DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–506]

Porcelain-on-Steel Cooking Ware From the People's Republic of China; Final Results of Antidumping Duty Administrative Review

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

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

SUMMARY: On January 29, 1997, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of its administrative review of the antidumping duty order on porcelain-on-steel (POS) cooking ware from the People's Republic of China (PRC) (62 FR 4250). This review covers shipments by two manufacturers/exporters of this merchandise to the United States during the period December 1, 1993, through November 30, 1994. We gave interested parties an opportunity to comment on our preliminary results. Based upon our analysis of the comments received (*see Analysis of Comments Received* section below), these final results of review remain unchanged from the preliminary results of review.

EFFECTIVE DATE: October 22, 1997.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Kelly Parkhill, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–2786.

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

SUPPLEMENTARY INFORMATION:

Background

On December 2, 1986, the Department published, in the **Federal Register**, the antidumping duty order on POS cooking ware from the PRC (51 FR 43414). On December 6, 1994, the Department published, in the **Federal Register**, a notice of opportunity to request an administrative review of this antidumping duty order (59 FR 62710) covering the period December 1, 1993, through November 30, 1994.

On December 21, 1994, in accordance with 19 C.F.R. 353.22(a)(1), a U.S. importer, CGS International Inc. (CGS), requested that we conduct an administrative review of Clover Enamelware Enterprise Ltd. (Clover), a PRC manufacturer/exporter of the subject merchandise, and its third-country reseller in Hong Kong, Lucky Enamelware Factory Ltd. (Lucky). On December 29, 1994, in accordance with 19 C.F.R. 353.22(a), petitioner, General Housewares Corp. (GHC) requested that we conduct an administrative review of China National Light Import and Export Corporation (China Light), Shanghai Branch, through Amerport (H.K.), Ltd. We published the notice of initiation of this antidumping duty administrative review covering the period December 1, 1993 through November 30, 1994, on January 13, 1995 (60 FR 3192).

On February 29, 1997, the Department published in the **Federal Register** the preliminary results of this administrative review of the antidumping duty order on POS cooking ware from the PRC (62 FR 4250). There was no request for a hearing. The Department has now completed this review in accordance with section 751(a) of the Act.

Related Parties

Clover is two-thirds owned by Lucky and therefore Lucky holds controlling interest in Clover. Due to Lucky's ownership interest in Clover, and the fact that the same individual is the general manager at both companies, we consider Clover and Lucky (hereafter Clover/Lucky) to be related pursuant to section 771(13) of the Act. As such, and consistent with prior reviews of this order, we have calculated only one rate for both of these companies. For a further discussion of this issue, see Memorandum from Case Analyst to the File Regarding Status as Related Parties dated January 17, 1997, which is a public document on file in the Central Records Unit (room B–099 of the Department of Commerce).

Scope of Review

Imports covered by this review are shipments of POS cooking ware, including tea kettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses. The merchandise is currently classifiable under the HTS item 7323.94.00. HTS item numbers are provided for convenience and Custom purposes. The written description remains dispositive.

Best Information Available

In our preliminary results, we determined, in accordance with sections 776(b) and (c) of the Act, that the use of best information available (BIA) is appropriate for China Light and Clover/Lucky. (*See* ''Memorandum for Jeffrey P. Bialos from Barbara E. Tillman Regarding Use of Best Information Available'' dated January 16, 1997, which is a public document on file in the Central Records Unit (room B–099 of the Main Commerce Building).) We received written comments on the preliminary results of review. Our analysis of the comments submitted by interested parties has not led us to modify our findings from the preliminary results.

Section 776(b) of the Act states that the Department shall use BIA whenever it is unable to verify the information submitted. Section 776(c) of the Act states that the Department shall use BIA whenever a company refuses or is unable to produce information in a timely manner and in the form required, or significantly impedes an investigation or review.

In deciding what to use as BIA, section 353.37(b) of the Department's regulations provide that the Department may take into account whether a party refuses to provide requested information or impedes a proceeding. Thus, the Department determines on a case-by-case basis what is BIA. The Department uses a two-tiered approach in its choice of BIA. When a company refuses to provide the information requested in the form required or otherwise significantly impedes the Department's review (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 has cooperated with the Department's request for information but fails to provide information requested in a timely manner or in the form required such that margins for certain sales cannot be calculated (second tier), the Department will normally assign to those sales the higher of (1) the highest rate applicable to that company for the same class or kind of merchandise from any previous review or the original investigation; or (2) the highest calculated margin for any respondent in the current review. *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, et. al.*, 58 FR 39729 (July 26, 1993). This practice has been upheld in *Allied-Signal Aerospace Co.* v. *United States*, 996 F.2d 1185

(Fed. Cir. 1993), and *Krupp Stahl AG et al.* v. *United States,* 822 F. Supp. 789 (CIT 1993).

