

3102.30.00.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise within the scope of this sunset review is dispositive.

### History of the Suspension Agreement

On August 12, 1999, the Department initiated an antidumping duty investigation under section 732 of the Act on ammonium nitrate from Russia. See *Initiation of Antidumping Duty Investigation: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation*, 64 FR 45236 (August 19, 1999). On January 7, 2000, the Department preliminarily determined that ammonium nitrate from Russia is being, or is likely to be, sold in the United States at less than fair value. 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). The Department suspended the antidumping duty investigation on ammonium nitrate from Russia effective May 19, 2000. The basis for this action was an agreement between the Department and the Ministry of Trade of the Russian Federation ("MOT") accounting for substantially all imports of ammonium nitrate from Russia, wherein the MOT has agreed to restrict exports of ammonium nitrate from all Russian producers/exporters to the United States and to ensure that such exports are sold at or above the agreed reference price. See *Suspension of Antidumping Duty Investigation: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation*, 65 FR 37759 (June 16, 2000) ("*Suspension Agreement*"). Thereafter, pursuant to a request by the petitioner, the Committee for Fair Ammonium Nitrate Trade ("COFANT"), the Department completed its investigation and published in the **Federal Register** its final determination of sales at less than fair value. See *Notice of Final Determination of Sales at Less Than Fair Value: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation*, 65 FR 42669 (July 11, 2000) ("*Final Determination*"). In the Final Determination, the Department calculated weighted-average dumping margins of 253.98 percent for Nevinnomyssky Azot, a respondent company in the investigation, and for the Russia-wide entity. The *Suspension Agreement* remains in effect for all manufacturers, producers, and exporters of ammonium nitrate from Russia.

### Background

On April 1, 2005, the Department initiated a sunset review of the suspended antidumping duty investigation on ammonium nitrate from Russia, pursuant to section 751(c) of the Act. See *Notice of Initiation of Five-year ("Sunset") Reviews*, 70 FR 16800 (April 1, 2005). On October 24, 2005, the Department published the preliminary results of the full sunset review of the suspended antidumping duty investigation on ammonium nitrate from Russia. See *Preliminary Results of Five-year Sunset Review of Suspended Antidumping Duty investigation on Ammonium Nitrate from the Russian Federation*, 70 FR 61431 (October 24, 2005) ("*Preliminary Results*") and the accompanying *Issues and Decision Memorandum for the Preliminary Results of the Full Five-year Sunset Review of the Suspended Antidumping Duty Investigation on Ammonium Nitrate from the Russian Federation* ("*Preliminary Results Decision Memorandum*"). In the *Preliminary Results*, the Department preliminarily found that the termination of the suspended antidumping duty investigation would likely lead to continuation or recurrence of dumping (for a full discussion of the Department's preliminary finding see the *Preliminary Results and the Preliminary Results Decision Memorandum*).

On December 7, 2005, the Department received a case brief from the petitioner in this proceeding, the Committee for Fair Ammonium Nitrate Trade ("COFANT"). No other case briefs or rebuttal briefs were received.

### Analysis of Comments Received

All issues raised by parties to this sunset review are addressed in the *Issues and Decision Memorandum for the Final Results of the of the Full Five-year Sunset Review of the Suspended Antidumping Duty Investigation on Ammonium Nitrate from the Russian Federation* ("*Final Results Decision Memorandum*") from Joseph A. Spetrini, Deputy Assistant Secretary for Policy and Negotiations, to David M. Spooner, Assistant Secretary for Import Administration, dated February 27, 2006, which is adopted by this notice. The issues discussed in the *Final Results Decision Memorandum* include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail were the suspended antidumping duty investigation to be terminated. Parties may find a complete discussion of all issues raised in this

review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B-099, of the main Department of Commerce building. In addition, a complete version of the *Final Results Decision Memorandum* can be accessed directly on the Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the *Final Results Decision Memorandum* are identical in content.

### Final Results of Review

We determine that termination of the suspended antidumping duty investigation on ammonium nitrate from Russia would likely lead to a continuation or recurrence of dumping at the following percentage weighted-average margin:

Exporter/manufacturer	Weighted-average margin (percent)
JSC Azot	
Nevinnomyssky .....	253.98
Russia-Wide .....	253.98

This notice also serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This sunset review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: February 27, 2006.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-475-826]

### Certain Cut-To-Length Carbon-Quality Steel Plate Products From Italy: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review

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

**SUMMARY:** In response to a request by Nucor Corporation (Nucor), the

Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain cut-to-length carbon-quality steel plate products (CTL Plate) from Italy. The period of review (POR) is February 1, 2004 through January 31, 2005.

