

manufacturers/exporters of the subject merchandise to the United States and the period October 1, 1997, through September 30, 1998.

EFFECTIVE DATE: May 24, 1999.

FOR FURTHER INFORMATION CONTACT:

Shawn Thompson, AD/CVD Enforcement, Group II, Office V, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482-1776.

SUPPLEMENTARY INFORMATION: Because it is not practicable to complete this review within the time limits mandated by the Uruguay Round Agreements Act (245 days from the last day of the anniversary month for preliminary results, 120 additional days for final results), pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended, the Department is extending the time limit for completion of the preliminary results until November 1, 1999. See Memorandum to Robert S. LaRussa, dated May 17, 1999.

This extension is in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)(3)(A)).

Dated: May 17, 1999.

Bernard Carreau,

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; Final Results of New Shipper Review

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

ACTION: Notice of final results of new shipper review: freshwater crawfish tail meat from the People's Republic of China.

SUMMARY: On February 22, 1999, the Department of Commerce (the Department) published the preliminary results of its new shipper review of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (PRC). The review covers one exporter of the subject merchandise, Ningbo Nanlian Frozen Foods Co., Ltd. (NNL), and shipments of this merchandise to the United States during the period September 1, 1997 through March 31, 1998.

We gave interested parties an opportunity to comment on our preliminary results. Based on our review of the comments received, we have made changes to the margin calculations in the final results from those presented in the preliminary results.

We have determined that NNL's U.S. sales of freshwater crawfish tail meat have not been made below normal value, and we will instruct the Customs Service not to assess antidumping duties for NNL.

EFFECTIVE DATE: May 24, 1999.

FOR FURTHER INFORMATION CONTACT:

Michael Strollo, Laurel LaCivita, or Maureen Flannery, Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482-3782, (202) 482-4236 and (202) 482-3020, respectively.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the provisions codified at 19 CFR part 351 (1998).

Background

On February 22, 1999, the Department published the preliminary results of review (64 FR 8543). On March 24, 1999, we received comments from the Crawfish Processors Alliance (petitioner) and the Louisiana Department of Agriculture and Forestry and Bob Odom, Commissioner. We also received comments from NNL. On March 29, 1999, petitioner and NNL submitted rebuttal briefs. All parties presented their comments in a hearing held on March 31, 1999. The Department has now completed this new shipper review in accordance with section 751 of the Act.

Scope of Review

The product covered by this review is freshwater crawfish tail meat, in all its forms (whether washed or with fat on, whether purged or unpurged), grades, and sizes; whether frozen, fresh, or chilled; and regardless of how it is packed, preserved, or prepared. Excluded from the scope of the order are live crawfish and other whole crawfish, whether boiled, frozen, fresh, or chilled. Also excluded are saltwater crawfish of

any type, and parts thereof. Freshwater crawfish tail meat is currently classifiable in the Harmonized Tariff Schedule of the United States (HTS) under item numbers 0306.19.00.10 and 0306.29.00.00. The HTS subheadings are provided for convenience and Customs purposes only. The written description of the scope of this order is dispositive.

This review covers the period September 1, 1997 through March 31, 1998.

Analysis of Comments Received

Comment 1: Valuation of Live Crawfish Input From a Basket Category

NNL argues that the selection of Spanish Ministry of Customs data on prices of Spanish imports from Portugal to value the live crawfish input is improper. NNL contends that the HTS number under which crawfish falls is a basket HTS category containing products other than whole, live crawfish.

