is no evidence on the record to show that the product characteristics reported resulted in a distortive comparison, the Department has continued to use the model matching criteria set forth in the preliminary results of review.

Comment 11: Downstream Sales. Petitioners argue that sales from Agrochemie were not reported to the Department. Petitioners contend that SKWP has not indicated that it is otherwise justified in its reporting methodology, therefore, there exists the strong possibility for SKWP to avoid reporting less favorable home market sales to end-users by manipulating the transfer price to Agrochemie. Petitioners argue that the Department must increase normal value to reflect Agrochemie's profits on the resale of urea through its reseller. Because there is no evidence of Agrochemie's sales prices on the record, petitioners argue that the Department should use facts available regarding VCE's profit level to determine the selling price to Agrochemie's final customer.

Respondent argues that petitioners' request is without merit. Respondent asserts that the purpose of the arm's length test is to determine if the prices for sales between affiliated parties may have been manipulated to lower normal value. However, due to the fact that the Department found that sales to Agrochemie were at arm's length it would be inappropriate to penalize SKWP for avoiding the burden of reporting downstream sales that the Department did not require for its analysis.

Department's Position:. The Department agrees with respondent. During the review, SKWP did not report sales made from Agrochemie to unaffiliated customers in the home market. In an October 30, 1996, letter to the respondent, the Department notified SKWP that failure to report the Agrochemie sales to the first unaffiliated party may result in the Department using facts available, particularly if the Department determined after further analysis and verification of all relevant data, that these omitted sales were necessary for comparison purposes. As evidenced by the preliminary results of review, the Department found that SKWP's sales to Agrochemie were at arm's length and these omitted sales were not necessary for comparison purposes.

Final Results of Review

As a result of our review, we determine that the following weighted-average margin exists:

Manufacturer/exporter	Margin (percent)
SKW Piesteritz	0.00

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between export price and normal value may vary from the percentage stated above. The Department will issue appraisment instructions on each exporter directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751 (a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate listed above; (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 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) for all other producers and/or exporters, as indicated in the preliminary results of this review, the cash deposit rate shall be 44.80 percent, the ''all others'' rate established in the LTFV investigation (53 FR 2636). These deposit requirements shall remain in effect until publication of the final results of the next administrative review. In addition, we are terminating suspension of liquidation for shipments of solid urea produced by other firms in Germany.

This notice serves as a 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 subsequent assessment of double antidumping duties.

Notification to Interested Parties

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 of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

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

Dated: November 5, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–30144 Filed 11–14–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–601]

Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results of Antidumping Administrative Review

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

ACTION: Notice of final results of antidumping duty administrative review of tapered roller bearings and parts thereof, finished and unfinished, from the People's Republic of China.

SUMMARY: On July 9, 1997, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on tapered roller bearings (TRBs) and parts thereof, finished and unfinished, from the People's Republic of China (PRC). The period of review (POR) is June 1, 1995, through May 31, 1996.

Based on our analysis of comments received, we have made changes to the margin calculations, including corrections of certain clerical errors. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margins are listed below in the section entitled **Final Results of Review.**

We have determined that sales have been made below normal value (NV) during the POR. Accordingly, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between export price (EP) or constructed export price (CEP) and NV.

EFFECTIVE DATE: November 17, 1997.

FOR FURTHER INFORMATION CONTACT: Robin Gray or the appropriate case analyst, for the various respondent firms

listed below, at 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: Mike Panfeld: Xiangfan Machinery Foreign Trade Corporation (formerly Xiangfan International Trade Corporation) (Xiangfan), China National Automotive Industry Import & Export Corporation (Guizhou Automotive), Peer Bearing Company and Chin Jun Industrial Ltd. (Peer/Chin Jun); Greg Thompson: Shandong Machinery & Equipment Import & Export Corporation (Shandong), Tianshui Hailin Import & Export Corporation (Hailin), Zhejiang Machinery Import & Export Corporation (Zhejiang); Tom Schauer: Premier Bearing & Equipment, Ltd. (Premier), Guizhou Machinery Import & Export Corporation (Guizhou Machinery), Jilin Machinery Import & Export Corporation (Jilin), Wanxiang Group Corporation (Wanxiang), China National Machinery & Equipment Import & Export Corporation (CMEC); Kristie Strecker: China National Machinery Import & Export Corporation (CMC), Luoyang Bearing Factory (Luoyang), Liaoning MEC Group Co., Ltd. (Liaoning), Hangzhou Metals, Mineral, Machinery & Chemical Import Export Corp. (Hangzhou), China Great Wall Industry Corp. (Great Wall).

APPLICABLE STATUTE AND REGULATIONS:

Unless otherwise indicated, all citations to the statute and to the Department's regulations 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).

SUPPLEMENTARY INFORMATION:

Background

On July 9, 1997, we published in the **Federal Register** the preliminary results of administrative review of the antidumping duty order on TRBs from the PRC. See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Preliminary Results of Antidumping Administrative Review and Partial Termination of Administrative Review, 62 FR 36764 (July 9, 1997) (Preliminary Results). We gave interested parties an opportunity to comment on our preliminary results and held a public hearing on September 3, 1997. The following parties submitted comments and/or rebuttals: The Timken Company (Timken); Guizhou Machinery, Liaoning, Luoyang, Wanxiang, Xiangfan, CMC, Guizhou Automotive, Shandong, Zhejiang, and Premier (collectively referred to as Guizhou Machinery, et al.); China Great Wall Industrial Corp. (Great Wall) and Huangzhou Metals, Minerals, Machinery, and Chemical Import Export Corp. (Huangzhou); Peer/Chin Jun; Transcom, Inc. (Transcom); L&S Bearing Co. (L&S).

