Cooperative Workshop, Inc., Sedalia, Missouri

G. John Heyer,

General Counsel.

[FR Doc. 97–201 Filed 1–6–97; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–812]

Dynamic Random Access Memory Semiconductors of One Megabit or Above From the Republic of Korea; Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On July 9, 1996, the Department of Commerce (the Department) published the preliminary results of administrative review of the antidumping duty order on dynamic random access memory semiconductors (DRAMs) of one megabit or above from the Republic of Korea (61 FR 36029). The review covers two manufacturers/exporters of the subject merchandise to the United States for the period May 1, 1994 through April 30, 1995. These manufacturers/exporters are LG Semicon Co., Ltd. (LGS, formerly Goldstar Electron Co., Ltd.) and Hyundai Electronics Industries, Inc. (HEI/Hyundai).

As a result of our analysis of the comments received, the antidumping margins have changed from those presented in our preliminary results.

EFFECTIVE DATE: January 7, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas F. Futtner, AD/CVD Enforcement Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–3814.

SUPPLEMENTARY INFORMATION:

Background

On May 10, 1995, the Department published a notice of ''Opportunity to Request an Administrative Review'' of this antidumping duty order for the period of May 1, 1994, through April 30, 1995 (60 FR 24831). We received timely requests for review from three manufacturers/exporters of subject merchandise to the United States: Hyundai Electronics Industries, Co. (Hyundai), LG Semicon Co., Ltd. (LGS, formerly Goldstar Electron Co., Ltd.), and Samsung Electronics Co. (Samsung). The petitioner, Micron Technologies Inc., requested an administrative review of these same three Korean manufacturers of DRAMs. On June 15, 1995, the Department initiated a review of the above Korean manufacturers (60 FR 31447). The period of review (POR) for all respondents was May 1, 1994, through April 30, 1995.

On June 26, 1995, in accordance with section 773(b)(2)(A)(ii) of the Tariff Act of 1930, we also initiated an investigation to determine if Hyundai and LGS made sales of the subject merchandise below the cost of production (COP) during the POR based upon the fact that we disregarded sales found to have been made below the COP in the original less-than-fair-value (LTFV) investigation.

Samsung, formerly a respondent in this administrative review, was excluded from the antidumping duty order on DRAMs from Korea on February 8, 1996. See Final Court Decision and Partial Amended Final Determination: Dynamic Random Access Memory Semiconductors of One Megabit and Above From the Republic of Korea, 61 FR 4765 (February 8, 1996). Accordingly, we terminated this review with respect to Samsung.

On July 9, 1996, the Department published the preliminary results (61 FR 36029) of administrative review of the antidumping duty order on DRAMs of one megabit or above from the Republic of Korea. We received timely comments from the petitioner and both respondents.

Scope of the Review

Imports covered by the review are shipments of DRAMs of one megabit and above from the Republic of Korea (Korea). For purposes of this review, DRAMs are all one megabit and above, whether assembled or unassembled. Assembled DRAMs include all package types. Unassembled DRAMs include processed wafers, uncut die and cut die. Processed wafers produced in Korea, but packaged, or assembled into memory modules in a third country, are included in the scope; wafers produced in a third country and assembled or packaged in Korea are not included in the scope of this review.

The scope of this review includes memory modules. A memory module is a collection of DRAMs, the sole function of which is memory. Modules include single in-line processing modules (SIPs), single in-line memory modules (SIMMs), or other collections of DRAMs, whether unmounted or mounted on a circuit board. Modules that contain other parts that are needed to support the function of memory are covered. Only those modules which contain additional items which alter the function of the module to something other than memory, such as video graphics adapter (VGA) boards and cards, are not included in the scope.

The scope of this review also includes video random access memory semiconductors (VRAMs), as well as any future packaging and assembling of DRAMs.

The scope of this review also includes removable memory modules placed on motherboards, with or without a central processing unit (CPU), unless the importer of motherboards certifies with the Customs Service that neither it, nor a party related to it or under contract to it, will remove the modules from the motherboards after importation. The scope of this review does not include DRAMs or memory modules that are reimported for repair or replacement.

