Sess. 870), providing that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. The SAA, at page 870, clarifies that the petition is ''secondary information.''

In August 1995, we requested that the CIT remand to us the two issues of : (1) Basswood prices; and (2) valuation of slats and logs. In performing the remand, the recalculated petition rate of 44.66 percent was changed to 53.65 percent. Consistent with a recent ruling by the U.S. Court of Appeals for the Federal Circuit (CAFC) in an unrelated action, we consider it inappropriate to use as facts available a rate that we have determined is indefensible. In reviewing the Department's selection of the best information available, *i.e.*, the predecessor provision in the Act to the facts available provision, the CAFC held in *D&L Supply* v. *the United States,* 1997 WL230117, at 2 (May 8, 1997 Fed. Cir.) (D&L Supply) that ''(i)nformation that has conclusively been determined to be inaccurate does not qualify as the 'best information' under any test and certainly cannot be said to serve the 'basic purpose' of promoting accuracy.''

While there is no conclusive court action on the amended petition rate, we have found it to be indefensible and, therefore, not probative. Petitioner is correct that the Department itself requested a remand in the Writing Instruments action in order to correct for a procedural error at the LTFV investigation. Further, to conduct the remand proceeding, the Department re-opened the administrative record to accept the submission of new factual information from the parties. After analyzing this new factual information, and on the basis of this fuller administrative record, the Department determined on remand that the appropriate PRC-wide rate is 53.65 percent.

Under these circumstances, and pursuant to the Department's charge under section 776(c) of the Act to corroborate secondary information from independent sources reasonably at the Department's disposal, we determine that the unaffirmed remand determination rate of 53.65 percent is the rate with more probative value. In performing the remand, the Department relied on new factual information from the very types of independent sources, including published price lists and official import statistics and customs data, that are discussed in the SAA at 870. All of the new factual information on the re-opened administrative record was publicly-available information on which the Department principally relies in non-market economy cases. Because the analysis performed on remand was based on a much fuller factual record, the Department believes that the remand results provide the more appropriate facts available rate.

Therefore, the Department is relying on the 53.65 percent rate as facts available to establish the PRC country-wide rate in this review.

Comment 2: Petitioner asserts that the recalculated petition rate reflects underlying legal errors pertaining to the LTFV investigation. Petitioner argues that these alleged errors are found both in the LTFV investigation as well as in the results of the remand determination, and requests that the Department correct these alleged errors in the final results of this review.

Department Position: The bases of the petitioner's various assertions of underlying legal errors relating to the LTFV investigation are contained in the administrative record of the LTFV investigation, and not in the administrative record of this administrative review. These claims are properly before the CIT in the pending Writing Instruments action, which action pertains to the LTFV investigation and for which a decision is now pending.

Amended Final Results of the Review

Based on our analysis of the issues outlined above, we have determined that a margin of 53.65 percent is appropriate for the PRC entity for the POR December 21, 1994 through November 30, 1995. (Separate rates and exclusions determinations previously noted in the final results of this review are unaffected by these amended final results.)

The weighted-average dumping margins are as follows:

Manufacturer/producer/exporter	Weighted average margin percentage
PRC-wide Rate	53.65

The U.S. Customs Service shall assess antidumping duties on all appropriate entries. Individual differences between United States price and normal value may vary from the percentage stated above. The Department will issue appraisement instructions concerning the respondent directly to the U.S. Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of administrative review, as provided for by section 751(a)(1) of the Act: Merchandise exported by all PRC exporters other than those previously assigned separate rates and/or excluded from this antidumping duty order will be the PRC-wide rate of 53.65 percent.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review. This notice serves as the 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 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 or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of the 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)), section 777(i) of the Act (19 U.S.C. 1677f(i)), and 19 CFR 353.28(c).

Dated: July 1, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration

[FR Doc. 97–17778 Filed 7–7–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–429–601]

Preliminary Results of Antidumping Duty Administrative Review of Solid Urea From the Former German Democratic Republic

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

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

SUMMARY: In response to requests from interested parties, the Department of Commerce is conducting an administrative review of the antidumping duty order on solid urea

from the former German Democratic Republic. The review covers exports of subject merchandise to the United States during the period July 1, 1995 through June 30, 1996, and one firm SKW Stickstoffwerke Piesteritz GmbH (SKWP). The results of this review indicate the existence of no dumping margins for the period.