This review covers five producers/exporters of subject merchandise. Based upon our analysis of the record evidence, we preliminarily find that the application of adverse facts available (AFA) is warranted with respect to Palini and Bertoli S.p.A. (Palini). Further, we are preliminarily rescinding the review with respect to Tramelal S.p.A. (Tramelal) because there is no entry against which to collect duties. We are also preliminarily rescinding the review for Ilva S.p.A. (Ilva), Metalcam S.p.A. (Metalcam) and Riva Fire S.p.A. (Riva Fire), because they had no shipments during the POR. If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Interested parties are invited to comment on these preliminary results of review. We will issue the final results of review no later than 120 days from the date of publication of this notice.

**EFFECTIVE DATE:** March 6, 2006.

**FOR FURTHER INFORMATION CONTACT:**

Thomas Martin or Mark Manning; AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3936 or (202) 482-5253, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On February 10, 2000, the Department published an antidumping duty order on CTL Plate from Italy. *See Notice of Amendment of Final Determinations of Sales at Less Than Fair Value and Antidumping Duty Orders: Certain Cut-To-Length Carbon-Quality Steel Plate Products From France, India, Indonesia, Italy, Japan and the Republic of Korea*, 65 FR 6585 (February 10, 2000) (*Amended Final and Orders*). On February 1, 2005, the Department published a notice of opportunity to request an administrative review of this order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 70 FR 5136 (February 1, 2005). In accordance with 19 CFR 351.213(b)(1), on February 28, 2005, Nucor, a domestic

producer of subject merchandise requested that the Department conduct an administrative review of Palini, Ilva, Metalcam, Riva Fire, and Tramelal. On March 23, 2005, the Department published a notice of initiation of administrative review of the antidumping duty order on CTL Plate from Italy covering the period February 1, 2004 through January 31, 2005. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 70 FR 14643 (March 23, 2005).

On May 11, 2005, the Department issued section A of the antidumping duty questionnaire to Palini, Ilva, Metalcam, Riva Fire, and Tramelal. In response, Ilva, Metalcam, and Riva Fire informed the Department via letters dated May 24, 2005, and May 30, 2005, that they did not ship subject merchandise to the United States during the POR. The Department received no response from Palini or Tramelal. On June 6, 2005, the Department sent a letter to Palini and Tramelal asking whether the reason they had not responded to the questionnaire was because they had made no shipments of subject merchandise to the United States during the POR.

On June 13, 2005, Tramelal informed the Department that it made one sale of subject merchandise to the United States. The Department confirmed Tramelal's claim of a single U.S. sale by reviewing CBP import data and entry documents. Although the entry documents appear to indicate that Tramelal shipped subject merchandise in its single sale to the United States during the POR, the importer did not enter the goods as subject to the antidumping order, and CBP liquidated the entry under its own authority. There is no evidence to indicate that Tramelal has any connection to this importer.

On June 14, 2005, Palini informed the Department that if there were any exports to the United States, they were made through an unaffiliated Canadian customer, and it did not know what portion of its sales to that customer were ultimately shipped to the U.S. market. The Department reviewed CBP data and entry documentation and found that certain entry documents appeared to contradict Palini's claim that it had no knowledge of which sales to its Canadian customer entered the United States. On January 5, 2006, the Department sent Palini a supplemental questionnaire, asking additional questions about its sales to the Canadian customer, during the POR, and whether Palini had knowledge of the port of discharge of those sales.

In its response to the Department's January 25, 2006, supplemental questionnaire, Palini explained that, at the time of cargo readiness, its customer advises Palini of the discharge port for sales to the United States and Canada. Palini noted that, although some shipments were sent directly to the United States, it did not know whether the merchandise remained in the United States, or if it was re-exported from the United States to Canada.