As mentioned above, China Light did not respond to our questionnaire. As non-cooperative, first-tier BIA, and in accordance with section 776(c) of the Act, we have applied the highest margin from the LTFV investigation, prior administrative reviews, or in this review, which is 66.65 percent. Further, China Light was not found eligible for a separate rate in this review. Consequently, China Light is part of the single NME entity in this review, which has been assigned the PRC country-wide rate (*see, e.g., Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, from the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review;* 61 FR 15218, 15221 (April 5, 1996), and *Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, from the People's Republic of China; Final Results of Antidumping Duty Administrative Review;* 61 FR 15269 (October 1, 1996).

Clover/Lucky cooperated with our requests for information and agreed to undergo verification. From July 17 through July 29, 1995, the Department attempted verification of the company's questionnaire response at Lucky's sales offices in Hong Kong and Clover's factory in Shenzhen, PRC. As a result of these verification efforts with respect to Clover's questionnaire response, we discovered significant discrepancies and were unable to verify substantial sections of the questionnaire response, including statutorily required factors of production information, such as the number of labor hours worked and the per unit quantities consumed of primary material inputs. These discrepancies are detailed in the Department's verification report concerning Clover, dated January 13, 1997.

As a result, the Department has determined that the data the company submitted is unverifiable. Therefore, in accordance with section 776(b) of the Act, there is no basis to accept the integrity of the factors of production information submitted in the questionnaire response, constituting a verification failure. *See Notice of Final Determination of Sales at Less Than Fair Value: Melamine Institutional Dinnerware Products from the People's Republic of China,* 61 FR 1708 (January 13, 1997). Because the respondent failed verification, the Department must use BIA. Since Clover/Lucky was cooperative, we have applied second-tier BIA. The second-tier BIA rate is the highest rate applicable to the company from a previous review or the original LTFV investigation, which in this case is 66.65 percent, the rate Clover/Lucky received in the 1990/91 administrative review.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received a case brief from Clover/Lucky (respondent) and a rebuttal brief from General Housewares (petitioner).

Comment 1: Clover/Lucky alleges that the Department's decision to consider verification a failure is unwarranted. According to respondent, the problems at verification were due to: (1) The brevity of the verification at Clover's factory in the PRC; and (2) the Department's failure to explore alternative methods of verification.[1] Clover/Lucky claims that had the Department spent more time at Clover, the Department would have been able to verify much of the allegedly unverified information. According to Clover/Lucky, it is the Department's obligation to allow itself the time necessary to verify the responses and find alternative methods of verification of information, if needed.

Petitioner argues that Clover/Lucky provided no evidence demonstrating that the Department's verification procedures to verify Clover/Lucky were unfair or unreasonable.

Department's Position: We disagree with respondent. The on-site verification at Clover's factory in the PRC was but one portion of the ten-day verification of Clover/Lucky's questionnaire response. Ten days to verify a questionnaire response is well within the normal time period allotted for such verifications. In addition, as Clover/Lucky noted in its case brief, the verification team was willing to, and did, work overtime to allow the company the opportunity to demonstrate the accuracy of the submitted information. Further, upon leaving Clover's factory in the PRC, the team gave Clover the opportunity to send any missing supporting documentation to Lucky's offices in Hong Kong, which the team would then verify at that location. Despite this opportunity, Clover sent no such information.

As we stated in *Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from France, et. al.; Final Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews,* 61 FR 66481, 66482 (December 17,1996), ''It is incumbent on the respondent to establish the accuracy of the information it submits during the time period allotted for verification.'' This position is supported by the U.S. Court of International Trade (CIT) which stated, ''There is no statutory mandate as to how long the process of verification must last, ... [The Department] is afforded discretion when conducting a verification pursuant to 19 U.S.C. 1677e(b).'' *Persico Pizzamiglio, S.A.* v. *United States,* 18 CIT 229, 307 (1994) (holding that a three-day overseas verification was reasonable). *See also Ceramica Regiomontana, S.A.* v. *United States,* 10 CIT 399, 406, 636 F. Supp. 961, 967 (1986) (held that the Department has wide latitude in determining the time to be spent and the procedures to be used to conduct verification).

