

the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on March 11, 2010, requesting a panel review of the determination and order described above.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is April 12, 2010);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is April 26, 2010); and

(c) The panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in panel review and the procedural and substantive defenses raised in the panel review.

Dated: March 16, 2010.

**Marsha Iyomasa,**

*Acting United States Secretary, NAFTA Secretariat.*

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**BILLING CODE 3510-GT-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**A-570-878**

#### **Saccharin from the People's Republic of China: Preliminary Results of the 2008-2009 Antidumping Duty Administrative Review**

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

**SUMMARY:** In response to requests from interested parties, the Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on saccharin from the People's Republic of China ("PRC") covering the period July 1, 2008, through June 30, 2009. This administrative review covers one exporter of the subject merchandise, *i.e.*, Kaifeng Xinhua Fine Chemical Factory ("Kaifeng").

We preliminarily determine that Kaifeng does not qualify for a separate rate and is instead part of the PRC entity. If these preliminary results are

adopted in our final results of this review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on all appropriate entries of subject merchandise exported by Kaifeng during the period of review ("POR"). We invite interested parties to comment on these preliminary results.

**EFFECTIVE DATE:** March 22, 2010.

#### **FOR FURTHER INFORMATION CONTACT:**

Brandon Petelin or Charles Riggle, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-8173 or (202) 482-0650, respectively.

#### **SUPPLEMENTARY INFORMATION:**

#### **Background**

On July 9, 2003, the Department published in the **Federal Register** the antidumping duty order on saccharin from the PRC.<sup>1</sup> On June 8, 2009, the Department published in the **Federal Register** the continuation of antidumping duty order on saccharin from the PRC.<sup>2</sup> On July 1, 2009, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on Saccharin from the PRC.<sup>3</sup> In accordance with 19 CFR 351.213(b)(1), the following requests were made regarding the POR July 1, 2008, through June 30, 2009: (1) on July 31, 2009, Shanghai Fortune Chemical Co., Ltd. ("Shanghai Fortune"), a Chinese producer and exporter of subject merchandise, requested that the Department conduct an administrative review of its exports; (2) on July 31, 2009, Kinetic Industries, Inc. ("Kinetic"), a domestic producer of saccharin, requested that the Department conduct an administrative review of Kaifeng's exports to the United States. Pursuant to this request, the Department published a notice of initiation with respect to Shanghai Fortune and Kaifeng.<sup>4</sup>

In accordance with 19 CFR 351.213(d)(1), on August 28, 2009, Shanghai Fortune timely withdrew its request for an administrative review of its own exports (*i.e.*, within 90 days of

<sup>1</sup> See *Notice of Antidumping Duty Order: Saccharin from the People's Republic of China*, 68 FR 40906 (July 9, 2003) ("Saccharin Order").

<sup>2</sup> See *Continuation of Antidumping Duty Order on Saccharin from the People's Republic of China*, 74 FR 27089 (June 8, 2009).

<sup>3</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 74 FR 31406 (July 1, 2009).

<sup>4</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 74 FR 42873 (August 25, 2009).

the publication of the notice of initiation of this review). No other party requested an administrative review of Shanghai Fortune's exports to the United States. Therefore, on November 3, 2009, the Department rescinded the administrative review of saccharin with respect to Shanghai Fortune.<sup>5</sup>

Regarding Kaifeng, the Department issued an antidumping duty questionnaire on October 2, 2009. On October 14, 2009, we confirmed that Kaifeng signed for and received our mailing of the antidumping duty questionnaire. On January 6, 2009, the Department placed the FedEx International Air Waybill receipt and delivery confirmation for the questionnaire issued to Kaifeng on the record of this administrative review to confirm that we mailed, and Kaifeng signed for and received, the questionnaire.

#### **Scope of the Order**

The product covered by this antidumping duty order 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 128-44-44); (2) calcium saccharin (CAS Registry 6485-34-34); (3) acid (or insoluble) saccharin (CAS Registry 81-07-07); 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 order is currently 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 order remains dispositive.

#### **Non-Market Economy Country Status**

In every case conducted by the Department involving the PRC, the PRC has been treated as a non-market economy ("NME") country. In

<sup>5</sup> See *Saccharin from the People's Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 56792 (November 3, 2009).

accordance with section 771(18)(C)(i) of the Tariff Act of 1930, as amended ("Act"), any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. Because no interested party in this case has contested such treatment, the Department continues to treat the PRC as an NME country.

