



A-560-826  
Administrative Review  
POR: 05/08/2014-10/31/2015  
**Public Document**  
E&C Office VII: JT/DL

November 17, 2016

MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

FROM: Christian Marsh   
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results of Antidumping  
Duty Administrative Review: Monosodium Glutamate from  
Indonesia, 2014-2015

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## I. Summary

The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty (AD) order on monosodium glutamate (MSG) from Indonesia. This review covers the sole mandatory respondent, PT Cheil Jedang Indonesia (CJI), and its U.S. affiliate, CJ America (CJA) (collectively CJ).<sup>1</sup>

The period of review (POR) is May 8, 2014 through October 31, 2015. We preliminarily find that CJI did not sell MSG in the United States below normal value (NV).

## II. Background

Pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and in accordance with 19 CFR 351.213(b), domestic interested party Ajinomoto North America, Inc. (Petitioner), and respondent CJ both filed timely requests for an administrative review of a single company,

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<sup>1</sup> The Department previously found that CJI and CJA are affiliated. See *Monosodium Glutamate From the Republic of Indonesia: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 79 FR 26406 (May 8, 2014) and accompanying Preliminary Decision Memorandum at 3-4, unchanged in *Monosodium Glutamate From the Republic of Indonesia: Final Determination of Sales at Less Than Fair Value*, 79 FR 58329 (September 29, 2014) and accompanying Issues and Decision Memorandum. In the instant review, the Department has found no circumstances which indicate that this affiliation has changed.

CJI, on November 30, 2015.<sup>2</sup> Accordingly, on December 29, 2015, the Department initiated the instant administrative review of the AD order on MSG from Indonesia for CJI.<sup>3</sup>

On January 5, 2016, the Department issued the AD questionnaire to CJI; CJ filed its responses in March 2016. In August 2016, the Department issued supplemental questionnaires and responses were timely filed in September 2016.

As explained in the memorandum from the Acting Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the closure of the Federal Government.<sup>4</sup> All deadlines in this administrative review have been extended by four business days.<sup>5</sup> In accordance with section 751(a)(3)(A) of the Act, on June 28, 2016, the Department extended the deadline of these preliminary results by 60 days and, subsequently, on September 27, 2016, extended it by an additional 45 days.<sup>6</sup>

### III. Scope of the Order

The merchandise covered by this order is monosodium glutamate (MSG), whether or not blended or in solution with other products. Specifically, MSG that has been blended or is in solution with other product(s) is included in this order when the resulting mix contains 15 percent or more of MSG by dry weight. Products with which MSG may be blended include, but are not limited to, salts, sugars, starches, maltodextrins, and various seasonings. Further, MSG is included in this order regardless of physical form (including, but not limited to, in monohydrate or anhydrous form, or as substrates, solutions, dry powders of any particle size, or unfinished forms such as MSG slurry), end-use application, or packaging.

MSG in monohydrate form has a molecular formula of C<sub>5</sub>H<sub>8</sub>NO<sub>4</sub>Na ·H<sub>2</sub>O, a Chemical Abstract Service (CAS) registry number of 6106-04-3, and a Unique Ingredient Identifier (UNII) number of W81N5U6R6U. MSG in anhydrous form has a molecular formula of C<sub>5</sub>H<sub>8</sub>NO<sub>4</sub> Na, a CAS registry number of 142-47-2, and a UNII number of C3C196L9FG.

Merchandise covered by this order is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2922.42.10.00. Merchandise covered by this order may also enter under HTSUS subheadings 2922.42.50.00, 2103.90.72.00, 2103.90.74.00, 2103.90.78.00, 2103.90.80.00, and 2103.90.90.91. These tariff classifications, CAS registry

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<sup>2</sup> See Letters from Petitioner, “Monosodium Glutamate from Indonesia: Request for Administrative Review,” and from CJ, “Monosodium Glutamate (‘MSG’) from Indonesia; 1st Administrative Review; CJ Request for Review,” both dated November 30, 2015.

<sup>3</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 736, 737 (January 7, 2016) (*Initiation Notice*).

<sup>4</sup> See Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement and Compliance, regarding “Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm Jonas,” dated January 27, 2016.

<sup>5</sup> *Id.*

<sup>6</sup> See Memorandum to Christian Marsh, “Monosodium Glutamate from Indonesia: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review – 2014-2015” dated June 28, 2016; *see also* Memorandum to Christian Marsh, “Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review of Monosodium Glutamate from Indonesia” dated September 27, 2016.

numbers, and UNII numbers are provided for convenience and customs purposes; however, the written description of the scope is dispositive.