We have conducted this administrative review in accordance with section 751(a)(1) of the Act and 19 CFR 353.22.

Scope of Review

Imports covered by these reviews are shipments of TRBs and parts thereof, finished and unfinished, from the PRC; flange, take up cartridge, and hanger units incorporating tapered roller bearings; and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use. These products are currently classifiable under Harmonized Tariff Schedule (HTS) item numbers 8482.20.00, 8482.91.00.50, 8482.99.30, 8483.20.40, 8483.20.80, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.80, 8708.99.80.15 and 8708.99.80.80. Although the HTS item numbers are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Changes Since the Preliminary Results

We have made the following changes to our margin calculations pursuant to comments we received from interested parties and clerical errors we discovered since the preliminary results:

For All Companies

We changed the surrogate-value information which we used to value steel inputs. See our response to comment 1 of section 2(a), below.

We calculated importer-specific assessment rates where possible. Where the data did not allow us to calculate importer-specific assessment rates, we calculated one rate which we will instruct Customs to apply to all entries from that respondent.

For Guizhou Machinery

We corrected the direct and indirect labor reported for models sold by a certain supplier pursuant to a clerical-error allegation by Guizhou Machinery. See comment 4 of section 2(b), below.

We corrected the formula for ocean freight so that TRBs shipped to west-coast ports received the ocean-freight factor for west-coast ports rather than east-cost ports pursuant to a clerical-error allegation by Guizhou Machinery. See comment 3 of section 3, below.

We discovered that we incorrectly summed the total sales quantities for certain suppliers and we corrected this error for these final results.

We discovered that we inadvertently used one supplier's surrogates for profit, overhead, indirect labor, and SG&A labor for all suppliers from which Guizhou Machinery purchased subject merchandise and we corrected this error for these final results.

For Wanxiang

We converted the marine-insurance charges to U.S. dollars. See comment 2 of section 3, below.

We used the reported gross-weight figures for cups and cones instead of using facts available. See comment 4 of section 2(a), below.

For Zhejiang

We discovered that we inadvertently used the incorrect surrogate values for ocean freight and corrected this error for these final results.

For Xiangfan

We corrected the rate for skilled labor from 46.60 to 29.66 to take into account the fact that Xiangfan did not report skilled and unskilled labor separately. We made this change pursuant to a clerical-error allegation by Xiangfan. See comment 4 of section 2(b), below.

For Luoyang

We used the amended database pursuant to a clerical-error allegation by Luoyang. See comment 10 of section 6, below.

For CMC

We deducted an amount for the selling, general, and administrative expenses of CMC's U.S. affiliate from constructed export price. See comment 5 of section 6, below.

We corrected the formula for cost of manufacture pursuant to a clerical-error allegation raised by Timken. See comment 9 of section 6, below.

We discovered that we inadvertently used the incorrect value for imported steel prices and corrected this error for these final results.

We included a certain expense in CMC's direct materials costs. See comment 11 of section 6, below.

We discovered that we inadvertently did not include inventory carrying costs in our calculation of CEP profit and corrected this error for these final results.

We discovered that we inadvertently deducted imputed credit from EP rather than adding it to NV and corrected this error for these final results.

For Chin Jun

We corrected the factory code for certain models, we corrected an error where we inadvertently omitted a constructed value for one particular model, and we corrected a clerical error made by Peer/Chin Jun in reporting entered value, international freight, and U.S. duties. We corrected these errors pursuant to allegations made by Peer/Chin Jun. See comment 1 of section 4 and comment 4 of section 6, below.

Analysis of Comments Received

We received comments from interested parties regarding the following topics:

1. Separate Rates
2. Valuation of Factors of Production
   (a) Material Valuation
   (b) Labor Valuation
   (c) Overhead, SG&A and Profit Valuation
3. Freight
4. Facts Available
5. Assessment
6. Miscellaneous Issues

Summaries of the comments and rebuttals, as well as our responses to the comments, are in each of the above sections.

1. Separate Rates

Comment 1: Peer/Chin Jun argues that the Department should not have used facts available for CMEC. Peer/Chin Jun notes that the Department determined that CMEC was not entitled to a separate rate because CMEC did not respond to certain questions in its supplemental questionnaire. Peer/Chin Jun argues that CMEC provided a wide range of information sufficient to demonstrate an absence of government control. Citing Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China; Preliminary Results of Antidumping Administrative Review, 60 FR 44302, 44303 (August 25, 1995), Peer/Chin Jun contends further that government control is only important if there is evidence that ''pricing and export strategy are subject to [government] review or approval'' or if there is evidence that the authority to negotiate and enter into contracts ''is subject to any level of government approval.'' Peer/Chin Jun argues that the evidence on the record demonstrates that this is not the case for CMEC. Peer/Chin Jun asserts that the failure to answer one question is not sufficient cause to use facts available for a company which provides detailed sales and factors-of-production (FOP) information.