NNL maintains that it placed compelling evidence on the record suggesting that crawfish imported into Spain from Portugal under HTS 0306.29.10 are not just whole, live crawfish. For example, NNL cites to its December 21, 1998 submission, wherein NNL placed on the record an affidavit from a U.S. purchaser of Spanish crawfish which claimed that the high price of Portuguese crawfish precludes such imports from being only live crawfish. In that same submission, NNL included a letter from a Spanish crawfish tail meat producer indicating that during the peak crawfish season, the tail meat producer paid prices one-quarter as high as the Portuguese import prices used in the preliminary results of review. NNL also cites to its January 6, 1999 submission, wherein NNL placed on the record a letter from a Spanish crawfish tail meat producer stating that the average price paid in the peak season was \$0.19 per pound. In its submission of March 15, 1999, NNL placed on the record an affidavit from a Spanish producer of crawfish tail meat, indicating that the Spanish producer paid an average of \$0.50 per pound for Portuguese crawfish in 1997. Furthermore, NNL contends that the Spanish prices for crawfish conflict with the average U.S. price for wild crawfish, \$0.52 per pound. NNL maintains that this body of evidence calls into question the accuracy of the Spanish Ministry of Customs import price, which was \$0.91 per pound. NNL argues that where questions have been raised about the accuracy of surrogate data, it is the Department's

responsibility to examine that data and determine whether the import data from the basket category are consistent with prices in that market and world prices generally.

In addition, NNL cites to the names of over 30 Portuguese processors it provided, which it claims have the capability of processing crawfish. NNL stated that it believes that one of these companies must be processing crawfish. NNL placed on the record an affidavit from a Spanish tail meat producer which claims that Portuguese companies do process crawfish tail meat and export it to Europe. Finally, NNL challenges the reliability of the evidence placed on the record by petitioner, which indicated that Spanish imports from Portugal under HTS category 0306.29.10 consist only of live crawfish. NNL contends that these facts cast doubt on the Department's conclusion, in the preliminary results of review, that the Spanish Ministry of Customs import data contained only whole, live crawfish. NNL argues that since this HTS category has been demonstrated to be too broad, the Department should not rely upon it in the valuation of the crawfish input.

Petitioner states that NNL's challenge to evidence placed on the record by petitioner is misplaced since the Department did not rely on the pricing data contained therein, and the evidence is otherwise reliable. Petitioner argues that NNL has failed to provide credible evidence that imports under HTS category 0306.29.10 are not limited to live crawfish. Petitioner argues that none of the invoices or affidavits submitted by NNL demonstrate that the Spanish import data include any products other than live crawfish. Petitioner further argues that such price differences alone do not provide a basis for the abandonment of valid aggregated import data series, representing actual prices, on the basis of anecdotal statements such as those provided by NNL.

Petitioner also notes that the existence of 30 Portuguese seafood processors does not demonstrate that any imports under HTS category 0306.29.10 include processed crawfish. Petitioner contends that the statement of NNL's affiant, who claims to have knowledge of crawfish being processed in Portugal and shipped to Europe, does not constitute evidence that processed crawfish were imported into Spain from Portugal.

Department's Position

We agree with petitioner. While the Department has ruled in the past that import data from basket categories can be too broad to be reliable, petitioners

provided as evidence an affidavit from industry experts attesting to the fact that imports into Spain from Portugal consisted solely of whole, live crawfish. In addition, no other information has been placed on the record to substantiate NNL's claim that any products other than whole, live crawfish are imported into Spain under HTS 0306.29.10. See *Memorandum to Edward Yang from Laurel LaCivita: Determination of Surrogate Country Selection for Crawfish Input*, dated February 16, 1999 (*Surrogate Selection Memorandum*). Although NNL has speculated that among the more than 30 Portuguese seafood processors, someone has to be processing whole, live crawfish and shipping it to Spain under that basket category, NNL has failed to place any information on the record that substantiates its claim that crawfish are being processed in Portugal and shipped into Spain. Furthermore, none of its invoices or affidavits provide any evidence that the imports from Portugal include anything but whole, live crawfish. Consequently, the Department continues to determine that the Spanish Ministry of Customs import data is suitable as a surrogate for the valuation of whole, live crawfish.