#### IV. Comparisons to Normal Value

Pursuant to section 773(a)(1)(B)(ii) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether CJ's sales of subject merchandise from Indonesia to the United States were made at less than NV, the Department compared the constructed export price (CEP) to the NV as described in the "Constructed Export Price" and "Normal Value" sections of this memorandum.

##### A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average export prices (EPs) or CEPs (the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In AD investigations, the Department examines whether to compare weighted-average NVs to the EP or CEP of individual U.S. sales (the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in AD investigations.<sup>7</sup>

In recent proceedings, the Department has applied a differential pricing analysis for determining whether application of average-to-transaction comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.<sup>8</sup> The Department finds that the differential pricing analysis used in those recent proceedings may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of prices for comparable merchandise that differ significantly among purchasers, regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such

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<sup>7</sup> See *Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 and accompanying Issues and Decision Memorandum at Comment 1 (December 10, 2012); see also *JBK RAK, LLC v. United States*, 790 F.3d 1358, 1362-1365 (CAFC 2015); *Apex Frozen Foods Private Ltd. v. United States*, 144 F. Supp. 3d 1308, 1314-1316 (CIT 2016).

<sup>8</sup> See *Polyethylene Terephthalate Film, Sheet, and Strip From India: Preliminary Results of Antidumping Duty Administrative Review; 2011–2012*, 78 FR 48143 and accompanying Decision Memorandum at "Determination of Comparison Method" and "Results of Differential Pricing Analysis" (August 7, 2013) (*2011-2012 PET Film Preliminary Results*), unchanged in *Polyethylene Terephthalate Film, Sheet, and Strip From India: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 11406 (February 28, 2014) and accompanying Issues and Decision Memorandum.

differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported customer codes. Regions are defined using the reported destination code (*i.e.*, zip code) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region and time period, that the Department uses in making comparisons between export price and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen’s *d* coefficient is used to evaluate the extent to which the net prices to a particular purchaser, region or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen’s *d* test: small, medium or large. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant, and the sales in the test group were found to have passed the Cohen’s *d* test, if the calculated Cohen’s *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

Next, the “ratio test” assesses the extent of the significant price differences for all sales as measured by the Cohen’s *d* test. If the value of sales to purchasers, regions, and time periods that passes the Cohen’s *d* test accounts for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that passes the Cohen’s *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen’s *d* test as an alternative to the average-to-average method, and application of the average-to-average method to those sales identified as not passing the Cohen’s *d* test. If 33 percent or less of the value of total sales passes the Cohen’s *d* test, then the results of the Cohen’s *d* test do not support consideration of an alternative to the average-to-average method.

If both tests in the first stage (*i.e.*, the Cohen’s *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, we examine whether

using only the average-to-average method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average-to-average method only. If the difference between the two calculations is meaningful, this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if (1) there is a 25 percent relative change in the weighted-average dumping margin between the average-to-average method and the appropriate alternative method when both results are above the *de minimis* threshold, or (2) the resulting weighted-average dumping margin moves across the *de minimis* threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.

## B. Results of the Differential Pricing Analysis

For CJ, based on the results of the differential pricing analysis, the Department preliminarily finds that the value of U.S. sales passing the Cohen's *d* test is 25.37 percent.<sup>9</sup> Accordingly, the Department preliminarily determines it is appropriate to use the average-to-average method for all U.S. sales to calculate the weighted-average margin of dumping for CJ.

## V. Product Comparisons

In accordance with section 771(16) of the Act, we compared prices for products sold in the U.S. market with prices for products sold in the home market which were either identical or most similar in terms of the physical and chemical characteristics. These physical and chemical characteristics are purity, blend, granule mesh size, and packaging size. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product based on the characteristics listed above.

## VI. Date of Sale

19 CFR 351.401(i) states that the Department normally will use the date of invoice, as recorded in the producer or exporter's records kept in the ordinary course of business, as the date of sale. The regulation provides further that the Department may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established.

