

	Period
<b>COUNTERVAILING PROCEEDINGS</b>	
None	
<b>SUSPENSION AGREEMENTS</b>	
Venezuela: Cement, A-307-803 .....	2/1/96-1/31/97

In accordance with §§ 353.22(a) and 355.22(a) of the regulations, an interested party as defined by § 353.2(k) may request in writing that the Secretary conduct an administrative review. The Department has changed its requirements for requesting reviews for countervailing duty orders. Pursuant to 19 CFR 355.22(a) of the regulations, an interested party must specify the individual producers or exporters covered by the order or suspension agreement for which they are requesting a review, (Interim Regulations, 60 FR 25130, 25137 (May 11, 1995)). Therefore, for both antidumping and countervailing duty reviews, the interested party must specify for which individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin, and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B-099, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC. 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/ Countervailing Enforcement, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with § 353.31(g) or § 355.31(g) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the Federal Register a notice of "Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended

Investigation," for requests received by the last day of February 1997. If the Department does not receive, by the last day of February 1997, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute, but is published as a service to the international trading community.

Dated: January 28, 1997.

Jeffrey P. Bialos,

*Principal Deputy Assistant Secretary for Import Administration.*

[FR Doc. 97-2610 Filed 1-31-97; 8:45 am]

BILLING CODE 3510-DS-M

#### [A-570-506]

#### **Porcelain-on-Steel Cooking Ware From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review**

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

**ACTION:** Notice of Preliminary Results of Antidumping Duty Administrative Review.

**SUMMARY:** In response to a request by an importer of the subject merchandise, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on porcelain-on-steel (POS) cooking ware from the People's Republic of China (PRC). The review covers one manufacturer/exporter of the subject merchandise and its affiliated third-country reseller in Hong Kong and the period December 1, 1994 through November 30, 1995. The review preliminarily indicates the existence of a dumping margin during the period of review.

We have preliminarily determined that sales have been made below normal value (NV). If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service to assess antidumping duties on all appropriate entries. Interested parties are invited to comment on these preliminary results.

**EFFECTIVE DATE:** February 3, 1997.

**FOR FURTHER INFORMATION CONTACT:** Judy Kornfeld or Kelly Parkhill, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington D.C. 20230; telephone: (202) 482-2786.

#### Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions as of January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

#### **SUPPLEMENTARY INFORMATION:**

##### Background

On December 2, 1986, the Department published in the Federal Register the antidumping duty order on POS cooking ware from the PRC (51 FR 43414). On December 4, 1995, the Department published in the Federal Register a notice of opportunity to request an administrative review of this antidumping duty order (60 FR 62070). On February 27, 1995, in accordance with 19 CFR 353.22(a), an importer of the subject merchandise to the United States, CGS International, requested that the Department conduct an administrative review of Clover Enamelware Enterprise, Ltd. of China (Clover), a manufacturer/exporter, and its third-country reseller Lucky Enamelware Factory Ltd. of Hong Kong (Lucky). We published the notice of initiation of this review covering the

period December 1, 1994 through November 30, 1995, on February 1, 1995 (61 FR 3670). The Department is conducting this administrative review of one manufacturer/exporter of POS cooking ware from the PRC, Clover, and its third-country reseller in Hong Kong, Lucky, in accordance with section 751(a) of the Act. We will be conducting verification of the information provided by Clover and Lucky after publication of the preliminary results of this administrative review. The final results will incorporate our findings from the verification.

#### Scope of the Review

Imports covered by this review are shipments of POS cooking ware, including tea kettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses. The merchandise is currently classifiable under the HTS item 7323.94.00. HTS items numbers are provided for convenience and Customs purposes. The written description of the scope remains dispositive.

#### Collapsing

The Department collapses affiliated firms (*i.e.*, treats them as a single entity for review purposes and assigns them a single dumping margin) where the type and degree of relationship is so significant that we find there is a strong possibility of price manipulation. See *Notice of Final Determination of Sales at Less Than Fair Value: Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, From Japan* (61 FR 38139, 38163; July 23, 1996). See also *Nihon Cement Co. Ltd. v. United States*, 17 CIT 400 (CIT 1993).

