

terephthalate; benzimidazole; nipacide; dextrane; calcium chloride; paraffin wax; and ammonia solution. Duty rates on these materials range from duty-free to 8.7% *ad valorem*.

Expanded subzone authority would exempt Fuji from Customs duty payments on the aforementioned foreign components when used in export production. On its domestic sales, Fuji would be able to choose the lower duty rate that applies to the finished products for the foreign components, when applicable.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. Submissions via Express/Package Delivery Services: Foreign-Trade-Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099 14th St. NW., Washington, DC 20005; or

2. Submissions via the U.S. Postal Service: Foreign-Trade-Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Ave. NW., Washington, DC 20230.

The closing period for their receipt is February 25, 2003. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to March 12, 2003.

A copy of the application and accompanying exhibits will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at address Number 1 listed above, and at the U.S. Department of Commerce Export Assistance Center, 555 North Pleasantburg Drive, Building 1, Suite 109, Greenville, SC 29607.

Dated: December 17, 2002.

**Dennis Puccinelli,**

*Executive Secretary.*

[FR Doc. 02-32726 Filed 12-26-02; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-831]

#### Fresh Garlic From the People's Republic of China: Notice of Extension of Time Limit for the Preliminary Results of a New Shipper Antidumping Duty Review

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

**ACTION:** Notice of Extension of Time Limit for the Preliminary Results of a New Shipper Antidumping Duty Review.

**SUMMARY:** The Department of Commerce is extending the time limit for the preliminary results of a new shipper review of the antidumping duty order on fresh garlic from the People's Republic of China until no later than April 22, 2003. This extension applies to the new shipper review for Huaiyang Hongda Dehydrated Vegetable Company. The period of review is November 1, 2001, through April 30, 2002.

**EFFECTIVE DATE:** December 27, 2002.

**FOR FURTHER INFORMATION CONTACT:** Edythe Artman, AD/CVD Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-3931.

#### SUPPLEMENTARY INFORMATION:

##### Background

On November 30, 2001, Huaiyang Hongda Dehydrated Vegetable Company (Hongda) requested a new shipper review, in accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214(b) (2001), of exports of its merchandise to the United States. On January 7, 2002, the Department initiated a new shipper review for Hongda. *See Fresh Garlic From the People's Republic of China: Initiation of New Shipper Antidumping Duty Reviews*, 67 FR 715 (January 7, 2002). We rescinded this review on July 3, 2002, after finding that the date of sale and entry of the company's reviewable sale fell outside the period of review. *See Fresh Garlic from the People's Republic of China: Rescission of New Shipper Antidumping Duty Review and Initiation of New Shipper Antidumping Duty Review*, 67 FR 44594 (July 3, 2002). At the same time, we initiated a new shipper review that covers Hongda's

entries, exports, and sales during the period of November 1, 2001, through April 30, 2002. Currently, the deadline for completing the preliminary results of this review is December 23, 2002.

#### Extension of Time Limit for Preliminary Results of New Shipper Review

A number of complex factual and legal questions related to the calculation of the dumping margin have arisen in this review. For example, the petitioners have raised issues concerning the factors of production information to be applied to sales of merchandise that Hongda obtained from an unaffiliated supplier. As a result, we are still evaluating Hongda's responses to the original questionnaire and two supplemental questionnaires and comments submitted by the petitioners. Therefore, we find that the new shipper review is extraordinarily complicated and it is not practicable to complete the review within the time limits mandated by section 751(a)(2)(B)(iv) of the Act. In accordance with section 751(a)(2)(B)(iv) of the Act and 19 CFR 214(i)(2), we are extending the time limit for the preliminary results of this review to no later than April 22, 2003.

Dated: December 20, 2002.

**Louis Apple,**

*Acting Deputy Assistant Secretary for AD/CVD Enforcement I.*

[FR Doc. 02-32783 Filed 12-26-02; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-878]

#### Notice of Preliminary 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:** December 27, 2002.

**FOR FURTHER INFORMATION CONTACT:** Mark Hoadley or Brett Royce (Suzhou Fine Chemicals Group Co., Ltd.) at (202) 482-3148 or (202) 482-4106, 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, N.W., Washington D.C. 20230.

**SUPPLEMENTARY INFORMATION:**

### Preliminary Determination

We preliminarily 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 733 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.

### Case History

On July 31, 2002, the Department initiated an investigation to determine whether imports of saccharin are being, or are likely to be, sold in the United States at LTFV (67 FR 51536(August 8, 2002)). Since the initiation of this investigation, the following events have occurred. On August 30, 2002, the International Trade Commission (ITC) published its preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of saccharin from the PRC. See *Saccharin from China*, 67 FR 55872 (August 30, 2002).