CJ reported invoice date, which corresponds to the shipment date, as the date of sale for its home market sales. While CJ reported that all U.S. sales were CEP, some were "traditional" CEP sales (*i.e.*, stock sales out of CJA's U.S. inventory) while others were "direct" CEP sales (*i.e.*, back-to-

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<sup>9</sup>For additional detail, *see* "Analysis Memorandum for Cheil Jedang," dated concurrently with this Memorandum (CJ Preliminary Analysis Memorandum).

back sales shipped by CJI directly to the unaffiliated customer but transacted through CJA). For “traditional” CEP sales, CJ reported the date the merchandise shipped from CJA’s warehouse as the date of sale. For “direct” CEP sales, CJ reported the date of sale as the date the merchandise departed CJI’s warehouse.<sup>10</sup> After reviewing the information submitted by CJ, for purposes of the margin calculations, the Department has preliminarily relied on the dates of sale, as reported by CJ, for the home market and U.S. sales.

## VII. Constructed Export Price

For all of CJ’s U.S. reported sales, the Department based U.S. price on CEP in accordance with section 772(b) of the Act, because either the first sale to an unaffiliated party was made after importation, or because the first sale to an unaffiliated party was made prior to importation by CJI’s U.S. affiliate, CJA. Section 772(b) of the Act defines CEP as “the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation . . . by a seller affiliated with the producer or exporter.” We calculated CEP based on the delivered price to unaffiliated purchasers in the United States. As such, where appropriate, we made deductions from the starting price for billing adjustments, early payments, royalties, and miscellaneous revenue as well as movement expenses, (*i.e.*, foreign inland freight, international freight, marine insurance, and U.S. inland freight, and U.S. duties), in accordance with section 772(c)(2)(A) of the Act. In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we calculated CEP by deducting selling expenses associated with economic activities in the United States, which includes direct and indirect selling expenses. Finally, in accordance with section 772(d)(3) of the Act, we made an adjustment for profit allocated to these expenses.

## VIII. Normal Value

### A. Home Market Viability as Comparison Market

To determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared the volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Based on this comparison, we determined that, pursuant to 19 CFR 351.404(b), CJ had a viable home market during the POR. Consequently, we based NV on home market sales.

### B. Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the CEP sales.<sup>11</sup> The LOT for NV is based on the starting prices of sales in the home market or, when NV is based on constructed value, it is based on the starting prices of sales from which we derived

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<sup>10</sup> See letter to the Department, “Monosodium Glutamate (‘MSG’) from Indonesia; 1<sup>st</sup> Administrative Review; CJ Section A Response,” dated February 11, 2016 (CJ Response Section A).

<sup>11</sup> See also section 773(a)(7)(A) of the Act.

selling, general, and administrative expenses and profit.<sup>12</sup> For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.<sup>13</sup>

To determine if the home market sales are made at a different LOT than CEP sales, we examined stages in the marketing process and the selling functions performed along the chain of distribution between the producer and the unaffiliated customer.<sup>14</sup> If home market sales are at a different LOT, as manifested in a pattern of consistent price differences between the sales on which NV is based and home market sales made at the LOT of the export transaction, and the difference affects price comparability, then we make a LOT adjustment to NV under section 773(a)(7)(A) of the Act and 19 CFR 351.412.<sup>15</sup>

In this administrative review, CJI reported a single channel of distribution in the home market while reporting two channels of distribution within the United States.<sup>16</sup> With respect to U.S. sales, CJ reported, and our analysis confirms, that CJI's level of effort (*i.e.*, intensity of sales functions and activities) for the two U.S. channels of distribution was the same. Thus, there is only one LOT in the U.S. market. A comparison of CJI's level of effort for the single home market channel of distribution and for the U.S. market indicates that there are numerous differences. Specifically, as we found in the investigation, we preliminarily find there to be significant differences, including differences in forecasting, planning, personnel, marketing, inventory management, and training. We find that record information does not provide an appropriate basis to determine whether the difference in LOT between the two markets affects price comparability. Accordingly, to adjust for differences between the home and U.S. market LOTs, we preliminarily applied a CEP offset to CJ's normal value, in accordance with section 773(a)(7)(B) of the Act.

### C. Affiliated Party Transactions and Arm's-Length Test

We exclude comparison market sales to affiliated customers that are not made at arm's-length prices from our margin analysis because we consider them to be outside the ordinary course of trade.<sup>17</sup> Consistent with 19 CFR 351.403(c) and (d) and our practice, "the Department may calculate normal value based on sales to affiliates if satisfied that the transactions were made at arm's length."<sup>18</sup> To test if sales to affiliates were made at arm's-length prices, we compare, on a model-specific basis, the starting prices of sales to affiliated and unaffiliated customers, net of all direct selling expenses, billing adjustments, discounts, rebates, movement charges, and packing (arm's-length test). Where prices to the affiliated party are, on average, within a range of 98-to-102 percent of the price of identical or comparable merchandise to the unaffiliated parties, we determine that the sales made to the affiliated party are at arm's length.<sup>19</sup> CJI reported that it

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<sup>12</sup> See 19 CFR 351.412(c)(1)(iii).

