DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–840]

Manganese Metal From the People's Republic of China; Preliminary Results of Antidumping Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty administrative review of manganese metal from the People's Republic of China.

SUMMARY: In response to requests by Elkem Metals Company and Kerr-McGee Chemical Corporation and by China Hunan International Economic Development Corporation, China Metallurgical Import & Export Hunan Corporation/Hunan Nonferrous Metals Import & Export Associated Corporation, Minmetals Precious & Rare Minerals Import & Export Corporation, and China National Electronics Import and Export Hunan Company, the Department of Commerce is conducting an administrative review of the antidumping duty order on manganese metal from the People's Republic of China. The period of review is June 14, 1995 through January 31, 1997.

We have preliminarily determined that sales have been made below normal value. 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 the export price and NV on all appropriate entries.

We invite interested parties to comment on these preliminary results. Parties who submit comments in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: November 7, 1997.

FOR FURTHER INFORMATION CONTACT: Daniel Lessard or Greg Campbell, Antidumping/Countervailing Duty Enforcement, Office I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–1778 or (202) 482–2239, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, all references to the Department's regulations are to 19 CFR part 353 (April 1997).

Background

On February 6, 1996, the Department of Commerce (the Department) published in the **Federal Register** (61 FR 4415) the antidumping duty order on manganese metal from the People's Republic of China (PRC). On February 3, 1997, we published a notice of opportunity to request an administrative review of the order for the period June 14, 1995 through January 31, 1997 (62 FR 4978). In accordance with 19 CFR 353.22(a), Elkem Metals Company and Kerr-McGee Chemical Corporation (petitioners) and China Hunan International Economic Development Corporation (HIED), China Metallurgical Import & Export Hunan Corporation/Hunan Nonferrous Metals Import & Export Associated Corporation (CMIECHN/CNIECHN), and Minmetals Precious & Rare Minerals Import & Export Corporation (Minmetals) requested that we conduct an administrative review. On March 18, 1997, in accordance with 19 CFR 353.22(c), we published a notice of initiation of this antidumping duty administrative review (62 FR 12793) for the period of review (POR).

The Department is now conducting this administrative review in accordance with section 751 of the Act.

Scope of Review

The merchandise covered by this review is manganese metal, which is composed principally of manganese, by weight, but also contains some impurities such as carbon, sulfur, phosphorous, iron and silicon. Manganese metal contains by weight not less than 95 percent manganese. All compositions, forms and sizes of manganese metal are included within the scope of this administrative review, including metal flake, powder, compressed powder, and fines. The subject merchandise is currently classifiable under subheadings 8111.00.45.00 and 8111.00.60.00 of the Harmonized Tariff schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Verification

As provided in section 782(i) of the Act, we verified factor information provided by Xiang Tan Manganese Mine (XTMM) and Hunan Special Metal Material Plant (Special), using standard verification procedures, including on-site inspection of manufacturers' facilities, the 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.

Separate Rates

1. Background and Summary of Findings

It is the Department's standard policy to assign all exporters of the merchandise subject to review in non-market-economy (NME) countries a single rate unless an exporter can demonstrate an absence of government control, both in law and in fact, with respect to exports. To establish whether an exporter is sufficiently independent of government control to be entitled to a separate rate, the Department analyzes the exporter in light of the criteria 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 the *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)*. Evidence supporting, though not requiring, a finding of *de jure* absence of government control over export activities 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. *See Sparklers* at 20589. A *de facto* analysis of absence of government control over exports is based on four factors—whether the respondent: (1) Sets its own export prices independent from the government and other exporters; (2) can retain the proceeds from its export sales; (3) has the authority to negotiate and sign contracts; and (4) has autonomy from the government regarding the selection of management. *See Silicon Carbide* at 22587; *see also Sparklers* at 20589.