The DRAMs subject to this review are classifiable under subheadings 8542.11.0001, 8542.11.0024, 8542.11.0026, and 8542.11.0034 of the Harmonized Tariff Schedule of the United States (HTSUS). Also included in the scope are those removable Korean DRAMs contained on or within products classifiable under subheadings 8471.91.0000 and 8473.30.4000 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this review remains dispositive.

Applicable Statute and Regulations

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 (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).

United States Price

We calculated U.S. price according to the methodology described in our preliminary results.

Normal Value

We calculated normal value (NV) according to the methodology described in our preliminary results.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results of this administrative review. We received timely comments from the petitioner and both respondents.

General Comments

Comment 1

The petitioner argues (1) that the Department should not have allowed a level of trade adjustment for both respondents, and (2) that the Department inappropriately applied a constructed export price (CEP) offset to respondents' CEP sales for this level of trade adjustment. The petitioner maintains that the Department erred in determining that one level of trade existed in the home market (direct sales by the parent corporation to the domestic customer) and a different level of trade existed in the U.S. market, where the Department used the level of trade of the sale to the affiliated importer rather than the resale to the unaffiliated customer (i.e., a ''constructed'' level of trade). According to the petitioner, the Act and the SAA do not permit the Department to use a ''constructed'' level of trade for CEP sales when identifying the level of trade. The petitioner argues that section 773(a)(7)(A) of the Act, which provides for a level of trade adjustment, does not make any distinction between export price (EP) sales and CEP sales, and that the distinction between EP and CEP sales in subsections 772(a) and 772(b) of the Act does not warrant any different treatment when identifying levels of trade.

The petitioner argues that, in view of the sections of the Act mentioned above, the Department's interpretation of the SAA as permitting a constructed level of trade means that the home market level of trade will always be a more advanced stage of distribution than the level of trade of the CEP and that the data available will never provide an adequate basis to determine a level of trade adjustment, and thus that the CEP offset will always be used. The SAA, according to the petitioner, intended the application of the CEP offset to be an exception, rather than the rule. The Department's acceptance of a constructed level of trade, the petitioner argues, contradicts the SAA's intent and the intent of the statute in section 773(a)(7)(A).

The petitioner argues further that, even if the Department adheres to the distinction between EP and CEP sales in determining the starting price for determining the level of trade, neither respondent has adequately demonstrated that it is entitled to a level of trade adjustment. The petitioner argues that the simple enumeration of selling functions in both the home market and in the U.S. market is not sufficient to demonstrate the significance of the differing selling functions in both markets.

LGS and Hyundai argue that the Department correctly applied the CEP offset to adjust for differences in the levels of trade in the two markets which were not able to be quantified. Both respondents assert that the Department's use of a ''constructed'' level of trade when analyzing CEP sales is in accordance with past interpretation of the SAA and of the Act. LGS maintains that the Department has consistently followed this approach and has explicitly stated in the antidumping questionnaire that constructed level of trade will be used.

LGS and Hyundai also reject the petitioner's argument that respondents have not adequately documented differences in selling functions in the home and in the U.S. markets. Respondents point out that the petitioner only referenced the brief discussion of the selling function differences contained in the notice of preliminary results and ignores the detailed analysis presented in its questionnaire response and in the Department's preliminary analysis memorandum. LGS and Hyundai argue that, because respondents' home market sales were at levels of trade more advanced than its U.S. sales and it was not possible to quantify the price differential caused by these differences, the Department should continue to allow a CEP offset to NV or to constructed value (CV) to adjust for the differences of trade in the two markets.

