

Assembled or Unassembled, from Germany, 66 FR 11557, (February 26, 2001), accompanying Issues and Decision Memorandum at Comment 5).

Based on our analysis of Weikfield's questionnaire responses in this review, and WPCL's sales and marketing activities in support of its sister company, we have rejected Weikfield's claim that the payments made to WPCL are arm's-length commissions. We are not persuaded based on the information in the questionnaire responses comparing the payments to WPCL to those made to unaffiliated C&F agents that the payments to WPCL are at arm's length. Moreover, WPCL's activities to promote Weikfield's preserved mushroom sales appear integrated with WPCL's own sales promotion efforts for its product line. The expenses incurred in support of these sales promotion activities would be incurred whether or not a specific sale is made. Accordingly, we have not deducted the reported commissions to WPCL from the home market price.

However, we are accounting for the costs incurred in support of the sales promotion activities by treating them as indirect selling expenses. Weikfield did not report a separate amount for indirect selling expenses; therefore, we have calculated these expenses based on the consolidated Weikfield Group Financial Statement submitted as Exhibit S-3 to the supplemental questionnaire response (see *Weikfield Sales Data Adjustments for the Preliminary Results*, Memorandum to the File dated February 28, 2003). Accordingly, we made an adjustment to the home market price for commissions paid only to unaffiliated parties for home market sales.

Calculation of Constructed Value

We calculated CV in accordance with section 773(e) of the Act, which indicates that CV shall be based on the sum of each respondent's cost of materials and fabrication for the subject merchandise, plus amounts for SG&A expenses, profit and U.S. packing costs. We relied on the submitted CV information except for the following adjustments:

Agro Dutch

We adjusted the submitted total cost of manufacturing to include a recalculation of the work-in-process offset. We recalculated work in process by applying a ratio to total manufacturing costs that includes the number of days remaining in the year after all theoretically possible mushroom growing cycles have been completed rather than using a ratio, as

Agro Dutch did, that includes the total number of days in the mushrooms cycle.

Because Agro Dutch had no viable home or third country market, we derived selling expenses and profit for Agro Dutch in accordance with section 773(e)(2)(B)(ii) of the Act and the Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 103-316, Vol. 1 at 169-171 (SAA). See 19 CFR 351.405(b)(2) (clarifying that under section 773(e)(2)(B) of the Act, "foreign country" means the country in which the merchandise is produced). Under this provision, we may use an amount which reflects selling expenses and profit based on actual amounts incurred or realized by other investigated companies on home market sales in the ordinary course of trade of the foreign like product. See section 773(e)(2)(B)(ii) of the Act. As a result, we calculated Agro Dutch's selling expenses and profit as a weighted average of the selling expense and profit amounts incurred on home market sales by Himalya and Weikfield during the cost reporting period. For further details see *Agro Dutch Sales Memo*.

Price-to-Constructed Value Comparisons

For Agro Dutch, we based NV on CV, in accordance with section 773(a)(4) of the Act. For comparisons to Agro Dutch's EP sales, we made circumstance-of-sale adjustments by deducting from CV the weighted-average direct selling expenses derived from Himalya's and Weikfield's home market data, as noted above, and adding the U.S. direct selling expenses, in accordance with section 773(a)(8) of the Act and section 19 CFR 351.410.

At verification, Agro Dutch was unable to fully reconcile the expenses incurred for packing materials. As described at page 24 of the *Agro Dutch Verification Report*, we found an unreconciled difference equal to 14.36 percent of the total cost of packing material reported in the questionnaire response. Pursuant to section 782(e)(2) of the Act, because we could not verify the reported packing material cost, we cannot accept the reported amount. Furthermore, in providing unverifiable information, Agro Dutch failed to cooperate to the best of its ability with respect to this expense. Because Agro Dutch provided the Department with information that could not be verified, use of facts available is appropriate pursuant to section 776(a)(2)(D) of the Act. Under such circumstances, section 776(b) of the Act further permits the Department to use an inference which is adverse to the party. Thus, to account for this unreconciled difference, we

increased the reported packing material amounts by 14.36 percent. See *Agro Dutch Sales Memo* for an explanation of the methodology used to revise the packing material expense.

Currency Conversion

We made currency conversions in accordance with section 773A of the Act based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Preliminary Results of Review

As a result of this review, we preliminarily determine that the weighted-average dumping margins for the period February 1, 2001, through January 31, 2002, are as follows:

Manufacturer/exporter	Percent margin
Agro Dutch Foods, Ltd.	2.85
Himalya International, Ltd	0.08 (<i>de minimis</i>)
Weikfield Agro Products, Ltd.	45.21

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice. See 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of publication. See 19 CFR 351.310(c). If requested, a hearing will be scheduled after determination of the briefing schedule.

Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room B-099, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. See 19 CFR 351.310(c).

Issues raised in the hearing will be limited to those raised in the respective case briefs. Case briefs from interested parties and rebuttal briefs, limited to the issues raised in the respective case briefs, may be submitted in accordance with a schedule to be determined. 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. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the date of publication of this notice.