In our final determination of sales at less than fair value (LTFV), the Department determined that there was *de jure* and *de facto* absence of government control of each company's export activities and determined that each company warranted a company-specific dumping margin. *See Final Determination of Sales at Less Than Fair Value: Manganese Metal from the People's Republic of China*, 60 FR 56045 *(Manganese Metal).* For this period of review, HIED and CMIECHN/CNIECHN have responded to the Department's request for information regarding separate rates. We have found that the evidence on the record is consistent with the final determination in the LTFV investigation and continues to demonstrate an absence of government control, both in law and in fact, with respect to their exports, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide.*

For Minmetal and China National Electronics Import and Export Hunan Company (CEIEC), which had no sales during this POR, the company-specific rates of 5.88 percent and 11.77 percent, respectively, from the LTFV investigation remain unchanged.

Export Price

For sales made by HIED and CMIECHN/CNIECHN to the United States, we calculated an export price, in accordance with section 772(a) of the Act, because the subject merchandise was sold to unrelated purchasers in the United States prior to importation into the United States.

We calculated export price based on the price to unrelated purchasers. We deducted an amount, when appropriate, for foreign inland freight, ocean freight, and marine insurance. Generally, the costs for these items were valued in the surrogate country. However, where transportation services were purchased from market economy carriers and paid for in market economy currency, we used the cost actually incurred by the exporter.

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 merchandise is exported from an NME country, and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act.

The Department has treated the PRC as an NME country in all previous antidumping cases. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is a 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. Furthermore, available information does not permit the calculation of NV using home market prices, third country prices or CV under section 773(a) of the Act. Therefore, we treated the PRC as a NME country for purposes of this review and calculated NV by valuing the factors of production in a comparable market economy country which is a significant producer of comparable merchandise. Factors of production include, but are not limited to: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital cost, including depreciation.

In accordance with section 773(c)(4) of the Act and section 353.52(c) of our regulations, we determined that India is comparable to the PRC in terms of (1) per capita gross national product (GNP), (2) the growth rate in per capita GNP, and (3) the national distribution of labor. In addition, India is a significant producer of comparable merchandise. Therefore, for this review, we selected India as the surrogate on the basis of the above criteria, and have used publicly available information relating to India, unless otherwise noted, to value the various factors of production. (*See* memorandum to Susan Kuhbach from Jeff May, dated May 28, 1997, ''Manganese Metal from the PRC: Nonmarket Economy Status and Surrogate Country Selection'' (attached to June 25, 1997 letters to interested parties), and memorandum to Richard W. Moreland from Team, dated October 24, 1997, which are in the file in the Central Records Unit (room B099 of the Main Commerce building).)

For purposes of calculating NV, we valued PRC factors of production, in accordance with section 773(c)(1) of the Act. In examining surrogate values, we selected, where possible, the publicly available value which was: (1) An average non-export value; (2) representative of a range of prices within the POR or most contemporaneous with the POR; (3) product-specific; and (4) tax-exclusive. Where we could not obtain a POR-representative price for an appropriate surrogate value, we selected a value in accordance with the remaining criteria mentioned above and which was the closest in time to the POR. In accordance with this methodology, we valued the factors as follows:

- We valued manganese ore using a September 1993 export price quote from a Brazilian manganese mine for manganese carbonate lump ore. (For a further discussion of this issue, please refer to the October 24, 1997 memorandum to Richard W. Moreland from Team.) While it is our normal practice to apply an inflation adjustment to prices predating the period of review, in this case, we have information which indicates that prices for manganese ore have fallen over time. Therefore, we adjusted the price to account for declining manganese ore prices between September 1993 and the POR.
- For the value of process chemicals used in the production process of manganese metal, we used values obtained from the following Indian sources: *Indian Chemical Weekly* (June 95–May 1996); the *Monthly Trade Statistics of Foreign Trade of India*, Volume II—Imports, February 1996 (*Indian Import Statistics*); and the *Indian Minerals Yearbook: 1995.* Where necessary, we adjusted these values to reflect inflation up to the POR using wholesale price indices (WPI) published by the International Monetary Fund (IMF). Additionally, we adjusted to account for freight costs incurred between the suppliers and manganese metal producers.
- For labor values, we used data from the 1996 *Yearbook of Labor Statistics (YLS*) published by the United Nations. We adjusted these rates to reflect inflation up to the POR using the consumer price indices (CPI) published by the IMF. We used the CPI, rather than the WPI, for calculating the inflation adjustment for labor because the Department views the CPI as more representative of changes in wage rates, while the WPI is more representative of prices for material goods.
- For factory overhead, selling, general, and administrative expenses (SG&A), and profit values, we used information from the January 1997 *Reserve Bank of India Bulletin* for the Indian industry group ''Processing and Manufacturing: Metals, Chemicals, and Products Thereof.'' To value factory overhead, we calculated the ratio of factory overhead expenses to the cost of materials, labor, and energy. From the same source, we were able to calculate the selling, general & administrative (SG&A) expense as a percentage of the cost of manufacturing and profit as a percentage of the cost of production (*i.e.*, the cost of manufacturing plus SG&A).
- For most packing materials values, we used the per kilogram values obtained from the *Indian Import Statistics.* For one packing material, we used a price quote from an Indian manufacturer and adjusted the value to reflect inflation up to the POR using the WPI published by the IMF. We used this price quote rather than the *Indian Import Statistics* because the quoted