On August 14, 2002, the Department requested quantity and value (Q&V) information from a total of five Chinese companies, which were identified in the *Petition for the Imposition of Antidumping Duties: Saccharin from the People's Republic of China (PRC)*, dated July 11, 2002 (*Petition*). These five companies were: Suzhou Fine Chemical Group Co., Ltd. (Suzhou), Shanghai Fortune Chemical Co., Ltd. (Shanghai Fortune), Kaifeng Xinghua Fine Chemical Factory (Kaifeng No. 3 Chemical Plant) (Kaifeng), Taijin Changhie (Taijin) and Taijin North Food (North Food). On August 14, 2002, the Department also sent the government of the PRC a letter requesting assistance locating all known Chinese producers/exporters of saccharin who exported saccharin to the United States during the period of investigation (POI). On August 20, 2002, we received a letter from Suzhou, requesting a one-week extension (from August 23, 2002 to August 30, 2002) of the filing deadline for the August 14, 2002 Q&V questionnaire. The Department granted this request.

On August 23, 2002, we received responses to our Q&V information request from Shanghai Fortune and Kaifeng. On August 30, 2002, we received a response from Suzhou. We did not receive responses from Taijin or North Food, nor did we receive a response from the PRC government regarding other producers/exporters of saccharin. Based on the information

submitted for the record, the Department selected the following two mandatory respondents: Suzhou and Shanghai Fortune. See *Selection of Respondents for Antidumping Duty Investigation of Saccharin from the People's Republic of China* (A-570-878), Memorandum from Javier Barrientos, Case Analyst, through Sally C. Gannon, Program Manager, Office VII, to Barbara E. Tillman, Director, Office VII, AD/CVD Enforcement Group III (September 10, 2002) (*Respondent Selection Memorandum*). On September 10, 2002, the Department issued its antidumping duty questionnaire to Suzhou and Shanghai Fortune.

On October 7, 2002, petitioner, PMC Specialties Group, Inc., alleged that critical circumstances exist with respect to imports of saccharin from the PRC, requesting that the Department issue a preliminary determination of critical circumstances at the earliest practicable time. Respondents filed responses to the allegation on October 16, 2002, October 22, 2002, and November 1, 2002. Petitioner filed additional submissions supporting its allegation on October 18, 2002 and November 7, 2002.

In accordance with 19 CFR 351.206(c)(2)(I), because petitioner submitted a critical circumstances allegation more than 20 days before the scheduled date of the preliminary determination, the Department must issue a preliminary critical circumstances determination not later than the date of the preliminary determination. On November 15, 2002, the Department issued a memorandum recommending that petitioner's argument that the comparison periods used in determining whether "massive imports" have taken place be shifted back to April 2002 be rejected, and, thus, determining that there was not a sufficient basis on which to examine critical circumstances in this investigation. See *Saccharin from the People's Republic of China: Critical Circumstances Allegation and Determination of "Massive Imports,"* Memorandum from Mark Hoadley, Analyst, through Barbara E. Tillman, Director, Office VII, AD/CVD Enforcement Group III, and Sally C. Gannon, Program Manager, Office VII, to Joseph A. Spetrini, Deputy Assistant Secretary for Import Administration, Group III (November 15, 2002). On December 11, 2002, the Department denied petitioner's request that the Department request entry information from the U.S. Customs Service (Customs) pursuant to section 732(e) of the Act. See *Saccharin from the People's Republic of China: Denial of Request to U.S. Customs for Entry Information,*

Memorandum from Mark Hoadley, Senior Analyst, through Sally Gannon, Program Manager, Group III, Office VII, to the File (December 10, 2002).

On October 18, 2002, the Department received Section A responses from Suzhou and Shanghai Fortune. Additionally, on October 18, 2002, the Department received an unsolicited Section A response from Kaifeng. On October 23, 2002, petitioner filed comments regarding Suzhou's and Shanghai Fortune's Section A questionnaire responses. On October 25, 2002, the Department issued a supplemental Section A questionnaire to Suzhou and Shanghai Fortune. Additionally, on October 25, 2002, the Department received Sections C & D responses from Suzhou and Shanghai Fortune. On November 1, 2002, the Department issued a supplemental Section A questionnaire to Kaifeng. On November 4, 2002, the Department issued a Section C & D supplemental antidumping duty questionnaire to Suzhou and Shanghai Fortune. On November 8, 2002, petitioner filed comments regarding Suzhou's and Shanghai Fortune's Section C & D questionnaire responses. On November 14, 2002, the Department received Section A supplemental responses from Suzhou, Shanghai Fortune, and Kaifeng. On November 25, 2002, petitioner filed comments regarding Suzhou's Section A supplemental response. On November 25, 2002, the Department received Section C & D supplemental responses from Suzhou and Shanghai Fortune. On November 25, 2002, petitioner submitted timely comments and public data regarding appropriate choices for surrogate market, production factors, and values for the PRC. On December 4, 2002, petitioner filed comments for consideration in the preliminary determination.