We also disagree with Clover/Lucky's contention that it is the Department's obligation to explore alternative approaches to verifying information. As petitioner points out in its rebuttal brief, it is the responsibility of the respondent, and not of the Department, to create a sufficient record in the administrative review. *Tatung Co.,* v. *United States,* 18 CIT 1137, 1140 (1994). The purpose of verification is to verify the accuracy of the response, not to collect information or recreate the response in order to address its errors or deficiencies. *See Belmont Industries* v. *United States,* 733 F. Supp. 1507, 1508 (CIT 1990) (''verification is like an audit, the purpose of which is to test information provided by a party for accuracy and completeness. Normally an audit entails selective examination rather than testing of an entire universe''); *see also Monsanto Co.* v. *United States,* 698 F. Supp. 275, 281 (CIT 1988) (''verification is a spot check and is not intended to be an exhaustive examination of the respondent's business''). To accomplish this, the Department uses standard verification methods, and among other things, examines the source documents that respondents claim were used to

[1] Clover/Lucky suggests the following alternative methods for some portions of the response that could not be verified: (1) The verifiers could have timed the products going through the production process in order to verify the piece rate tables used to calculate the workers' wages; (2) 1995 (post-POR) time cards could be examined to verify the 1993/94 labor hours and piece rates reported in the response; (3) uncoated semi-finished steel blanks, steel blanks with the initial ground coat, steel blanks with the cover coat, double-coated steel blanks and finished goods for selected products could have been shipped to the United States for further examination and weighing in order to verify the reported enamel consumption; and (4) loan documents identifying ownership of machinery between Lucky and Clover could be examined, in conjunction with on-site identification of molds and equipment by knowledgeable floor supervisors, in order to verify the depreciation information included in the response that could not be verified through the depreciation cards.

compile the information contained in their questionnaire response.

To assist respondents in preparing for verification, the Department issues an outline of the verification to respondents prior to the arrival of the verifiers. Prior to verification in this case, the Department sent an outline of the verification procedures to Clover/Lucky. The outline identified the information in the response that the Department intended to verify and the types of source documents that would be examined by the Department when conducting the verification. The outline also indicated that it was not exhaustive, and that the Department might request relevant additional material necessary for a complete verification.

As discussed above, the Department does not have an unlimited amount of time in which to conduct a verification. As characterized by the CIT itself, verification under these conditions is, by its very nature, a spot check rather than a complete audit. As such, it is crucial that the information reported in the questionnaire response can be readily verified if selected for examination. Given the time limits of verification, the Department is unable to await, let alone accept, numerous clarifications or corrections to responses at verification, nor can it explore all conceivable verification methods suggested by a respondent in the hope that one of them might conceivably result in the information being verified at some indefinite point in the future.

The alternative methods of verification suggested by Clover/Lucky would have required significant amounts of additional time to undertake. In this case, such time was no longer available because of the difficulties encountered in verifying the information in the response using standard verification procedures as set forth in the verification outline that was sent to Clover/Lucky. For example, with respect to timing the processing steps on the factory floor as an alternative method of verifying labor hours, respondent noted in its comments that Clover's POS cookware production process is a complicated one. According to Clover/Lucky, the simplest piece of enamelware, a plate, involves seven processes while a teakettle (a covered cookware item) involves 48 processes. Some of these processes (*e.g.*, enameling) involve considerable time between steps. Given the need to take several readings per processing step being examined in order to calculate a meaningful average, this method would require considerable time and effort to verify even one cookware item, much less a meaningful sample of the approximately 45 cookware items under review. Further, Clover manufactures over 450 different enamelware items, only a portion of which are cookware items sold in the United States. Therefore, it is highly unlikely that the Department would be able to randomly select a cookware item from the piece rate table (a table listing the standard amounts of time required to complete individual processing steps for each enamelware item produced by the company) and find that it is being produced that day on the shop floor.

In addition, two of the suggested alternatives, the use of 1995 (post-POR) source documents to verify 1993/94 data and the post-verification shipment of finished and semi-finished cookware products to the United States for examination by the Department are simply not reasonable verification alternatives. The Department cannot accept unrelated information from a future review period to substitute for source documents from the period under review. The comparison of 1995 time cards to 1993/94 labor records and piece rate tables will not result in any meaningful determination as to the accuracy of the submitted 1993/94 information. As to the submission of selected pieces of finished and semi-finished cookware to the Department for examination and weighing, the purpose of on-site verification is to enable the Department not only to check certain factual information but also to be able to further verify the accuracy of the submitted information through questions to, and clarifying statements from, those individuals that either prepared the response, are involved in the manufacture and exportation of the merchandise under review or are responsible for maintaining the company's books and records. This is not possible under Clover/Lucky's suggested alternative methods of verification.

Comment 2: Clover/Lucky alleges that it should not be penalized for failing to maintain the source documentation needed to support its reported labor hours/record retention. Neither the questionnaire nor the outline specifically stated that time cards needed to be retained for verification. Further, these records are not required to be kept by local tax authorities.