DOC Position

We agree with respondents. We have consistently determined that the statute and the SAA both support analyzing the level of trade of CEP sales at the constructed level, after expenses associated with economic activities in the United States (section 772(d) of the Act) have been deducted. We believe that it is neither reasonable nor logical to base level of trade on the starting price for both EP and CEP sales. We stated in Antidumping Duties; Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments, 61 FR 7308, 7347 (February 27, 1996), the following:

> With respect to the identification of levels of trade, some commentators argued that, consistent with past practice, the Department should base level of trade on the starting price for both export price (''EP'') and CEP sales...The Department believes that this position is not supported by the SAA...If the starting price is used for all U.S. sales, the Department's ability to make meaningful comparisons at the same level of trade (or appropriate adjustments for differences in levels of trade) would be severely undermined in cases involving CEP sales. As noted by other commentators, using the starting price to determine the level of trade of both types of U.S. sales would result in a finding of different levels of trade for an EP sale and a CEP sale adjusted to a price that reflected the same selling functions. Accordingly, the regulations specify that the level of trade analyzed for EP sales is that of the starting price, and for CEP sales it is the constructed level of trade of the price after the deduction of U.S. selling expenses and profit.

We have consistently stated that, in those cases where a level of trade comparison is warranted and possible, then for CEP sales the level of trade will be evaluated based on the price after adjustments are made under section 772(d) of the Act (see Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, From Japan; Notice of Final Determination of Sales at Less Than Fair Value, 61 FR 38139, 38143 (July 23, 1996). In every case decided under the revised antidumping statute, we have consistently adhered to this interpretation of the SAA and of the Act. See, e.g., Aramid Fiber Formed of Poly para-Phenylene Terephthalamide from the Netherlands; Preliminary Results of Antidumping Duty Administrative Review, 61 FR 15766, 15768 (April 9, 1996); Certain Stainless Steel Wire Rods from France; Preliminary Result of Antidumping Duty Administrative Review, FR 8915, 8916 (March 6, 1996); Antifriction Bearings (Other Than Tapered Roller Bearings) and parts Thereof from France, et. al., Preliminary Results of Antidumping Duty Administrative Review, 61 FR 25713, 35718–23 (July 8, 1996). In accordance with this clear precedent, our instructions in the questionnaire response issued to respondents in this administrative review stated that constructed level of trade should be used.

We disagree that respondents have not adequately documented the differences in selling functions in the home and in the U.S. markets. As noted by respondents, the petitioner based this argument solely upon the content of the preliminary results of review and ignored the detailed data on the record of this proceeding in respondents' questionnaire responses and in our preliminary analysis memorandum concerning the differences in selling functions. These data contained detailed

information and descriptions of the differences in selling functions in the two markets (for example, the differences in shipments per month from respondents to U.S. and home market customers is described in detail).

Comment 2

The petitioner maintains that the Department's preliminary calculations contained the following clerical errors with respect to both respondents: (1) the preliminary calculations double counted interest expenses by including both reported interest expense and imputed home market credit and inventory carrying expenses in its calculation of total cost of production for purposes of calculating profit for home market, CEP, and further-processed U.S. sales; (2) the preliminary calculations failed to add U.S. packing expenses to the foreign unit price in dollars for comparisons of U.S. sales to CV; and, (3) the Department erred in computing profit for CV based upon all home market sales, including those with negative profits, maintaining that section 773(e)(2)(A) of the Act, as amended by the URAA, has changed the calculation of profit to consider only profitable sales and to exclude sales below the cost of production.

DOC Position:

We agree with the petitioner that our preliminary calculations inadvertently double counted interest expense in the computation of the total cost of production for purposes of calculating profit for home market, CEP, and further-processed U.S. sales. We also agree that U.S. packing expenses should have been added to the foreign unit price in dollars. We have revised our calculations accordingly.