Comment 2: Spanish Data Are Flawed

NNL contends that the volume of Spanish imports of non-frozen Portuguese crawfish in 1997 was too low to form the basis for establishing the surrogate value for crawfish in this case. In addition, NNL argues that, until November of 1997, the quantities and values reported in the Spanish Ministry of Customs data were rounded. NNL maintains that this is important because the quantities reported are so small that rounding can drastically skew unit values. NNL argues that the low volume of imports and the rounding leads to highly volatile prices. As a result, NNL claims, the Spanish import data are flawed and should not be used in the determination of normal value.

Petitioner contends that NNL has failed to demonstrate that Spanish import prices are aberrational. Petitioner claims that U.S. prices from the Louisiana State University (LSU) Agricultural Summary submitted by NNL demonstrate a similar fluctuation in price. Petitioner further argues that Spanish import values are not subject to the significant rounding errors claimed by NNL. Petitioner maintains that the use of numerous months of rounded data eliminates any inaccuracy that rounding might cause within a single month. Petitioner states that there is no reason to believe that rounding

consistently overstates actual values in the Spanish import data.

Department's Position

We agree with petitioner. In the Department's *Surrogate Selection Memorandum*, we noted that Spain exported 407 metric tons of HTS 0306.19.10, frozen, processed crawfish during 1997. We stated that we considered this quantity of exports to be indicative that Spain is a significant producer of crawfish. We further noted that Spanish imports from Portugal are significantly larger in comparison both to Spanish imports from countries other than Portugal and U.S. imports of a similar HTS category, 0306.29.00." (*Surrogate Selection Memorandum* at p.3.) Therefore, we find that within this industry the imports from Portugal are significant.

Additionally, even though the Spanish Ministry of Customs data were rounded, we agree with petitioner that using data for numerous months tends to minimize inaccuracies that might occur from rounding if only one month of data were used because rounding may vary in direction from one month to the next.

Furthermore, as we noted in the *Surrogate Selection Memorandum*, price fluctuations are a result of supply and demand and are particularly endemic to agricultural products with a specific growing season. Fluctuations may also result from adverse growing conditions, such as drought or disease, and are not necessarily due to small quantities. Consequently, the Department continues to believe that the import data from the Spanish Ministry of Customs is reliable and accurate.

Comment 3: Spanish Data Conflicts With Other Spanish Import Data

NNL contends that the import data from the Spanish Ministry of Customs also conflicts with alternative Spanish import statistics from the European Union and the Spanish Commercial Office of the Embassy of Spain. NNL argues that this shows that the Spanish data are unreliable. If the Department nevertheless does use such data, NNL argues, it should use an average of the three sources.

Petitioner argues that the Spanish import values from other Spanish sources do not demonstrate that the values used by the Department are inaccurate. Petitioner maintains that there are similar problems with the alternative Spanish import data provided by NNL. In addition, petitioner claims that these sources are secondary sources and do not represent data from the Spanish department that

actually collects duties and records data. Petitioner maintains that the Department should continue to rely on the primary source data.

Department's Position

When using imports as the basis of factor valuation, it is our normal practice to use official import statistics, unless evidence demonstrates that such data are unreliable. Here, respondents have not provided any evidence as to how data from any of the two alternative sources are collected and analyzed. In fact, as petitioners have suggested, data from the European Union and the Spanish Commercial Office of the Embassy of Spain may in fact be derivative of the Spanish Customs data. Consequently, we cannot conclude that data from either of the alternate sources contradict the import statistics or otherwise call into question their reliability. Therefore, we have continued to use official import statistics published by the Spanish Ministry of Customs.

Comment 4: Reliance on Affidavits

NNL contends that the Department's reliance upon petitioner's affidavits is inconsistent with the Department's regulations. NNL notes that petitioner's affidavits of September 18, 1998, October 22, 1998, December 22, 1998 and January 21, 1999 were designated as business proprietary pursuant to 19 CFR 351.105 of the Department's regulations. NNL maintains that a review of these affidavits demonstrates that these affidavits fail to meet the strict criteria for business proprietary treatment set forth in 19 CFR 351.105. Therefore, NNL contends, these affidavits should be stricken from the record. Moreover, NNL maintains that petitioner has claimed proprietary treatment of affidavits in a transparent attempt to prevent NNL from filing information to rebut petitioner's affidavits. NNL claims that by hiding the name and location of the affiant, as well as most of the text, petitioner has prevented NNL from commenting on the affidavit. NNL argues that the Department should not base the most important decision in this case, the reliability of the Spanish Ministry of Customs import data, on the affidavits provided by petitioner.