#### PRC-Wide Rate and Use of Facts Available

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 assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of subject merchandise, subject to review in an NME country, a single rate unless an exporter can demonstrate that it is sufficiently independent of government control to be entitled to a separate rate.<sup>6</sup> We have determined that Kaifeng does not qualify for a separate rate and is instead subject to the PRC-wide rate.

In relevant part, section 776(a) of the Act provides that the Department shall apply "facts otherwise available" ("FA") if "(1) necessary information is not on the record, or (2) an interested party or any other person (A) withholds information that has been requested," or "(B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act." Further, section 776(b) of the Act provides that the Department may make an adverse inference in applying the facts otherwise available when a party "has failed to cooperate by not acting to the best of its ability to comply with a request for information." Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully."<sup>7</sup> Finally, according to section 776(b) of the Act and 19 CFR 351.308(c)(1), such an adverse inference may include reliance on information derived from the petition, the final determination, a

previous administrative review, or other information placed on the record.

On October 2, 2009, the Department issued an antidumping duty questionnaire to Kaifeng. We confirmed that the questionnaire was delivered and signed for on October 14, 2009.<sup>8</sup> Because Kaifeng did not respond to the Department's questionnaire, we are unable to determine if Kaifeng is eligible for a separate rate. Kaifeng has not rebutted the presumption of government control and is, therefore, presumed to be part of the PRC-wide entity. Further, in accordance with sections 776(a)(2)(A) and (B) of the Act, because the PRC-entity (including Kaifeng) failed to cooperate to the best of its ability by not responding to our questionnaire, we find it appropriate to use adverse facts available. As a result, in accordance with the Department's practice, we have preliminarily assigned to the PRC-entity (including Kaifeng) a rate of 329.94 percent, the highest rate determined in the current, or any previous, segment of this proceeding.<sup>9</sup>

#### Corroboration of Secondary Information

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than information obtained in the course of a review, it must, to the extent practicable, corroborate that information from independent sources reasonably at its disposal. According to the Statement of Administrative Action, secondary information is defined 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."<sup>10</sup> To "corroborate" means that the Department will satisfy itself that the secondary information has probative value. The Department will, to the extent practicable, examine the reliability and relevance of the secondary information used.<sup>11</sup> Further,

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.

In the instant review, we are applying to the PRC-wide entity (which includes Kaifeng) the PRC-wide rate that was corroborated in the underlying investigation of sales at less than fair value.<sup>12</sup> We find that this rate remains contemporaneous with the POR of this review, and no evidence has been presented in the current review that calls into question the reliability of this information.<sup>13</sup> Thus, the Department finds that the rate information is reliable.

Additionally, regarding relevance, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances indicate that the selected margin is not appropriate, the Department will disregard the margin and establish an appropriate margin. Similarly, the Department does not apply a margin that has been discredited.<sup>14</sup> No unusual circumstances are present here. Since the LTFV investigation, no new information has indicated that this rate is invalid or uncharacteristic of the saccharin industry. Further, this rate has been used as the PRC-wide rate in other segments of this proceeding. Therefore, we find that this rate has probative value.

As the PRC-wide entity rate from the LTFV investigation is both reliable and relevant, we determine that this rate, the

(November 6, 1996), unchanged 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; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).

<sup>12</sup> See *Notice of Final Determination of Sales at Less Than Fair Value: Saccharin From the People's Republic of China*, 68 FR 27530 (May 30, 2003) ("LTFV Final Determination"); as amended by *Notice of Amended Final Determination of Sales at Less Than Fair Value*, 68 FR 35383 (June 13, 2003) ("The PRC-wide rate of 329.94 percent . . . is the correct PRC-wide rate, rather than the rate of 329.33 percent published in the [LTFV Final Determination]."); see also *Saccharin Order* (establishing 329.94 percent as the PRC-wide rate).

<sup>13</sup> See, e.g., *Certain Preserved Mushrooms from the People's Republic of China: Final Results and Partial Rescission of the New Shipper Review and Final Results and Partial Rescission of the Third Antidumping Duty Administrative Review*, 68 FR 41304, 41308 (July 11, 2003) (where the Department relied on the corroboration memorandum from the LTFV Investigation to assess the reliability of the petition rate as the basis for an adverse facts available rate in the administrative review).