**Scope of the Order**

The products covered by the scope of this order are certain hot-rolled carbon-quality steel: (1) Universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but no exceeding 1250 mm, and of a nominal or actual thickness of not less than 4 mm, which are cut-to-length (not in coils) and without patterns in relief, of iron or non-alloy-quality steel; and (2) flat-rolled products, hot-rolled, of a nominal or actual thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are cut-to-length (not in coils). Steel products to be included in this scope are of rectangular, square, circular or other shape and of rectangular or non-rectangular cross-section where such non-rectangular cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been "worked after rolling")-for example, products which have been beveled or rounded at the edges. Steel products that meet the noted physical characteristics that are painted, varnished or coated with plastic or other non-metallic substances are included within this scope. Also, specifically included in this scope are high strength, low alloy (HSLA) steels. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Steel products to be included in this scope, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) Iron predominates, by weight, over each of the other contained elements, (2) the carbon content is two percent or less, by weight, and (3) none of the elements listed below is equal to or exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 1.50 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of

molybdenum, or 0.10 percent of niobium, or 0.41 percent of titanium, or 0.15 of vanadium, or 0.15 percent zirconium. All products that meet the written physical description, and in which the chemistry quantities do not equal or exceed any one of the levels listed above, are within the scope of this order unless otherwise specifically excluded. The following products are specifically excluded from this order: (1) Products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances; (2) SAE grades (formerly AISI grades) of series 2300 and above; (3) products made to ASTM A710 and A736 or their proprietary equivalents; (4) abrasion-resistant steels (i.e., USS AR 400, USS AR 500); (5) products made to ASTM A202, A225, A514 grade S, A517 grade S, or their proprietary equivalents; (6) ball bearing steels; (7) tool steels; and (8) silicon manganese steel or silicon electric steel.

The merchandise subject to this order is classified in the HTSUS under subheadings: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.000, 7208.90.000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7225.40.3050, 7225.40.7000, 7225.50.6000, 7225.90.0090, 7226.91.5000, 7226.91.7000, 7226.91.8000, 7226.99.0000.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise subject to this order is dispositive.

#### Application of Knowledge Test

Based on our examination of the questionnaire responses, we preliminarily determine, in accordance with the Department's established practice, that Palini knew or should have known that the merchandise under review was for export to the United States at the time of the sale.

Under section 772(a) of the Tariff Act of 1930, as amended, (the Act) the basis for export price is the price at which the first party in the chain of distribution who has knowledge of the U.S. destination of the merchandise sells the subject merchandise, either directly to a U.S. purchaser or to an intermediary such as a trading company. The party making such a sale, with knowledge of the destination, is the appropriate party to be reviewed. See *Certain Pasta from Italy: Termination of New Shipper Antidumping Duty Administrative*

*Review*, 62 FR 66602 (December 19, 1997) (*Pasta from Italy*). The Department's test for determining knowledge is whether the relevant party knew or should have known that the merchandise was destined for the United States. See *Statement of Administrative Action Accompanying the Trade Agreements Act of 1979*, H.R. Rep. No. 4537, 388, 411 reprinted in 1979 U.S.C.A.A.N. 665, 682. The U.S. Court of International Trade (CIT) has upheld the Department's use of the knowledge test.

Additionally, the CIT has affirmed that the Department is not required to show that the producer had actual knowledge of the destination of its exports. *Wonderful Chemical Indus. v. United States*, 259 F. Supp. 2d 1273, 1279 (CIT 2003) (citing *Allegheny Ludlum Corp. v. United States*, 215 F. Supp. 2d 1322, 1331–1332 (CIT 2000)).

In determining whether a party knew or should have known that its merchandise was destined for the United States, the Department's well-established practice is to consider such factors as: (1) Whether that party prepared or signed any certificates, shipping documents, contracts or other papers stating that the destination of the merchandise was the United States; (2) whether that party used any packaging or labeling which stated that the merchandise was destined for the United States; (3) whether any unique features or specifications of the merchandise otherwise indicated that the destination was the United States; and (4) whether that party admitted to the Department that it knew that its sales were destined for the United States. See, e.g., *Final Results of Antidumping Duty Administrative Review: Certain In-Shell Raw Pistachios From Iran*, 70 FR 7470 (February 14, 2005) and the accompanying Issues and Decision Memorandum at Comment 1; *Final Results of Antidumping Duty Administrative Review and Determination Not To Revoke the Order in Part: Dynamic Random Access Memory Semiconductors of One Megabit or Above from the Republic of Korea*, 64 FR 69694 (December 14, 1999); *Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Synthetic Indigo from the People's Republic of China*, 64 FR 69723 (December 14, 1999) (unchanged in final determination) (upheld by CIT in *Wonderful Chemical*, 259 F. Supp. 2d at 1280); and *Pasta from Italy*, 62 FR 66602.