Department's Position: Contrary to respondent's characterization that its failure to maintain source documentation for reported labor hours was the cause of the failed verification, in this review, labor hours were among the many items that Clover/Lucky was unable to tie to or support with source documentation.

In addition, we disagree with respondent's claim that it should not be penalized for failing to maintain certain source documents because the Department did not specifically identify these source documents in its questionnaire or outline. Both the questionnaire and the verification outline make it clear that the information submitted in the response may be subject to verification. Because responses submitted in an administrative review may be subject to verification, it is incumbent upon a respondent to retain the source documentation which it used to prepare the questionnaire response. The verification outline further notes that we will be tying the information reported in the response to the company's source documents that support that information. The outline provides examples of the type of documents we examine and clearly states that we may require any additional documentation necessary for a complete verification. Time cards are among the documents that support a company's payroll. That the Department might request to examine these time cards can hardly be considered outside the realm of possibility in a verification of reported labor hours. Section 773(c)(3) of the Act, which enumerates the specific factors of production that the Department examines in NME cases, lists as the very first factor ''hours of labor required'' (section 773(c)(3)(A)).

The record keeping requirements of local tax authorities are not germane to the records that need to be maintained for verification of the questionnaire response in an antidumping administrative review. *See Krupp Stahl A.G.* v. *United States*, 17 CIT 450; 822 F. Supp. 789, 791–92 (1993) (holding that the fact that a foreign government did not require retention of business records did not absolve the respondent from its obligation or responsibility to respond to the Department's questionnaire response in an antidumping proceeding. The court upheld the Department's use of BIA.) *See also Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews, Partial Termination of Administrative Reviews, and Revocation in Part of Antidumping Duty Orders*, 60 FR 10900, 10990 (February 28, 1995).

Comment 3: Clover/Lucky claims that the Department's conclusion that Clover was unable to document its per-unit enamel consumption figure is

unfounded. At verification, the company explained the sampling procedure it used to estimate the per-unit consumption. By weighing three to five samples of each model throughout the various coating and drying processes, it calculated a per-unit weighted-average of enamel consumption. Clover/Lucky contends that, based on this procedure, the company prepared the table used to report per-unit enamel consumption in its response. As respondent itself states, because enamel coating is a hand-dipped process, the difference between the actual weight of an individual item may be quite different from the consumption figure calculated in the sample. However, since the consumption figures were derived from actual figures, respondent claims it was not necessary for the company to maintain the underlying source documents.

Department's Position: We disagree with respondent. The verification report does not support Clover/Lucky's contention that it was able to document the per-unit enamel consumption. As stated by Clover/Lucky itself in its case brief, the company did not retain any of the original worksheets or underlying source documents of the per-unit enamel consumption after conducting its sample weighing.

As discussed previously, it is the responsibility of the respondent, and not of the Department, to create a sufficient record in the administrative review. *Tatung Co.*, v. *United States*, 18 CIT 1137, 1140 (1994). The purpose of verification is to verify the accuracy of the response through examination of source documentation, not to collect information or recreate supporting source documentation that respondent has failed to maintain. Further, as discussed previously, we reject Clover's suggestion that the Department allow it to ship, after verification, selected samples of finished and semi-finished cookware products to the Department in order that the Department could further test the accuracy of the reported figures. For further information regarding the Department's position on this, *see* Department's Position to Comment 1.

Comment 4: Clover/Lucky argues that it should not be penalized for failing to report the quantities of water, electricity and fuel consumed in the production process because the Department did not specifically ask the company to report quantities of indirect materials in its factors of production questionnaire. Rather, as stated in Clover/Lucky's case brief, the Department only requested factor inputs for the following: (A) Direct Materials; (B) Direct Labor; (C) Factory Overhead; (D) Selling, General and Administrative Expenses; (E) Other; and (F) Packing. Therefore, the Department cannot not fault Clover for failing to report information that was not fairly requested, citing *Koyo Seiko Company, Ltd. and Koyo Corporation of U.S.A.* v. *The United States*, 92 F.3rd 1162, 1168 (Fed. Cir. 1986). Clover/Lucky argues further that since the Department verified Clover's total value of electricity and fuel consumption against financial statements and vouchers which contained both quantities and values of electricity and fuel consumption, it could just as well have compiled the total quantities of energy used.

