

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-570-848]

Freshwater Crawfish Tail Meat From the People's Republic of China: Preliminary Results of New Shipper Review

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

ACTION: Notice of Preliminary Results of New Shipper Antidumping Administrative Review.

SUMMARY: The Department of Commerce (the Department) is conducting a new shipper review of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (PRC) in response to a request by a PRC exporter of subject merchandise, Yancheng Haiteng Aquatic Products & Foods Co., Ltd. (Yancheng Haiteng). This review covers shipments of this merchandise to the United States during the period of September 1, 1998 through February 28, 1999.

We have preliminarily determined that sales have not been made below normal value (NV). If these preliminary results are adopted in our final results, we will instruct the U.S. Customs Service not to assess antidumping duties on entries subject to this review.

EFFECTIVE DATE: March 15, 2000.

FOR FURTHER INFORMATION CONTACT: Sarah Ellerman, Thomas Gilgunn or Maureen Flannery, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 482-4106, (202) 482-0648 or (202) 482-3020, respectively.

SUPPLEMENTARY INFORMATION:**The 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. In addition, unless otherwise indicated, all citations to the Departments' regulations are to the current regulations, codified at 19 CFR Part 351 (April, 1999).

Background

The Department published in the **Federal Register** an antidumping duty order on freshwater crawfish tail meat from the PRC on September 15, 1997 (62

FR 48218). On March 30, 1999, the Department received a request from Yancheng Haiteng for a new shipper review pursuant to section 751(a)(2)(B) of the Act and section 351.214(b) of the Department's regulations. These provisions state that, if the Department receives a request for review from an exporter or producer of the subject merchandise which states that it did not export the merchandise to the United States during the period covered by the original less-than-fair-value (LTFV) investigation (the POI) and that such exporter or producer is not affiliated with any exporter or producer who exported the subject merchandise during that period, the Department shall conduct a new shipper review to establish an individual weighted-average dumping margin for such exporter or producer who exported, if the Department has not previously established such a margin for the exporter or producer. The regulations require that the exporter or producer shall include in its request, with appropriate certifications: (1) The date on which the merchandise was first entered, or withdrawn from the warehouse, for consumption, or, if it cannot certify as to the date of the first entry, the date on which it first shipped the merchandise for export to the United States, or if the merchandise has not yet been shipped or entered, the date of sale; (2) a list of the firms with which it is affiliated; (3) a statement from such exporter or producer, and from each affiliated firm, that it did not, under its current or a former name, export the merchandise during the POI, and (4) in an antidumping proceeding involving inputs from a nonmarket economy country, a certification that the export activities of such exporter or producer are not controlled by the central government. See 19 CFR 351.214(b)(2)(ii), (iii), and (iv). Yancheng Haiteng's request was accompanied by information and certifications establishing the date on which it first shipped freshwater crawfish tail meat. Yancheng Haiteng also claimed it had no affiliated companies which exported crawfish tail meat from the PRC during the POI. In addition, Yancheng Haiteng certified that its export activities are not controlled by the central government. Based on the above information, the Department initiated a new shipper review covering Yancheng Haiteng. (See Freshwater Crawfish Tail Meat from the People's Republic of China: Initiation of New Shipper Administrative Review, 64 FR 24328, May 6, 1999.)

Due to extraordinarily complicated issues in this case, the Department extended the deadline for completion of the new shipper review on November 3, 1999. (See Notice of Extension of Time Limit for Preliminary Results of New Shipper Antidumping Review: Freshwater Crawfish Tail Meat from the People's Republic of China, 64 FR 59739, November 3, 1999.)

Scope of Review

The product covered by this review is freshwater crawfish tail meat, in all its forms (whether washed or with fat on, whether purged or unpurged), grades and sizes; whether frozen, fresh, or chilled; and regardless of how it is packed, preserved, or prepared. Excluded from the scope of the order are live crawfish and other whole crawfish, whether boiled, frozen, fresh, or chilled. Also excluded are saltwater crawfish of any type, and parts thereof. Freshwater crawfish tail meat is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 0306.19.10 and 0306.29.00.00. The HTSUS subheadings are provided for convenience and Customs purposes only. The written description of the scope of this order is dispositive.