Peer/Chin Jun also notes that CMEC received a separate rate in the initial investigation and in the 1989–90 administrative review, and it argues that all relevant evidence shows that China has liberalized its control of the economy since 1990 and has no control over Chinese trading companies.

Timken contends that Peer/Chin Jun has no standing to request changes in the results of other respondents and notes that CMEC itself has not objected to the Department's decision.

Timken also argues that the Department's preliminary decision was appropriate because CMEC failed to cooperate with the Department's requests for information. Timken contends that, in addition to failing to provide information concerning its management-selection process, which was the basis of the Department's decision, CMEC failed to respond to the Department's questions concerning the CMEC Group's membership and activities. Timken also asserts that CMEC's responses indicate that it plays a leading role as part of a huge conglomerate, CMEC (Group), which is, according to Timken, controlled by the PRC government, but that CMEC failed to document the nature of this role or the government's role, or lack thereof, in CMEC's operations. Given these failures, Timken asserts that the Department's decision is reasonable.

Department's Position: We disagree with Peer/Chin Jun that our treatment of CMEC in the *Preliminary Results* was improper. Further, we note that, while Peer/Chin Jun may comment on this issue, it may not have standing to appeal this issue.

CMEC failed to respond adequately to our supplemental questionnaire and, as a result, we determined that the record did not contain sufficient evidence to warrant a determination that CMEC was entitled to a separate rate. Though Peer/Chin Jun claims that CMEC provided ''detailed'' information sufficient to demonstrate an absence of government control over its export activities in its original response, we found, after examining CMEC's response, that additional information was necessary in order for us to conclude that it would be appropriate to assign a separate rate to CMEC. However, CMEC did not respond adequately to our supplemental questionnaire. As Timken notes, CMEC failed to provide information concerning the identities and former positions of CMEC's senior management and/or board of directors, the process of selecting senior management, or details regarding the CMEC Group's members and operations. See CMEC's March 3, 1997 submission at pages 3 and 8. Given CMEC's failure to respond to our requests for information regarding these issues, it would be inappropriate to make assumptions about the answers to these questions that are favorable to CMEC. Further, while Peer/Chin Jun argues that all available information confirms that there is no governmental control of CMEC, because CMEC failed to respond to these questions, we must infer that CMEC failed to respond because the answers would have indicated that CMEC's export activities are in fact controlled by the government of the PRC. Therefore, we determine that CMEC is not entitled to a separate rate.

With regard to Peer/Chin Jun's argument that government control over CMEC's export activities is only important if there is evidence that ''pricing and export strategy are subject to [government] review or approval'' or if there is evidence that the authority to negotiate and enter into contracts ''is subject to any level of government approval,'' we disagree. We use these factors to determine whether there is de facto government control. The evidence on the record is not sufficient for us to conclude that CMEC's export activities are not controlled by the PRC government. It is incumbent on respondents to demonstrate that they are entitled to separate rates. If a respondent fails to submit sufficient evidence to demonstrate the appropriateness of receiving a separate rate, especially when we request specifically that it submit such evidence in both the original and supplemental questionnaires, we cannot assume that a respondent is entitled to a separate rate based on evidence previously submitted.

Finally, the fact that CMEC received a separate rate in the initial investigation and in the 1989–90 administrative review is irrelevant in the context of this review. With regard to separate rates, each review requires a *de novo* determination because facts may change over time. Furthermore, Peer/Chin Jun's contention that all relevent evidence shows that China has liberalized its control of the economy since 1990 and has no control over Chinese trading companies is speculative and unsupported by record evidence. In addition, even if it were true generally, that does not prove that it is true for individual companies. Therefore, we have not altered our treatment of CMEC for these final results.

Comment 2: Timken claims that The Law of the People's Republic of China on Industrial Enterprises Owned by the Whole People, Art. 44 (1988) (Chinese law), specifies that the government of China maintains control over the

appointment and removal of top management in facilities in which the people of China have an ownership interest. Timken asserts that consideration of that Chinese law requires reversal of the separate-rate decisions concerning all respondents in this review period. Timken adds that the Chinese law demonstrates that not only is the choice for factory director subject to government review and approval or disapproval, so too are the factory director's choice for hiring or discharging others in top management positions. Timken states that, because respondents have not provided any information to explain the discrepancy between the text of the Chinese law and their claims, the Department should determine in the final results on the basis of facts available that respondents' management selection is, as provided by the Chinese law, subject to government control and, therefore, respondents are not entitled to separate rates.

Guizhou Machinery, et al. argue that the Department determined that there was an absence of both *de jure* and *de facto* government control over their operations in past reviews. Guizhou Machinery, et al. contend that, based on the *de jure* and *de facto* government control standard, the Department found in the *Preliminary Results* that the information submitted by Guizhou Machinery, et al. was unchanged and consistent with information reported in past reviews. In addition, Guizhou Machinery, et al. argue that the Chinese law to which Timken refers has been in existence since 1988 and, therefore, has been in existence in every review since the beginning of this order yet the Department has granted separate rates to respondents in the past. Moreover, Guizhou Machinery, et al. assert that nothing about the Chinese law has changed to alter the results of this review. Guizhou Machinery, et al. maintain that the Chinese law's actual impact on a company's operations is nonexistent and, in reality, companies do no more than record election results with a government agency. Guizhou Machinery, et al. argue that, if the Department accepts Timken's assertions, the Department would have to make the same determination in every antidumping case involving a Chinese company despite reliable evidence of independence.