We invite interested parties to comment on these preliminary results. Parties who submit arguments in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: July 8, 1997.

FOR FURTHER INFORMATION CONTACT: Nithya Nagarajan or Steven Presing, Office VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone (202) 482–3793.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

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 (URAA). In addition, unless indicated, all citations to the Department regulations are to the current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

Background

On July 8, 1996, the Department of Commerce (the Department) published in the **Federal Register** (61 FR 35712) a notice of ''Opportunity to Request Administrative Review'' for the July 1, 1995 through June 30, 1996, period of review (POR) of the antidumping duty order on solid urea from the former German Democratic Republic (GDR). In accordance with 19 CFR 353.22, petitioners requested a review for the aforementioned period. On August 15, 1996, the Department published a notice of initiation of antidumping review (61 FR 42416, 42417). The Department is now conducting a review of this respondent pursuant to section 751 of the Act.

Scope of Review

Imports covered by this review are those of solid urea. At the time of the publication of the antidumping duty order, such merchandise was classifiable under item 480.30 of the Tariff Schedules of the United States Annotated (TSUSA). This merchandise is currently classified under the Harmonized Tariff Schedule of the United States (HTS) item number 3102.10.00. These TSUSA and HTS item numbers are provided for convenience and Customs purposes only. The Department's written description of the scope remains dispositive for purposes of the order.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by the respondent in the home market during the POR (and covered by the Scope of the Review) to be foreign like products for purposes of product comparisons to U.S. sales.

Fair Value Comparisons

To determine whether sales of solid urea by respondent to the United States were made at less than fair value, we compared the EP to the NV, as described in the ''Export Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(2), we calculated monthly weighted-average prices for NV and compared these to individual U.S. transactions, during the same month at the same level of trade.

Export Price

We used EP, in accordance with subsections 772(a) and (c) of the Act, where the subject merchandise was sold directly or indirectly to the first unaffiliated purchaser in the United States prior to importation.

We made adjustments as follows:

We calculated EP based on delivered prices to unaffiliated customers in the United States. Where appropriate, we made adjustments from the starting price for early payment discounts, foreign inland freight, foreign brokerage and handling, international freight, U.S. inland freight, U.S. brokerage and handling, and U.S. Customs duties. We also adjusted the starting price for billing adjustments to the invoice price.

Normal Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise in accordance with section 773(a)(1)(C) of the Act. Since respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable. Therefore, we have based NV on home market sales.

Where appropriate, we adjusted for discounts, inland freight, and inland insurance, and made circumstances of sale adjustments for credit expenses and warranty expenses. We also adjusted the starting price for billing adjustments to the invoice price. In addition, we deducted home market packing costs and added U.S. packing costs.

Levels of Trade (LOT)

In accordance with section 773(a)(1)(B)(i) of the Act and the Statement of Administrative Action accompanying the URAA, to the extent practicable, the Department will calculate NV based on sales at the same LOT as the U.S. sale. When the Department is unable to find sale(s) in the comparison market at the same LOT as the U.S. sale(s), the Department may compare sales in the United States to foreign market sales at a different LOT. *Final Determination of Sales at Less-Than-Fair-Value of Certain Pasta from Italy*, 61 FR 30330–31 (1996). The LOT of NV is that of the starting price sales in the home market.

For EP, the relevant transaction for LOT is the sale from the exporter to the importer. In order to determine whether foreign market sales are at a different LOT than U.S. sales, the Department examines whether the foreign market sales have been made at different stages in the marketing process, or the equivalent, than the U.S. sales. The marketing process in both markets begins with goods being sold by the producer and extends to the sale to the final user, regardless of whether the final user is an individual consumer or an industrial user. The chain of distribution between the producer and the final user may have many or few links, and the respondent's sales occur somewhere along this chain. In the United States this is generally to an importer, whether independent or affiliated. We review and compare the distribution systems in the foreign market and the United States, including selling functions, class of customer, and the extent and level of selling expenses for each claimed LOT. Customer categories or descriptions (such as trading company or end-user) are useful in identifying different LOTs, but are insufficient to establish that there is a difference in the LOT without substantiation. An analysis of the chain of distribution and of the selling functions substantiates or invalidates claimed levels of trade. If the claimed levels are different, the selling functions performed in selling to each level should also be different. Conversely, if

levels of trade are nominally the same, the selling functions performed should also be the same. Different levels of trade necessarily involve differences in selling functions, but differences in selling functions (even substantial ones) are not alone sufficient to establish a difference in the LOT. Different levels of trade are characterized by purchasers at different places in the chain of distribution and sellers performing qualitatively or quantitatively different functions in selling to them.

