Tariff Act of 1930, as amended (19 U.S.C. 1675 (1995)), and section 353.213(d)(4) of the Department's regulations (19 CFR § 353.213(d)(4) (1997)).

Dated: December 5, 1997.

Joseph A. Spetrini,

Deputy Assistant Secretary, Enforcement Group III, Import Administration.

[FR Doc. 97–32630 Filed 12–12–97; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

A–570–802

Industrial Nitrocellulose 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 August 8, 1997, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on industrial nitrocellulose (INC) from the People's Republic of China (PRC). This review covers one producer/exporter, China North Industries Guangzhou Corporation (CNIGC), and entries of the subject merchandise into the United States during the period July 1, 1995 through June 30, 1996.

We gave interested parties an opportunity to comment on our preliminary results. On September 8, 1997, we received case briefs from respondent and petitioner. On September 15, 1997, we received rebuttal comments from both parties. We rejected respondent's September 8, 1997 case brief because it contained new information. Respondent resubmitted its case brief on November 14, 1997. On November 21, 1997, we placed on the record new data concerning the price of steel drums in Indonesia. On November 25, 1997, respondents submitted comments on this data. Based on our analysis of the comments received, we have changed the margin from that presented in our preliminary results of review.

EFFECTIVE DATE: December 15, 1997.

FOR FURTHER INFORMATION CONTACT: Rebecca Trainor or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0666 and (202) 482–3020, respectively.

Applicable Statutes and Regulations: Unless otherwise stated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations as codified at 19 CFR part 353 (April 1, 1996).

SUPPLEMENTARY INFORMATION:

Background

On August 8, 1997, the Department published in the **Federal Register** (62 FR 42747) the preliminary results of the administrative review of the antidumping duty order on INC from the PRC (55 FR 28267, July 10, 1990). The preliminary results indicated the existence of a dumping margin. As we explained in the preliminary results, we did not grant CNIGC a separate rate. However, because U.S. import statistics indicate that CNIGC was the only exporter of the subject merchandise to the United States during the review period, we based the PRC-wide rate on the information submitted by CNIGC for this review. See, *Memorandum to the File* from Rebecca Trainor, dated July 23, 1997, on file in room B–099 of the Commerce Department. We received comments and rebuttal comments from the petitioner and the respondent. The Department has now completed this administrative review in accordance with section 751 of the Act.

Scope of the Review

Imports covered by this review are shipments of industrial nitrocellulose (INC) from the PRC. INC is a dry, white, amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent, and is produced from the reaction of cellulose with nitric acid. INC is used as a film-former in coatings, lacquers, furniture finishes, and printing inks. The scope of this order does not include explosive grade nitrocellulose, which has a nitrogen content of greater than 12.2 percent.

INC is currently classified under Harmonized Tariff System (HTS) subheading 3912.20.00. While the HTS item number is provided for convenience and Customs purposes, the written description remains dispositive as to the scope of the product coverage.

The period of review (POR) is July 1, 1995 through June 30, 1996.

Changes From the Preliminary Results

1. In the preliminary results we valued steel packing drums using the *Monthly Statistics of the Foreign Trade of India: Imports, Volume II* (Indian import statistics) for the period of April 1995 through March 1996, and April through June 1996. For the final results, we have valued steel drums using Indonesian prices contained in a facsimile from the American embassy in Jakarta, placed on the record for the investigation of furfuryl alcohol from the PRC. See Comment 4, and *Final Determination of Sales at Less than Fair Value; Furfuryl Alcohol from the People's Republic of China,* 60 FR 22544 (May 8, 1995) (*Furfuryl Alcohol*).

2. In the preliminary results, we incorrectly converted the water usage rate reported by respondent from tons to kilograms. We also assigned a separate surrogate value to water. For the final results, we have corrected the conversion error, and have not assigned a separate surrogate value to water, as it is included in the factory overhead value we have used. See Comment 6.

3. For the distance between packing materials suppliers and the INC factory in the preliminary results, we used the average distance between the supplier and factory for all other materials. For the final results, we have used the actual distances between packing materials suppliers and the respondent's factory, which we requested from respondent on November 5, 1997. See Comment 5.

4. In the preliminary results, we applied an Indonesian factory overhead rate which we obtained from the record for *Furfuryl Alcohol.* For selling, general and administrative (SG&A) expenses and profit rates, we used Indonesian data which we obtained from the record for *Certain Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China,* 57 FR 21058 (May 18, 1992)(*Pipe Fittings*). For the final results, we have used data obtained from the financial statements of six Indian chemical-producing companies. See Comment 7.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received case briefs and rebuttal briefs from petitioner and respondent.