In this case, at the time of the sale, three of the four factors noted above are present. Specifically, Palini stated that

(1) its unaffiliated customer informed Palini of the location of the port of discharge prior to shipment; (2) Palini's commercial invoice identifies the port of discharge; (3) Palini provided all of the shipping information, including the port of discharge, to the unaffiliated customer's shipping agent at the customer's request; and (4) Palini's shipping marks, which are completed prior to shipment and are stenciled onto each plate, include the port of discharge. Moreover, the documents Palini provided for two shipments, directly from Italy, during the POR, identify the port of discharge as one in the United States.

Therefore, pursuant to the Department's consistent practice and based upon the explanations and documents provided in Palini's supplemental questionnaire response, we preliminarily find that Palini had knowledge of direct shipments to the United States of subject merchandise. Because Palini had knowledge that its sales to its Canadian customer were destined for the United States, Palini's sales are properly subject to this review.

#### Use of Adverse Facts Available

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 facts otherwise available in reaching the applicable determination.

Pursuant to sections 776(a)(2)(A) and (C) of the Act, we preliminarily find that the use of facts available as the basis for the weighted-average dumping margin is appropriate for Palini, because Palini withheld information specifically requested by the Department and significantly impeded the proceeding.

The Department specifically requested in the May 11, 2005, questionnaire that Palini report the quantity and value of subject merchandise it sold and entered into the United States during the POR. Palini failed to respond to the questionnaire. It was not until the Department issued a letter to Palini in which we asked Palini to indicate whether it had no shipments during the POR, that Palini informed the Department that sales to the its Canadian customer may have entered the United States, but that it had no knowledge of which portion of these sales did, in fact, enter the United States. We note that, at this time, Palini made no mention that it had shipped

sales to this customer directly to the United States.

As discussed above, the documentary evidence provided by Palini in response to the Department's supplemental questionnaire, demonstrates that Palini had knowledge that merchandise it shipped from Italy entered the United States during the POR. Even though these documents were in Palini's possession, and kept in the normal course of business, Palini failed to respond to the May 11, 2005, questionnaire and did not report its sales and entries of subject merchandise made during the POR. Palini only acknowledged its direct sales to the United States after the Department informed Palini that CBP documents contradicted its earlier assertions. Because it was unaware until late in the proceeding that there, in fact, were entries subject to the review, the Department was unable to issue additional questionnaires or calculate a dumping margin for Palini's entries within the statutory time for completing the review. The Department, therefore, finds that Palini has withheld information that the Department specifically requested. Additionally, by not responding to the initial questionnaire and waiting to reveal its knowledge of direct shipments, Palini significantly impeded the proceeding. Therefore, the Department has determined that it must base Palini's dumping margin on the facts otherwise available pursuant to sections 776(a)(2)(A) and (C) of the Act.

In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference if the Department finds that an interested party "failed to cooperate by not acting to the best of its ability to comply with a request for information." The Court of Appeals for the Federal Circuit (Federal Circuit) has held that the statutory mandate that a respondent act to the "best of its ability" requires the respondent to do the maximum it is able to do. *See, e.g., Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382 (Fed. Cir. 2003). In the instant case, Palini knew that its shipments were destined for the United States. However, Palini failed to report its entries of subject merchandise or even to respond to the May 11, 2005, questionnaire at all. Palini did not do the maximum it was able to do in response to the Department's requests for information, but rather failed to report shipments it knew were subject to the administrative review. Therefore, the Department finds that Palini failed to cooperate to the best of its ability in complying with the

Department's requests for information. Because Palini did not cooperate to the best of its ability, the Department, in selecting from among the facts otherwise available will use an inference that is adverse to the interests of Palini. *See* section 776(b) of the Act.