Petitioner argues that NNL has not been prejudiced in any way by the proprietary treatment of the affidavits in this case. Petitioner contends that the key claim in the affidavits, that crawfish of Portuguese origin are shipped into Spain live and that there is no crawfish processing in Portugal, has been on the public record since October 1998. Additionally, petitioner argues that NNL

only makes a conclusory statement that a review of these affidavits demonstrates that they fail to meet the strict criteria set forth in 19 CFR 351.105. Petitioner contends that such a statement provides no basis for rejection of a request for proprietary treatment. Finally, petitioner maintains that, since NNL did not make a timely objection to the proprietary treatment of the January 21, 1999 affidavit, it should not be permitted to raise the issue in its brief.

Department's Position

We agree with petitioner. In accordance with 19 CFR 351.105(c), the Department afforded business proprietary treatment to (a) some information in petitioner's affidavits which identified particular person(s) from whom business proprietary treatment was obtained (351.105(c)(9)) and (b) other specific information (i.e., information concerning specific business practices related to the production of crawfish tail meat in Spain, the release of which to the public would cause substantial harm to the competitive position of the submitter (351.105(c)(11))).

Comment 5: Selecting the United States as the Surrogate Country in Which To Value Crawfish Input

NNL argues that the Department should use the Louisiana State Agricultural Summary data it provided. NNL contends that the LSU data is more precise and is superior to the Spanish data. NNL claims that the LSU data is based upon use of a comparable product, and production is measured in sufficient quantities to ensure a reliable calculation.

Additionally, NNL contends that legal precedent exists for using U.S. data. NNL cites the Department's use of U.S. data to value basswood in *Writing Instruments Manufacturers Association versus United States*, 984 F. Supp. 629, 639 (Ct. Int'l Trade 1997). NNL argues that the Court found that Commerce's use of U.S. basswood is consistent with the primary objective of the statute and is supported by substantial evidence and otherwise in accordance with the law. NNL also cites *Sebacic Acid from the People's Republic of China: Final Results of Antidumping Administrative Review (Sebacic Acid)*, 63 FR 43373 (August 13, 1998).

NNL notes that live crawfish in China is a wild, live product, the essential cost of which is the labor needed to obtain it. Because labor costs in China are a fraction of those in the United States, NNL argues, the Department must select the fairest, most accurate surrogate values possible for whole, live crawfish.

Petitioner argues that NNL's claim that the United States is the next best surrogate country after Spain is inconsistent with the Department's practice and the record of this proceeding. Petitioner contends that in this proceeding, the Department has determined that Spain and the United States are not equally acceptable as surrogates for China. Petitioner suggests that the alternative U.S. data provided by NNL do not provide improvements in data quality over the Spanish import statistics for purposes of the Department's NME methodology because the data are unofficial and based on estimates. Petitioner maintains that unlike the Spanish import data, the LSU data are not derived directly from transaction prices. Additionally, petitioner contends that the methodological description provided by LSU also emphasizes that this is not the official document of agricultural data for the state and that no such official data are published for live freshwater crawfish production.

Petitioner maintains that the fact that the per capita gross national product of Spain is more similar to that of China than the United States is determinative, particularly where the Spanish import data has not been seriously questioned. Moreover, petitioner argues that Commerce's practice is to use a value in a surrogate country for comparable merchandise before resorting to prices for identical merchandise in the United States.