Comment 1: Surrogate country selection: Respondent argues that the Department should use India instead of Indonesia as the primary surrogate country in this review because: (1) The volume of Indonesian exports of the subject merchandise were very small, unlike the volume of India's exports; (2)

like India, and unlike Indonesia, China does not import cotton linters and; (3) the lack of Indonesian surrogate value information for several factors sent the Department back to India anyway, as the ''secondary'' surrogate country. Respondent states that the Department should use either data from the secondary surrogate country, India, for factory overhead, SG&A and profit values, or use India as the primary surrogate country and resort to Indonesian values only for cotton linters, since there is no Indian data on cotton linters.

Department's Position: We agree with respondent in part. We have continued to use Indonesia as the surrogate country for the purposes of valuing all of the raw material inputs. We have also used Indonesian data as surrogate values for packing materials. However, as we discuss in Comment 7, we have determined that Indian data is the best information we have with which to value factory overhead, SG&A and profit.

In choosing the surrogate country, we first determined that both India and Indonesia were at a level of economic development comparable to the PRC, and that both are significant producers of the subject merchandise. *See* Memorandum to Maureen Flannery from David Mueller, dated January 29, 1997, and Memorandum to the File dated March 24, 1997, on file in Room B–099 of the Commerce Department. Although India is a larger exporter of INC, we chose Indonesia as the surrogate country because we could obtain price data from Indonesian sources for all of the factors of production except for steel drums. This was not true of India, from where no data was available for cotton linters, one of the primary raw materials.

Thus, contrary to respondent's assertion, the only surrogate value for which we preliminarily resorted to Indian data was for steel drums. We note that for the final results, we valued steel drums using an Indonesian source. (*See* Comment 4.) Our preference is to value all factors of production in a single surrogate country, when possible. *See* section 351.408(c)(2) of the *Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296 (May 19, 1997) (*Final Rule*) (''Except for labor, as provided in paragraph (d)(3) of this section, the Secretary normally will value all factors in a single surrogate country.'')[1] However, we were unable to obtain the most reliable data from just one country for this review, and have relied upon Indian data for factory overhead, SG&A and profit. We have continued to use Indonesia as the primary surrogate country, however, because we can value all other inputs in this country. This not true for India.

Furthermore, that China does not import cotton linters is irrelevant to our surrogate country selection. In using surrogate values, our goal is to substitute market-economy prices for non-market-economy (NME) prices. We use import data for no other reason than that they are a reliable source of market prices, not because the inputs may have been imported in the respondent country. In this case, we were unable to value all factors in a single country; however, our use of Indonesia as the primary surrogate country is consistent with this principle.

Comment 2: Surrogate Value for Cotton Linters: Petitioner argues that the Indonesian import statistics that the Department used to value cotton linters are flawed in several respects, and advocates that the Department use U.S. export data to either China, India or Indonesia (see Comment 3). However, petitioner asserts that, if the Department must use unit values related to a surrogate country, the Department should use certain surrogate unit values petitioner has identified from Indonesia or India. First, petitioner contends, the Indonesian import statistics are not reliable, because the amount of cotton linter imports they report are almost 15 times less than the amount that the U.S. Census reports were exported to Indonesia by the United States alone in 1995. Furthermore, the 1996 Indonesian statistics show no imports from any country at all, in contradiction with U.S. export figures that show that the United States exported 92,006 kg. to Indonesia in the second half of the POR (January through June 1996).

Secondly, petitioner claims that the unit value for cotton linters derived from the Indonesian import statistics is aberrationally low, compared to the unit value derived from U.S. export figures. Petitioner asserts that it is the Department's normal practice to disregard prices for factors of production inputs which are aberrational, and cites *Final Results of Antidumping Duty Administrative Review; Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China* (*Hand Tools*), 60 FR 49251, 49252 (September 22, 1995).

Third, petitioner claims the 1995 Indonesian import statistics show imports of cotton linters into Indonesia for only one month in the review period (August). Moreover, petitioner argues, Indonesian import statistics show no imports of cotton linters for 1996. Therefore, petitioner argues it is inappropriate for the Department to use figures based on one month of the POR and only one month of a 24-month period because the Indonesian import statistics do not provide an accurate portrayal of the import price for cotton linters over the entire review period. Petitioner also notes that the Department routinely seeks to use surrogate values ''from a time period that is contemporaneous to the period of investigation or the period of review.'' *Hand Tools,* 60 FR at 49253.