This review covers the period September 1, 1998 through February 28, 1999.

Issues of Relationships to Other Exporters

The Department will be further analyzing the implications of relationships between Yancheng Haiteng and other crawfish exporters for the final results. This process will entail the collection of additional data, contacting of parties, and possible verifications. For example, we will further consider whether Yancheng Haiteng should receive a rate different from that of another PRC exporter of subject merchandise that is an indirect parent of Yancheng Haiteng. This determination may affect whether it is appropriate to continue to treat Yancheng Haiteng as a new shipper. For further information, see the Memorandum to the File through Maureen Flannery from Thomas Gilgunn and Sarah Ellerman; New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China (A-570-848): Sales and Factors Verification Report for Yancheng Haiteng Aquatic Products and Foods Co., Ltd., dated February 24, 2000.

Verification

As provided in section 782(i) of the Act, we verified information provided

by Yancheng Haiteng, which is both the producer and exporter of the subject merchandise, using standard procedures, including on-site inspection of the manufacturer's facilities and the examination of relevant sales and financial records. Our verification results are outlined in the public version of the verification reports.

Separate Rates

Yancheng Haiteng has requested a separate, company-specific rate. In its questionnaire response, Yancheng Haiteng states that it is an independent legal entity and a PRC-foreign joint venture.

To establish whether a company operating in a nonmarket economy country is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in the Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China, 56 FR 20588 (May 6, 1991), as amplified by the Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China, 59 FR 22585 (May 2, 1994).

Under this policy, exporters in non-market economies (NMEs) are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in law and in fact, with respect to export activities. Evidence supporting, though not requiring, a finding of *de jure* absence of government control over export activities includes: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. *De facto* absence of government control over exports is based on four factors: (1) Whether each exporter sets its own export prices independently of the government and without the approval of a government authority; (2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) whether each exporter has the authority to negotiate and sign contracts and other agreements; and (4) whether each exporter has autonomy from the government regarding the selection of management.

De Jure Control

With respect to the absence of *de jure* government control over its export activities, evidence on the record

indicates that Yancheng Haiteng is not controlled by the government. Yancheng Haiteng submitted evidence of its legal right to set prices independent of all government oversight. Yancheng Haiteng's business license and certificate of approval indicate that it is a Sino-U.S. joint venture. We find no evidence of *de jure* government control restricting Yancheng Haiteng from the exportation of crawfish. (See Section A Response, pages A-2 through A-8, and exhibits 2-4, June 22, 1999.)

No export quotas apply to crawfish and an export license is not required for exports of the subject merchandise to the United States. (See Section A Response, page A-5, June 22, 1999.) Prior verifications have confirmed that there are no export licenses required and no quotas for the seafood category "Other," which includes crawfish, in China's Tariff and Non-Tariff Handbook for 1996. In addition, we have previously confirmed that crawfish is not on the list of commodities with planned quotas in the 1992 PRC Ministry of Foreign Trade and Economic Cooperation document entitled Temporary Provisions for Administration of Export Commodities. (See Freshwater Crawfish Tail Meat From the People's Republic of China; Preliminary Results of New Shipper Review, 64 FR 8543, February 22, 1999.) The Department also checked the PRC's Export License Issued Categories and Quota List at verification, and found that neither crawfish tail meat nor crawfish shells were listed as products requiring a special export license or with a quota imposed by the government.

The PRC's Enterprise Legal Person Registration Administrative Regulations (Legal Person Regulations), issued on June 13, 1988, by the State's Industrial and Commercial Bureau, and placed on the record of this review, provide that, to qualify as legal persons, companies must have the "ability to bear civil liability independently" and the right to control and manage their businesses. These regulations also state that, as an independent legal entity, a company is responsible for its own profits and losses. (See Notice of Final Determination of Sales at Less Than Fair Value: Manganese Metal from the People's Republic of China, 60 FR 56046 (November 6, 1995) (Manganese Metal) and Yancheng Haiteng's Section A response, June 22, 1999.)