Finally, petitioner argues that if the Department should use the LSU data, wild and farmed crawfish are physically identical, and any valuation of live crawfish should include both farmed and wild crawfish. Petitioner maintains that the difference in price between wild and farmed crawfish is explained by the fact that they are not present in the market in fixed proportions during the course of the year. Petitioner suggests that wild crawfish come onto the market in large numbers during the peak season, when prices of all crawfish are lower. As a result, petitioner contends, annual data may show lower prices for wild crawfish than for farmed crawfish even though no such distinction occurs at any point in time in any contemporaneous period. Consequently, the Department should not make an adjustment to price for differences in physical characteristics between wild and farmed crawfish for the valuation of live crawfish.

Department's Position

We agree with petitioner. Section 773(c)(4) of the statute instructs the Department to value factors of

production in one or more market economy countries that are (A) at a level of economic development comparable to that of the nonmarket-economy country, and (B) significant producers of comparable merchandise. The Department only departs from this practice if it cannot find those values in a comparable economy that produces comparable merchandise.

In *Sebacic Acid*, the Department determined that India was a comparable economy to China and produced merchandise comparable to 2-octanol, a primary material input. The Department determined that when we have a suitable value from a comparable economy, the Department should not use a U.S. surrogate value. Since the Department has determined that import data from the Spanish Ministry of Customs are a suitable surrogate value from a country more comparable to China than is the United States, the Department continues to reject the use of the alternative U.S. data for the valuation of whole, live crawfish.

Since we are continuing to use the Spanish Ministry of Customs import data in our final results of review, arguments concerning the need to adjust U.S. data are moot. Moreover, for the reasons explained in the original investigation, we have determined that it is not appropriate to adjust this surrogate value to account for alleged differences in the labor cost between China and the United States or Spain. See *Notice of Final Determination of Sales at Less Than Fair Value: Freshwater Crawfish Tail Meat from the People's Republic of China*, 62 FR 41347 (August 1, 1997) (*Final Determination*).

Comment 6: Adjustment to U.S. Price Based on Crawfish Size

NNL argues that the LSU data should be modified since it contains jumbo crawfish. NNL maintains that the record shows that the crawfish used by Yinxian No. 2 Freezing Factory (Y2FF) to produce tail meat did not include jumbo crawfish. NNL claims that petitioner's own expert in the underlying investigation confirmed that grading was done in Louisiana and even provided price differentials between small and large crawfish. NNL suggests that these price differentials should be used as a basis to modify the average 1997 LSU price to a lower price.

Petitioner argues that no adjustment for crawfish size is warranted and the Department should again reject this argument as it did in the preliminary results of review. Petitioner contends that no additional information or argument has been presented in this

proceeding to warrant such an adjustment.

Department's Position

Since we are continuing to use the Spanish Ministry of Customs import data in our final results of review, the issue of any adjustment to the alternative U.S. data is moot.

Comment 7: Surrogate Value for Crawfish Waste

Petitioner argues that the Department should find that the surrogate value for crawfish scrap and waste is zero because such material has no commercial value in market-economy countries where crawfish tail meat is produced. Petitioner cites the *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544 (May 8, 1995) (*Furfuryl Alcohol*) in support of its position. Petitioner also contends that the material imported into India under the tariff classification 0508.00.05, the classification used for the scrap credit factor, is not crawfish scrap. Petitioner claims that, because the Department has determined that, except for the United States, the countries exporting crawfish scrap to India are not, in fact, producers of crawfish, and because the United States crawfish processors are not able to sell crawfish scrap, the scrap being imported by India must contain shells other than crawfish. Petitioner further argues that the import values under this tariff classification are aberrational because they exhibit huge and unexplained variations. Petitioner maintains that these variations demonstrate that the data are faulty or that imports under this tariff number include a number of different products with widely varying values. In addition, petitioner claims that the unit prices for this tariff classification represent an unreasonably high percentage of the value of live crawfish. Therefore, petitioner argues that the surrogate value for crawfish scrap should reflect the value of such scrap in market economy countries, which is zero.