Fourth, petitioner asserts that the Indonesian import statistics reflect imports from Batam, which it claims is a separate customs zone of Indonesia. Because Batam is not a separate country from Indonesia, petitioner reasons, the data recorded in the Indonesian import statistics regarding cotton linter imports do not reflect true imports, and thus are not eligible for use as a basis for determining a market-economy price for cotton linters.

Finally, petitioner states that, because the unit values reflected in the import statistics are low, they may represent internal transfer prices. Moreover, they may represent a single transaction at a single port from a single supplier. Petitioner points out that the Department disregarded respondents' data for similar reasons in *Final Determination of Sales at Less Than Fair Value; Brake Drums and Brake Rotors from the People's Republic of China,* 62 FR 9160 (February 28, 1997) (*Brake Drums and Rotors*).

Respondent claims that the Indonesian import statistics do not underreport the volume of imports of cotton linters. Respondent points out that the import data record imports entered for consumption in Indonesia, while the U.S. export data include all exports sent into free trade zones in Indonesia including those which are re-exported without ever entering the Indonesian domestic market. Moreover, just because U.S. export data show shipments of U.S. cotton linters to China, India and Indonesia at a wide range of prices, this does not mean that those prices were actually paid in those countries, which is what the statute requires. Thus, respondent concludes, there can be no meaningful comparison of the two sets of data.

Respondent further argues that import data are inherently more reliable than export data. While there is little incentive for accuracy on the part of the providers of export data according to

[1] Although this administrative review is not being conducted under these new regulations, these regulations serve as a restatement of the Department's interpretation of the Act. *Id.* at 27378.

respondent, import data is compiled by customs officials who use the value of the imported merchandise to determine the customs duties to be paid on the merchandise. Moreover, understating import values would subject an importer to civil or criminal fines and penalties. Respondent notes that there are no similar consequences from inaccurately or negligently reporting U.S. export data. Therefore, it is the U.S. export data that should be called into question.

Assuming the accuracy of the U.S. export data, respondent states that the fact that the United States exports cotton linters at a wide range of prices that are different from the Indonesian import values does not discredit the latter.

Respondent argues that it is irrelevant that import data used by the Department were based on imports into Indonesia during only one month of the review period, because the data nonetheless constitute a surrogate value that was paid during the review period. Moreover, respondent argues, it does not detract from their accuracy.

Contrary to petitioner's assertion, respondent argues that the Indonesian import values are true import values, as Batam is a free trade zone. As such, the majority of products sent to Batam from outside Indonesia are not entered into the Indonesian market for consumption, but are re-exported. Those that do enter for consumption are recorded as imports and are assessed customs duties. Therefore, the imports into Indonesia through the Batam free trade zone fairly represent the value of cotton linters in Indonesia.

Respondent states that there is no evidence that the Indonesian import values represent internal transfer prices or that they represent a single transaction. Furthermore, the total imported quantity of 42 tons is not so small that the Department should assume that it constitutes a single transaction.

Department's Position: We find no evidence that the Indonesian import data for cotton linters are aberrational or unreliable, or that they represent a single transaction. The data cover imports into Indonesia from January to November 1995, and report 42 tons of cotton linters, not an insignificant amount. When appropriate, we compare surrogate value data to other available market-economy data to test the reliability of the data we intend to use in the factor analysis. *See, e.g. Hand Tools.* In this case, as petitioner and respondent have acknowledged, there is no other available data from countries with comparable economies with which to compare the Indonesian prices. Thus, we have no basis on which to conclude that the Indonesian import data is aberrational. Other than Indonesian import statistics or U.S. export data (see Comment 3), the only price data that we have been able to locate for cotton linters are import statistics from the United States and Canada. Such comparisons are not meaningful here, however, because all that they tell us is that cotton linters imported into Indonesia are priced lower than those imported into two countries with very different economies. Absent evidence that the Indonesian values are aberrational, to reject the Indonesian price simply because it is ''too low'' could be an overly subjective assumption. *See Final Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers from the People's Republic of China,* 58 FR 48833 (September 20, 1993) (''We agree that rejecting certain Indian import values simply because those are 'too high' is potentially overly subjective, but would add that so is rejecting certain values simply because they are 'too low.' '')

With respect to petitioner's assertion that the Indonesian import data are unreliable because they do not comport with United States export data, it stands to reason that all of the merchandise entering Batam would not appear as imports in the Indonesian import statistics, because Batam is a free trade zone and a bonded area. As such, it is entirely reasonable to assume that a large proportion of imported goods are re-exported from Batam, without ever entering the Indonesian customs area.