On November 29, 2002 and December 4, 2002, the Department sent additional supplemental questionnaires to Shanghai Fortune. On December 11, 2002 and December 16, 2002, the Department received responses to these requests from Shanghai Fortune. On December 6, 2002, Department officials met with petitioner to discuss issues and concerns regarding the date of sale methodology. See *Meeting with Petitioner's Counsel Regarding the Investigation of Saccharin from the People's Republic of China,* Memorandum to the File from Jessica Burdick through Sally C. Gannon (December 6, 2002). On December 12, 2002, the petitioner submitted further comments on the record with regard to this issue. The Department intends to send a supplemental questionnaire to

Suzhou on this issue following this preliminary determination.

### Period of Investigation

The 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).

### 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 purposes, the Department's written description of the scope of this investigation remains dispositive.

### 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). No party to this investigation has requested a revocation of the PRC's NME status. We have, therefore, preliminarily determined to continue to treat the PRC as an NME country. When the Department is

investigating imports from an NME, section 773(c)(1) of the Act directs us to base normal value (NV) on the NME producer's factors of production, valued in a comparable market economy that is a significant producer of comparable merchandise. The sources of individual factor prices are discussed under the "Factor Valuations" section, below. Furthermore, no interested party has requested that the saccharin industry in the PRC be treated as a market-oriented industry, and no information has been provided that would lead to such a determination. Therefore, we have not treated the saccharin industry in the PRC as a market-oriented industry in this investigation.

### Separate Rates

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control, and, thus, should be assessed a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to investigation in an NME country this single rate, unless an exporter can demonstrate that it is sufficiently independent so as to be eligible for a separate rate. The two respondents selected in this investigation, Suzhou and Shanghai Fortune, as well as Kaifeng, have provided company-specific separate rates information and have each stated that they meet the standards for the assignment of separate rates.

We considered whether each of these three PRC companies is eligible for a separate rate. The Department's separate rate test is not concerned, in general, with macroeconomic/border-type controls, e.g., export licenses, quotas, and minimum export prices, particularly if these controls are imposed to prevent dumping. Rather, the test focuses on controls over the investment, pricing, and output decision-making process at the individual firm level. See, e.g., *Certain Cut-to-Length Carbon Steel Plate from Ukraine: Final Determination of Sales at Less than Fair Value*, 62 FR 61754, 61757 (November 19, 1997); and *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 61276, 61279 (November 17, 1997).

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each

entity exporting the subject merchandise under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*), as amplified by *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*). In accordance with the separate rates criteria, the Department assigns separate rates in NME cases only if respondents can demonstrate the absence of both de jure and de facto governmental control over export activities.

#### 1. Absence of De Jure Control

The Department considers the following de jure criteria in determining whether an individual company may be granted a separate rate: (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. See *Sparklers*, 56 FR at 20589.

The three PRC companies seeking separate rates reported that the subject merchandise was not subject to any government export provisions<sup>1</sup> or export licensing, and was not subject to export quotas during the POI. Each company also submitted copies of its respective business license. We found no inconsistencies with the exporters' claims of the absence of restrictive stipulations associated with the exporters' business licenses. Each exporter submitted copies of statutory and regulatory authority establishing the de jure absence of government control over the companies. More specifically, the *Administrative Regulations of the People's Republic of China Governing the Registration of Legal Corporations*, issued on June 13, 1988 by the State Council of the PRC, and the *Law of the People's Republic of China of Industrial Enterprises Owned by the Whole People*, effective August 1, 1998, all placed on the record of this investigation, provide that, to qualify as legal persons,

<sup>1</sup> Although the respondents state that the Chamber of Commerce for Medicines and Health Products Importers and Exporters has attempted to prevent dumping through a program that sets a price floor and other conditions for exports of saccharin, the Department preliminarily determines that this program does not require us to deny a separate rate to members of the saccharin industry. As stated above, the Department's separate rate test does not consider, in general, macroeconomic/border-type controls, e.g., export licenses, quotas, and minimum export prices, particularly if these controls are imposed to prevent dumping.