When sales in the U.S. and foreign market cannot be compared at the same LOT, an adjustment to NV may be appropriate. Section 773(a)(7)(A) provides that, after making all appropriate adjustments to EP or constructed export price (CEP) and NV, the Department will adjust NV to account for differences in these prices that are demonstrated to be attributable to differences in the LOT of the comparison sales in the foreign market.

As noted in the Department's verification report, SKWP sold urea to an unrelated trading company in the United States and to end-users, distributors, and retailers in the home market. However, in applying the principles, stated above, to the facts in this case, we sought to compare the distribution systems used by SKWP for its U.S. and home market sales, including selling functions, class of customer, and the extent and level of selling expenses for each LOT. In reviewing the selling functions performed by SKWP for both the U.S. and home market sales transactions, we considered all types of selling activities, both claimed and unclaimed, that had been performed. As noted above, it is the Department's preference to examine selling functions on both a qualitative and quantitative basis. While SKWP has not claimed sales to different levels of trade in the home market and the U.S. market, the company provided information on the nature of the various selling functions performed for the sales transactions in both the U.S. and home markets.

Our analysis of the record evidence regarding the distribution systems in the foreign market and the United States (including selling functions, class of customer, and the extent and level of selling expenses for each claimed LOT) does not reveal sufficient differences to justify a LOT adjustment. While SKWP claims to sell to different classes of customers in its home market, our analysis of the chain of distribution and selling functions associated with these sales did not confirm the existence of two or more stages of marketing in the home market. Moreover, at verification, we confirmed that the selling functions associated with SKWP's home market sales were not materially different from the selling functions performed in connection with its U.S. sale.

Arm's-Length Sales

Sales to affiliated customers in the home market not made at arm's length were excluded from our analysis. To test whether these sales were made at arm's length, we compared the starting prices of sales to affiliated and unaffiliated customers, net of all movement charges, direct selling expenses, discounts and packing. Where the price to the affiliated party was on average 99.5 percent or more of the price to the unaffiliated party, we determined that the sales made to the affiliated party were at arm's length.

Cost of Production Analysis

Petitioners alleged on December 11, 1996, that SKWP sold solid urea in the home market at prices below the cost of production (COP). Based on these allegations, the Department determined, for the reasons stated in its initiation memo dated January 3, 1997, that it had reasonable grounds to believe or suspect that SKWP had sold the subject merchandise in the home market at prices below the COP. Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation in order to determine whether SKWP made home market sales during the POR at prices below its COP.

In accordance with section 773(b)(3) of the Act, we calculated an average monthly COP based on the sum of the costs of materials and fabrication employed in producing the foreign like product plus selling, general and administrative (SG&A) expenses and all costs and expenses incidental to placing the foreign like product in condition ready for shipment. In our COP analysis, we used the home market sales and COP information provided by the respondent in its questionnaire responses.

After calculating an average monthly COP, we tested whether home market sales of solid urea were made at prices below COP within an extended period of time in substantial quantities and whether such prices permit recovery of all costs within a reasonable period of time. We compared model-specific average COP to the reported home market prices less any applicable movement charges, discounts, and rebates. In determining whether to disregard home market sales made at prices below the average COP, we examined (1) whether, within an extended period of time, such sales were made in substantial quantities, and (2) whether such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade.

After conducting our analysis, the Department determined that less than one percent of all home market sales were sold below cost, therefore, pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of the respondent's sales of a given product were at prices less than COP, we did not disregard any below-cost sales of the product because the below-cost sales were not made in substantial quantities.

Currency Conversion

The Department's preferred source for daily exchange rates is the Federal Reserve Bank. For purposes of the preliminary results, we made currency conversions based on the official exchange rates in effect on the date of the U.S. sale as certified by the Federal Reserve Bank of New York pursuant to section 773A(a) of the Act.