Moreover, if the Batam prices were not ''true'' imports, as petitioner suggests, then they must represent domestic prices in Indonesia, which are also suitable to use as a surrogate value.

Comment 3: Use of U.S. Export Data: Petitioner contends that instead of Indonesian import data, the Department should value cotton linters based on U.S. export statistics for merchandise exported to the PRC during the review period. Petitioner argues that unit values derived from U.S. export values: (1) Provide the most realistic figure for cotton linters; (2) are based on publicly available information; (3) come from a reliable source; (4) represent a large volume of U.S. exports to China; and (5) is on the record of this proceeding. Petitioner emphasizes that these export values are the most accurate prices available because they are based on actual prices paid by Chinese importers for cotton linters during the POR.

Petitioner claims that it is the Department's longstanding practice to use actual market-economy purchase prices instead of surrogate values if such market-economy prices exist for material inputs. Therefore, the Department should not have looked to any surrogate value for cotton linters at all. Petitioner maintains that there is ample evidence that the Department routinely uses actual prices paid by PRC importers to U.S. suppliers. Petitioner argues that in a non-market economy such as the PRC, the Department's practice calls for using a combination of surrogate values and actual market-economy prices when the latter are available. Petitioner cites the following determinations as evidence of the Department's practice of using actual prices: *Final Determination of Sales at Less Than Fair Value; Bicycles from the People's Republic of China* (*Bicycles*), 61 FR 19026, 19029 (April 30, 1996) and *Final Determination of Sales at Less Than Fair Value; Coumarin from the People's Republic of China* (*Coumarin*), 59 FR 66895, 66897 (December 28, 1994). Petitioner also cites *Lasko Metal Products, Inc.* v. *United States,* 43 F.3d 1442 (Fed. Cir. 1994), to support its contention that using actual prices paid to U.S. suppliers by Chinese importers conforms with the antidumping statute's intent to determine margins as accurately as possible and to use the ''best information available'' to it.

The petitioner contends that, if the Department determines that it must use unit values relating to a surrogate country, the Department should use a price derived from U.S. export data for cotton linters exported to either India or Indonesia during the review period, which petitioner claims are more reliable than the Indonesian import data the Department used for the preliminary results. Petitioner notes that both countries were determined to be surrogate market-economy countries and both countries produced INC. Petitioner also notes the Department's reluctance to use export figures is based on existence of subsidies and other distorting schemes. However, petitioner argues U.S. export statistics are the most reliable official indicators of market-economy prices. Moreover, petitioner cites to *Saccharin from the People's Republic of China,* 59 FR 58818 (November 15, 1995), and *Coumarin from the People's Republic of China,* 59 FR 66895 (December 28, 1994) as examples where the Department used export statistics as a reliable indicator of price and to test the reliability of import figures. Finally, petitioner notes that when prices in both countries used for comparison (Indonesia and India) were found aberrational, the Department used

the median export price to arrive at a surrogate value.

Respondent argues that it would be illegal to use U.S. export values to China as a surrogate value for cotton linters, and petitioner's interpretation of the court's decision in *Lasko* and the Department's decisions in *Bicycles* and *Coumarin* are inapposite. Respondent points out that the Department declines to use surrogate values for inputs only when the manufacturer under investigation has purchased those inputs from a market-economy country. Respondent also notes that it does not use imported cotton linters to make the subject merchandise; therefore, there are no actual costs paid to market-economy countries in this case. Respondent argues that petitioner's suggested methodology is neither the intent of the law, nor of *Lasko*, which affirmed the Department's use of actual market-economy prices paid by an NME producer. Respondent further objects that petitioner's proposal to add its own freight rates to U.S. export values would further distort surrogate values.

Respondent further contends that the use of U.S. export prices would contravene section 773(c)(4) of the Act requiring the Department to value NME producers' factors of production using the prices of the factors in one or more market-economy countries that are (A) at a level of economic development comparable to that of the NME country, and (B) significant producers of comparable merchandise, as the United States is much more economically developed than Indonesia.

Respondent contends that, for all of the reasons noted above, the Department should not use U.S. export data for exports to India or Indonesia, as petitioner suggests, but should use Indian import statistics. However, if the Department chooses to use export values, the Department should calculate a value that relates most closely to the market of Indonesia, the Department's chosen surrogate country.

Department's Position: As discussed in Comment 2, we have continued to use the Indonesian import price to value cotton linters. We do not consider the use of U.S. export data to be an appropriate option in this case, when we have an import price for a surrogate country that is both a significant producer and at a level of economic development comparable to the PRC. Furthermore, the Indonesian import prices are derived from a range of countries, and thus are a better indicator of domestic market prices than would be prices from a single country, the United States. That the imports reflected in the Indonesian import statistics may come from Batam, a free trade zone, does not contradict this, because merchandise re-exported from Batam into Indonesia would have originated from a number of different countries.