Yancheng Haiteng submitted the Foreign Trade Law of the People's Republic of China, adopted by the government of the People's Republic of China in 1994, which grants autonomy to businesses involved in the

importation and exportation of merchandise in their management decisions and establishes accountability for their own profits and losses. The business license of Yancheng Haiteng allows Yancheng Haiteng to enter into contracts and conduct business activities without the direction of a government ministry or agency. Yancheng Haiteng also submitted its Certificate of Approval for Establishment of Enterprises with Foreign Investment in the PRC, which documents its status as an enterprise with foreign investment. Therefore, with respect to the absence of *de jure* control over export activity, we determine that these firms are independent legal entities.

De Facto Control

With respect to the absence of *de facto* control over export activities, the information presented indicates that the management of Yancheng Haiteng is responsible for all decisions such as the determination of export prices, profit distribution, marketing strategy, and contract negotiations. Our analysis indicates that there is no government involvement in the daily operations or selection of management for Yancheng Haiteng. (See Section A Response, pages A-5 through A-7, and exhibit 6; see also Separate Rate Analysis in the New Shipper Review of Yancheng Haiteng; Freshwater Crawfish Tail Meat from the People's Republic of China, dated February 24, 2000 (Separate Rates Memorandum), which is on file in the Central Records Unit (room B-099 of the Main Commerce Building).

Consequently, because evidence on the record indicates an absence of government control, both in law and in fact, over Yancheng Haiteng's export activities, we preliminarily determine that this exporter is entitled to a separate rate. For further discussion of the Department's preliminary determination that these exporters are entitled to separate rates, see the Separate Rates Memorandum.

Normal Value Comparisons

To determine whether respondent's sales of the subject merchandise to the United States were made at NV, we compared its United States price to NV, as described in the "United States Price" and "Normal Value" sections of this notice.

United States Price

We based United States price on EP in accordance with section 772(a) of the Act, because the first sales to unaffiliated purchasers were made prior to importation, and CEP was not

otherwise warranted by the facts on the record. We calculated EP based on packed prices from the exporter to the first unaffiliated purchaser in the United States. We deducted domestic inland freight and brokerage and handling expenses in the home market from the starting price (gross unit price) in accordance with 772(c) of the Act. Consistent with the original investigation and Freshwater Crawfish Tail Meat From the People's Republic of China; Preliminary Results of New Shipper Review, 64 FR 8543 (February 22, 1999) (Ningbo New Shipper Review), we used India as a surrogate country for valuing all expenses. We valued movement expenses as follows:

- To value truck freight, we used the rates reported in an April 20, 1994 newspaper article in the "Times of India" and submitted for the Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol From the People's Republic of China, 60 FR 52647 (October 10, 1995). We adjusted the rates to reflect inflation through the POR using WPI for India in the International Financial Statistics published by the International Monetary Fund (IMF).

- To value brokerage and handling in the home market, we used information reported in the antidumping administrative review of Certain Stainless Steel Wire Rod From India; Preliminary Results of Antidumping Duty Administrative and New Shipper Reviews, 63 FR 48184 (September 9, 1998) (Stainless Steel Wire Rod from India), and also used in Ningbo New Shipper Review.

Normal Value

For companies located in NME countries, section 773(c)(1) of Act provides that the Department shall determine NV using a factors-of-production methodology if: (1) The merchandise is exported from an NME country; and (2) available information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act.

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. Pursuant to section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. Yancheng Haiteng has not contested such treatment in this review. Accordingly, we have applied surrogate values to the factors of production to determine NV.