Section 773A(a) directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars, ignoring any ''fluctuations.'' We determine that a fluctuation exists when the daily exchange rate differs from a benchmark rate by 2.25 percent or more. The benchmark rate is defined as the rolling average of the rates for the past 40 business days as reported by the Federal Reserve Bank of New York. When we determined that a fluctuation existed, we substituted the benchmark rate for the daily rate. For a complete discussion of the Department's exchange rate methodology, see ''Change in Policy Regarding Currency Conversions'' (61 FR 9434, March 8, 1996).

Preliminary Results of Review

As a result of our review, we preliminarily determine the dumping margin for SKWP for the period July 1, 1995 through June 30, 1996 to be 0.00 percent.

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first business day thereafter. Case briefs and/or other written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication of this notice. The Department will issue its final results of

this administrative review, including its analysis of issues raised in any written comments or at a hearing, not later than 120 days after the date of publication of this notice.

Upon completion of this review, the Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of this review.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of review, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed company will be the rate determined in the final results of review; (2) for previously reviewed or investigated companies not mentioned above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be 44.80 percent, as explained below.

On May 25, 1993, the CIT in *Floral Trade Council* v. *United States*, 822 F. Supp. 766 (CIT 1993), and *Federal-Mogul* v. *United States*, 839 F. Supp. 864 (CIT 1993), determined that once an ''all others'' rate is established for a company, it can only be changed through an administrative review. Therefore, the ''all others'' rate for this order will be 44.80 percent, which was the ''all others'' rate established in the final notice of the LTFV investigation by the Department (52 FR 19549, 19552). These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated June 25, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–17726 Filed 7–7–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–401–040]

Stainless Steel Plate From Sweden: Preliminary Results of Antidumping Duty Administrative Review

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

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

SUMMARY: In response to a request from the petitioners, the Department of Commerce (the Department) is conducting an administrative review of the antidumping finding on stainless steel plate from Sweden. The review covers two manufacturers/exporters of the subject merchandise to the United States and the period June 1, 1995 through May 31, 1996. Record evidence at this stage of the review indicates the existence of sales below normal value during the period of review.

If these preliminary results are adopted in our final results of review, we will instruct the U.S. Customs Service to assess antidumping duties on all appropriate entries.

Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument (no longer than five pages, including footnotes).

EFFECTIVE DATE: July 8, 1997.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney or Linda Ludwig, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–4475/3833.

APPLICABLE STATUTE: Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all references to the Department's regulations are to Part 353 of 19 C.F.R., (1997).

SUPPLEMENTARY INFORMATION:

Background

The Department of the Treasury published an antidumping finding on stainless steel plate from Sweden on June 8, 1973 (38 Fed. Reg. 15079). The Department of Commerce published a notice of ''Opportunity To Request Administrative Review'' of the antidumping finding for the 1995/1996 review period on June 6, 1996 (61 Fed. Reg. 28840). On June 28, 1996, the petitioners, Allegheny Ludlum Steel Corp., G.O. Carlson, Inc., and Washington Steel Corporation filed a request for review of Uddeholms AB (Uddeholm), and Avesta Sheffield AB (Avesta). We initiated the review on August 8, 1996 (61 Fed. Reg. 41374).

Scope of the Review

Imports covered by this review are shipments of stainless steel plate which is commonly used in scientific and industrial equipment because of its resistance to staining, rusting and pitting. Stainless steel plate is classified under Harmonized Tariff schedule of the United States (HTSUS) item numbers 7219.11.00.00, 7219.12.00.05, 7209.12.00.15, 7219.12.00.45, 7219.12.00.65, 7219.12.00.70, 7219.12.00.80, 7219.21.00.05, 7219.21.00.50, 7219.22.00.05, 7219.22.00.10, 7219.22.00.30, 7219.22.00.60, 7219.31.00.10, 7219.31.00.50, 7220.11.00.00, 7222.30.00.00, and 7228.40.00.00. Although the subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

On July 11, 1995, the Department determined that Stavax ESR (Stavax), UHB Ramax (Ramax), and UHB 904L (904L) when flat-rolled are within the scope of the antidumping finding.

On November 3, 1995, the Department determined that stainless steel plate products Stavax, Ramax, and 904L when forged, are within the scope of the antidumping finding.

The review covers the period June 1, 1995 through May 31, 1996. The Department is conducting this review in accordance with section 751 of the Act, as amended.

United States Price (USP)

In calculating USP, the Department treated respondent's sales as export price (EP) sales, as defined in section 772(a) of the Act, when the merchandise