While we agree that our inclusion of all home market sales for purposes of calculating profit for CV was an error, we do not agree that it was a clerical error. Section 773(e)(2)(A) of the Act specifies the addition of ''the actual amounts incurred and realized by the specific exporter or producer * * * for selling, general, and administrative expenses, and for profits, in connection with the production and sales of a foreign like product in the ordinary course of trade * * *'' Although the petitioner argues that sales below cost are outside of the ordinary course of trade, section 773(b) of the Act is clear that sales below cost may be disregarded as being outside the ordinary course of trade only if made within an extended period of time in substantial quantities and at prices which do not permit the recovery of costs within a reasonable period of time. Section 771(15) of the Act provides that sales which failed the cost of production test provided for under section 773(b) of the Act are outside the ordinary course of trade. However, section 771(15) of the Act does not provide that sales made below the cost of production per se are outside the ordinary course of trade. Thus, sales below cost are not in and of themselves outside the ordinary course of trade, only those sales which fail our cost of production test and are thus disregarded. Accordingly for both respondents, as a result of this analysis, we have revised our calculations to base profit on CV for both respondents upon those home market sales which do not fail our cost of production test.

Company-Specific Comments

LGS

Comment 3

The petitioner argues that the Department erred in its preliminary results in calculating research and development expenses for LGS by allocating only a portion of LGS' semiconductor research and development expenses over a portion of LGS' cost of sales. The petitioner maintains that, in accordance with the precedent set in the first administrative review, the Department should allocate all of LGS' semiconductor research and development expenses over all of LGS' 1994 semiconductor cost of sales. The petitioner also maintains that the Department erred in allocating LGS' purchased research and development over the applicable contract periods. According to the petitioner, any purchased research and development should be included with all semiconductor research and development expenses allocated over LGS' 1994 cost of sales.

LGS agrees with the petitioner that purchased research and development should be included in those research and development expenses allocated over cost of sales for 1994. LGS contends that since the Department rejected LGS' allocation of purchased research and development over contract periods in the previous administrative review, it should allocated research and development purchased in 1994 over 1994 cost of sales.

LGS disagrees with the petitioner that all semiconductor research and development expenses should be allocated over all cost of sales. LGS maintains that non-DRAM research and development does not benefit LGS' DRAM production and that the Department should calculate a product-specific research and development rate for LGS.

DOC Position

We agree with the petitioner that, in calculating a research and development rate for LGS, all semiconductor research and development expenses should be allocated over all of LGS' semiconductor cost of sales reported in its audited 1994 financial statements. This method of allocation is consistent with our practice in the last administrative review, where we determined that sufficient evidence of cross-fertilization exists in the semiconductor industry to rule out the use of only product or DRAM-related research and development expenses. See Dynamic Random Access Memory Semiconductors from the Republic of Korea; Final Results of Antidumping Duty Administrative Review, 61 FR 20216, 20218 (May 6, 1996).

We agree with both the petitioner and LGS that research and development purchased in 1994 should be included in those research and development expenses allocated over LGS' 1994 cost of sales.

Comment 4

LGS argues that the Department erred in the preliminary calculations by deducting indirect selling expenses and inventory carrying costs incurred in Korea from U.S. price. LGS maintains that under the revised antidumping law, such expenses which do not result from or bear relationship to selling activities in the United States should not be deducted from U.S. price. LGS argues that the SAA only permits the deduction from U.S. price of selling expenses which result from, and bear a direct relationship to, selling activities in the United States.

The petitioner argues that the Department was correct in deducting these Korean expenses from U.S. price for LGS. The petitioner maintains that section 772(d) of the Act clearly requires the Department to reduce CEP by all expenses generally incurred by or for the account of the producer. According to the petitioner, the SAA is a clarification of prior law and was not intended to change current law.

DOC Position

We agree with the respondent. Section 772(d)(1) provides for the deduction of all expenses generally incurred by or for the account of the producer or exporter, or the affiliated reseller in the United States. However, the deductions under section 772(d) of the Act do not involve all direct and indirect selling expenses. The deductions under section 772(d) of the Act remove only expenses associated

with economic activities in the United States. Thus, the CEP is not a price necessarily exclusive of all selling expenses. Therefore, we have not deducted indirect selling expenses and inventory carrying costs incurred in Korea from U.S. price because these expenses do not result from or bear relationship to selling activities in the United States.