We calculated NV based on factors of production in accordance with section 773(c)(4) of the Act and section

351.408(c) of our regulations. Consistent with the original investigation, we determined that India: (1) Is comparable with the PRC in terms of level of economic development, and (2) is a significant producer of comparable merchandise. With the exception of the crawfish input, we valued the factors of production using publicly available information from India. (See Memorandum to Edward Yang through Maureen Flannery from the Crawfish Team, Antidumping Investigation of Freshwater Crawfish Tail Meat from the People's Republic of China: Factor Values and Preliminary Margin Calculations, dated March 19, 1997.) For crawfish input, we used Spanish import statistics for crawfish imported from Portugal. (See Memorandum to Joseph Spetrini from Edward Yang, New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China: Determination of Surrogate Country Selection for Crawfish Input, dated February 16, 1999 and Memorandum to Barbara Tillman through Maureen Flannery from Sarah Ellerman, New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China: Factor Values Memorandum (Factors Memorandum), dated February 24, 2000. We used import prices to value many factors. As appropriate, we adjusted import prices by adding freight expenses to make them delivered prices. For a complete analysis of surrogate values, see Factors Memorandum. We valued the factors of production as follows:

- To value whole crawfish, we used the average Spanish import price for fresh (not frozen) crawfish imported from Portugal. In order to factor out seasonal fluctuations in the price of the Spanish import data, we valued whole crawfish using data from the calendar year 1997, the most recent period for which data is available. Spanish import data show insignificant amounts of crawfish from other countries at aberrational prices and, therefore, it would not be appropriate to include these data in the calculation of the crawfish cost. These data are publicly available and are published by the Spanish Ministry of Customs in Madrid. Since our valuation of the crawfish input was for a period which did not coincide with the factors of production reporting period, we had to adjust this factor value. See Factor Values Memorandum for further discussion.

- To value the by-product of shells in the investigation and the Ningbo New Shipper Review, we used Indian import data for HTSUS category 0508.00.05, "shells of mollusks, crustaceans, and

echinoderms." The petitioner has argued in this review, as it did in the Ningbo New Shipper Review, that Indian import prices are aberrational. In the Ningbo New Shipper Review, we found that no other tariff classifications for comparable merchandise are as detailed as the Indian HTSUS category under which we valued the crawfish shells. In this review, the petitioner has argued that the Indian tariff category under which we valued the crawfish shells is overbroad and includes different items with much higher values. HTSUS category 0508.00.05 includes echinoderms. Petitioner has maintained that echinoderms, such as starfish, which do not have shells and do not contain chitin (the chemical that makes crustacean shells valuable), are traded only for decorative purposes, thereby inflating the overall value of this tariff category. To substantiate its argument for this review, petitioner has placed on the record information demonstrating that the resulting Indian import price of 55 cents per pound for crawfish shells is highly exaggerated, including: (1) An offer to sell dried, crushed crab shells from an electronic bulletin board; (2) a delivered price for wet crustacean shells reported in a study on marine biopolymers; and (3) a price for crustacean scrap sold in India, calculated from a report detailing chitin and chitosan exports using established yields from crawfish shells for the production of chitosan. All of these items show significantly lower prices for shells of crustaceans than the 55 cents per pound used in the Ningbo New Shipper Review. In addition, we know that the price of the Spanish whole, live crawfish is 59 cents per pound. Finally, we received from the U.S. Embassy in Sri Lanka information indicating that Sri Lanka exports consist of conch shells and chanks for decorative purposes. See Notice of Preliminary Results of Antidumping Duty Administrative Review and New Shipper Reviews, Partial Rescission of the Antidumping Duty Administrative Review, and Rescission of the New Shipper Review for Yancheng Baolong Biochemical Products, Co., Ltd.: Freshwater Crawfish Tail Meat from the People's Republic of China, 64 FR 55236, October 12, 1999 (Preliminary Results of the First Administrative Review). Based on this information taken as a whole, we determined in the Preliminary Results of the First Administrative Review that the Indian import statistics are an inappropriate surrogate value for crawfish shells.

Some of the alternate information currently on the record is internally

inconsistent, quite old, or possibly includes items other than crawfish shells. For these preliminary results, we applied a surrogate value based on a free-on-board (FOB) factory price quote for crab and shrimp shells from a Canadian seller of crustacean shells. We chose this price from any available alternatives because it is an actual price for crustacean scrap that is reasonably contemporaneous with the POR. We adjusted this price to reflect deflation to Yancheng Haiteng's crawfish processing season. (See Factor Value Memorandum.)