<sup>13</sup> See 19 CFR 351.412(c)(1)(ii).

<sup>14</sup> See 19 CFR 351.412(c)(2).

<sup>15</sup> See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61733 (November 19, 1997).

<sup>16</sup> See CJ Initial Section A Questionnaire Response at Exhibits A-10, A-11.

<sup>17</sup> See 19 CFR 351.403(c).

<sup>18</sup> See *China Steel Corp. v. United States*, 264 F. Supp. 2d 1339, 1365 (CIT 2003).

<sup>19</sup> See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, 69194

sold a small quantity of subject merchandise to affiliated companies in the home market but that these goods were not resold to unaffiliated customers.<sup>20</sup> As such, we have tested CJI's home market sales to affiliated companies and excluded any that were not made at arm's-length prices, in accordance with 19 CFR 351.403(c).

#### D. Cost of Production Analysis

##### 1. Calculation of Cost of Production

We calculated the cost of production (COP) on a product-specific basis, based on the sum of the respondents' costs of materials and fabrication for the foreign like product plus amounts for general and administrative expenses (G&A), interest expenses, and the costs of all expenses incidental to preparing the foreign like product for shipment in accordance with section 773(b)(3) of the Act.

We relied on CJ's COP data submitted in its questionnaire responses, with the exception of certain adjustments made to G&A and direct material costs.<sup>21</sup> Specifically, G&A was adjusted to remove royalties, which we have treated as a direct selling expense instead, and direct materials costs were adjusted to include import duties related to the production of foreign like merchandise sold in the home market.<sup>22</sup>

##### 2. Test of Comparison Market Sales Prices

On a product-specific basis, pursuant to section 773(a)(1)(B)(i) of the Act, we compared the adjusted weight-averaged COP to the home market sales of the foreign like product, in order to determine whether the sale prices were below the COP. The prices were exclusive of any applicable billing adjustments, discounts and rebates, movement charges, and actual direct and indirect selling expenses. In determining whether to disregard home market sales made at prices less than their COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether such sales were made: (1) within an extended period of time in substantial quantities, and (2) at prices which permitted the recovery of all costs within a reasonable period of time.

##### 3. Results of the Cost of Production Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of sales of a given product were made at prices less than the COP, we do not disregard below-cost sales of that product because we determine that the below-cost sales were not made in substantial quantities. Where 20 percent or more of the respondent's home market sales of a given product are at prices less than the COP, we disregard the below-cost sales because (1) they are made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act and (2) based on our comparison of prices to the weighted average of the COPs,

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(November 15, 2002).

<sup>20</sup> See CJ Section B Initial Questionnaire Response at 2.

<sup>21</sup> See CJ Preliminary Analysis Memorandum.

<sup>22</sup> *Id.*

they are at prices which would not permit the recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act. Because we are applying our standard annual weighted-average cost methodology in these preliminary results for CJ, we also applied our standard cost-recovery test with no adjustments.

Our cost test indicated that CJ had no sales below cost and, as such, we have relied on all reported sales conducted on an arm's-length basis to determine NV.

#### E. Calculation of Normal Value Based on Comparison Market Prices

We based NV for CJ on the reported ex-factory prices to unaffiliated customers in the home market. We made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for direct selling expenses (including imputed credit expenses). Where applicable, we added U.S. packing costs and deducted home market packing costs, in accordance with sections 773(a)(6)(A) and (B)(i) of the Act. When comparing U.S. sales with home market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise.<sup>23</sup>

#### IX. Currency Conversion

We made currency conversions in accordance with section 773A(a) of the Act and 19 CFR 351.415, based on the official exchange rates published by the Federal Reserve Bank.<sup>24</sup>

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<sup>23</sup> See 19 CFR 351.411(b).

<sup>24</sup> The exchange rates are available on the Enforcement and Compliance website at <http://enforcement.trade.gov/exchange/index.html>.

X. Recommendation

We recommend that you approve the preliminary findings described above.

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Agree

\_\_\_\_\_  
Disagree

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Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance