

Panel for issues similar to those in the *Second Remand Determination*. See *Certain Corrosion-Resistant Carbon Steel Flat Products From Canada; Notice of Amended Final Results of Administrative Review in Accordance With North American Free Trade Agreement Panel Decision*, 66 FR 52095 (October 12, 2001).

Therefore, as there is a final and conclusive Binational Panel Review decision in this action, we are amending our final results of review for the period August 1, 1994 through July 31, 1995. The revised weighted average margins are as follows:

Manufacturer/exporter	Weighted-average margin percent
Stelco .....	0.55

The Department shall determine, and the BCBP shall assess, antidumping duties on all appropriate entries. The Department will issue appraisal instructions directly to the BCBP.

This notice is published in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)), and 19 CFR 353.22.

Dated: May 14, 2003.

**Jeffrey May,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 03-12638 Filed 5-19-03; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-878]

#### Notice of Final Determination of Sales at Less Than Fair Value: Saccharin From the People's Republic of China

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

**EFFECTIVE DATE:** May 20, 2003.

#### FOR FURTHER INFORMATION CONTACT:

Mark Hoadley (Suzhou Fine Chemicals Group Co., Ltd.) at (202) 482-3148, Javier Barrientos or Jessica Burdick (Shanghai Fortune Chemical Co., Ltd.) at (202) 482-2243 or (202) 482-0666, or Sally C. Gannon at (202) 482-0162; Office of AD/CVD Enforcement VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230.

#### SUPPLEMENTARY INFORMATION:

### Final Determination

We determine that saccharin from the People's Republic of China (PRC) is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

### Background

The preliminary determination in this investigation was published on December 27, 2002. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Saccharin From the People's Republic of China*, 67 FR 79049 (December 27, 2002) (*Preliminary Determination*). Since the issuance of the preliminary determination, the following events have occurred.

On January 8, 2003, petitioner, PMC Specialties Group Inc., requested a hearing. On January 8, 2003, the Department received a timely factor value submission from Shanghai Fortune Chemical Co. (Shanghai Fortune) and Suzhou Fine Chemicals Group Co., Ltd. (Suzhou) (collectively, "respondents") and Kaifeng Xinghua Fine Chemical Factory (Kaifeng). On February 11, 2003, the Department extended the due date for the final determination of this investigation (68 FR 6885). On February 21, 2003, the Department received timely factor value submissions from petitioner, respondents and Kaifeng, and Procter & Gamble Co. On March 3, 2003, the Department received a supplemental factor value submission from petitioner. On April 10, 2003, the Department received timely written case briefs from petitioner, respondents, Procter & Gamble Co., and Colgate Palmolive Co. On April 15, 2003, the Department received timely rebuttal comments from petitioner and respondents. On April 22, 2003, a public hearing was held in this proceeding. We have now completed this investigation in accordance with section 735 of the Act.

### Scope of the Investigation

The product covered by this investigation is saccharin. Saccharin is defined as a non-nutritive sweetener used in beverages and foods, personal care products such as toothpaste, table top sweeteners, and animal feeds. It is also used in metalworking fluids. There are four primary chemical compositions of saccharin: (1) sodium saccharin (American Chemical Society Chemical Abstract Service (CAS) Registry 1128-44-9); (2) calcium saccharin (CAS Registry 16485-34-3); (3) acid (or

insoluble) saccharin (CAS Registry 181-07-2); and (4) research grade saccharin. Most of the U.S.-produced and imported grades of saccharin from the PRC are sodium and calcium saccharin, which are available in granular, powder, spray-dried powder, and liquid forms.

The merchandise subject to this investigation is classifiable under subheading 2925.11.00 of the Harmonized Tariff Schedule of the United States (HTSUS) and includes all types of saccharin imported under this HTSUS subheading, including research and specialized grades. Although the HTSUS subheading is provided for convenience and Customs (as of March 1, 2003, renamed the U.S. Bureau of Customs and Border Protection) purposes, the Department's written description of the scope of this investigation remains dispositive.

### Period of Investigation

The period of investigation (POI) is January 1, 2002 through June 30, 2002. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the Petition (*i.e.*, July 2002), and is in accordance with our regulations. See 19 CFR 351.204(b)(1).

### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the *Issues and Decision Memorandum for the Final Determination of the Antidumping Duty Investigation of Saccharin from the People's Republic of China*, to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration, from Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, dated May 12, 2003 (*Decision Memorandum*), which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are addressed in the *Decision Memorandum*, is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, Room B-099 of the main Department building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at <http://ia.ita.doc.gov>. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

### Non-Market Economy Country Status

The Department has treated the PRC as a non-market economy (NME) country in all past antidumping

investigations. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Ferrovandium from the People's Republic of China*, 67 FR 71137 (November 29, 2002); *Notice of Final Determination of Sales at Less Than Fair Value: Cold-Rolled Carbon Steel Flat Products from the People's Republic of China*, 67 FR 62107 (October 3, 2002). A designation as an NME remains in effect until it is revoked by the Department (*see* section 771(18)(C) of the Act). The respondents in this investigation have not requested a revocation of the PRC's NME status. Therefore, we have continued to treat the PRC as an NME in this investigation. For further details, *see the Preliminary Determination*.

### Separate Rates

In the *Preliminary Determination*, the Department found that respondents and Kaifeng met the criteria for the application of separate, company-specific antidumping duty rates. We have not received any other information since the *Preliminary Determination* which would warrant reconsideration of our separate rates determination with respect to respondents and Kaifeng. For a complete discussion of the Department's determination that the respondents and Kaifeng are eligible for a separate rate, *see the Preliminary Determination*.

### The PRC-Wide Rate

In the *Preliminary Determination*, we found that the use of adverse facts available for the PRC-wide rate was appropriate for other exporters in the PRC based on our presumption that those companies who failed to demonstrate that they met the requirements for a separate rate constitute a single enterprise under common control by the Chinese government. The PRC-wide rate applies to all entries of the merchandise under investigation except for entries from the respondents and Kaifeng.

When analyzing the petition for purposes of the initiation, the Department reviewed all of the data upon which the petitioner relied in calculating the estimated dumping margin and determined that the margin in the petition was appropriately calculated and supported by adequate evidence in accordance with the statutory requirements for initiation. In order to corroborate the petition margin for purposes of using it as adverse facts available, we examined the price and cost information provided in the petition in the context of our preliminary determination. For further details, *see Preliminary Determination*

*of Saccharin from the People's Republic of China: Analysis and Corroboration of Adverse Facts Available Rate*, Memorandum from Mark Hoadley, through Sally Gannon, to the File (December 18, 2002). We received no comments concerning the Department's calculation of the PRC-wide rate; therefore, the Department finds that, for the final determination, the rate contained in the petition, recalculated as described below, has probative value.

Since the *Preliminary Determination*, we have revised several of the surrogate values based on Indian import data. In order to take into account these values, we have recalculated the petition margin using, where possible, the revised surrogate values. As a result of this recalculation, the PRC-wide rate, for the final determination, is 329.33 percent. These revised surrogate values are based on updated versions of the same source documentation used in the preliminary determination. Therefore, additional corroboration analysis is not necessary. *See Final Determination of Saccharin from the People's Republic of China: Analysis of Adverse Facts Available Rate*, Memorandum from Mark Hoadley to the File (May 12, 2003).

### Margins for Cooperative Exporters Not Selected

The exporter who responded to Section A of the Department's antidumping questionnaire but was not selected as a respondent in this investigation, Kaifeng, has applied for a separate rate and provided information for the Department to make this determination. Although it is not practicable for the Department to calculate a separate rate for Kaifeng in addition to Suzhou and Shanghai Fortune (*see Respondent Selection Memorandum*, explaining the Department's decision to limit the investigation to two exporters), the company did cooperate in providing all information that the Department requested. We received no comments concerning the preliminary margin applied to Kaifeng; therefore, for the final determination, we have continued to apply to Kaifeng a separate rate based on the weighted-average of the rates calculated for those exporters that were selected to participate in this investigation, excluding any rates that are zero, de minimis, or based entirely on adverse facts available. *See Notice of Final Determination of Sales at Less Than Fair Value: Honey from the People's Republic of China*, 66 FR 50608, 50609 (October 4, 2001).

### Surrogate Country

For purposes of the final determination, we continue to find that India remains the appropriate surrogate country for the PRC. For further discussion and analysis regarding the surrogate country selection for the PRC, *see the Preliminary Determination*.

### Verification

As provided in section 782(i) of the Act, we verified the information submitted by respondents for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondents.

### Date of Sale

In the *Preliminary Determination*, the Department determined that invoice date was the most appropriate date of sale for respondents. Normally, the Department presumes that invoice date is the date of sale; however, "[i]f the Department is presented with satisfactory evidence that the material terms of sale are finally established on a date other than the date of invoice, the Department will use that alternative date as the date of sale." *Antidumping Duties; Countervailing Duties: Final Rule*, 62 FR 27296, 27349 (May 19, 1997) (*Preamble*). *See also* 19 CFR 351.401(i). After examining Shanghai Fortune's sales documentation at verification, we determine that because there were no material changes to the essential terms of sale (quantity and price) between the purchase order date and the invoice date, purchase order date is the most appropriate date of sale for Shanghai Fortune. *See Decision Memorandum and Memorandum to the File from Javier Barrientos and Jessica Burdick, Case Analysts, through Sally Gannon, Program Manager; Antidumping Duty Investigation of Saccharin from the People's Republic of China (PRC) (A-570-878): PRC Sales Verification Report for Shanghai Fortune Chemical Co., at 5-6* (March 26, 2003) (*Shanghai Fortune Verification Report*).

After examining Suzhou's sales documentation at verification, we determine that, for the final determination, invoice date continues to be the most appropriate date of sale for Suzhou. Suzhou reported purchase order dates and invoice dates as dates of sale. For those sales for which it reported invoice date, it did so because material sales terms were not set until this date. Given that the Department must choose one date of sale for all sales

in a particular market by a single respondent, we, therefore, are choosing invoice date as the date of sale for Suzhou. This choice is consistent with our regulatory presumption in favor of invoice date, and with the fact that material sales terms sometimes are not set until invoice date for this particular exporter.

#### Fair Value Comparisons

To determine whether sales of saccharin to the United States by Suzhou and Shanghai Fortune were made at LTFV, we compared the export price (EP), for Shanghai Fortune, and the constructed export price (CEP), for Suzhou, to normal value (NV), as discussed in the *Decision Memorandum, Final Determination in the Antidumping Duty Investigation of Saccharin from the People's Republic of China: Analysis of Suzhou Fine Chemicals Group Co., Ltd.*, from Mark Hoadley, through Sally Gannon, to the File (May 12, 2003) (*Suzhou Analysis Memorandum*), *Final Determination in the Antidumping Duty Investigation of Saccharin from the People's Republic of China: Analysis of Shanghai Fortune Chemical Co., Ltd.*, from Javier Barrientos, through Sally Gannon, to the File (May 12, 2003) (*Shanghai Fortune Analysis Memorandum*), and *Antidumping Duty Investigation of Saccharin from the People's Republic of China: Factor Valuation*, Memorandum from Sebastian Wright, Case Analyst, through Mark Hoadley, Senior Analyst, Office VII, to the File (May 12, 2003) (*Factor Valuation Memorandum*). In accordance with section 777A(d)(1)(A)(i) of the Act, for Shanghai Fortune, we calculated a weighted-average margin based on EP. *See also* "Use of Facts Otherwise Available" section of this notice. With regard to Suzhou, in accordance with section 777A(d)(1)(A)(ii) of the Act, we calculated a weighted-average margin based on CEP.

#### Use of Facts Otherwise Available

Section 776(a)(2) of the Act provides that, if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form or manner requested, significantly impedes a proceeding under the antidumping statute, or provides information which cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination. Pursuant to section 782(e), the Department shall not decline to consider such information if all of the following requirements are

met: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

As discussed above, section 776(a)(2)(A) of the Act requires the Department to use facts available when a party withholds information which has been required by the Department. On September 10, 2002 and again on November 4, 2002, the Department requested that Shanghai Fortune report all sales of saccharin to the United States during the POI. The Department requested that Shanghai Fortune provide this sales information, whether the date of sale was based on purchase order/contract date or invoice date. On October 25, 2002 and November 25, 2002, Shanghai Fortune submitted to the Department what it reported to be all sales of saccharin sold to the United States during the POI, based upon both purchase order/contract date, as well as invoice date. After the preliminary determination, but prior to verification, Shanghai Fortune had additional opportunities to provide the Department with all sales information. At Shanghai Fortune's verification, the Department discovered an unreported sale of saccharin to the United States during the POI. Therefore, application of facts available is appropriate pursuant to 776(a)(2)(A), because Shanghai Fortune withheld information the Department requested, namely, one of its sales.

Once the Department determines that the use of facts available is warranted, section 776(b) of the Act further permits the Department to apply an adverse inference if it makes the additional finding that "an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information." The Department finds that Shanghai Fortune's failure to report this sale constitutes a failure to cooperate to the best of its ability and that the use of adverse facts available is appropriate under section 776(b) for the following reasons. The Department requested on two occasions that Shanghai Fortune report all of its sales during the POI (first, on the basis of what Shanghai Fortune believed to be the date of sale, and, second, on the basis of both purchase order/contract date and invoice date). In filing its second supplemental, Shanghai Fortune certified that it had reported all sales on both a purchase order/contract date

basis and an invoice date basis. Shanghai Fortune explained at verification that it inadvertently failed to report this sale. *See Shanghai Fortune Verification Report* at 10 and 16. For this reason, and because it failed to report only this one sale, the Department finds that the application of partial, rather than total, adverse facts available for the missing POI sale is appropriate in this case. Section 776(b) of the Act states that adverse facts available may include information derived from the petition, the final determination, a previous administrative review, or other information placed on the record. As adverse facts available, and in accordance with section 776(b), the Department is applying the highest rate from the petition for an export price sale to the quantity of Shanghai Fortune's missing sale for the final determination. *See Shanghai Fortune Analysis Memorandum*. As discussed in "The PRC-Wide Rate" section of this notice, the Department has adjusted the petition rate, and the petition rate has been corroborated. Moreover, we determine that the highest rate from the petition is relevant to Shanghai Fortune, given that it represents a sale of a product also sold by Shanghai Fortune, made on the same sales basis (export price) as Shanghai Fortune.