Section 776(b) of the Act authorizes the Department to use as adverse facts available (AFA) information derived from (1) the petition, (2) a final determination in the investigation under this title, (3) any previous review under section 751, or (4) any other information on the record. It is the Department's practice normally to select the highest margin determined in any segment of the proceeding for any respondent. *See e.g., Notice of Final Results of Antidumping Duty Administrative Review and Final Partial Rescission: Certain Cut-to-Length Carbon Steel Plate from Romania*, 71 FR 7008 (February 10, 2006). The CIT and the Federal Circuit have consistently upheld Commerce's practice. *See Rhone Poulenc, Inc. v. United States*, 899 F.2d 1185, 1190 (Fed. Cir. 1990); *see also NSK Ltd. v. United States*, 346 F. Supp. 2d 1312, 1335 (CIT 2004) (upholding a 73.55% total adverse facts available rate, the highest available dumping margin from a different respondent in an LTFV investigation); *see also Kompass Food Trading Int'l v. United States*, 24 CIT 678, 689 (CIT 2000) (upholding a 51.16% total adverse facts available rate, the highest available dumping margin from a different, fully cooperative respondent); and *Shanghai Taoen Int'l Trading Co. v. United States*, 360 F. Supp. 2d 1339 (CIT 2005) (upholding a 223.01% total adverse facts available rate, the highest available dumping margin from a different respondent in a previous administrative review).

The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse "as to effectuate the purpose of the facts available role to induce respondents to provide the Department with complete and accurate information in a timely manner." *See Static Random Access Memory Semiconductors from Taiwan; Final Determination of Sales at Less than Fair Value*, 63 FR 8909, 8932 (February 23, 1998). The Department's practice also ensures "that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." *See Statement of Administrative Action Accompanying the Uruguay Round Agreements Act*, H.R. Rep. No. 103-316, at 870 (1994) (SAA), *see also Notice of Final Determination of Sales at Less than Fair*

*Value: Certain Frozen and Canned Warmwater Shrimp from Brazil*, 69 FR 76910 (December 23, 2004); *see also D&L Supply Co. v. United States*, 113 F.3d 1220, 1223 (Fed. Cir. 1997). In choosing the appropriate balance between providing respondents with an incentive to respond accurately and imposing a rate that is reasonably related to the respondent's prior commercial activity, selecting the highest prior margin "reflects a common sense inference that the highest prior margin is the most probative evidence of current margins, because, if it were not so, the importer, knowing of the rule, would have produced current information showing the margin to be less." *Rhone Poulenc*, 899 F.2d at 1190. However, the Department's reliance on secondary information to determine an adverse facts available rate is subject to the corroboration requirement of section 776(c) of the Act.

Section 776(c) of the Act provides that, where the Department selects from among the facts otherwise available and relies on "secondary information," the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. Secondary information is described in the SAA as "{i}nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise." *See* SAA at 870. The SAA states that "corroborate" means to determine that the information used has probative value. The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: High and Ultra-High Voltage Ceramic Station Post Insulators from Japan*, 68 FR 35627 (June 16, 2003); *see also Notice of Final Determination of Sales at Less Than Fair Value: Live Swine From Canada*, 70 FR 12181 (March 11, 2005).

In this case, because there have been no administrative reviews since the investigation, the only secondary information on the record is Palini's calculated rate from the investigation and information from the petition. The Department finds that it is inappropriate to use Palini's calculated rate from the

investigation, 7.85 percent,<sup>1</sup> because we presume if Palini could have done better by cooperating in the proceeding it would have produced current information showing the margin to be less. *See Rhone Poulenc*, 899 F. 2d at 1190. Therefore, to ensure that Palini does not obtain a more favorable result by failing to cooperate than if it had cooperated fully, the Department will not use its margin from the investigation. *See SAA*, at 870. Therefore, the Department must rely on the only other information available, the margins from the petition.

In the petition filed on February 16, 1999, the petitioners calculated estimated dumping margins for the identified respondents, including Palini, ranging from 30.75 to 93.30 percent. In this case, we preliminarily determine that the petition margin of 30.75 percent is sufficiently adverse to effectuate the purpose of the facts available rule. Therefore, we determine that the 30.75 percent margin is appropriate as adverse facts available and are assigning it to Palini as AFA.