<sup>14</sup> See *D&L Supply Co. v. United States*, 113 F. 3d 1220, 1221 (Fed. Cir. 1997) (the Department will not use a margin that has been judicially invalidated).

<sup>6</sup> See, e.g., *Honey from the People's Republic of China: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 70 FR 74764, 74765 (December 16, 2005); unchanged in *Honey from the People's Republic of China: Final Results and Final Rescission, In Part, of Antidumping Duty Administrative Review* 71 FR 34893 (June 16, 2006).

<sup>7</sup> See Statement of Administrative Action (≥SAA≥) accompanying the Uruguay Round Agreements Act, H. Doc. No. 103-316, Vol. 1, at 870 (1994).

<sup>8</sup> See Memorandum Regarding: 2008-2009 Antidumping Administrative Review of Saccharin from the PRC: Kaifeng Questionnaire Delivery Confirmation on the Record, dated January 6, 2010 ("Delivery Confirmation Memo").

<sup>9</sup> See, e.g., *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products from the People's Republic of China*, 65 FR 34660 (May 31, 2000), and accompanying Issues and Decisions Memorandum.

<sup>10</sup> See SAA at 870.

<sup>11</sup> See *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

highest rate from any segment of this administrative proceeding (*i.e.*, the rate of 329.94 percent), is in accord with section 776(c) of the Act, which requires that secondary information be corroborated. Thus, the Department finds that the LTFV investigation rate is corroborated for the purposes of this administrative review and may reasonably be applied to the PRC-wide entity based on Kaifeng's failure to cooperate to the best of its ability in this administrative review.

#### Preliminary Results of the Review

We preliminarily find that the following weighted-average dumping margin exists for the period July 1, 2008, through June 30, 2009:

Manufacturer/Exporter	Margin (Percent)
PRC-Wide Entity* .....	329.94

\*The PRC-entity includes Kaifeng Xinhua Fine Chemical Factory

#### Public Comment

Interested parties are invited to comment on the preliminary results and may submit case briefs and/or written comments within ten days of the date of publication of this notice. See 19 CFR 351.309(c). Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than five days after the time limit for filing the case briefs. See 19 CFR 351.309(d). The Department requests that parties submitting written comments provide an executive summary and a table of authorities as well as an additional copy of those comments electronically.

Any interested party may request a hearing within ten days of publication of this notice. See 19 CFR 351.310(c). Hearing requests should contain the following information: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. See 19 CFR 351.310(d).

The Department will issue the final results of this administrative review, which will include its analysis of any written comments, no later than 120 days after the publication date of these preliminary results. See 19 CFR 351.213(h).

#### Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. If these preliminary results are adopted in our final results, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries.

#### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) for the PRC-wide entity (which includes Kaifeng), the cash deposit rate will be the PRC-wide rate established in the final results of review; (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 329.94 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

#### 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.

These preliminary results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: March 16, 2010.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

A-570-848

#### Freshwater Crawfish Tail Meat from the People's Republic of China: Rescission of Antidumping Duty Administrative Review in Part

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

**SUMMARY:** In response to requests from interested parties, the Department of Commerce (the Department) initiated an administrative review of the antidumping duty order on freshwater crawfish tail meat (crawfish) from the People's Republic of China (PRC) with respect to China Kingdom (Beijing) Import & Export Co., Ltd., Shanghai Ocean Flavor International Trading Co., Ltd., Xiping Opeck Food Co., Ltd., Xuzhou Jinjiang Foodstuffs Co., Ltd., and Yancheng Hi-King Agriculture Developing Co., Ltd. (Yancheng Hi-King). The period of review is September 1, 2008, through August 31, 2009. The Department is rescinding the review with respect to Yancheng Hi-King.

**EFFECTIVE DATE:** March 22, 2010.

**FOR FURTHER INFORMATION CONTACT:** Bryan Hansen or Minoo Hatten, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3683 or (202) 482-1690, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On September 15, 1997, we published in the **Federal Register** an antidumping duty order on crawfish from the PRC. See *Notice of Amendment to Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Freshwater Crawfish Tail Meat From the People's Republic of China*, 62 FR 48218 (September 15, 1997). On September 1, 2009, we published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order on crawfish from the PRC. See *Antidumping or Countervailing Duty Order, Finding, or*