NNL argues that the Department should continue to treat the offset for byproduct as it did in the preliminary results. NNL contends that there is a demand for crawfish shells in the world (in both market and non-market economy countries). NNL states that information has been placed on the record regarding the fact that crustacean shells (including crawfish shells) are used to produce chitosan, and that chitosan has a wide and quickly growing variety of uses. NNL states that in India, the country in which we have

valued crawfish scrap, crustacean shells are purchased by producers of chitosan. Therefore, NNL argues, there is a commercial demand and use for crawfish scrap.

NNL further argues that the actual test for determining whether a by-product credit should be granted is whether the product for which a by-product credit is claimed is linked to the production of the subject merchandise, and a benefit accrues to the manufacturer (or seller) of the by-product. NNL maintains that it meets the two prongs of the test. First, crawfish shells are linked to the production of crawfish tail meat, and second, NNL proved at verification that an economic benefit accrued to them by way of the sale of the crawfish shells. Therefore, NNL argues, the Department's policy requires the granting of a credit.

Finally, NNL contends that it is common for the Department to use comparable merchandise both as a surrogate value for the raw materials and for by-products. NNL argues that, while Indian HTS 0508.00.05 may or may not contain the specific items at issue, it does contain comparable merchandise, namely other shells of crustaceans, and is the best data on the record.

Department's Position

We agree with NNL. In the *Final Determination of Sales at Less Than Fair Value: Coumarin from the People's Republic of China*, 59 FR 66895 (December 28, 1994), the Department determined that the treatment of a by-product as an offset is consistent with generally accepted accounting principles (GAAP) and previous Department practice so long as an economic benefit accrued to the firm and the benefit was linked to production of the subject merchandise. We agree that GAAP allows for by-product offsets on the basis of production quantities. We have verified that the by-product is a result of the production process and that through the sale of crawfish shells, an economic benefit has accrued to NNL.

It is the Department's practice to use comparable merchandise as a surrogate for valuing by-product. In the original investigation, the Department valued by-product using the same HTS category used in this new shipper review. See *Final Determination*. To date, no tariff classification exists that includes only shells of crawfish. Additionally, the Department has determined that the Indian HTS category is the best data on the record. We attempted to determine the composition of Indian imports under the HTS category used to value

the by-product during the period in which we valued factors of production. We were unable to obtain such information. We also attempted to find information regarding imports into other countries deemed comparable to China in terms of economic development. We discovered that no other tariff classifications for comparable merchandise are as detailed as the Indian HTS category under which we valued the crawfish shells. See *Memorandum to Edward Yang through Maureen Flannery from Laurel LaCivita and Mike Strollo: Valuation of By-Product as an Offset in the New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China*, dated May 13, 1999.

We disagree with petitioner's claim that, since crawfish shells have no value in market-economy countries, the Department should assign a surrogate value of zero to NNL's crawfish scrap. Petitioner cites the Department's treatment of corn cobs in *Furfuryl Alcohol*. In *Furfuryl Alcohol*, the Department valued corn cobs in its surrogate country. In this country, corn cobs were considered waste and had no value. Unlike in *Furfuryl Alcohol*, however, shells of crustaceans, echinoderms, and molluscs, what the Department considers to be comparable merchandise, have a value. Therefore, the Department has continued to value crawfish shells using the Indian surrogate value.

Moreover, it is not uncommon for prices within the same HTS category to vary. See *Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from Romania; Tehnoimportexport, S.A. Analysis Memorandum for the Preliminary Results of the Ninth Administrative Review*, (February 12, 1999), in which the Department used a steel category as a surrogate which had values ranging from \$0.51 per kilogram to \$2.72 per kilogram. While we agree that the per unit value of imports from Sri Lanka into India is significantly larger than that of imports from other countries, because it comprises such a large percentage of India's imports during the POR, and because there is no evidence to indicate it includes items other than crustacean shells, we have not eliminated it from the Indian import statistics used. Consequently, the Department continues to treat the by-product offset to normal value as it did in the preliminary results of review.