Department's Position: We have determined in each review of this proceeding that ownership ''by all the people'' in and of itself cannot be considered as dispositive in establishing whether a company can receive a separate rate. *See* also 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). It is our policy that a respondent in a non-market economy (NME) is entitled to a separate rate if it demonstrates on a *de jure* and a *de facto* basis that there is an absence of government control over its export activities.

A separate-rate determination does not presume to speak to more than an individual company's independence in its export activities. The analysis is focused narrowly on an individual company, and the determination, if autonomy is found, is narrow. The Department analyzes that individual company's U.S. sales separately and calculates a company-specific antidumping rate. Thus, for purposes of calculating margins, we analyze whether specific exporters are free of government control over their export activities, using the criteria set forth in Silicon Carbide at 22585. Those exporters who establish their independence from government control are entitled to a separate margin calculation.

Thus, a finding that a company is entitled to a separate rate indicates that the company has sufficient control over its export activities to prevent the manipulation of such activities by a government. See Disposable Pocket Lighters from the PRC, 60 FR 22359, 22363 (May 5, 1995) (Disposable Lighters).

The PRC companies that responded to our questionnaire submitted information indicating a lack of both *de jure* and *de facto* government control over their export activities. Timken claims that the election of the general manager is subject to governmental approval. We examined this issue in prior cases and determined that such approval is strictly a pro forma exercise. Our review of the Chinese law and previous verifications of the various respondents indicate that this ''approval process'' is, in effect, a mere reporting exercise. As we stated in the *Preliminary Results* with regard to Huangzhou, and verified in the cases of respondents which we conducted a verification, respondents' management is generally elected by the employees of the enterprise and the results of such elections are recorded with the Ministry of Foreign Trade and Economic Cooperation or a similar governmental agency. There is no evidence that MOFTEC or any other governmental body controls the selection of management, nor has ever interfered with the election process. Therefore, we find that the companies independently select their management. Based on our analysis of the factors enunciated in Silicon Carbide, the verified information on the record supports our determination that the above-named respondents are, both in law and in fact, free of government control over their export activities. See, e.g., Luoyang's verification report dated April 23, 1997. Thus, it would be inappropriate to treat these firms as a single enterprise and assign them a single margin. Accordingly, we have continued to calculate separate margins for these companies. See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results of Antidumping Duty Administrative Reviews (TRBs IV–VI), 61 FR 65527, 65528 (December 13, 1996).

Comment 3: Timken argues that TRBs from the PRC are subject to direct government export control. Timken maintains that, contrary to respondents' narrative claims and the conclusion of the preliminary results, licenses are required to export TRBs. Because respondents have failed to come forward with any factual basis for believing that export controls do not apply, Timken argues that the Department should determine as facts available, that TRBs are subject to export controls on the basis of the Chinese law.

Guizhou Machinery, et al. argue that the Department rejected this same argument in Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results and Partial Termination of Antidumping Duty Administrative Review, 62 FR 6173 (February 11, 1997) (TRBs VIII). Guizhou Machinery, et al. contend that they have provided further clarification to the Department on the nature of the controls and each company reported that it did not need to apply for an export license during the review period. Guizhou Machinery, et al. state that, since late 1993, the ''Temporary Provisions for Administration of Export Commodities'' have not been strictly implemented and no governmental approval has been required to export commodities on the list. Therefore, Guizhou Machinery, et al. contend that the Department should reject Timken's assertions and continue to grant separate rates to respondents for the reasons set forth above.

Department's Position: We obtained information regarding the extent of government control over respondents' export activities. The PRC companies that responded to our questionnaire submitted information indicating a lack of both *de jure* and *de facto* government

control over their export activities. Contrary to Timken's assertions, our determination in this regard did not hinge on the fact that the term ''TRBs'' does not appear on the ''Temporary Provisions for Administration of Export Commodities'' (Temporary Provisions). Further, we are not persuaded to change our separate-rates determinations based on the fact that the term ''bearings'' appears in the Temporary Provisions. The term ''bearings'' appears on a section of the Temporary Provisions that simply indicates that an exporter must obtain an ''ordinary'' license in order to export bearings. There is no evidence on the record that an ''ordinary'' export license involved any export controls or authorization beyond that involved in any market economy. Instead, as detailed in the *Preliminary Results*, the record evidence in this case, including our verification findings, clearly indicates a lack of both *de jure* and *de facto* government control over the export activities of the firms to which we have assigned separate rates.

We also do not agree with Timken's argument that we have misapplied the presumption of state control in this case. As noted previously, we stated in the *Preliminary Results* that there is no evidence of government control over exports. The record, based on information that respondents provided in response to our requests for information, indicates that the government of the PRC does not control respondents' export activities. Finally, this information was subject to verification and is discussed in the relevant verification reports. The verified information on the record supports our determination that the respondents are, both in law and in fact, free of government control over their export activities. Thus, it would be inappropriate to treat these firms as a single enterprise and assign them a single margin. Accordingly, we have continued to calculate separate margins for the companies listed above. See TRBs IV–VI at 65528.