price was for the appropriate type of container used, whereas the *Indian Import Statistics* were aggregated over various types of containers. We made further adjustments to account for freight costs incurred between the PRC supplier and manganese metal producers.

- To value electricity, we used the average rate applicable to large industrial users throughout India as reported in the *1995 Confederation of Indian Industries Handbook of Statistics*. We adjusted the March 1, 1995 value to reflect inflation up to the POR using the WPI published by the IMF.
- To value rail freight, we relied upon rates quoted by a manganese mine in India. We adjusted the rate to reflect inflation up to the POR using WPI published by the IMF.
- To value truck freight, we used a rate derived from a newspaper article in the April 20, 1994 issue of The Times of India. We adjusted the rate to reflect inflation up to the POR using WPI published by the IMF.

Preliminary Results of the Review

As a result of our comparison of the EP to NV, we preliminarily determine that the following dumping margins exist for the period June 14, 1995, through January 31, 1997:

Manufacturer exporter	Margin (percent)
HIED	11.00
CMIECHN/CNIECHN	6.43
Minmetals	5.88
CEIEC	11.77
Country-Wide Rate	143.32

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held approximately 44 days after the publication of this notice. Interested parties may submit written comments (case briefs) within 30 days of the date of publication of this notice. Rebuttal comments (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. The Department will issue a notice of final results of this administrative review, including the results of its analysis of issues raised in any such written comments, within 120 days of publication of these preliminary results.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between EP and NV may vary from the percentages stated above. We have calculated an importer-specific duty assessment rate based on the ratio of the total amount of AD duties calculated for the examined sales made during the POR to the total value of subject merchandise entered during the POR. In order to estimate the entered value, we subtracted international movement expenses (*e.g.*, international freight and marine insurance) from the gross sales value. This rate will be assessed uniformly on all entries of that particular importer made during the POR. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) for the PRC companies that have separate rates and were reviewed (HIED and CMIECN/CNIECN), the cash deposit rates will be the rates for these firms established in the final results of this review; (2) for Minmetals and CEIEC, which we determined to be entitled to a separate rate in the LTFV investigation but which did not have shipments to the United States during the POR, the rates will continue to be 5.88 percent and 11.77 percent, respectively, the rates which currently apply to these companies; and (3) for all other PRC exporters, the cash deposit rate will be 143.32 percent. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary 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 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.

Dated: October 31, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–29494 Filed 11–6–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–501]

Natural Bristle Paintbrushes and Brush Heads From The People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of the antidumping duty administrative review of natural bristle paintbrushes and brush heads from the People's Republic of China.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on natural bristle paintbrushes and brush heads (paintbrushes) from the People's Republic of China (PRC) in response to a request by petitioner, the Paint Applicator Division of the American Brush Manufacturers Association (the Paint Applicator Division). This review covers shipments of this merchandise to the United States during the period of February 1, 1996, through January 31, 1997.

We have preliminarily determined that sales have been made below normal value (NV). If these preliminary results are adopted in our final results, we will instruct the U.S. Customs Service to assess antidumping duties equal to the difference between export price and NV.

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

EFFECTIVE DATE: November 7, 1997.

FOR FURTHER INFORMATION CONTACT: Eric Scheier, Elisabeth Urfer, or Maureen Flannery, Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–4733.