Comment 8: Calculation of Selling, General and Administrative (SG&A) Expenses

NNL argues that while it does not object to the general methodology used by the Department, it is apparent that SG&A is overstated, as the SG&A data used by the Department include costs such as ocean freight, duties and sales commissions. The Department has already deducted two of these expenses, ocean freight and duties, from U.S. sales price. NNL contends that these costs are double-counted by being included in SG&A. Additionally, NNL argues that sales commissions are not relevant in this case. NNL contends that the SG&A of two Indian seafood companies used in the valuation of factory overhead, SG&A and profit (Alsa Marine and DCL Maritech) should be adjusted to avoid irrelevant costs and double-counting.

Petitioner argues that the surrogate value for SG&A is intended to represent the costs of SG&A expenses for an enterprise producing and selling comparable merchandise in a market-economy country. Petitioner contends that it is irrelevant whether NNL paid commissions. Instead, petitioner maintains that the relevant issue is the valuation of selling expenses in the surrogate country. Petitioner argues that if Alsa Marine and DCL Maritech have structured their operations in such a way that they rely upon commissioned sales personnel to move their products, then commissions are clearly a part of their selling expenses and must be included. Petitioner argues the amounts denominated as "Sales Commission" by Alsa Marine and "ECGC Commission" by DCL Maritech should, therefore, continue to be included as part of the SG&A ratio.

Department's Position

We agree, in part, with NNL. For these final results, we have subtracted ocean freight expenses in the calculation of SG&A for Alsa Marine and DCL Maritech, two of the four Indian companies used to derive surrogate values for factory overhead, SG&A and profit. These expenses are not normally part of SG&A, and are subtracted from the U.S. price. See *Final Determination of Sales at Less Than Fair Value: Bicycles from the People's Republic of China*, 61 FR 19026 (April 30, 1996) (*Bicycles*) and the *Final Determination of Sales at Less Than Fair Value: Brake Drums and Brake Rotors from the People's Republic of China*, 62 FR 9160 (February 28, 1997), where we made adjustments to surrogate values for SG&A.

On the other hand, we disagree with NNL that the line item for "Cess. Duty and Shipment" should be subtracted out of our surrogate value for SG&A. The Department was unable to determine the proper definitions of "Cess. Duty and Shipment" based upon the financial statements and the notes to the financial statements of Alsa Marine and, therefore, could not conclude that this line item contained only expenses paid for duties.

Furthermore, we disagree with NNL's claim that since commissions are not relevant in this case, they should be excluded from our calculation. The total selling expenses of the surrogate producer represent the total expenses incurred for selling the product, regardless of whether those expenses are incurred by the producer itself or by an agent. Furthermore, there is no evidence that the inclusion of commission expenses in SG&A results in double counting selling expenses. Therefore, we conclude that it is appropriate to include all other selling expenses, with the exception of ocean freight, incurred by the Indian seafood companies, in the calculation of SG&A.

Comment 9: Calculation of Profit

NNL argues that in calculating a surrogate value for profit, the Department should use the actual profit data for the four Indian companies instead of using zero where the company incurred a loss.

Department's Position

We disagree with NNL. Section 773(e)(2)(A) requires that profit for CV be based on sales in the ordinary course of trade. Negative profit, or loss, indicates that the surrogate company used to value profit made sales below the cost of production, which are outside the ordinary course of trade. Therefore, the Department treated the surrogate company's loss as zero profit. See *Bicycles*.

Comment 10: Exchange Rates

Petitioner argues that the Department should use exchange rates based on the period of review (POR) average rather than the date of sale to convert surrogate values. Petitioner contends that the approach used in the preliminary results is inconsistent with the Department's practice in other NME cases. Petitioner claims that while the Department uses exchange rates in effect on the date of sale to translate the price of a U.S. sale that is stated in non-U.S. currency, the normal value is intended to represent a POR-average value. Petitioner maintains that it is inconsistent to first inflate pre-POR

surrogate values to the POR and then translate the inflated price to U.S. dollars using only the date-of-sale exchange rate.