Comment 4: Timken contends that, in the investigation stages of this proceeding, CMEC was the umbrella organization through which all companies in the PRC exported TRBs to the United States. Timken argues that CMEC's questionnaire responses in this review contradict its claim of independence and indicate that it plays a leading role as part of a huge conglomerate, controlled by the PRC government. Timken asserts that, at the very least, the Department should assume that CMEC's status as a core enterprise unifies all of the allegedly ''independent'' Chinese trading companies. Timken asserts further that, even if the Department decides that other PRC companies are entitled to separate rates, the Department should not assign separate rates to CMEC and its affiliates. Timken argues that the Department should reject CMEC's and is affiliates' responses regarding separate rates because CMEC has failed to discuss the state's role in the establishment of CMEC.

Guizhou Machinery, et al. argue that Timken's claim that CMEC acts as an umbrella organization for all Chinese TRB facilities is unfounded. Guizhou Machinery, et al. assert that the Department determined that CMEC was no longer an umbrella organization when it decided that Guizhou Machinery, et al. deserved separate rates in TRBs IV–VI. Guizhou Machinery, et al. state that the Department's preliminary conclusion to use separate rates is correct, and it should reject Timken's request to apply a single rate to Guizhou Machinery, et al.

Department's Position: We agree with respondents. Although CMEC failed to respond adequately to our requests for information with regard to separate rates and therefore did not receive a separate rate, as discussed in our response to comment 1 of this section, there is no record evidence in this review to support Timken's claims that other respondents in this review are accountable to or are connected in any way to CMEC. The factual situation in the original investigation has no relevance to this review, especially in light of the fact that the period of investigation was nearly 10 years prior to the POR. The data we received from respondents in response to our original and supplemental questionnaires suggests that the original factual situation no longer exists. Therefore, we have continued to calculate and apply separate margins for respondents in these reviews except as noted elsewhere.

Comment 5: Timken states that CMC's verification report indicates that appointments by the General Manager are not subject to approval by the board and, additionally, that the Board of Directors only appoints the General Manager. Timken claims that what is not discussed in the report is that CMC is a Chinese company ''owned by all the people of the People's Republic of China.'' Timken claims that, under article 44 of The Law of the People's Republic of China on Industrial Enterprises Owned by the Whole People, the Chinese government retains approval authority over the selection of CMC's Director or General Manager, and that nominations must be submitted to the government for approval. Similarly, Timken continues, Article 45 of that law permits the General Manager only to nominate or suggest appointments to and removals from the other top management positions, leaving approval of proposed appointments and removals with the government. Timken argues that the law was not addressed by CMC in its questionnaire responses or at verification and, absent proof of its repeal, it establishes government control at the highest levels of the company. Timken claims that a finding of separate status cannot rationally be made when the highest levels of management require government approval and provisions requiring government approval of other management certainly would apply to the appointment of CMC's representatives to the CMC board. Thus, Timken contends, CMC's management is controlled by the Chinese government.

Department's Position: We disagree with Timken. As we stated in our response to comment 2 of this section, ownership of a company by ''all the people'' does not in itself disqualify a respondent for application of a separate rate. We verified the fact that CMC's appointment of personnel is independent of government control. Accordingly, we have determined that CMC is eligible for a separate rate.

Comment 6: Timken argues that neither CMC's verification report nor the preliminary results recognize that the 1992 ''Temporary Provisions for Administration of Export Commodities'' include ''bearings'' among products subject to direct government export control. That law, Timken claims, submitted as an attachment to various respondent's Section A responses, lists bearings among articles subject to export controls. Under this provision, the government retains control over export activities sufficient to deprive CMC of separate entity status and the preliminary finding of a separate rate for CMC should be abandoned in the final results.

Department's Position: As explained in our response to comment 3 of this section, we have determined that this document alone does not suffice to deny CMC a separate rate. Therefore, we have calculated a separate rate for CMC for these final results.

2. Valuation of Factors of Production

2. (a) Material Valuation

Comment 1: Timken argues that the Department should use India, not Indonesia, as the surrogate country for valuing steel inputs. Timken contends that the Department in the *Preliminary*

Results identified India as the primary surrogate and Indonesia as the secondary surrogate and that there is no reason to resort to the secondary surrogate as a source of values unless values available in the primary surrogate are deemed unreliable. Timken asserts further that information which it provided in its brief shows that the average unit values derived from the Indian import statistics are not dissimilar to the values reported by Asian Bearings and SKF India, actual Indian bearing producers. Timken also argues that the Department should use such values of actual bearing producers in India for its valuation of direct materials.