Petitioner misinterprets *Lasko* and the Department's practice, articulated in *Bicycles* and *Coumarin*, with respect to using market-economy prices instead of surrogate values in certain instances. In these cases and many others, we have established the practice of using actual prices instead of surrogate values when respondents have purchased certain inputs from market-economy suppliers and paid for them in a market-economy currency. In *Lasko* at 1446, the CIT affirmed this practice, which we recently codified in Section 351.408(c)(1) of the *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27413 (May 19, 1997) (" However, where a factor is purchased from a market economy supplier and paid for in a market economy currency, the Secretary normally will use the price paid to the market economy supplier.") In the present case, the respondent specifically stated in its questionnaire response that it purchases cotton linters only from PRC suppliers. Thus, there is no basis in this case for deviating from the surrogate value methodology used in the preliminary determination to value cotton linters.

Comment 4: Surrogate Value for Steel Drums: Respondent contends that the Department's calculated surrogate value for steel drums is an unreliable measure of iron drum costs. Respondent argues that the HTS category that the Department used in the preliminary results is a basket category, containing a variety of different products besides the galvanized iron sheet drums it used during the review period, as evidenced by the fact that unit values varied from country to country by up to 2843%. Respondent claims that the Department's valuation results in a per-drum dollar amount of $141.25, a figure that is excessive and aberrational.

Respondent adds that the Department generally rejects HTS-derived values that are aberrational compared to other available data, and cites *Chrome-Plated Lug Nuts from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 61 FR 58514, 58517–518 (November 15, 1996) (*Lug Nuts*), in which the Department rejected steel values from a basket HTS category as aberrational compared to other available data. Respondent also cites the April 22, 1996 Factors Valuation Memorandum from the Bicycles Team to the File, *Bicycles*, at 22, in which the Department used an export value for one of the chemical inputs because the import value had been deemed aberrational in another case.

Instead of the weighted average value of all steel drum imports into India, which the Department used in the preliminary results, respondent suggests that the Department use only the collected data on imports of steel drums into India from Indonesia. Respondent claims that this value would be appropriate, because it is based on two surrogate country values, and would be more reasonable than the $141.25 per drum figure used in the preliminary results.

Petitioner contends that the Department was correct in calculating the average unit value for steel drums, in keeping with its preference for using average non-export values. Petitioner cites *Lug Nuts* and *Final Determination of Sales at Less Than Fair Value; Polyvinyl Alcohol from the People's Republic of China*, 61 FR 14057 (March 29, 1996). Petitioner points out that respondent suggested both the source and the HTS number that the Department ultimately used in the preliminary results, but now is suggesting that the Department distort the statistics by valuing steel drums based on imports from just one country—Indonesia. Petitioner claims that to value steel drums based on imports from only one of the several countries listed in the Indian import statistics would undermine the Department's purpose in calculating a surrogate unit value—namely to determine a price that would be paid by an average Indian importer of steel drums—and result in a skewed unit value. Petitioner also objects to respondent's suggested methodology because it would cover only one month of the review period, even though statistics for the full POR were available from the same source respondent used. Petitioner also alleges that respondent distorted relevant information by creating a table showing imports of steel drums into India from only Indonesia and Singapore, and excluding imports from the United States, which accounted for 90% of all steel drums imported into India. Thus, petitioner advocates that the Department adhere to its preliminary weighted-average unit value, based on all Indian imports, and covering the entire review period.

Petitioner states that there is ample precedent for the Department's use of basket categories without finding that they lead to aberrational results. Moreover, the Department has used various steel drum subheadings, including the one used in the

preliminary results, in recent investigations.

Department's Position: As noted above, for the final results we have used an Indonesian steel drum price used in the less than fair value (LTFV) investigation of furfuryl alcohol from the PRC, adjusted for inflation. These data are superior to the Indian import statistics that we used in the preliminary results, because they are from the primary surrogate country and are for drums of approximately the same size as those used by respondent to pack a chemical product. These new data are better than the basket category provided in the Indian import statistics because they better approximate the cost of the input used by respondent.

We placed these data on the record of this review after the preliminary results. *See* Memorandum to the File from R. Trainor dated November 21, 1997, on file in room B–099 of the Commerce Department. We received comments from respondent supporting the use of the Indonesian data as more reasonably reflecting the market price of steel drums in a country that the Department has determined to be an accurate surrogate country in this review. We received no comments on the new data from petitioner.