#### Changes Since the Preliminary Determination

Based on our findings at verification and on our analysis of the comments received, we have made adjustments to the calculation methodologies used in the preliminary determination. In particular, we have made changes involving the following issues: surrogate valuation, concentration strength of inputs, byproduct offset, normal value financial ratios, Suzhou USA's indirect selling expenses, and date of sale, as well as several miscellaneous calculation issues. These changes are discussed in detail in the *Decision Memorandum, Suzhou Analysis Memorandum*, and *Shanghai Fortune Analysis Memorandum*. In addition to the *Decision Memorandum*, public versions of the *Suzhou Analysis Memorandum* and *Shanghai Fortune Analysis Memorandum* are on file in the Central Records Unit, Room B-099, of the main Commerce Building.

#### Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the U.S. Bureau of Customs and Border Protection (BCBP) to continue to suspend liquidation of all entries of

saccharin from the PRC that are entered, or withdrawn from warehouse, for consumption, on or after December 27, 2003 (the date of publication of the *Preliminary Determination* in the **Federal Register**). BCBP shall continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the U.S. price, as indicated in the chart below. The suspension of liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Manufacturer/Exporter	Margin (percent)
Suzhou Fine Chemical Group Co., Ltd. ....	291.57%
Shanghai Fortune Chemical Co., Ltd. ..	249.39%
Kaifeng Xinhua Fine Chemical Factory ....	281.97%
PRC-Wide .....	329.33%

#### International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. The ITC will determine, within 45 days, whether these imports are materially injuring, or threatening material injury to, an industry in the United States. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing BCBP officials to assess antidumping duties on all imports on the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

#### Notification Regarding APO

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 351.305. Timely 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 determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: May 12, 2003.

**Jeffrey May,**

*Acting Assistant Secretary for Import Administration.*

#### Appendix

##### Issues in Decision Memorandum

*Comment 1:* Surrogate Values: Most Appropriate Source for Surrogate Values

*Comment 2:* Surrogate Values:

Adjustments to Surrogate Values for Concentration Strengths

*Comment 3:* Surrogate Values: Choice of Surrogate Values for Byproducts

*Comment 4:* Application of "Sigma" Rule

*Comment 5:* Market Economy Inputs: Valuation of Phthalic Anhydride

*Comment 6:* Byproduct Offset

*Comment 7:* Packing Expenses

*Comment 8:* Suzhou's Self-Produced Inputs

*Comment 9:* Normal Value Financial Ratios

*Comment 10:* Suzhou USA's Indirect Selling Expenses

*Comment 11:* Calculation of Suzhou USA's CEP Profit

*Comment 12:* Date of Sale

*Comment 13:* Calculation Issue: Freight

*Comment 14:* Calculation Issue:

Conversion Error/Ice, Water, and Steam

*Comment 15:* Calculation Issue:

Conversion Error/Labor

*Comment 16:* Calculation Issue:

Discrepancy Between Prelim Factor

Values Memo and Calculations

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**BILLING CODE 3510-DS-S**

#### DEPARTMENT OF COMMERCE

##### International Trade Administration

##### Export Trade Certificate of Review

**ACTION:** Notice of application to amend an Export Trade Certificate of Review.

**SUMMARY:** The Office of Export Trading Company Affairs ("OETCA"), International Trade Administration, U.S. Department of Commerce, has received an application to amend an Export Trade Certificate of Review ("Certificate"). This notice summarizes the proposed amendment and requests comments relevant to whether the Certificate should be issued.

##### FOR FURTHER INFORMATION CONTACT:

Jeffrey C. Anspacher, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482-5131 (this is not a toll-free number) or by E-mail at [oetca@ita.doc.gov](mailto:oetca@ita.doc.gov).

**SUPPLEMENTARY INFORMATION:** Title III of the Export Trading Company Act of

1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

##### Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, U.S. Department of Commerce, Room 1104H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as "Export Trade Certificate of Review, application number 87-7A001."

The American Film Marketing Association's ("AFMA") original Certificate was issued on April 10, 1987 (52 FR 12578, April 17, 1987) and last amended on December 9, 1998 (64 FR 10993, March 8, 1999). A summary of the application for an amendment follows.

##### Summary of the Application:

*Applicant:* American Film Marketing Association ("AFMA"), 10850 Wilshire Blvd., 9th Floor, Los Angeles, California 90024-4321.

*Contact:* Thomas E. Arend, Jr., Attorney, Telephone: (202) 663-8070.

*Application No.:* 87-7A001.

*Date Deemed Submitted:* May 8, 2003.