Comment 5

LGS and the noted the following clerical errors in the Department's computer program: (1) a programming error caused several home market sale dates to be mistakenly changed; (2) the Department's preliminary results failed to deduct home market packing expenses in its calculations of net home market price; (3) the preliminary calculations mistakenly double counted U.S. repacking expense; (4) the preliminary calculations mistakenly included duty drawback and movement expenses in the calculation of CEP profit; and, (5) the preliminary results mistakenly excluded non-profitable sales when computing profit for CEP.

DOC Position

We agree with LGS on each of these points and have revised our calculations accordingly.

Hyundai

Comment 6

The petitioner maintains that Hyundai misclassified its advertising expenses in the home market as direct selling expenses. Insofar as Hyundai did not submit samples of these advertisements, the petitioner maintains that Hyundai did not meet the burden of demonstrating that these home market advertising expenses were direct in nature. The petitioner urges the Department to reclassify all of Hyundai's home market advertising expenses as indirect expenses.

Hyundai argues that its home market advertising classification is correct. Hyundai notes that its home market advertising classification methodology remains unchanged from the previous administrative review where the Department accepted Hyundai's classification of home market advertising expenses. Hyundai maintains that there is no justification for reclassifying its home market advertising expenses.

DOC Position

We agree with Hyundai. Hyundai fully complied with our instructions in the antidumping questionnaire issued for this administrative review with respect to information requested for home market advertising expenses. Because Hyundai's methodology remained unchanged from the previous administrative review, we chose not to require Hyundai to submit further documentation on its home market advertising expenses during the POR. Therefore, we have accepted Hyundai's classification of its home market advertising expenses as direct selling expenses.

Comment 7

The petitioner maintains that the Department's preliminary results did not include Hyundai's sales of DRAMs sold by the ISD and Axil divisions of Hyundai's U.S. subsidiary Hyundai Electronics America, Inc. (HEA) in its dumping margin calculations. These DRAMs were further processed by ISD and Axil in the production of personal computers and computer workstations, some of which were sold with the memory modules separately invoiced (option sales) and some of which were sold without separately invoiced memory modules (embedded sales). The petitioner argues that the Department should include these sales in its margin analysis by setting the margin for these sales equal to the margin found on other further-processed sales and averaging the two margins together to derive one margin for all further-processed sales of DRAMs.

Hyundai agrees with the petitioner that these further-processed sales should be included in the Department's margin analysis, but disagrees with the petitioner on the method of including them. Hyundai maintains that, since there are other U.S. sales of merchandise identical to the ISD/Axil sales, the Department should apply the margin found on U.S. sales of identical merchandise to these ISD/Axil sales.

DOC Position

We agree with the petitioner and with Hyundai that the further-processed sales of DRAMs by ISD and Axil should be included in the dumping analysis of U.S. sales in the POR because it is the Department's longstanding practice to include all U.S. sales in its dumping calculations except in instances where title does not transfer to the U.S. customer or in the case of statistical sampling (see Color Television Receivers from the Republic of Korea, 58 FR 50333 (1993)). We agree with Hyundai that, because Hyundai had other U.S. sales identical models of DRAMs, the margins on these identical sales should be applied to the ISD/Axil sales. We revised our final calculations for Hyundai's ISD/Axil sales by applying the margin found on the other U.S. sales of models identical to those sold by ISD/Axil to Hyundai's ISD/Axil further-processed U.S. sales.

Comment 8

Hyundai asserts that the Department's preliminary calculations contained a clerical error in the computation of Hyundai's antidumping margin on sales of DRAMs in the United States further processed into memory modules. Hyundai maintains that the preliminary calculations incorrectly compared the U.S. price of these memory modules to NV, rather than to the foreign unit price in dollars.

DOC Position

We agree with Hyundai and have adjusted our final calculations accordingly.