Clover is two-thirds owned by Lucky and therefore Lucky holds controlling interest in Clover. Due to Lucky's ownership interest in Clover, and the fact that the same individual is the general manager at both companies, we consider Clover and Lucky to be affiliated pursuant to section 771(33) of the Act. As such, and consistent with prior reviews of this order, we are collapsing Clover and Lucky (hereafter Clover/Lucky) and assigning them a single dumping margin. For a further discussion of this issue, see Memorandum from Case Analyst to the File "Status as Affiliated Parties" dated January 17, 1997, which is a public document on file in the Central Records Unit (room B-099 of the Main Commerce Building).

#### Separate Rates

Lucky is located outside the PRC and there is no PRC ownership of the company. Therefore, we determine that no separate rates analysis is required for this third-country reseller because it is beyond the jurisdiction of the PRC government. See *Final Determination of Sales at Less Than Fair Value; Disposable Pocket Lighters from the People's Republic of China* (60 FR 22359, 22361; May 5, 1995). Clover is partially owned by a PRC government company and therefore a separate rates analysis is necessary to determine whether this exporter is independent from government control.

To establish whether a company is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*), as amplified in *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*). Under this policy, exporters in non-market-economy (NME) countries are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports.

##### 1. Absence of De Jure Control

Evidence supporting, though not requiring, a finding of *de jure* absence of government control includes: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. Clover's submissions pertaining to legislative enactments and the terms of its Enterprise Legal Person Operation License demonstrate the absence of *de jure* control. (See Memorandum from Kelly Parkhill to Barbara E. Tillman, dated January 17, 1997, "Assignment of Separate Rate for Clover/Lucky in the 1993-1994 and 1994-1995 Administrative Reviews of POS Cooking Ware from the People's Republic of China" (*Separate Rate Memorandum*), which is a public document on file in the Central Records Unit (room B-009 of the Department of Commerce).

##### 2. Absence of De Facto Control

*De facto* absence of government control with respect to exports is based

on four criteria: (1) whether the export prices are set by or subject to the approval of a government authority; (2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits and financing of losses; (3) whether each exporter has autonomy in making decisions regarding the selection of management; and (4) whether each exporter has the authority to negotiate and sign contracts. See *Silicon Carbide* at 22587.

With respect to *de facto* absence of government control, the information submitted by Clover in the questionnaire response indicates the following: (1) no government entity exercises control over its export prices; (2) it negotiates contracts without guidance from any governmental entities or organizations; (3) it makes its own personnel decisions; and (4) it retains the proceeds of its export sales, utilizing profits to provide dividends to shareholders, and it has the authority to seek out loans at market interest rates. This information supports the finding that there is *de facto* absence of governmental control of export functions. Consequently, we have determined that Clover/Lucky has met the criteria for the application of separate rates according to the criteria identified in *Sparklers* and *Silicon Carbide*. For a further discussion of this issue, see *Separate Rate Memorandum*.

#### Export Price

The Department used export price (EP) for sales made by Clover/Lucky, in accordance with section 772(a) of the Act, because the subject merchandise was sold to unaffiliated purchasers in the United States, or Hong Kong (in cases where Clover/Lucky knew the ultimate destination was the United States), prior to importation into the United States and constructed export price is not otherwise indicated.

We calculated EP based on Lucky's price charged to unaffiliated purchasers in the United States because Lucky is the sales agent with respect to all subject merchandise manufactured by Clover. We deducted amounts, where appropriate, for discounts, and for brokerage and handling, foreign inland freight, ocean freight, and marine insurance, which were provided by market economy carriers and paid for in market economy currencies.

#### Normal Value

For companies located in NME countries, section 773(c)(1) of the Act provides that the Department shall determine normal value (NV) using a factors of production methodology if (1)

the subject merchandise is exported from an NME country, and (2) available information does not permit the calculation of NV using home market prices or third country prices, in accordance with section 773(a) of the Act.

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. Pursuant to section 771(18)(c)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. None of the parties to this proceeding has contested such treatment in this review. Accordingly, we treated the PRC as an NME country for purposes of this review.

We calculated NV by valuing factors of production as set forth in 773(c)(3) of the Act, except for the factors of steel, percolators and packing materials. For these factors, which were paid for in market economy currencies, we used the actual prices paid for the factors to calculate the factor-based NV in accordance with our practice. See *Lasko Metal Products v. United States*, 437 F.3d 1442, 1443 (Fed. Cir. 1994).