Timken contends that the decision that Indian import statistics are ''unreliable'' appears to be based largely upon an unreasonable comparison of the Indian import values with imports of bearing-quality steel to the United States, which is a country that is at a level of economic development not even remotely comparable to China. Citing Drawer Slides from the People's Republic of China, 60 FR 54472, 54476–76 (October 24, 1995) (Drawer Slides), Cased Pencils from the People's Republic of China, 59 FR 55625, 55629 (November 8, 1994) (Cased Pencils), and Helical Spring Lock Washers, 58 FR 48833, 48835 (September 20, 1993) (Lock Washers), as well as prior TRB reviews, Timken contends further that a comparison of the average unit values of U.S. imports, Indonesian imports, and Indian imports indicates that there is not a sufficient ''aberration'' in prices to justify the Department's findings in the preliminary results. In addition, Timken alleges that a large portion of the imports included in the U.S. statistics are shipped from Japan to U.S. ports located near the U.S. subsidiaries of companies subject to antidumping duty orders on bearings and, as such, the statistics reflect intra-company transfer prices between companies attempting to avoid antidumping orders.

Timken contends that it appears that the values which the Department found to be ''unreliable'' in the precedent determinations were ''at least several times'' or, when a specific figure is given, over 300 percent higher than the other information on the record. Timken further states that, in Lock Washers, even a value 600 percent higher than the alternative was not found sufficiently aberrant to warrant rejection. Timken contends that the fact that Indian values are only twice as high as the average unit value of U.S. imports supports the use of the Indian statistics. Timken also states that, in Drawer Slides and Lock Washers, Indian import values were found to be inconsistent with Indian export values, as well as with petitioner's costs for the items being valued. In this review, Timken argues, the prices actually paid by a producer and the results from the remand in the original investigation show the values from Indian import statistics to be reasonable under the standards applied in other antidumping proceedings.

Finally, Timken asks that, should the Department use the Indonesian statistics, it should exclude imports under the bearing-quality categories that come from countries not known to produce bearing-quality steel as it did in Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from Romania: Final Results of Administrative Review, 62 FR 37194, 37195 (July 11, 1997) (Romanian TRBs). In addition, Timken suggests that aberrationally high or low values and small quantities should be excluded from the calculations.

Guizhou Machinery, et al. argue that the Department should reject Timken's arguments. Guizhou Machinery, et al. state that the Department has used Indonesian import statistics to value steel inputs for the last five administrative reviews and that there is no information on the record of this review which would suggest that a change in methodology is appropriate. Guizhou Machinery, et al. argue further that the Department tested the Indian import statistics for steel using a methodology that is consistent with the statute, the Department's regulations, and administrative practices. Respondents assert that, based on the Department's determination that Indian steel import values are unreliable, the Department valued the steel input and scrap properly by using import statistics from Indonesia, the secondary surrogate country. Citing section 773(c)(1) of the Act, Guizhou Machinery, et al. state that the statute permits the Department to consider information from various market-based economies, including the United States, when selecting surrogate values. In addition, Guizhou Machinery, et al. state that the Court of International Trade recently confirmed the very method the Department used to determine the ''best available information'' on steel surrogate values, citing Olympia Industrial Inc. v. United States, Consol. Ct. 95–10–01339, Slip Op. 97–44 (April 10, 1997). Peer/Chin Jun and L&S Bearing Co. clarify that the Department is not using the United States as a surrogate; it is merely using steel prices in the United States as a basis of comparison.

Respondents state that Timken's attempt to discredit U.S. import statistics is based upon speculative assertions regarding the import values and should be rejected. Guizhou Machinery, et al. state further that the fact that United States maintains an antidumping duty order on TRBs from Japan in no way supports Timken's speculation that the U.S. import values for bearing-quality steel are understated. Furthermore, respondents contend, there is no evidence that the U.S. import prices are transfer prices because the import statistics do not identify the exporters. Peer/Chin Jun and L&S Bearing Co. state that, in fact, an analysis of the 1996 U.S. import statistics shows that the average import values for Japanese steel is only ten percent less than the average import value for all countries.

While Guizhou Machinery, et al. agree with Timken that the cited cases represent situations in which the proposed surrogates were aberrational, they argue that the cases cited do not stand for the proposition that only values which are over several times higher than other information on the record are aberrational. Respondents state that the Department has never adopted a numerical threshold or minimum standard for defining aberrational data but rather bases each finding upon the record in each case. Consistent with its determinations in prior Chinese TRB reviews, respondents submit that the Department should affirm, in the final results, its preliminary finding that the Indian import values for steel are aberrational for purposes of valuing the steel input and scrap in this review and continue to use Indonesian import statistics.

Finally, Guizhou Machinery, et al. state that the Department should not rely upon the publication provided by Timken for identifying the countries which produced bearing-quality steel during the POR because it is stale information.

Department's Position: We disagree with Timken. Although Indonesia is not the first-choice surrogate country in this review, in past cases the Department has used values from other surrogate countries for inputs where the value for the first-choice surrogate country was determined to be unreliable. See Drawer Slides at 54475–76, Cased Pencils at 55629, and Lock Washers at 48835. The Department has used Indonesia previously as a secondary source of surrogate data in cases involving the PRC where, as here, use of Indian data was inappropriate even though India was the primary surrogate. See, *e.g.*, Chrome-Plated Lug Nuts from the PRC: Final Results of Antidumping Duty

Administrative Review, 61 FR 58514, 58517–18 (November 15, 1996).

Timken's attempt to distinguish the instant proceeding from the cases in which we have departed from a primary surrogate demonstrates that there are a variety of factual situations in which recourse to a secondary source is appropriate with respect to the valuation of a given factor. Accordingly, we must determine the reliability of each factor based on the facts of each case. In this review, as noted above, a comparison of the Indian import values with other, more specific data regarding bearing-quality steel indicates that the Indian values are inappropriate. In contrast, the Indonesian data that we have chosen closely approximate observable market prices for this specific input and therefore constitute a more appropriate valuation source.

