* has now recognized, Article VI of the GATT and Article 2 of the Tokyo Round Antidumping Code required that dumping assessments be tax-neutral. This requirement continues under the new Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade. Second, the URAA explicitly amended the antidumping law to remove consumption taxes from the home market price and to eliminate the addition of taxes to USP, so that no consumption tax is included in the price in either market. The Statement of Administrative Action (p. 159) explicitly states that this change was intended to result in tax neutrality.

While the "Zenith footnote 4" methodology is slightly different from the URAA methodology, in that section 772(d)(1)(C) of the pre-URAA law required that the tax be added to USP rather than subtracted from home-

market price, it does result in tax-neutral duty assessments. In sum, the Department has elected to treat consumption taxes in a manner consistent with its longstanding policy of tax-neutrality and with the GATT.

#### Foreign Market Value

Based on a comparison of the volume of home-market sales to third-country sales, we determined that Husky's home market was viable during each period of review. Therefore, in accordance with section 773(a)(1)(A) of the Act, we based FMV on f.o.b. plant and delivered prices to unrelated purchasers in the home market.

During the course of each administrative review, Pennzoil alleged that Husky made home-market sales of elemental sulphur at prices below its COP. Based on these allegations, the Department determined that it had reasonable grounds to believe or suspect that Husky had sold the subject merchandise in the home market at prices below the COP. We therefore initiated cost investigations in each administrative review, in accordance with section 773(b) of the Act, and investigated whether Husky sold such or similar merchandise in the home market at prices below the COP. In accordance with 19 CFR 353.51(c), we calculated COP for Husky as the sum of costs of materials, labor, factory overhead, and general expenses, and compared COP to home-market prices net of movement expenses.

In accordance with section 773(b) of the Act, in determining whether to disregard home-market sales made at prices below the COP, we examined whether such sales were made in substantial quantities over an extended period of time, and whether such sales were made at prices which permitted recovery of all costs within a reasonable period of time in the normal course of trade. To satisfy the requirement of section 773(b)(1) that below-cost sales be disregarded only if made in substantial quantities, we applied the following methodology. For each model for which less than 10 percent, by quantity, of the home-market sales during the period of review were made at prices below the COP, we included all sales of that model in the computation of FMV. For each model for which 10 percent or more, but less than 90 percent, of the home-market sales during the period of review were priced below the COP of the merchandise, we excluded from the calculation of FMV those home-market sales which were priced below the COP, provided that they were made over an extended period of time. For each model

for which 90 percent or more of the home-market sales during the period of review were priced below the COP and were made over an extended period of time, we disregarded all sales of that model in our calculation and, in accordance with section 773(b) of the Act, we used the constructed value (CV) of those models, as described below. See, e.g., *Mechanical Transfer Presses from Japan; Final Results of Antidumping Duty Administrative Review* (59 FR 9958, March 2, 1994).

In accordance with section 773(b)(1) of the Act, to determine whether sales below cost had been made over an extended period of time, we compared the number of months in which sales below cost occurred for a particular model to the number of months in which that model was sold. If the model was sold in fewer than three months, we did not disregard below-cost sales unless there were below-cost sales of that model in each month sold. If a model was sold in three or more months, we did not disregard below-cost sales unless there were sales below cost in at least three of the months in which the model was sold. We used CV as the basis for FMV when an insufficient number of home-market sales were made at prices above COP. See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Final results of Antidumping Duty Administrative Reviews* (58 FR 64720, December 8, 1993).

Because Husky provided no indication that its below-cost sales of models within the "greater than 90 percent" and the "between 10 and 90 percent" categories were at prices that would permit recovery of all costs within a reasonable period of time and in the normal course of trade, we disregarded those sales within the "10

to 90 percent" category which were made below cost over an extended period of time. In addition, as a result of our COP test for home-market sales of models within the "greater than 90 percent" category, we based FMV on CV for all U.S. sales for which there were insufficient sales of the comparison home-market model at or above COP. Finally, where we found, for certain of Husky's models, home-market sales for which less than 10 percent were made below COP, we used all home-market sales of those models in our comparisons.

In accordance with section 773 of the Act, for those U.S. models for which we were able to find a home-market such or similar match that had sufficient above-cost sales, we calculated FMV based on f.o.b. or delivered prices to unrelated purchasers in the home market. We made adjustments, where applicable, for inland freight, tank car expenses, credit expenses, royalty expenses, Canadian GST, differences in the physical characteristics of the merchandise, and differences in packing. We also added to FMV U.S. credit expenses and royalty expenses, as appropriate.

In accordance with section 773(e) of the Act, CV includes the costs of materials and fabrication, general expenses, profit, and, where relevant, packing for shipment to the United States. We used Husky's home-market selling expenses pursuant to section 773(e)(1)(B) of the Act. We used Husky's actual general expenses as they were greater than the statutory minimum of ten percent of COM but applied the statutory eight percent for profit. Where appropriate, we made circumstance-of-sale adjustments for differences in credit and royalty expenses. No other adjustments were claimed or allowed.

#### Non-Shippers

Based on the information on the record, the Department has determined that Alberta and Saratoga had no

shipments to the United States during the period December 1, 1992 through November 30, 1993, and that Alberta and Norcen had no shipments to the United States during the period December 1, 1993 through November 30, 1994. As a result, the rates assigned to these companies for these review periods are their rates from the immediately preceding administrative review. Therefore, for Alberta, which had no shipments during the administrative review covering the period December 1, 1991 through November 30, 1992 and which has no individual rate from any segment of the case, the rate for both of these reviews continues to be the "All Others" rate of 5.56 percent, the "new shipper" rate established in the first review conducted by the Department in which a "new shipper" rate was established (see *Elemental Sulphur from Canada; Final Results of Antidumping Finding Administrative Review* (61 FR 8239, March 4, 1996) (*Sulphur Final*)). For Norcen, whose rate for the 1991/1992 administrative review was the "All Others" rate of 5.56 percent (see *Sulphur Final*), the rate for the 1993/1994 review is 5.56 percent, its rate from the 1991/1992 review. For purposes of the final results of review for the 1993/1994 period, we will consider Norcen's final rate in the 1992/1993 administrative review in determining the appropriate rate for Norcen. For Saratoga, whose most recent rate was determined in the 1991/1992 administrative review (see *Sulphur Final*), the rate for the 1992/1993 review is 28.90 percent, which is its rate from the 1991/1992 review.