For the remaining factors, we have selected a comparable market economy country which is a significant producer of comparable merchandise. Pursuant to section 773(c)(4) of the Act and section 353.52(c) of the Department's regulations, we determined that Indonesia is comparable to the PRC in terms of per capita gross national product (GNP), the growth rate in per capita GNP, and the national distribution of labor, and that Indonesia is a significant producer of comparable merchandise. Therefore, for this review, we have used publicly available published information regarding Indonesia to value most of the factors of production. (See Memorandum to Barbara Tillman, Director, Office of CVD/AD Enforcement VI from David Mueller, Director, Office of Policy, dated September 24, 1996, "Porcelain-on-Steel Cooking Ware from the People's Republic of China, Non-Market Economy Status and Surrogate Country Selection" and Memorandum to the File from Case Analysts, dated January 13, 1997, "Porcelain-on-Steel Cooking Ware from the People's Republic of China—Surrogate Country Selection," which are public documents on file in the Central Records Unit (room B-099 of the Main Commerce Building).)

For purposes of calculating NV, we valued PRC factors of production as follows, in accordance with section 773(c)(1) of the Act:

- For surrogate values of materials used in the production of POS cooking ware, including soda ash, sulphuric acid, degreasing agents, borax, barium molybdate, magnesium sulphate, potassium carbonate, urea, quartz powder, clay, color oxides, and enamel frits, we used per kilogram values obtained from the *Foreign Trade Statistical Bulletin-Imports*, November 1995, from Indonesia (Indonesian Import Statistics).

We calculated a cost for freight incurred between the supplier and Clover by using the freight rates reported in a September, 1991 cable from the U.S. Embassy in Jakarta, Indonesia and the actual kilometers reported in the questionnaire response. The cable was received for the less than fair value (LTFV) investigation of *Certain Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China*. We adjusted these freight rates to reflect yearly inflation through the period of review (POR) using wholesale price indices (WPI), excluding petroleum, obtained from the *International Financial Statistics* published by the International Monetary Fund (IMF).

- For labor amounts, we were unable to find a published, publicly available source for skilled and unskilled labor rates for the POS cooking ware industry, or other a similar industry, in Indonesia. We therefore used information obtained from a September, 1991 cable from the U.S. Embassy in Jakarta, Indonesia. This cable was received for the LTFV investigation of *Certain Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China*, and provides unskilled and skilled labor rates. We adjusted these labor rates to reflect yearly inflation through the POR using consumer price indices (CPI) obtained from the *International Financial Statistics* published by the IMF.

- For factory overhead, we were unable to locate any published, publicly available data for the POS cooking ware industry, or a similar industry, in Indonesia. Therefore, we used information reported in a December 2, 1994, U.S. State Department cable from the U.S. Embassy in Jakarta, Indonesia. This data was received for the LTFV investigation of *Furfuryl Alcohol from the People's Republic of China*, and provides an estimated range of factory overhead costs in Indonesia. The information was also used in the LTFV investigation of *Disposable Pocket Lighters from the People's Republic of China*. From this information, we were able to determine factory overhead as a percentage of materials and labor. The

surrogate overhead rate included energy and indirect labor; therefore, we did not include Clover/Lucky's reported energy and indirect labor factors.

- For selling, general and administrative (SG&A) expenses, we were unable to find published, publicly available data for POS cooking ware, or a similar industry, in Indonesia. Therefore, we used information obtained from a September, 1991 cable from the U.S. Embassy in Jakarta, Indonesia. This cable was received for the LTFV investigation of *Certain Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China*, and provides an estimated range of SG&A percentages.

- For profit, we could not find published, publicly available data for the POS cooking ware industry, or another similar industry, in Indonesia. Therefore, to calculate a profit rate, we used information obtained from a September 1991 cable from the U.S. Embassy in Jakarta, Indonesia. This cable was received for the LTFV investigation of *Certain Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China*, and provides a range of profit margin percentages.

For a complete analysis of surrogate values, see "Factor Values Used for the Preliminary Results of the 1994-1995 Administrative Review of POS Cooking Ware from the PRC" (Public Version) dated January 17, 1997, on file in the Central Records Unit (room B-099 of the Main Commerce Building).

#### Use of Facts Available

Section 776(a)(1) of the Act states that if necessary information is not available on the record, the Department shall use the facts otherwise available in reaching the applicable determination. Section 776(b) of the Act authorizes the Department to use as facts otherwise available information derived from the petition, the final determination, a previous review, or other information placed on the record. We preliminarily determine, in accordance with section 776(a)(1) of the Act, that the use of partial facts available as the basis for calculating certain constructed values is appropriate in this case.