Comment 5: Packing Distances: Petitioner argues that since respondent did not report shipping distances between packing materials suppliers and the factory, the Department should use as facts available the highest freight rate and the longest of all reported distances, instead of the simple average of all reported distances, which the Department used in the preliminary results.

Department's Position: As we stated above, for the final results we have used the actual distances between CNIGC's packing suppliers and its factory. On November 5, 1997, we requested that the respondent provide this information for the final results because we had not requested it in our questionnaires. Petitioners were provided an opportunity to submit comments regarding this data but did not comment.

Comment 6: Water Valuation: Respondent states that the Department miscalculated water usage in the preliminary results, because of a misunderstanding of the questionnaire response. Respondent contends that the Department understood the response to report water usage on the basis of tons used to produce one kilogram of subject merchandise, when in fact, it reported water usage in tons of water needed to produce a ton of subject merchandise. Thus, no conversion from tons to kilograms was necessary.

Respondent also argues that, in past cases, the Department has recognized that water used in the production process is included as part of factory overhead, and is not separately valued as a raw material input. Respondent notes that water itself is not a component of the final product, and cites *Final Determination of Sales at Less Than Fair Value; Saccharin From the People's Republic of China,* 59 FR 58818, 58824 (November 15, 1994) (*Saccharin*). Thus, the Department should not assign a separate factor value to water for the final results.

Department's Position: We agree with respondent that we incorrectly converted the water usage rate to kilograms in the preliminary results, and have corrected this error for the final results.

We have not assigned a separate surrogate value to water for the final results, because the overhead value we have used, derived from the financial statements of six Indian chemical-producing companies, includes water in factory overhead, along with power and fuel. See Comment 7.

Comment 7: Factory Overhead, SG&A and Profit: Respondent objects to the Indonesian data the Department used in the preliminary results for factory overhead, SG&A, and profit as being outdated, unreliable, and non-industry specific. Instead, respondent contends, the Department should rely on data from the April 1995 *Reserve Bank of India Bulletin* (RBIB), which the Department has used numerous times in the past, and which represent Indian metal and chemical industries.

Respondent argues that the Department should not rely on the data submitted by the petitioner, because these data, which consist of excerpts from the financial statements of several Indian companies, (1) do not represent an appropriate industry sector for comparison to the nitrocellulose industry; (2) were selectively hand-picked by petitioner to result in high ratios; and (3) do not allow any judgment as to whether the companies they represent are normally operative companies, or if their overhead, SG&A, and profit were abnormally high, because petitioner did not submit the complete financial statement for each company. Respondent points out that, although petitioner states that there are three plants producing nitrocellulose in India, it did not submit financial statements from any of them.

Finally, respondent claims that, in petitioner's SG&A, overhead and profit calculations, stores and spares consumed should be included in the category of ''Raw Materials, Labor, and Energy'' instead of in factory overhead.

Petitioner denies that it was selective in choosing the Indian financial data to place on the record. Petitioner states that it chose these companies because it was unable to obtain the financial statements of the three Indian INC producers. Furthermore, the six companies were identified in the Disclosure, Inc. database as the Indian publicly-traded companies manufacturing products within the SIC category that includes subject merchandise, and for which FY 1996 annual reports were available.

Petitioner contends that, although none of the six companies for which petitioner submitted annual reports manufacture the subject merchandise, they represent a narrower category of merchandise than do the RBIB data submitted by respondent, which cover the processing and manufacture of ''metals, chemicals, and products thereof.'' Furthermore, petitioner argues, respondent provides no support for its assertion that the RBIB industrial group is representative of the INC industry in India, or that the Indian companies upon which the data are based include Indian INC manufacturers. Petitioner argues that the data it submitted are more contemporaneous as well as being more industry-specific than the RBIB data submitted by respondent.

In response to CNIGC's claim that stores and spares consumed should be included in the category of ''Raw Materials, Labor, and Energy,'' petitioner argues that it is the Department's practice to include stores and spares consumed as an overhead element, and cites the February 28, 1997 final analysis memorandum for the 1994–95 administrative review of *Sebacic Acid From the People's Republic of China,* 62 FR 10530 (March 7, 1997).

Department's Position: We agree that the surrogate SG&A, overhead and profit information we used in the preliminary results was not current and not specific to the nitrocellulose industry. We requested more appropriate data from the U.S. embassy in Jakarta, Indonesia, but were unable to obtain complete data in time for these final results. Therefore, we have used the information provided by petitioner, obtained from the financial statements of six Indian chemical-producing companies. Although we have used the RBIB data in other cases, as respondent points out, we have determined that the data submitted by petitioner is preferable in this case, because it represents the overhead, SG&A and profit ratios of

several companies that manufacture products of the same SIC classification as the subject merchandise. The RBIB ratios, on the other hand, are derived from companies involved in the more general category of ''chemicals and metals'' industries.