- To value coal and electricity, we used data reported as the average Indian domestic prices within the categories of "Steam Coal for Industry" and "Electricity for Industry," published in the International Energy Agency's publication, *Energy Prices and Taxes, First Quarter, 1998*. We adjusted the cost of coal to include an amount for transportation. For water, we relied upon public information from the November 1993 *Water Utilities Data Book: Asian and Pacific Region*, published by the Asian Development Bank. To achieve comparability of the energy and water prices to the factors reported for the crawfish processing period applicable to Yancheng Haiteng, we adjusted these factor values using the WPI for India, as published in the *IFS*, to reflect inflation through the applicable periods.

- To value plastic bags, cardboard boxes and adhesive tape, we relied upon Indian import data from the April 1997 through March 1998 issues of *Monthly Statistics of the Foreign Trade of India (Monthly Statistics)*. We adjusted the values of packing materials to include freight costs incurred between the supplier and the factory. For transportation distances used for the calculation of freight expenses on raw materials, we added to surrogate values from India a surrogate freight cost using the shorter of (a) the distances between the closest PRC port and the factory, or (b) the distance between the domestic supplier and the factory. (See Notice of Final Determination of Sales at Less Than Fair Value: Collated Roofing Nails From the People's Republic of China (Roofing Nails), 62 FR 51410 (October 1, 1997). We adjusted the reported factor values to reflect inflation through the POR.

- To value factory overhead, selling, and general and administrative expenses (SG&A), and profit, we calculated simple average rates using publicly available financial statements of three Indian seafood processing companies submitted in the original investigation for which more current

data is now available, and applied these rates to the calculated cost of manufacture. (See Factor Values Memorandum.)

- For labor, we used the PRC regression-based wage rate at Import Administration's home page, Import Library, *Expected Wages of Selected NME Countries*, revised in May 1999. (See http://www.ita.doc.gov/import_admin/records/wages.) Because of the variability of wage rates in countries with similar per capita Gross Domestic Products, section 351.408(c)(3) of the Department's regulations requires the use of a regression-based wage rate. The source of the wage rate data on the Import Administration's Web site can be found in the 1998 *Year Book of Labour Statistics, International Labor Office* (Geneva: 1998), Chapter 5: *Wages in Manufacturing*.

Currency Conversion

We made currency conversions in accordance with section 773A of the Act based on the rates certified by the Federal Reserve Bank.

Preliminary Results of Review

We preliminarily determine that the following dumping margin exists:

Manufacturer/ exporter	Time period	Margin (percent)
Yancheng Haiteng Aquatic Prod- ucts and Foods, Co., Ltd..	09/01/98-02/ 28/99.	0

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of publication in accordance with 19 CFR 351.310(c). Any hearing would normally be held 37 days after the publication of this notice, or the first workday thereafter, at the U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, DC, 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, N.W., Washington, DC 20230. Requests for a public hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to

be discussed. Interested parties may submit case briefs within 30 days of the date of publication of this notice in accordance with 19 CFR 351.309(c)(2). Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication. Parties who submit arguments are requested to submit with each argument: (1) A statement of the issue; and (2) a brief summary of the argument. If a hearing is held, an interested party may make an affirmative presentation only on arguments included in that party's case brief and may make a rebuttal presentation only on arguments included in that party's rebuttal brief. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

The Department will issue the final results of this new shipper review, which will include the results of its analysis of issues raised in the briefs, within 90 days from issuance of these preliminary results, unless this time limit is extended.

Upon completion of this new shipper review, the Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisal instructions directly to the U.S. Customs Service upon completion of this review. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties. For assessment purposes, we intend to calculate importer-specific assessment rates for freshwater crawfish tail meat from the PRC. We will divide the total dumping margins (calculated as the difference between NV and EP) for each importer by the entered value of the merchandise. Upon the completion of this review, we will direct Customs to assess the resulting *ad valorem* rates against the entered value of each entry of the subject merchandise by the importer during the POR.