Department's Position: We disagree with respondent. Because the prices of materials and inputs in an NME are not considered valid for calculation purposes, the Department requires respondents to report the amount, rather than the value, of materials consumed in the production process. Although the questionnaire did not specifically include ''indirect materials'' or ''energy'' in the list of factor input categories, it is clear that such items are covered by the Department's questionnaire. The list of requested information, with respect to the factors of production, is broad and all-inclusive—it includes all the major categories involved in production as well as a catch-all category (*i.e.*, ''Other''). Indirect materials and energy consumed in the production process normally fall under Factory Overhead, the very category Clover/Lucky used when reporting its expenses for electricity, water and fuel (rather than the requested quantities for these same three items). However, these inputs could have just as easily been categorized as Other, or in certain cases, if applicable, Direct Materials. All three of these categories were listed by the Department in its questionnaire. Therefore, it cannot be construed that the information asked for at verification was unfairly requested.

As to whether the Department could have gathered the information at verification from financial documents or invoices, again, respondent is asking the Department to take on the responsibility of creating the company's response at verification. As discussed previously, it is the responsibility of the respondent, and not of the Department, to create a sufficient record in the administrative review. *Tianjin Machinery I/E Corp.* v. *United States*, 806 F. Supp. 1008, 1015 (CIT 1992). The Court has held that the Department ''is not required to . . . recalculate a respondent's submission to develop an accurate response.'' *Tatung Co.*, v. *United States*, 18 CIT at 1142 n.3, citing *Chinsung Indus. Co.* v. *United States*, 705 F. Supp. 598, 601–02 (1989).

Comment 5: Clover/Lucky contests the Department's statement in the verification report that there was an extremely large number of typographical errors in the reported quantities of steel purchases. Clover/Lucky also claims that the statements in the verification report that the company was unable to reconcile the quantity of steel requisitioned for production with inventory withdrawals, and that it was also unable to substantiate its reported per unit quantities of steel, are incorrect. The company claims that much of the steel information was verified and that those items that did not verify were not substantial and would not materially affect the company's response.

Department's Position: We disagree with respondent. At verification, we found a number of discrepancies with respect to both steel purchases and steel consumption. From a small sample of selected invoices, the Department discovered typographical errors resulting in the under reporting of individual steel purchases in two cases by 22 and 43 percent, the over reporting of individual steel purchases by 222 percent in another, and the misclassification of one purchase's steel thickness. Because at verification the Department is only able to verify information through spot-checking, where we find discrepancies in the subset that is actually tested, we must judge the effect of such discrepancies that are randomly revealed on the unexamined portion of the response. *See, e.g., Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et. al.; Final Results of Antidumping Duty Administrative Review*, 62 FR 2081 (January 15, 1997).

Further, Clover/Lucky incorrectly concludes that the reported net discrepancy is inconsequential because it is small when compared to total reported steel purchases. In fact, the figure in the verification report was based on an examination of only a small portion of the steel purchases (those with a thickness of 4 mm), not all steel purchases and includes errors in both directions. Because at verification we examined a subset of steel purchases and found discrepancies in the reporting with respect to this subset, the Department must attribute to all of the steel purchases these same discrepancies. *See Belmont Industries* v. *United States*, 733 F. Supp. 1507, 1508 (CIT 1990); *see also Monsanto Co.* v. *United States*, 698 F. Supp. 275, 281 (CIT 1988). Therefore, the figure understates the impact of the

discrepancies, even when properly compared to 4mm steel purchases.

Problems also arose with respect to the verification of steel consumption. The Department was unable to verify the reported ratio for steel scrap, which, because of its significance in the manufacture of POS cookware, is an important factor in determining total steel consumption. The spot check of departmental steel requisitions to inventory withdrawals showed a discrepancy of approximately seven percent that the company was unable to account for.

The Department faced similar problems in its verification of the per unit quantities of steel used in the production of cooking ware that were reported in the response. The company submitted theoretical quantities based on an equation it developed using the specific density of steel. As to the statement in the verification report which noted no discrepancies between the reported per unit steel amounts and the method used by the company to calculate these amounts (cited by respondent as support for their conclusion that the problems in this area were insignificant), the only conclusion that can be drawn from that statement is that the company did not make any mathematical errors in its calculations, nor any transcription errors when typing this figure in the response. As such, the Department's statement in its verification report that it found no discrepancies between the reported per unit steel amounts and the method respondent used to calculate these reported figures has no bearing on either the accuracy of the method the company chose to estimate its per unit steel consumption or the figures in its response. The fact remains that the company could not corroborate the calculated theoretical per unit figures with sampled actual weight readings or support the figures used in the per unit calculations with the measurements from the technical drawings that the company claimed as supporting documentation.

The discrepancies, the errors in reporting and the inability to reconcile the figures reported in the response with supporting documentation, demonstrate that the company's response with respect to, not only its purchases, but also its consumption of steel, the primary material input in the POS production process, cannot be relied upon.