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. In prior cases, the Department has analyzed these laws and regulations and found that they establish an absence of *de jure* control. See *Notice of Final Determination of Sales at Less Than Fair Value: Manganese Metal from the People's Republic of China*, 60 FR 56045, 56046 (November 6, 1995). Thus, we believe that the evidence on the record supports a preliminary finding of an absence of *de jure* governmental control based on: (1) an absence of restrictive stipulations associated with the exporters' business licenses; and (2) the legal authority on the record decentralizing control over respondents.

## 2. Absence of De Facto Control

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) whether the export prices are set by or are subject to the approval of a governmental agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. See *Silicon Carbide*, 59 FR at 22586-87; and *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995). As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. See *Silicon Carbide*, 56 FR at 22587. Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

Regarding whether each exporter sets its own export prices independent of the government and without the approval of a government authority, each exporter reported that it determines its prices for sales of the subject merchandise. Each exporter stated that it negotiates prices directly with its customers. Also, each

exporter claimed that its prices are not subject to review or guidance from any governmental organization. Regarding whether each exporter has authority to negotiate and sign contracts and other agreements, each exporter reported that it has the authority to negotiate and sign contracts and other agreements. Also, each exporter stated that its negotiations are not subject to review or guidance from any governmental organization. There is no evidence on the record to suggest that there is any governmental involvement in the negotiation of contracts.

Regarding whether each exporter has autonomy in making decisions regarding the selection of management, our examination of the record indicates that each exporter reported that it has autonomy in making decisions regarding the selection of management. Also, each exporter claimed that its selection of management is not subject to review or guidance from any governmental organization. There is no evidence on the record to suggest that there is any governmental involvement in the selection of management by the exporters.

Regarding whether each exporter retains the proceeds from its sales and makes independent decisions regarding its disposition of profits or financing of losses, our examination of the record indicates that each exporter reported that it retains the proceeds of its export sales, using profits according to its business needs. Also, each exporter reported that the allocation of profits is determined by its top management. There is no evidence on the record to suggest that there is any governmental involvement in the decisions regarding disposition of profits or financing of losses.

Therefore, we preliminarily determine that the evidence on the record supports a preliminary finding of *de facto* absence of governmental control based on record statements and supporting documentation showing that: (1) each exporter sets its own export prices independent of the government and without the approval of a government authority; (2) each exporter retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses; (3) each exporter has the authority to negotiate and sign contracts and other agreements; and, (4) each exporter has autonomy from the government regarding the selection of management.

The evidence placed on the record of this investigation by Suzhou, Shanghai Fortune, and Kaifeng demonstrates an absence of government control, both in

law and in fact, with respect to each of the exporter's exports of the merchandise under investigation, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. Therefore, for the purposes of this preliminary determination, we are granting separate, company-specific rates to each of these three exporters. The Department will verify information pertaining to our separate rates determinations in the course of verifying the questionnaire responses.

## PRC-Wide Rate

As discussed above (see "Separate Rates"), all PRC exporters that do not qualify for a separate rate are treated as a single enterprise; e.g., the PRC-wide entity. As noted above in "Case History," all exporters were given the opportunity to respond to the Department's August 14, 2002, Q&V questionnaire. As explained above, we received timely responses from Suzhou, Shanghai Fortune, and Kaifeng. As noted above in the "Background" section, after choosing Suzhou and Shanghai Fortune as mandatory respondents, the Department then provided them with the opportunity to respond to the separate rates portion of the antidumping questionnaire. Subsequently, Suzhou, Shanghai Fortune and, additionally, Kaifeng, responded to this portion of the Department's questionnaire. The Department did not receive Q&V responses, or separate rates information, from Taijin and North Food, the only other companies identified in the Petition.

Since these companies did not respond to our August 14, 2002, Q&V questionnaire, and since information on the record indicates that the value and volume of sales to the United States by the three exporters that did respond to the Department's Q&V is substantially less than the total value and volume of imports from the PRC indicated by Customs data (see *Respondent Selection Memorandum*), we preliminarily determine that subject merchandise is being imported into the United States that is produced by the PRC-wide entity. Because there is no information on the record allowing the calculation of a rate for this entity, the application of facts available is warranted.

Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information requested by the Department, (B) fails to provide such information by the deadline, or in the form or manner requested, (C) significantly impedes a proceeding, or (D) provides information that 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 this section of the Act, in reaching our preliminary determination, we have used total facts available for the PRC-wide rate because two entities did not respond at all to our questionnaire, nor did the PRC government respond on their behalf, thus failing to provide information and significantly impeding our investigation.