Final Results of Review

Upon review of the comments submitted, the Department has determined that the following margins exist for the period of May 1, 1994 through April 30, 1995:

Manufacturer/exporter	Percent margin
May 1, 1994 through April 30, 1995:	
LG Semicon Co., Ltd.	0.01
Hyundai Electronic Industries, Inc.	0.10

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

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of administrative review, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed firms will be zero percent; (2) for previously reviewed or investigated companies not listed above, 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 in this review, a prior review, or in 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; and (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 3.85 percent, the all others rate established in the LTFV investigation. Samsung Electronics Co., Ltd. (Samsung), formerly a respondent in this administrative review, was excluded from the antidumping duty order on DRAMs from Korea on February 8, 1996. See Final Court Decision and Partial Amended Final Determination: Dynamic Random Access Memory Semiconductors of One Megabit and Above From the Republic of Korea, 61 FR 4765 (February 8, 1996).

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as the final reminder to importers of their responsibility under 19 CFR 353.26 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 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 19 CFR 353.34(d). Timely written notification or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of the APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: December 24, 1996.

Jeffrey P. Bialos,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–295 Filed 1–6–97; 8:45 am]

BILLING CODE 3510–DS–P

A–122–047

Elemental Sulphur From Canada: 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 requests by respondents, the Department of Commerce (the Department) is conducting an administrative review of the antidumping finding on elemental sulphur from Canada. The review covers the period December 1, 1994 through November 30, 1995.

As a result of the 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 U.S. Customs to assess antidumping duties equal to the difference between United States price (USP) and NV.

Interested parties are invited to comment on these preliminary results. Parties who submit arguments in this segment of the proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: January 7, 1997.

FOR FURTHER INFORMATION CONTACT: Rick Johnson or Jean Kemp, Office of Antidumping and 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) 482–3793.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the statute refer 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 (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).

Background

On December 17, 1973, the Department of the Treasury published in the Federal Register (38 FR 34655) the antidumping finding on elemental sulphur from Canada. On December 4, 1995, the Department published in the Federal Register a notice of opportunity to request an administrative review of this antidumping finding for the period December 1, 1994 through November 30, 1995 (60 FR 62070).

On January 11, 1996, Mobil Oil Canada, Ltd. (Mobil) requested an administrative review of its sales. On January 22, 1996, Husky Oil Ltd. (Husky) requested an administrative review of its sales. The review was initiated on February 1, 1996 (61 FR 3670–71).

The Department is conducting this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Review

Imports covered by these reviews are shipments of elemental sulphur from Canada. This merchandise is classifiable under Harmonized Tariff Schedule (HTS) subheadings 2503.10.00, 2503.90.00, and 2802.00.00. Although the HTS subheadings are provided for convenience and for U.S. Customs purposes, the written description of the scope of this finding remains dispositive.

The period of review (''POR'') is December 1, 1994 through November 30, 1995, and covers two companies.

Verification

As provided in section 782(i) of the Act, we verified information provided by Mobil, using standard verification procedures, including on-site inspection of the manufacturer's facilities, examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public versions of the verification reports.

Mobil

Facts Available

On May 31, 1996, petitioners alleged that Mobil made home market sales of subject merchandise below cost of production (''COP''). On June 28, 1996, we concluded that petitioners' allegation provided the Department with ''reasonable grounds to believe or suspect'' that Mobil made below cost sales in the home market within the meaning of section 773(2)(A)(i) of the Act. Therefore, we initiated a COP investigation of Mobil's sales, and directed Mobil to respond to Section D of the Department's February 8, 1996 questionnaire.

Mobil has maintained throughout this review that because sulphur is a ''waste product'', it does not track sulphur production and handling costs. In its August 5, 1996 cost response, Mobil estimated its cost of manufacture (''COM'') based on an engineering estimate of sulphur loading costs at one plant, representing 5% of Mobil's sulphur production. However, Mobil could not prove that this estimate bore any relation to Mobil's actual costs as recorded in Mobil's cost accounting system. Moreover, the estimate only applied to 5% of Mobil's production of