Finally, we disagree with Timken that the fact that Japanese values are included in the U.S. import statistics creates a distortion which would make U.S. import statistics an inappropriate gauge of the reasonableness of Indian import statistics. Timken's argument is speculative and unsupported by any evidence on the record. Furthermore, even if we were to disregard U.S. imports from Japan, the Indian import prices are substantially greater than the average U.S. import prices of countries other than Japan.

For these final results, where we have other sources of market value such as Indonesian import statistics or U.S. import statistics, we have compared the Indian import statistics to these sources of market value to determine whether the Indian import values are aberrational, *i.e.,* too high or too low. Based on this comparison, we have determined that the Indian steel values are aberrational and have used Indonesian steel values for our surrogates (see Selection of surrogate country memorandum, dated June 13, 1997).

We agree with Timken that imports under the bearing-quality steel categories that come from countries that do not produce bearing-quality steel should be excluded from our surrogate-value calculations. The data Timken submitted regarding which countries do not produce bearing-quality steel was published one year prior to the beginning of the POR. We do not consider the data to be stale because it is only one year removed from the POR. Therefore we consider this data to be the best facts available on the record of this review for determining which steel prices are properly included in our surrogate value calculations. See Revised Steel Factors-of-Production Values used for the Ninth Administrative Review of the Antidumping Duty Order on Tapered Roller Bearings from the People's Republic of China, dated October 29, 1997 (Revised Steel FOP Memorandum) for a description of how we recalculated the steel values. In addition, we discovered two clerical errors in our preliminary calculation of steel values. First, we used the average exchange rate for the time period which we excluded rather than the time period we used. Second, contrary to what we said in Memorandum to the File from Case Analysts: Factors of Production Values Used for the Ninth Administrative Review of the Antidumping Duty Order on Tapered Roller Bearings from the People's Republic of China dated June 20, 1997 (FOP Memorandum), in some instances, we inadvertently did not exclude imports from NMEs or from countries that shipped fewer than seven metric tons of steel to Indonesia. We have corrected these errors for these final results.

Comment 2: Timken states that the Department should not use Indonesian statistics to value the factors of production. Timken contends that Indonesian statistics do not describe bearing-quality steel as well as the Indian statistics because the Indian statistics are reported and maintained by eight-digit categories and the Indonesian statistics are reported and maintained by six-digit categories. Specifically, Timken contends that the average unit values for the two most important categories of Indonesian steel are inherently less likely to represent the value of bearing-quality steel. While Timken does concede that none of the eight-digit Indian categories correspond specifically to the bearing-quality steel used to manufacture cups and cones for TRBs, Timken claims that the Department can deduce the quality of steel which is in the ''others'' category. Based on its analysis, Timken states that the eight-digit ''others'' category defines bearing-quality alloy steel bar more narrowly than the six-digit Indonesian category for all types of steel bars.

Timken also contends that, because the Indonesian import statistics identifying the country of export are only available on an annual basis, the data does not permit consideration of values most contemporaneous with the POR. Timken contends further that, because the data most contemporaneous with the POR do not identify the source country, it is impossible to exclude imports from NMEs, countries which do not produce bearing-quality steel, or to identify small or otherwise aberrational quantities.

In addition, Timken states that, even assuming that the Indian statistical value for bar is ''unreliable'', other Indian statistic categories are not unreliable. Specifically, Timken presents an analysis which it deems as evidence that the Indian values for bar for rollers and sheet for cages are in line with U.S. values. Finally, Timken states that, if the U.S. values are the only ''reliable'' figures, then the Department should resort directly to them as the surrogate values.

Guizhou Machinery, et al. contend that the majority of Timken's assumptions are incorrect and that the Department used contemporaneous Indonesian import data, excluded NME imports from Indonesian statistics, and eliminated the values of steel imports entered in small quantities. Guizhou Machinery, et al. contend further that the Department's selection of Indonesian import statistics to value the steel inputs resulted in the use of the best available information on the record of this review.

Guizhou Machinery, et al. contend that Timken does not know, nor is there any factual description on the record of, the specific steel products which were imported under the Indian and Indonesian categories Timken compares for the purposes of its analysis. Respondents assert that Timken's analysis leaves the Department comparing two basket categories. Respondents argue that, even if the Indian import statistics more narrowly define the type of steel, the Indian data are still unreliable.

Department Position: We disagree with Timken. None of the eight-digit Indian tariff categories corresponds specifically to bearing-quality steel used in manufacturing TRBs and there is no evidence on the record to support Timken's argument that data based on the Indian eight-digit ''others'' category are in any way superior to data based on the Indonesian six-digit categories. We determine that the use of Indian import data is not appropriate to value steel because we are unable to isolate an Indian import value for bearing-quality steel and, more importantly, the steel values in the Indian import data are not reliable, as discussed in our response to comment 1 of this section, above.