Pursuant to 776(c) of the Act, we attempted to corroborate the margin using the only information reasonably available to us. While we did not have information available on the record to fully corroborate the margin, the fact that corroboration may not be practicable in a given case does not prevent the Department from applying an adverse inference as appropriate, and does not prevent the Department from using the secondary information. *See* 19 CFR 351.308(d); *see also Notice of Preliminary Affirmative Countervailing Duty Determination: Prestressed Concrete Steel Wire Strand from India*, 68 FR 40629 (July 8, 2003). The petitioners calculated the AUV, which served as an estimate of export price (EP), using import statistics obtained from the International Trade Commission for the three HTSUS categories accounting for the largest volume of subject imports from Italy during the first eleven months of 1998. *See Initiation of Antidumping Duty Investigations: Certain Cut-To-Length Carbon-Quality Steel Plate From the Czech Republic, France, India, Indonesia, Italy, Japan, the Republic of Korea, and the Former Yugoslav Republic of Macedonia*, 64 FR 12959 (March 16, 1999) (*CTL Plate from Italy Initiation Notice*). The petitioners

calculated the cost of manufacturing (COM) using their own production experience, adjusting for known differences between costs incurred to produce CTL plate in the United States and in Italy. The petitioners calculated selling, general, and administrative expenses; financial expenses; and profit based upon the 1997 financial statements of an Italian steel producer, consistent with section 773(e)(2) of the Act. *Id.*

Therefore, given the record evidence from the petition and from the instant review, we preliminarily find that the 30.75 percent rate is the most appropriate to use as AFA and are assigning it to Palini.

#### **Partial Preliminary Rescission of Administrative Review**

The Department's practice, supported by substantial precedent, requires that there be entries during the POR upon which to assess antidumping duties, to conduct an administrative review. Pursuant to 19 CFR 351.213(d)(3), the Department will rescind an administrative review in whole or only with respect to a particular exporter or producer if we conclude that during the period of review there were "no entries, exports, or sales of the subject merchandise." Ilva, Metalcam, and Riva Fire reported that they had no entries of subject merchandise during the POR. The Department confirmed, through CBP data, that there were no entries of subject merchandise from these companies during the POR. Therefore, in accordance with 19 CFR 351.213(d)(3), we are preliminarily rescinding the administrative review with respect to Ilva, Metalcam, and Riva Fire.

Trametal has no entries during the POR against which to collect duties. It is the Department's practice not to conduct an administrative review when there are no entries to be reviewed. *See Notice of Final Results of Antidumping Duty Administrative Review: Portable Electric Typewriters from Japan*, 56 FR 14072, 14073 (April 5, 1991); and *Notice of Proposed Rulemaking and Final Comments: Antidumping Duties; Countervailing Duties*, 61 FR 7308, 7318 (February 27, 1996). Liquidation of entries is final on all parties unless protested within the prescribed period. *See* 19 U.S.C. § 1514(a)(5). Because the liquidation of Trametal's entry is final, the Department cannot assess antidumping duties against that entry pursuant to the final results of this administrative review. Therefore, the Department will preliminarily rescind the review with respect to Trametal, pursuant to 19 CFR 351.213(d)(3).

#### **Preliminary Results of Review**

As a result of our review, we preliminarily find that the dumping margin for Palini for the period February 1, 2004 through January 31, 2005, is 30.75 percent. For Ilva, Metalcam, Riva Fire, and Trametal, we preliminarily rescind the administrative review.

#### **Public Comment**

Interested parties may submit written comments (case briefs) within 30 days of publication of the preliminary results and rebuttal comments (rebuttal briefs), which must be limited to issues raised in the case briefs, within five days after the time limit for filing case briefs. *See* 19 CFR 351.309(c)(1)(ii) and 19 CFR 351.309(d). Parties who submit arguments are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Further, the Department requests that parties submitting written comments provide the Department with a diskette containing the public version of those comments. Issues raised in hearings will be limited to those raised in the case and rebuttal briefs. Any interested party may request a hearing within 30 days of the date of publication of this notice in the **Federal Register**. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held approximately 37 days after the publication of this notice, or the first business day thereafter. Unless the deadline for issuing the final results of review is extended, the Department will issue the final results of this administrative review, including the results of its analysis of issues raised in the written comments, within 120 days of publication of the preliminary results in the **Federal Register**.

#### **Assessment Rates**

Upon completion of this administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Because we are applying AFA to all exports of subject merchandise produced or exported by Palini, we will instruct CBP to liquidate entries according to the AFA *ad valorem* rate for all importers. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of the final results of this review.