Comment 6: With respect to depreciation expenses regarding certain fixed assets, Clover/Lucky argues it did not create ''fixed asset cards'' (instead of a fixed-asset ledger, Clover records all its asset-related information on fixed asset cards) for its equipment at the time they were installed because the cards are only required to be created during the first fiscal year period. Further, although Clover admits that it had no system in place to show ownership of the molds,[2] it contends that the Department could have examined loan documents to determine the identity of the fixed assets in question. Moreover, Clover/Lucky claims that its technicians know the identity of the asset by merely looking at it. According to respondent, the Department could have reviewed the loan documents and successfully verified this section of the response if it had allowed sufficient time for verification.

Department's Position: The Department examined depreciation expenses in this case because of Clover/Lucky's claim that the POS cooking ware industry constituted a market-oriented industry (MOI). Since the Department found that the POS cooking ware industry does not constitute an MOI (see Department's position to Comment 9), the issue raised by respondent is moot.

Comment 7: Clover/Lucky argues that even if the Department rejects Clover's factors of production information in this case, it should determine the foreign market value (FMV) based on Lucky's home market (Hong Kong) sales or third country sales.

Petitioner disputes Clover/Lucky's argument, claiming that Clover/Lucky is, in effect, challenging the Department's preliminary finding that the POS cooking ware industry does not constitute a market-oriented industry. Petitioner points out that Clover has provided no information that prices for significant inputs are not controlled by the PRC government. Petitioner argues that the Department must, therefore, calculate FMV using the factors of production methodology.

Department's Position: We disagree with respondent that FMV in this case can be determined on the basis of Lucky's home market or third country sales. In order for FMV to be based on Lucky's home market or third country prices (which respondent, in its case brief, now requests for the first time in this proceeding), Lucky would have had to allege and demonstrate that it had third-country reseller status. Further, it would have to meet the requirements of section 773(f) of the Act in order to have its sales, either home market or third country, used as the basis for FMV. Lucky made no such claim in this proceeding. Moreover, issues of relatedness aside, since Clover knows at the time of the sale the final destination of the merchandise, Lucky does not qualify as a reseller from an intermediate country in any event. (*See* Clover/Lucky's June 20, 1995 Questionnaire Response (Public Version) which, at page 20, states that ''Clover is aware of the ultimate destination of the POS cookware because the destination is indicated on the outer carton.'') Moreover, given the relationship between Lucky and Clover, we do not consider that there exists a ''purchase'' from the PRC production facility by Lucky within the meaning of section 773(f). (*See Preliminary Determination of Sales at Less than Fair Value: Disposable Pocket Lighters From the People's Republic of China,* 59 FR 64191, 64194 (December 13, 1994)). Thus, even had Lucky made a proper claim that it was a third country reseller within the meaning of section 773(f) of the Act, the record evidence of this case would not support such a determination. Therefore, Lucky's prices to customers in Hong Kong or third countries could not be used as the basis for FMV—only Clover's factors of production information could form the basis of FMV, the method selected by the Department in this case. Moreover, had we considered using Lucky's prices in Hong Kong or to third countries, we would normally compare those prices to the cost of the merchandise based on factors of production, because the merchandise was produced in an NME country. We could not have performed this test, because we could not verify the factors of production. As stated previously, as a result of the failure of verification with respect to Clover's factors of production information, the Department had to resort to the best information available in this case under section 776(b) of the Act.

With respect to petitioner's rebuttal to respondent's claim, petitioner mistakenly frames respondent's claim as one of advocating the use of PRC prices to determine FMV (*i.e.*, petitioner raises the market-oriented industry discussion). Respondent, however, is not arguing that the Department use Clover's price, but, instead, that the Department use Lucky's home market or third country prices to determine FMV. As respondent itself states on page 19 of its case brief, ''Lucky and Clover are not requesting that Commerce use Clover's prices.''

Comment 8: Clover/Lucky argues that the Department should conduct a supplemental verification and reexamine the information submitted in

[2] Certain molds were among the fixed assets which the Department selected for verification of depreciation expenses.

its questionnaire response. This would allow the Department sufficient time to explore the alternative verification methods enumerated by Clover/Lucky in its comments.

Petitioner, however, contends that there is no basis to conduct a re-verification, since Clover/Lucky provided no evidence that Department's verification was flawed. Petitioner points out that the CIT ruled that the Department ''is not required to re-verify information submitted after verification, or recalculate a submission to develop an accurate response.'' *Tatung Co.* v. *United States,* 18 CIT at 1142 n.3, citing *Chinsung Indus. Co.* v. *United States,* 705 F. Supp., at 601–02.