#### Preliminary Results of the Reviews

As a result of our reviews, we preliminarily determine that the following margins exist for the periods December 1, 1992 through November 30, 1993, and December 1, 1993 through November 30, 1994:

Manufacturer/exporter	Time period	Margin <sup>5</sup> (percent)
Alberta Energy Co., Ltd .....	12/1/92-11/30/93	<sup>1</sup> 5.56
	12/1/93-11/30/94	<sup>1</sup> 5.56
Allied-Signal Inc .....	12/1/92-11/30/93	<sup>2</sup> 42.80
Brimstone Export .....	12/1/92-11/30/93	<sup>2</sup> 42.80
Burza Resources .....	12/1/92-11/30/93	<sup>2</sup> 42.80
Fanchem .....	12/1/92-11/30/93	<sup>2</sup> 42.80
Husky Oil Ltd .....	12/1/92-11/30/93	42.80
	12/1/93-11/30/94	11.79
Mobil Oil Canada, Ltd .....	12/1/92-11/30/93	<sup>3</sup> 42.80
	12/1/93-11/30/94	<sup>3</sup> 11.79
Norcen Energy Resources .....	12/1/92-11/30/93	<sup>2</sup> 42.80
	12/1/93-11/30/94	<sup>4</sup> 5.56
Petrosul International .....	12/1/92-11/30/93	<sup>2</sup> 42.80
	12/1/93-11/30/94	<sup>2</sup> 28.90
Saratoga Processing Co., Ltd .....	12/1/92-11/30/93	<sup>4</sup> 28.90

Manufacturer/exporter	Time period	Margin <sup>5</sup> (percent)
Sulbow Minerals .....	12/1/92–11/30/93	<sup>2</sup> 42.80

<sup>1</sup> No shipments or sales subject to this review. The firm has no individual rate from any segment of this proceeding. As a result, the firm will be subject to the "all others" rate.

<sup>2</sup> Non-cooperative total BIA rate.

<sup>3</sup> Cooperative total BIA rate.

<sup>4</sup> No shipments to the United States during the period of review. Rate is the rate established during the immediately preceding administrative review.

<sup>5</sup> Both the cooperative and the non-cooperative BIA rates may change for the final review results, if Husky's rates change for the final results.

Parties to these reviews may request disclosure within 5 days of the date of publication of this notice. Interested parties may request a hearing within 10 ten days of the date of publication. Any hearing, if requested, will be held not later than 44 days after the date of publication or the first workday thereafter. Case briefs from interested parties may be submitted not later than 30 days after the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication of this notice. The Department will publish the final results of these administrative reviews, including the results of its analysis of issues raised in any such written comments.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentages stated above. Upon completion of the reviews, the Department will issue appraisal instructions directly to the U.S. Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of elemental sulphur, entered or withdrawn from warehouse, for consumption on or after the publication date of the final results of these administrative reviews, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies will be those rates established in the final results of the most recent review in which the company was involved; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in either of these reviews, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in these or any previous review,

or the LTFV investigation, the cash deposit rate will be the "new shipper" rate of 5.56 percent established in the first review conducted by the Department in which a "new shipper" rate was established (*see Sulphur Final*). These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 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.

These administrative reviews 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: August 22, 1996.

Robert S. LaRussa,

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 96-22237 Filed 8-29-96; 8:45 am]

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#### [C-301-003; C-301-601]

#### **Roses and Other Cut Flowers From Colombia; Miniature Carnations From Colombia; Final Results of Countervailing Duty Administrative Reviews of Suspended Investigations**

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

**ACTION:** Notice of final results of countervailing duty administrative reviews and termination of suspended investigations.

**SUMMARY:** On March 8, 1996, the Department of Commerce ("the Department") published the preliminary results of its administrative reviews of, and its intent to terminate, the agreements suspending the

countervailing duty investigations on roses and other cut flowers ("roses") from Colombia and on miniature carnations ("minis") from Colombia. We gave interested parties an opportunity to comment on the preliminary results. After reviewing all the comments received, we determine that the Government of Colombia ("GOC") and producers/exporters of roses and minis have complied with the terms of the suspension agreements during the period January 1, 1994 through December 31, 1994. We also determine that the producers/exporters of subject merchandise have not received countervailable benefits or used any program under review for a period of at least five consecutive years. Additionally, we determine that the GOC and producers/exporters of the subject merchandise (respondents) have provided sufficient evidence for the Department to determine that it is likely that producers/exporters of subject merchandise will not in the future apply for or receive any net subsidy on the subject merchandise from those programs the Department has found countervailable in any proceeding involving Colombia or from other countervailable programs. Therefore, we determine that respondents have met the requirements for termination of the countervailing duty suspended investigation on roses and other cut flowers and on miniature carnations as outlined in the Department's Regulations.

**EFFECTIVE DATE:** August 30, 1996.

**FOR FURTHER INFORMATION CONTACT:** Rick Johnson or Jean Kemp, AD/CVD Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230; telephone: (202) 482-3793.

#### **SUPPLEMENTARY INFORMATION:**

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on or after January 1, 1995, the