Furthermore, the following deposit rate will be effective upon publication of the final results of this new shipper review for all shipments of freshwater crawfish tail meat from the PRC entered, or withdrawn from the warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the reviewed firm will be the rate indicated above; (2) for previously-reviewed PRC and non-PRC exporters with separate rates, the cash deposit rate will be the company-specific

rate established in the most recent period; (3) for all other PRC exporters, the rate will be the PRC-wide rate, which is 201.63 percent; and (4) for all other non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter.

These deposit rates, 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 351.402(f) 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 determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: February 24, 2000.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-201-802]

Gray Portland Cement and Clinker From Mexico; 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 September 8, 1999, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on gray portland cement and clinker from Mexico. The review covers one manufacturer/exporter, CEMEX, S.A. de C.V. (CEMEX), and its affiliate, Cementos de Chihuahua, S.A. de C.V. (CDC). The period of review is August 1, 1997, through July 31, 1998.

Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final results differ from the preliminary results. The final

weighted-average dumping margin is listed below in the section entitled "Final Results of Review."

EFFECTIVE DATE: March 15, 2000.

FOR FURTHER INFORMATION CONTACT:

Davina Hashmi or George Callen, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-5760 and (202) 482-0180, respectively.

SUPPLEMENTARY INFORMATION:

The 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 citations to the Department of Commerce's (the Department's) regulations are to 19 CFR Part 351 (1999).

Background

On September 8, 1999, the Department published in the **Federal Register** the preliminary results of its administrative review of the antidumping duty order on gray portland cement and clinker from Mexico. Preliminary Results of Antidumping Duty Administrative Review: Gray Portland Cement and Clinker From Mexico, 64 FR 48778 (1999) (preliminary results). We invited parties to comment on our preliminary results of review. The Department has conducted this administrative review in accordance with section 751(a) of the Act.

Scope of the Review

The products covered by this review include gray portland cement and clinker. Gray portland cement is a hydraulic cement and the primary component of concrete. Clinker, an intermediate material product produced when manufacturing cement, has no use other than being ground into finished cement. Gray portland cement is currently classifiable under Harmonized Tariff Schedule (HTS) item number 2523.29 and cement clinker is currently classifiable under HTS item number 2523.10. Gray portland cement has also been entered under HTS item number 2523.90 as "other hydraulic cements." The HTS subheadings are provided for convenience and customs purposes only. The Department's written description remains dispositive as to the scope of the product coverage.

Verification

Pursuant to section 782(i) of the Act, we verified information provided by CEMEX and CDC using standard verification procedures, including on-site inspection of the manufacturer's facilities and the examination of relevant sales and financial records, as well as the selection of original documentation containing relevant information. Our verification results are outlined in public versions of the verification reports, dated July 23, 1999, July 26, 1999, August 6, 1999, and January 6, 2000, and located in the public file in Room B-099 of the Department's main building.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by interested parties to this administrative review are addressed in the "Issues and Decision Memorandum" (Decision Memo) from Richard W. Moreland, Deputy Assistant Secretary, Import Administration, to Robert S. LaRussa, Assistant Secretary for Import Administration, dated March 6, 2000, which is hereby adopted and incorporated by reference into this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memo, 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 B-099. In addition, a complete version of the Decision Memo can be accessed directly on the Web at www.ita.doc.gov/import_admin/records/frn/, under the heading "Mexico". The paper copy and electronic version of the Decision Memo are identical in content.

Duty Absorption

We have determined that duty absorption has occurred with respect to CEMEX and CDC (collectively "CEMEX") with respect to 99.96% of sales which this firm made through its U.S. affiliated parties. For a discussion of our determination with respect to this matter, see the "Duty Absorption" section of the Decision Memo, accessible in B-099 and on the Web at www.ita.doc.gov/import_admin/records/frn/.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made certain changes in the margin calculations. We have also corrected certain programming and clerical errors in our preliminary results, where applicable. Any alleged programming or clerical errors with