Section 776(b) of the Act provides that, in selecting from among the facts available, the Department may employ adverse inferences if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information. *See also, Statement of Administrative Action (SAA)*, accompanying the URAA, H.R. Doc. No. 316, 103rd Cong., 2d. Sess., at 870 (1994). The Department finds that the producers/exporters who did not respond to our request for information (*i.e.*, the PRC-wide entity) have failed to cooperate to the best of their ability. Therefore, the Department preliminarily determines that, in selecting from among the facts available, an adverse inference is appropriate. Consistent with Department practice in cases where a respondent is considered uncooperative, as adverse facts available, we have preliminarily applied 340.80 percent, an average of the highest rates for both products calculated in the Petition, to the PRC-wide entity, including Taijin and North Food. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Ferrovanadium from the People's Republic of China Monday*, 67 FR 45088, 45091 (July 8, 2002) (*PRC Ferrovanadium*).

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation as facts available, it must, to the extent practicable, corroborate that information from independent sources reasonably at its disposal. Secondary information is described in the SAA as "information derived from the Petition that gave rise to the investigation or review, the final determination concerning subject merchandise, or any previous review under section 751 concerning the subject merchandise." *See SAA* at 870. The SAA provides that to "corroborate" means simply that the Department will satisfy itself that the secondary information to be used has probative value. *See id.* The SAA also states that independent sources used to corroborate may include, for example, published

price lists, official import statistics and Customs data, and information obtained from interested parties during the particular investigation. *See id.* As noted in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used. *See also, PRC Ferrovanadium*, 67 FR at 45091.

In order to determine the probative value of the initiation margins for use as facts otherwise available for the purposes of this determination, we examined evidence supporting the initiation calculations. Petitioner calculated a range of export prices (EP) for two products, sodium saccharin and calcium saccharin, using an average unit value (AUV) of saccharin imports reported by Customs and price quotes. It subtracted from the price quotes amounts for ocean freight, insurance, brokerage and handling charges and foreign inland freight. *See Petition* at Exhibit 6; and Letter from Petitioner to the Department: Response to Petition Clarifications Questions (July 26, 2002), at Exhibits 1 and 2, for a detailed calculation of these EPs.

We compared the AUV, which is publicly available data, with the price quotes, net expense deductions. For calcium saccharin, the lowest EP was the AUV.<sup>2</sup> For sodium saccharin, the price quotes, before deductions, were lower than the AUV, but the difference was not substantial. *See Preliminary Determination of Saccharin from the People's Republic of China: Analysis and Corroboration of Adverse Facts Available Rate*, Memorandum from Mark Hoadley to the File (December 18, 2002) (*Corroboration Analysis Memorandum*) for specific facts about the comparison. Moreover, the price quotes for sodium saccharin were within the range, even after deductions, of the port-specific AUVs included in the Petition (which were not used in calculating the initiation rates), and the lowest price quote was higher than the

<sup>2</sup> Petitioner calculated only one AUV, which it applied to both products, presumably because Customs does not have separate tariff classifications for different types of saccharin (*e.g.*, sodium and calcium), and, thus, information on sub-types of saccharin cannot be obtained from the Customs website.

lowest AUV. Therefore, we determine that the EP starting prices and deductions submitted in the Petition are corroborated by the fact of their consistency with Customs data.

In calculating NV in the Petition, usage rates were based on public, certified production information submitted by PRC producers in the 1994 investigation. Petitioner provided an affidavit from one of its employees stating his qualifications to perform the calculations, the relevancy to the PRC industry of the type of production process assumed for the calculations, and the reasonableness of the results. We asked petitioner to clarify certain issues regarding its calculations and the usage rates, which it did. *See Letter from Sally Gannon to petitioner regarding Petition on Saccharin from the People's Republic of China*, dated July 23, 2002 and July 26, 2002 submission from petitioner. We compared the usage rates in the Petition to the usage rates reported by both respondents. *See Corroboration Analysis Memorandum*, Attachment 1, for a chart comparing these rates. While there were differences, we did not notice a pattern of figures in the Petition being higher than those reported by respondents. The usage rates in the Petition appear to be comparable to those reported by respondents. For the final determination, we will recheck the usage rates in the Petition in light of any new material timely placed on the record and any information reviewed at verification regarding the production of saccharin in the PRC.

In valuing factors of production for Shanghai and Suzhou, we chose information somewhat different from that used in the Petition. While much of the information is the same (*e.g.*, most values are still taken from Indian import statistics), where this information differed from the information used in the Petition, we used the newer information for purposes of calculating the PRC-wide rate. *See Corroboration Analysis Memorandum*, Attachment 2. Because all of this information is publicly available, and taken from sources used in numerous previous investigations of PRC exports, we determine that it has been corroborated for use in calculating the adverse facts available margin.