Clover/Lucky did not report some or all factors of production data for three models sold in the U.S. during the POR. Since Clover/Lucky did not act to the best of its ability in responding to our request for such information pursuant to section 782(e)(4) of the Act, we have drawn an adverse inference under the authority provided by section 776 of the Act. As partial facts available, we are using the highest rate applicable to the

company from a previous review or the original LTFV investigation to calculate constructed values for those models for which incomplete or no factors of production data was reported.

We have also used partial facts available to calculate the packing materials cost for one other model for which no packing factors of production data was submitted. As facts available, we are using the highest packing materials cost, excluding set costs, for an individual piece of cooking ware from the information submitted by Clover/Lucky. *See Notice of Final Results of Antidumping Duty Administrative Review: Welded Carbon Steel Pipe from Turkey* (61 FR 69067, 69073; December 31, 1996).

**Currency Conversion**

We made currency conversions pursuant to section 773A(a) of the Act and section 353.60(a) of the Department's regulations. Currency conversions were made at rates certified by the Federal Reserve Bank.

**Preliminary Results of the Review**

As a result of our review, we preliminarily determine that the following dumping margins exist for the period December 1, 1994 through November 30, 1995:

Manufacturer/Exporter	Margin (percent)
Clover Enamelware Enterprise/ Lucky Enamelware Factory ...	1.32
PRC-Wide Rate .....	66.65

The PRC-wide rate applies to all entries of subject merchandise except for entries from manufacturers and exporters that are individually identified above. The Department implements a policy in NME cases whereby all exporters or producers are presumed to comprise a single entity, the "NME entity." The U.S. Court of International Trade has upheld our NME policy in previous cases. *See, e.g., UCF America, Inc. v. United States*, 870 F. Supp. 1120, 1126 (CIT 1994); *Sigma Corp. v. United States*, 841 F. Supp. 1255, 1266-67 (CIT 1993), and; *Tianjin Machinery Import & Export Corp. v. United States*, 806 F. Supp. 1008, 1013-15 (CIT 1992). Thus, we assign the NME rate to the NME entity just as we assign an individual rate to a single exporter or producer operating in a market economy. As a result, all exporters and producers that are part of the NME entity are assigned the "NME-wide" rate. Because the "NME-wide" rate is the equivalent of a company-specific rate, it changes only when we review the NME entity (*i.e.*, all NME producers

and exporters that have not qualified for a separate rate). To qualify for a separate rate, as discussed under the *Separate Rates* section of this notice, an NME exporter or producer must provide evidence showing both *de jure* and *de facto* absence of government control over export activities. Until such evidence is presented, a company is presumed to be part of the NME entity and receives the "NME-wide" rate. All exporters or producers will either qualify for separate company-specific rate, or be part of the NME enterprise, and receive the "NME-wide" rate. Thus, there can be no exporters or producers who have never been investigated or reviewed. In this review, Clover/Lucky qualifies for a separate rate as discussed in the "Separate Rates" section of this notice. The PRC-wide rate has not changed from the last administrative review because no company representing the single entity was reviewed.

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice in accordance with 19 CFR 353.22(c)(6). Any interested party may request a hearing within 10 days of publication in accordance with 19 CFR 353.38(b). Any hearing, if requested, will be held 44 days after the publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice in accordance with 19 CFR 353.38(c). In accordance with 19 CFR 353.38(d), rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. The Department will publish a notice of final results of this administrative review, which will include the results of its analysis of issues raised in any such comments.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between export price and NV may vary from the percentages stated above. The Department will issue appraisement instructions directly to the U.S. Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of POS cooking ware 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 Clover/Lucky, which has a separate rate, the cash deposit rate will be the company-specific rate established in the final results of this administrative review; (2) for all other PRC exporters, the cash deposit rate will be the PRC-wide rate established in the final results of this administrative review; and (3) the cash deposit rates for non-PRC exporters of subject merchandise from the PRC will be the rates applicable to the PRC supplier of that exporter. We preliminarily determine that the PRC-wide rate continues to be 66.65 percent because no company representing the single entity was reviewed. This is the highest rate found for any respondent in the LTFV investigation or any review. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

**Notification of Interested Parties**

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 of the Department's regulations 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 in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22 of the Department's regulations.

Dated: January 21, 1997.

Robert S. LaRussa,

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 97-2611 Filed 1-31-97; 8:45 am]

BILLING CODE 3510-DS-P

**National Oceanic and Atmospheric Administration**

[I.D. 012797H]

**Gulf of Mexico Fishery Management Council; Public Meeting**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Gulf of Mexico Fishery Management Council (Council) will