#### **Cash Deposit Instructions**

The following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of CTL Plate from Italy entered, or withdrawn from

<sup>1</sup>See *Notice of Amendment of Final Determinations of Sales at Less Than Fair Value and Antidumping Duty Orders: Certain Cut-To-Length Carbon-Quality Steel Plate Products From France, India, Indonesia, Italy, Japan and the Republic of Korea*, 65 FR 6585 (February 10, 2000) (*CTL Plate Order*).

warehouse, for consumption on or after the publication date of the final results, as provided by section 751(a)(2)(C) of the Act: (1) The cash-deposit rate for Palini will be the rate established in the final results of this review; (2) for previously reviewed or investigated companies not covered by this review, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered by this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash-deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash-deposit rate will be 7.85 percent, the all-others rate established in the LTFV. *See Amended Final and Orders.* These cash-deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

#### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: February 28, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6-3123 Filed 3-3-06; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-851]

#### Certain Preserved Mushrooms from the People's Republic of China: Partial Rescission and Preliminary Results of the Sixth Administrative Review

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

**SUMMARY:** The Department of Commerce ("the Department") is currently

conducting the sixth administrative review of the antidumping duty order on certain preserved mushrooms from the People's Republic of China ("PRC") covering the period February 1, 2004, through January 31, 2005. This review covers imports of subject merchandise from four manufacturers/exporters: Raoping Yucun Canned Foods Factory ("Raoping Yucun"), Primera Harvest (Xiangfan) Incorporated ("PHX"), Gerber Food (Yunnan) Co., Ltd. ("Gerber") and Guangxi Yulin Oriental Food Co., Ltd. ("Guangxi Yulin"). We are preliminarily rescinding the review with respect to Green Fresh Foods (Zhangzhou) Co., Ltd. ("Green Fresh").

We preliminarily find that Yucun sold subject merchandise at less than normal value ("NV") during the period of review ("POR"). In addition, we find that adverse facts available ("AFA") are appropriate for PHX, Gerber and Guangxi Yulin. If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on all appropriate entries in accordance with these results. We invite interested parties to comment on these preliminary review results and will issue the final review results no later than 120 days from the date of publication of this notice.

**EFFECTIVE DATE:** March 6, 2006.

**FOR FURTHER INFORMATION CONTACT:** Alex Villanueva or Paul Walker, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3208 or 202 482-0413, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Case History

##### General

On February 19, 1999, the Department published in the **Federal Register** the antidumping duty order on certain preserved mushrooms from the PRC. *See Notice of Amendment of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Preserved Mushrooms From the People's Republic of China*, 64 FR 8308 (February 19, 1999) ("Mushrooms Order").

In response to requests from the Coalition for Fair Preserved Mushroom Trade (the "Petitioner"), PHX, Raoping Yucun, Gerber and Green Fresh, and in accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the "Act"), and section 351.214(c) of the Department's regulations, on March 23, 2005, the Department initiated the sixth

administrative review of certain preserved mushrooms from the PRC on 30 companies. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 14643 (March 23, 2005). On June 29, 2005, the Petitioner filed a timely letter withdrawing its request for review for 25 of the 30 companies. On July 21, 2005, the Department rescinded the review with respect to these 25 companies.<sup>1</sup> *See Certain Preserved Mushrooms from the People's Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review*, 70 FR 42038 (July 21, 2005).

On March 30, 2005, the Department issued antidumping duty questionnaires to Raoping Yucun, PHX, Gerber, Guangxi Yulin and Green Fresh.

On April 13, 2005, the Department provided all interested parties the opportunity to submit information pertinent to selecting a surrogate country and valuing factors of production for this administrative review.

On October 6, 2005, the Department extended the time limit for the preliminary results of this administrative review from October 31, 2005 to February 28, 2006. *See Notice of Extension of the Preliminary Results of the Administrative Antidumping Duty Review: Certain Preserved Mushrooms from the People's Republic of China*, 70 FR 58381 (October 6, 2005).

##### Gerber

On March 25, 2005, Gerber stated that it had no shipments of subject merchandise during the POR. However, the Department obtained information from CBP that indicated Gerber may have had shipments during the POR and on October 5, 2005, the Department sent Gerber a letter asking for clarification of its no shipment response given the CBP data obtained by the Department. On October 30, 2005, Gerber notified the Department that it would no longer participate in this review.

##### Green Fresh

On May 6, 2005, Green Fresh requested clarification from the Department regarding its one shipment of subject merchandise to the United States during the POR. Specifically, Green Fresh requested whether one shipment which did not enter during the POR was subject to this administrative review. On May 18, 2005, the Department notified Green

<sup>1</sup> The list of the 30 companies initiated for an administrative review is available at 70 FR 14647 (March 23, 2005).