This PRC-wide rate applies to all entries of subject merchandise except for entries from Suzhou, Shanghai Fortune, and Kaifeng. Because this is a preliminary margin, the Department will consider all information on the record at the time of the final determination for the purpose of determining the most appropriate final

PRC-wide margin. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation*, 65 FR 1139 (January 7, 2000).

#### 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. For Kaifeng, we have calculated a weighted-average margin based on 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 Preliminary Determination of Sales at Less Than Fair Value; Honey from the People's Republic of China*, 66 FR 24101, 24104 (May 11, 2001).

#### Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production, valued in a surrogate market economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, the Department, in valuing the factors of production, shall utilize, to the extent possible, the prices or costs of factors of production in one or more market economy countries that: (1) are at a level of economic development comparable to that of the NME country; and, (2) are significant producers of comparable merchandise. The sources of the surrogate factor values are discussed under the NV section below and in *Antidumping Duty Investigation of Saccharin from the People's Republic of China: Factor Valuation*, Memorandum from Brett L. Royce, Case Analyst, through Sally C. Gannon, Program Manager, Office VII, to the File (December 18, 2002) (*Factor Valuation Memorandum*).

The Department has determined that India, Pakistan, Indonesia, Sri Lanka, and the Philippines are countries comparable to the PRC in terms of economic development. *See Antidumping Duty Investigation on Saccharin from the People's Republic of China*, Memorandum from Jeffrey May, Director, Office of Policy, to Sally C. Gannon, Program Manager, Office VII (September 12, 2002). Customarily, we select an appropriate surrogate country based on the availability and reliability of data from the countries that are significant producers of comparable merchandise. For PRC cases, the primary surrogate country has often been India if it is a significant producer of comparable merchandise. In this case, we have found that India is a significant producer of comparable merchandise. *See Antidumping Duty Investigation of Saccharin from the People's Republic of China: Selection of a Surrogate Country*, Memorandum from Brett L. Royce, Case Analyst, through Barbara E. Tillman, Director, Office VII, AD/CVD Enforcement Group III, and, Sally C. Gannon, Program Manager, Office VII, to the File (December 18, 2002) (*Surrogate Country Memorandum*).

We used India as the primary surrogate country, and, accordingly, we have calculated NV using Indian prices to value the PRC producers' factors of production, when available and appropriate. *See Surrogate Country Memorandum*. We have obtained and relied upon publicly available information wherever possible. *See Factor Valuation Memorandum*.

In accordance with section 351.301(c)(3)(I) of the Department's regulations, for the final determination in an antidumping investigation, interested parties may submit publicly available information to value factors of production within 40 days after the date of publication of this preliminary determination.

#### Date of Sale

Respondents reported contract date, purchase order date, and invoice date as dates of sale. Although the Department maintains a presumption that invoice date is the date of sale (19 CFR § 351.401(I)), "[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*). After examining the sales documentation placed on the record by respondents, we preliminarily determine that invoice

date is the date of sale for all sales by both respondents. These documents, while mentioning at least the proposed transaction price for sales, do not reflect the "formal negotiation and contracting procedures" mentioned by the Preamble to the Department's regulations as creating an exception to the invoice date presumption. *Preamble* at 27349. Regarding sales made pursuant to contracts in particular, while the Preamble states that "date of invoice normally would not be an appropriate date of sale for [long-term] contracts", there is not enough evidence on the record at this point in time to determine whether the contracts used by respondents in this case establish the material terms of sale to the extent required by our regulations in order to rebut the presumption that invoice date is the proper date of sale. *Id.* at 27350. Specifically, we cannot conclude at this time whether these contracts are actually binding contracts or merely non-binding sales offers. We note that, even in the case of long-term contracts, the Preamble rejects a bright-line rule for date of sale, stating that "[b]ecause of the unusual nature of long-term contracts, whereby merchandise may not enter the United States until long after the date of contract, the Department will continue to review these situations carefully on a case-by-case basis." *Id.* As noted above in the "Background Section," the Department has sent supplemental questionnaires to Suzhou and Shanghai Fortune regarding the issue of date of sale, and we will review more information at verification regarding this issue for both exporters. We will review information regarding the nature and implementation of the contracts, how sales transactions might differ in practice from the written words of the contracts, and how these contracts might have been amended. We will reexamine this issue for the final determination.

#### Fair Value Comparisons

To determine whether sales of saccharin to the United States by Suzhou and Shanghai Fortune were made at less than fair value, we compared the EP, for Shanghai Fortune, and the constructed export price (CEP), for Suzhou, to NV, as described in the "Export Price," "Constructed Export Price," and "Normal Value" sections of this notice. In accordance with section 777A(d)(1)(A)(I) of the Act, we calculated weighted-average EPs and CEPs. With regard to Suzhou, in accordance with section 777A(d)(1)(A)(ii) of the Act, we calculated weighted-average CEPs.