Department's Position

We agree with petitioner, in part. In *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results of 1996-1997 Antidumping Duty Administrative Review*, 63 FR 63842 (November 17, 1998), the Department discussed this issue at length and determined that using a POR-average is a more appropriate method for currency conversion than the date of sale as stated in section 351.415 of the Department's regulations.

In this case, however, the factors of production were reported for a period prior to the POR and valued for a period concurrent with the period in which the factors were reported. Therefore, in order to ensure a more accurate valuation of the factors of production, we valued factors for the same period for which they were reported. Where necessary, we inflated factor values to the factor valuation period. We then used a simple average exchange rate to convert factor values to U.S. dollars.

Comment 11: Ministerial Errors Alleged by NNL

NNL contends that the Department did not convert rupees into dollars when calculating domestic inland freight and, therefore, should correct this in its calculations for the final results of review.

Department's Position

We agree with NNL and have corrected the error for these final results of review.

Final Results of Review

As a result of our review and the comments received, we have changed the results from those presented in our preliminary results of the review. Therefore, we determine that the following weighted-average margin exists as a result of our review:

Manufacturer/ Exporter	Time period	Margin (per- cent)
Ningbo Nanlian Fro- zen Foods Co., Ltd.	09/01/97- 03/31/98	0.00

We will instruct the Customs Service not to assess antidumping duties on entries of the subject merchandise from NNL made during the POR.

Furthermore, the following cash deposit rates will be effective upon publication of this notice of final results of review for all shipments of freshwater crawfish tail meat from the PRC 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 NNL, which was found to merit a separate rate for the final results of this review, the cash deposit rate will be 0.00 percent; (2) for previously-reviewed PRC and non-PRC exporters with separate rates, the cash deposit rate will be the company-specific rate established for the most recent period; (3) for all other PRC exporters, the cash deposit rate will be the PRC-wide rate, 201.63 percent; and (4) for non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter. These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification of Interested Parties

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

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 351.305(a)(3) of the Department's regulations. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This new shipper review and notice are issued and published in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 351.214.

Dated: May 17, 1999.

Bernard Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99-13075 Filed 5-21-99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-583-827]

Static Random Access Memory Semiconductors From Taiwan; Antidumping Duty New Shipper Review; Time Limits

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

ACTION: Notice of Extension of Time Limits of Preliminary Results of Review.

SUMMARY: The Department of Commerce is extending the time limits of the preliminary results of the antidumping duty new shipper review of static random access memory semiconductors from Taiwan. The review covers one manufacturer/exporter of the subject merchandise to the United States for the period October 1, 1997, through September 30, 1998.

EFFECTIVE DATE: May 24, 1999.

FOR FURTHER INFORMATION CONTACT: Shawn Thompson or Sergio Gonzalez, Office 5, Office of AD/CVD Enforcement, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482-1776, or (202) 482-1779, respectively.

SUPPLEMENTARY INFORMATION: On December 7, 1998, the Department of Commerce (the Department) initiated a new shipper review relating to the antidumping duty order on static random access memory semiconductors from Taiwan, covering the period October 1, 1997, through September 30, 1998 (63 FR 67456). Therefore, the current deadline for the preliminary results of this new shipper review is June 7, 1999. Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue preliminary results within 180 days after the date on which the new shipper review was initiated. However, when the Department determines that a case is extraordinarily complicated, it may extend the 180-day period to 300 days, according to 19 CFR 351.214(i)(2), (62 FR 27296, 27396 (1997)). Pursuant to section 751(a)(2)(B)(iv) of the Act, the Department has determined that this case is extraordinarily complicated, given that extra time is needed to analyze complex sales and difference in merchandise issues. For further discussion see memorandum to Robert S. LaRussa dated May 17, 1999.

Thus, in accordance with the statutory and regulatory authority cited