Department's Position: We disagree with respondent. Conducting a second verification, particularly after a company fails its first verification, would be an extraordinary action. To do so would signal to respondents that a failed verification can be overcome, which would undermine both our ability to obtain complete and accurate information from Clover/Lucky in time to conduct proper verifications and to complete reviews in a timely manner as required by the Act. As in the case cited by petitioner, the Department is not required to conduct a supplemental verification. The CIT has ruled that ''Due to stringent time deadlines and the significant limitations on Commerce's resources it is vital that accurate information be provided promptly to allow the agency sufficient time for review.'' *Ceramica Regiomontana, S.A.* v. *United States,* 10 CIT 399, 406, 636 F. Supp, 961, 967 (1986).

Although the Department has conducted supplemental verifications in the past (*See, e.g., Cyanuric Acid and its Chlorinated Derivatives from Japan; Final Results of Antidumping Duty Administrative Review,* 51 FR 45495, 45496 (December 19, 1986); *Cell Site Transceivers from Japan; Final Determination of Sales at Less Than Fair Value,* 49 FR 43080, 43084 (October 26, 1984); *High Power Microwave Amplifiers and Components Thereof from Japan,* 47 FR 22134 (May 21, 1982) (final determination of sales at less than fair value), and; *Fireplace Mesh Panels from Taiwan; Final Determination of Sales at Less Than Fair Value,* 47 FR 15393, 15395 (April 9, 1982)), in each of these cases, re-verification was conducted pursuant to requests for additional information requested by the Department, or due to a particular emergency that arose in the case. In contrast, Lucky/Clover's request is based primarily on general time constraints, constraints which must always be imposed on a verification. There is simply no reason for the Department to take the extraordinary measure in this case of conducting a supplemental verification.

Comment 9: Clover/Lucky also argues that the Department should conduct a supplemental verification to redetermine that the POS cookware industry constitutes a market-oriented industry. Respondent claims that, at verification, the Department could verify that the company pays market prices for both labor and the PRC-sourced direct and indirect materials it uses in the production of cooking ware.

Department's Position: We disagree with respondent. As discussed above, in determining whether an industry under examination constitutes a market-oriented industry, the Department examines the industry as a whole, not just the practices of the company or companies under investigation or review. (*See Notice of Final Determination of Less Than Fair Value; Furfuryl Alcohol from the People's Republic of China,* 60 FR 22544 (May 8, 1995).) Clover/Lucky has not demonstrated that the POS cooking ware industry constitutes a market-oriented industry in the PRC, and we have adopted our preliminary determination with respect to this issue for these final results. The examination of Clover's purchases from its non-market suppliers and the wages it pays its employees is insufficient to conclude that the POS cooking ware industry as a whole is a market-oriented industry.

For a more detailed discussion of the Department's preliminary determination that the POS cooking ware industry does not constitute a market-oriented industry, *see* Memorandum to Barbara E. Tillman, Director of the Office of CVD/AD Enforcement VI, dated January 17, 1997, ''Market-Oriented Industry Request in the 1993–1994 Administrative Review of POS Cooking Ware from the People's Republic of China,''which is a public document on file in the Central Records Unit (room B–099 of the Main Commerce Building).

Final Results of Review

Based on our analysis of comments from interested parties, we determine that no changes to the preliminary results are warranted for purposes of these final results. The dumping margins for each company under review are:

Manufacturer/Exporter	Rate(percent)
Clover/Lucky	66.65
PRC-Wide Rate (including China Light)	66.65

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and FMV may vary from the percentages stated above. The Department will issue appraisement instructions directly to the U.S. Customs Service.

Since the final results for the more recent review period, December 1, 1994 through November 30, 1995 (1995 review period) were published on June 17, 1997 (62 FR 3275), the cash deposit instructions contained in that notice will apply to all shipments to the United States of subject merchandise entered, or withdrawn from warehouse, for consumption on or after June 17, 1997. The dumping margins established for the period December 1, 1993 through November 30, 1994 period will have no effect on the cash deposit rate for any firm except for the company China Light. For China Light, which did not respond to our questionnaire, and was not subject to the 1995 review, the cash deposit rate will be the PRC-wide rate for the 1993–1994 period.

These deposit rates shall remain in effect until publication of the final results of the next administrative review.

Notification to Interested Parties

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 orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 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 the 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 16, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–27990 Filed 10–21–97; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–806]

Steel Wire Rope From Mexico: Extension of Time Limits for Preliminary Results of Antidumping Administrative Review

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

ACTION: Notice of extension of time limits for preliminary results of antidumping administrative review.

EFFECTIVE DATE: October 22, 1997.

FOR FURTHER INFORMATION CONTACT: Leah Schwartz or G. Leon McNeill, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–3782 or (202) 482–4236, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act.