Regardless of whether petitioner ''selectively hand-picked'' the information it provided on the record, this information is nonetheless more representative of the experience of Indian producers of comparable merchandise than is the RBIB data. Petitioner provided available data from Indian companies identified with an SIC code of 2821, which includes cellulose nitrate resins. Furthermore, rather than being uniformly high, the data reflect a wide range of overhead, SG&A and profit figures. Petitioners submitted the relevant pages of the financial statements, and there is no evidence on the record that these companies' overhead, SG&A and profit are abnormally high.

Finally, we agree with petitioner that stores and spares consumed should be included in overhead, as we have done in past cases. See, *Memorandum to the File; Certain Helical Spring Lockwashers from the People's Republic of China: Factor Values Used for the Preliminary Results,* dated July 3, 1997.

Comment 8: Separate rate for CNIGC: CNIGC argues that the Department should grant it a separate rate. CNIGC argues that the Department's decision in the preliminary results was based on analysis done for a separate antidumping investigation with an entirely different record. GNIGC alleges that information from the *Brake Drums and Rotors* investigation (63 FR 42748) was inserted into this record without notice to counsel on March 26, 1997. Notwithstanding, CNIGC argues that verification reports from *Brake Drums and Rotors* inserted into this record nevertheless satisfies the Department's requirements of *de jure* and *de facto* independence from government control to warrant a separate rate. CGIGC states that the focus of the separate rates analysis is not on whether there might be a general ''relationship'' between the company and the government, but rather on whether there is operational independence with regard to export sales.

Respondent argues that, in *Brake Drums and Rotors,* the Department based its decision that there is a *de facto* relationship between the company and government on two pieces of evidence. The first was an outdated company brochure from 1992 when CNIGC was still a branch of China North Industries Corporation (NORINCO). Respondent claims that it does not know why the brochure was given to the Department, but speculates that company personnel provided it in an effort to be helpful during verification. As further proof that the brochure was outdated, respondent notes that it was printed before the company's name was changed from China North Industries Guangzhou Branch to China North Industries Guangzhou Corporation, as supported by the company's pre-1993 and post-1993 business licences. Respondent also provides a chronology of the company's telephone numbers to show that the brochure predates the review period. CNIGC asserts that the agreement separating it from NORINCO makes it clear that the two entities are completely separate, with only the somewhat similar name suggesting their common past. CNIGC alleges that the Department's verification in *Brake Drums and Rotors* found no evidence contrary to their assertion that there can be no relationship between itself and NORINCO with respect to any of the relevant factors examined by the Department.

The second piece of evidence used in the brake drums and rotors case to deny separate rates was the fact that national NORINCO maintains an office in the same building as CNIGC. Respondent claims that many other companies, including a major bank, have offices in that same building. The fact that NORINCO maintains an office there does not translate into control over pricing, contractual powers, management selection, or disposition of profits.

Department's Position: In *Brake Drums and Rotors,* we found that this same respondent, CNIGC, had satisfied the Department's criteria for establishing freedom from *de jure* government control. However, we found that other evidence supported the conclusion that, *de facto,* CNIGC had not completely severed its ties with NORINCO, its former parent company which, the evidence showed, was controlled by the PRC government. We have placed this information on the record of this review. See, *Memorandum to the File; Industrial Nitrocellulose from the People's Republic of China: Information for the Separate Rates Determination,* dated March 26, 1997.

The fact that respondent would weight the evidence differently does not alter the fact that there is substantial evidence to support the Department's determination. Respondent has not provided any further evidence which indicates that the factual circumstances have changed and we do not find any basis on the record of this review on which to overturn our decision. We have, therefore, not granted CNIGC a separate rate in this review.

Final Results of Review

As a result of our review, we have determined that the following margin exists for the period July 1, 1995 through June 30, 1996.

Manufacturer/exporter	Margin (percent)
PRC-wide rate	0.00

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

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

Notification to Interested Parties

This notice serves as a reminder to importers of their responsibility under section 353.26 of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of 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 section 353.22 of the Department's regulations.

Dated: December 8, 1997.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–32690 Filed 12–12–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–818]

Initiation of Anti-Circumvention Inquiry on Antidumping Duty Order on Certain Pasta From Italy

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

ACTION: Notice of initiation of anti-circumvention inquiry.