### Export Price

For Shanghai Fortune, we based United States price on EP, in accordance with section 772(a) of the Act, because the first sale to an unaffiliated purchaser was made prior to importation, and CEP was not otherwise warranted by the facts on the record. We calculated EP based on prices to the first unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. These included foreign inland freight from the plant to the port of exportation, brokerage and handling, ocean freight and marine insurance.

While Shanghai Fortune has reported its sales on an EP basis, we are examining a potential affiliation issue which could result in treating certain sales as CEP sales. For further details, see Letter from Barbara E. Tillman to Shanghai Fortune regarding Antidumping Duty Investigation of Saccharin from the People's Republic of China: Request for Additional Information, dated November 29, 2002; and Letter from Sally Gannon to Shanghai Fortune regarding Antidumping Duty Investigation of Saccharin from the People's Republic of China, dated December 4, 2002. See also, *Investigation of Saccharin from the People's Republic of China for the period of January 1, 2002 through June 30, 2002; Analysis of Affiliation for Shanghai Fortune Chemical Co., Ltd.* (December 18, 2002) (*Affiliation Memorandum*).

### Constructed Export Price

For Suzhou, we based United States price on CEP in accordance with section 772(b) of the Act, because the first sale to an unaffiliated purchaser was made after importation into the United States. We calculated CEP based on prices from the U.S. affiliate to the first unaffiliated purchasers in the United States. We deducted the following expenses from the starting price (gross unit price), where applicable: PRC inland freight, international (ocean) freight and insurance, U.S. customs duty, U.S. brokerage and handling, U.S. freight and warehousing, the affiliated purchaser's U.S. credit expenses, and the affiliated purchaser's indirect selling expenses. See sections 772(c) and (d) of the Act. Because U.S. customs duty, U.S. brokerage and handling, some freight expenses, credit expenses, and indirect selling expenses are market-economy costs incurred in U.S. dollars, we used actual costs rather than surrogate values when deducting these expenses from gross unit price.

### Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using a factors-of-production methodology if: (1) the merchandise is exported from an NME country; and, (2) the 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.

Factors of production include: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and, (4) representative capital costs. We calculated NV based on factors of production, reported by each respondent, for materials, energy, labor, by-products, and packing. Where applicable, we deducted from each respondent's NV the cost of by-products sold during the POI. We valued the majority of input factors using publicly available information as discussed in the "Surrogate Country" and "Factor Valuations" sections of this notice.

### Factor Valuations

The Department normally uses publicly available information to value factors of production. However, in accordance with 19 CFR 351.408(c)(1), the Department's regulations also provide that where a producer sources an input from a market economy and pays for it in market economy currency, the Department may employ the actual price paid for the input to calculate the factors-based NV. See also, *Shakeproof Assembly v. United States*, 268 F. 3d 1376,1379-80 (Fed. Cir. 2001). Suzhou and Shanghai Fortune reported that some of their inputs were purchased from market economies and paid for in a market economy currency. See *Memorandum from Javier Barrientos to the File: Analysis for the Preliminary Determination of Saccharin from the People's Republic of China: Shanghai Fortune (December 18, 2002) (Shanghai Fortune Analysis Memorandum) and Memorandum from Mark Hoadley to the File: Analysis for the Preliminary Determination of Saccharin from the People's Republic of China: Suzhou (December 18, 2002) (Suzhou Analysis Memorandum)*.

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by respondents for the POI. To calculate NV, the reported per-unit factor quantities were multiplied by publicly available Indian surrogate values. In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As

appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added surrogate freight costs to Indian import surrogate values using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory. This adjustment is in accordance with the United States Court of Appeals for the Federal Circuit's decision in *Sigma Corp. v. United States*, 117 F. 3d 1401 (Fed. Cir. 1997). For a detailed description of all surrogate values used for respondents, refer to the *Factor Valuation Memorandum*.

Except as noted below, we calculated raw material inputs using the data obtained from the following sources: the *Monthly Trade Statistics of Foreign Trade of India - Volume II - Imports (Indian Import Statistics)*; the Indian trade publication *Chemical Weekly*; U.S. Department of Commerce data; the *Second Water Utilities Data Book*; *International Energy Agency* data; and annual reports from National Peroxide Ltd., Calibre Chemicals Pvt. Ltd., and Hindustan Lever Ltd. As appropriate, we adjusted rupee denominated values for inflation using price indices published in the International Monetary Fund's *International Financial Statistics* and excluded taxes. See *Factor Valuation Memorandum*.