Extension of Time Limits for Preliminary Results

The Department of Commerce has received a request to conduct an administrative review of the antidumping duty order on Steel Wire Rope from Mexico. On May 21, 1997, the Department initiated this administrative review covering the period March 1, 1996 through February 28, 1997.

Because of the complexity of certain issues in this case, it is not practicable to complete this review within the time limits mandated by section 751(a)(3)(A) of the Act. *See* Memorandum from Joseph A. Spetrini to Robert S. LaRussa, Extension of Time Limit for the Administrative Review of Steel Wire Rope from Mexico, dated October 16, 1997. Therefore, in accordance with that section, the Department is extending the time limits for the preliminary results to March 1, 1998, and for the final results to 120 days after the publication of the preliminary results. These extensions of time limits are in accordance with section 751(a)(3)(A) of the Act.

Dated: October 16, 1997.

Joseph A. Spetrini,

Deputy Assistant Secretary for AD/CVD Enforcement III.

[FR Doc. 97–27992 Filed 10–21–97; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

University of Virginia, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 97–034. *Applicant:* University of Virginia, Charlottesville, VA 22908. *Instrument:* Ultrascope, Model MKII. *Manufacturer:* Optech International Ltd., New Zealand. *Intended Use:* See notice at 62 FR 40334, July 28, 1997. *Reasons:* The foreign instrument provides video-enhanced imaging for teaching gross anatomy and tissue dissection for medical students. Advice received from: National Institutes of Health, September 2, 1997.

Docket Number: 97–052. *Applicant:* Albert Einstein College of Medicine, Bronx, NY 10461–1602. *Instrument:* Ion Source Kit for Mass Spectrometer, Model ES002. *Manufacturer:* The Protein Analysis Company, Denmark. *Intended Use:* See notice at 62 FR 40334, July 28, 1997. *Reasons:* The foreign instrument provides low flow (nanoliters per minute) electrospray ionization for analysis of biopolymeric samples. Advice received from: National Institutes of Health, September 2, 1997.

Docket Number: 97–056. *Applicant:* University of Vermont, Burlington, VT 05405–0084. *Instrument:* Roentgen Stereophotogrammetric Analysis System. *Manufacturer:* RSA BioMedical Innovations AB, Sweden. *Intended Use:* See notice at 62 FR 41361, August 1, 1997. *Reasons:* The foreign instrument provides three-dimensional measurements of the kinematics of skeletal or implant movements using radiographs of small implanted tantalum beads as markers during repeated examinations of body joints. Advice received from: National Institutes of Health, September 2, 1997.

Docket Number: 97–059. *Applicant:* University of Connecticut, Storrs, CT 06269–2092. *Instrument:* Interfacial Rheometer, Model CIR–100. *Manufacturer:* Camtel, Ltd., United Kingdom. *Intended Use:* See notice at 62 FR 42236, August 6, 1997. *Reasons:* The foreign instrument provides information on interfacial film strength, concentration and interactions, molecular unfolding and competition between molecules for interfacial space. Advice received from: National Institutes of Health, September 2, 1997.

Docket Number: 97–060. *Applicant:* The Pennsylvania State University, University Park, PA 16802. *Instrument:* NMR Spectrometer, Model Avance DRX–600. *Manufacturer:* Bruker Instruments, Inc., Switzerland. *Intended Use:* See notice at 62 FR 43710, August 15, 1997. *Reasons:* The foreign instrument provides a 600-MHz magnet with sample temperature stability to 0.01°C for study of solvation of macromolecules. Advice received from: National Institutes of Health, September 2, 1997.

Docket Number: 97–061. *Applicant:* Woods Hole Oceanographic Institution, Woods Hole, MA 02543. *Instrument:* IR Mass Spectrometer, Model DELTA^{plus}. *Manufacturer:* Finnigan, Germany. *Intended Use:* See notice at 62 FR 42237, August 6, 1997. *Reasons:* The foreign instrument provides a magnetic sector mass analyzer with a precision of 1 ppt. Advice received from: National Institutes of Health, September 2, 1997.

Docket Number: 97–062. *Applicant:* Clemson University, Clemson, SC 29634–0905. *Instrument:* Knee Joint Simulator. *Manufacturer:* UCL Ltd., United Kingdom. *Intended Use:* See notice at 62 FR 43710, August 15, 1997. *Reasons:* The foreign instrument provides pneumatic control of simulator and meniscal knee design testing. Advice received from: National Institutes of Health, September 2, 1997.

Docket Number: 97–067. *Applicant:* Princeton University, Princeton, NJ 08544–0033. *Instrument:* EPR Spectrometer, Model E580 FT/CW. *Manufacturer:* Bruker Instruments, Germany. *Intended Use:* See notice at 62 FR 43710, August 15, 1997. *Reasons:* The foreign instrument provides