SUMMARY: On the basis of an application filed with the Department of Commerce, we are initiating an anti-circumvention inquiry to determine whether an Italian producer of pasta is circumventing the antidumping duty order on certain pasta from Italy issued July 24, 1996.

EFFECTIVE DATE: December 15, 1997.

FOR FURTHER INFORMATION CONTACT: Edward Easton or John Brinkmann, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482–1777 or (202) 482–5288, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 23, 1997, the Department of Commerce (''the Department'') received an application filed by the petitioners in the above-referenced case, requesting that the Department conduct an anti-circumvention investigation, pursuant to section 781(a) of the Tariff Act of 1930, as amended (''the Act''), with respect to the antidumping duty order on certain pasta from Italy (''the order'') issued July 24, 1996 (61 FR 38547). The petitioners allege that Barilla S.r.L. (''Barilla'') is circumventing the order by importing pasta into the United States in bulk, defined as packages of greater than five pounds (2.27 kilograms), and repackaging the pasta into packages of five pounds or less for resale in the United States. Inasmuch as the scope of the order covers only pasta in packages of five pounds or less, the petitioners claim that Barilla's repackaging operations in the United States have allowed it to import pasta into the United States free of any antidumping duties. The petitioners assert that all the elements necessary for an affirmative determination under Section 781(a) of the Act are present.

On November 19, 1997, Barilla filed comments replying to the petitioners' circumvention allegations. On December 2, 1997, petitioners filed comments in response to Barilla's November 19, 1997 submission. Barilla rebutted the petitioners' December 2, 1997 comments in a submission filed December 3, 1997.

Initiation of Anti-Circumvention Proceeding

In accordance with section 781(a) of the Act, the Department may include merchandise completed or assembled in the United States within the scope of an existing order when the following four conditions are met: (A) The merchandise sold in the United States is of the same class or kind as any other merchandise that is the subject to the antidumping duty order; (B) such merchandise sold in the United States is completed or assembled in the United States from parts or components produced in the foreign country with respect to which such order applies; (C) the process of assembly or completion in the United States is minor or insignificant; and (D) the value of the parts or components produced in the foreign country to which the antidumping duty order applies is a significant portion of the total value of the merchandise sold in the United States.

In determining whether to include parts or components in the order, the Act states at section 781(a)(3) that the Department must take into account: (1) the pattern of trade, including sourcing patterns; (2) whether the manufacturer or exporter of the parts or components is affiliated with the person who assembles or completes the merchandise sold in the United States; and (3) whether imports into the United States of the parts or components produced in such foreign country have increased after the initiation of the investigation which resulted in the issuance of such order or finding.

Based upon our review of the foregoing allegations and supporting information submitted in the application and in Barilla's submission, and with respect to the preceding criteria, we find that the application contains all of the elements that warrant an anti-circumvention inquiry (see, December 8, 1997 Memorandum from Richard Moreland to Robert S. LaRussa). Therefore, we are initiating an anti-circumvention inquiry concerning the antidumping duty order on pasta from Italy pursuant to section 781(a) of the Act and 19 CFR 351.225 of the Department's regulations.

We intend to notify the International Trade Commission (''ITC'') in the event of an affirmative preliminary determination of circumvention, in accordance with 19 CFR 351.225(f)(7).

The Department will not order the suspension of liquidation at this time. However, in accordance with 19 CFR 351.225(l)(2), the Department will instruct the U.S. Customs Service to suspend liquidation in the event of an affirmative preliminary determination of circumvention.

This notice is issued pursuant to section 781 of the Act (19 U.S.C. 1677j) and 19 CFR 351.225.

Dated: December 8, 1997.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–32629 Filed 12–12–97; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–818]

Certain Pasta From Italy; Notice of Court Decision

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

ACTION: Notice.

SUMMARY: On October 2, 1997, in the case of *De Cecco et al.* v. *United States et al.*, Slip Op. 97–143 (''*De Cecco*''), the United States Court of International Trade (the CIT) granted plaintiffs' and plaintiff-intervenors' motions for judgment with respect to the extension by the United States Department of Commerce (''Department'') of provisional antidumping measures for the period May 19, 1996 through July 24, 1996. On October 23, 1997, the CIT ordered the Department to issue appropriate instructions to the U.S. Customs Service to implement its October 2, 1997, decision to grant judgment to plaintiffs and plaintiff-intervenors.

EFFECTIVE DATE: November 3, 1997.

FOR FURTHER INFORMATION CONTACT: Edward Easton or John Brinkmann, at