We valued some factors depending on the respondent of methanol, sulfur, phthalic anhydride, and freight at the average of the market economy prices actually paid, because these were purchased from market economy countries in meaningful quantities. We disregarded purchase prices of methanol and sulfur from market economy countries that benefitted from non-industry specific export subsidies. For further discussion, please see *Shanghai Fortune Analysis Memorandum* and *Suzhou Analysis Memorandum*.

To value water, we used the average water tariff rate in the Asian Development Bank's *Second Water Utilities Data Book: Asian and Pacific Region*, published in 1997. Because this data was not contemporaneous with the POI, we adjusted the rate for inflation. See *Factor Valuation Memorandum*.

To value electricity, we used the annual report of an Indian chemical producer, National Peroxide Ltd. Because this data was not contemporaneous with the POI, we adjusted the rate for inflation. See *Factor Valuation Memorandum*.

For labor, consistent with section 351.408(c)(3) of the Department's regulations, we used the PRC regression-based wage rate at Import Administration's home page, Import

Library, Expected Wages of Selected NME Countries, revised September 2002 (see <http://ia.ita.doc.gov/wages>). The source of the wage rate data on the Import Administration's web site can be found in the Yearbook of Labour Statistics 2001, International Labor Office (Geneva: 2001), Chapter 5B: Wages in Manufacturing, and GNP data as reported in World Development Indicators, The World Bank, (Washington, DC (2002)).

To value foreign inland truck freight, we used the seventeen price quotes from six different Indian trucking companies that were used in the *Final Determination of the Antidumping Duty Investigation of Bulk Aspirin From the People's Republic of China*, 65 FR 33805 (May 25, 2000). We then adjusted this value to reflect inflation through the POI. See *Factor Valuation Memorandum*.

To value factory overhead, selling, general and administrative expenses, and profit, we calculated average rates based on financial information from the most recent financial statements of two Indian chemical producers: Calibre Chemicals Pvt. Ltd. and National Peroxide Ltd. See *Factor Valuation Memorandum*.

#### Currency Conversions

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

#### Verification

As provided in section 782(I)(1) of the Act, we intend to verify all company information relied upon in making our final determination.

#### Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing Customs to suspend liquidation of all entries of saccharin from the PRC that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. We will instruct Customs to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP or CEP, as indicated below. These 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. ....	231.62%

Manufacturer/Exporter	Margin (percent)
Shanghai Fortune Chemical Co., Ltd. ....	74.96%
Kaifeng Xinhua Fine Chemical Factory .....	197.55%
PRC-Wide .....	363.22%

#### Disclosure

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties of the proceedings in this investigation in accordance with 19 CFR 351.224(b).

#### International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination of sales at LTFV. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threatening material injury to, the U.S. industry.

#### Public Comment

Unless otherwise notified by the Department, case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than fifty days after the date of publication of this notice, and rebuttal briefs, limited to issues raised in case briefs, no later than fifty-five days after the date of publication of this preliminary determination. See 19 CFR 351.309(c)(1)(I); 19 CFR 351.309(d)(1). A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, any hearing will be held fifty-seven days after publication of this notice at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this

notice. See 19 CFR 351.310(c). Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief, and may make rebuttal presentations only on arguments included in that party's rebuttal brief. See 19 CFR 351.310(c). Unless postponed, we will make our final determination no later than 75 days after the date of the preliminary determination.

This determination is issued and published in accordance with sections 733(f) and 777(I)(1) of the Act.

Dated: December 18, 2002.

**Bernard T. Carreau,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[Docket No. 021220324-2324-01]

#### Special American Business Internship Training Program (SABIT) Grants Funding Availability

**AGENCY:** International Trade Administration, U.S. Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** This Notice announces availability of funds for the Special American Business Internship Training Program (SABIT), for training business executives and scientists (also referred to as "interns") from Eurasia (see program description for eligible countries).

**DATES:** The closing date for applications is March 1, 2003. If available funds are depleted prior to the closing date, a notice to that effect will be published in the **Federal Register**. Processing of complete applications takes approximately three to four months. All awards are expected to be made by July 1, 2003.

**ADDRESSES:** Request for Applications: Competitive Application kits will be available from ITA starting on the day this notice is published. To obtain a copy of the Application Kit please contact SABIT by: (1) E-mail at [SABITApply@ita.doc.gov](mailto:SABITApply@ita.doc.gov), providing your name, company name and address; (2) Telephone (202) 482-0073; (3) The world wide web at <http://www.mac.doc.gov/sabit/sabit.html>;