As in TRBs IV–VI and in Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results of Antidumping Duty Administrative Review and Revocation in Part of Antidumping Duty Order, 62 FR 6189 (February 11, 1997) (TRBs VII), we have examined each of the eight-digit categories within the Indian

7228.30 group and have found that, although bearing-quality steel used to manufacture cups and cones is most likely contained within this basket category, there is no eight-digit sub-category that is reasonably specific to this type of steel. We have no information concerning what the ''others'' category of steel contains, and none of the parties in this proceeding has suggested that this category specifically isolates bearing-quality steel. More importantly, the value of steel in this eight-digit residual category is valued too high to be considered a reliable indicator of the price of bearing-quality steel.

In light of these findings, we have used import data from another surrogate country, Indonesia, a producer of merchandise comparable to TRBs, to value steel used to produce these components. As with the Indian data, we were unable to isolate the value of bearing-quality steel or identify an eight-digit category containing such steel imported into Indonesia; however, unlike the Indian data, the Indonesian six-digit category is consistent with the value of U.S. imports of bearing-quality steel under the comparable six-digit category in the United States, which specifically includes bearing-quality steel. Thus, we have determined that the Indonesian six-digit category is the best available information for valuing steel.

Comment 3: Timken contends that, even if there were a rational basis for rejecting the Indian import statistics, other Indian values, not Indonesian values, would be the appropriate replacements. Timken states that, in addition to the Indian import statistics, the record contains the values from the results of the court-ordered remand for the original investigation as well as recent public data for the actual prices paid for inputs by bearing producers in India, namely, Asian Bearing, SKF India and Tata Timken Ltd. (Tata). Timken contends that use of any of these sources would yield more reliable results than use of the basket categories in Indonesia.

Guizhou Machinery, et al. state that, while there may be no shortage of Indian data, the amount of data is irrelevant because the issue is whether the data are appropriate for purposes of establishing a reliable surrogate value. Guizhou Machinery, et al. state further that, in past reviews, the Department has repeatedly rejected the same alternative sources Timken presents in this review. Guizhou Machinery, et al. also contend that there are other flaws in the data available from the sources suggested by Timken and that the Department has not verified any of the purported factual statements, nor has Timken certified the accuracy of the information.

Guizhou Machinery, et al. state that the data in the remand determination of the original investigation is over 10 years old and is stale. In addition, Guizhou Machinery, et al. state that the consistency between 1985/86 and 1995/96 Indian import values for steel is irrelevant since the Department found the 1995/96 Indian import statistics to be aberrational.

Department's Position: We disagree with Timken. Section 773(c)(1) of the Act states that, for purposes of determining normal value (NV) in a NME country, ''the valuation of the FOP shall be based on the best available information regarding the values of such factors * * *'' As we stated in TRBs IV–VI and in TRBs VII, our preference is to value factors using published information that is closest in time with the specific POR. See also Drawer Slides at 54476. Also, we have a longstanding practice of relying, to the extent possible, on public statistics from the first-choice surrogate country to value any factors for which such information is available over company-specific data. See Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings From the People's Republic of China, 57 FR 21058 (May 18, 1992) (Butt-Weld Pipe) at 21062. Public statistics provide a more representative value for these material inputs than a single company's information. Therefore, surrogate-country import statistics exclusive of import duties comprise the best available information in this review for valuing raw-material costs. Our reasons for preferring data for Indonesia, rather than for our primary surrogate, India, for valuing steel are set forth in our response to the above comments.

Comment 4: Wanxiang contends that it reported the gross weight for the cup and cone in the data field for cones while reporting zero in the data field for cups. Wanxiang asserts that, because the Department used facts available for cups, the Department effectively double-counted the material costs for cups. As support for its contention, Wanxiang cites the data which it supplied another respondent. Wanxiang argues that the Department should either recalculate the cup and cone weights by allocating the cone weight which it reported on the basis of net weight or the Department should aggregate the gross-weight calculation for cups and cones because the distance from the steel mill and the surrogate value for steel are the same for both the cup and cone.

Timken contends that, because Wanxiang failed to furnish the information the Department requested, the Department was compelled to use facts available. Timken argues that it is too late now for Wanxiang to request that the Department reconfigure its response. Furthermore, Timken asserts that Wanxiang failed to demonstrate that its suggested revisions reflect reality. Finally, Timken argues that the Department should assume that the gross weight of the cup was, at a minimum, the same as that of the cone because the cone must fit within the cup and the cup is generally heavier than the cone. Therefore, Timken asserts, the Department should use the cone gross weight instead of the cup net weight to restate the cup gross weight.

Department's Position: We agree with Wanxiang. We have enumerated the criteria which must be met before we will correct an alleged clerical error in Certain Fresh Cut Flowers From Colombia; Final Results of Antidumping Duty Administrative Reviews, 61 FR 42833 (August 19, 1996) (Colombian Flowers). We have corrected this error because it is obvious from the record that an error occurred. Furthermore, we examined the data that Wanxiang placed on the record on behalf of another respondent and found that the sum of the weights for cups and for cones is nearly identical to the single weight that Wanxiang reported. Furthermore, we agree with Wanxiang that we should aggregate the gross-weight calculation for cups and cones. While, for purposes of analyzing and verifying the reported data, we normally prefer that these data be segregated, it doesn't matter mathematically for the purposes of calculating the margin whether the gross weights for cups and cones are segregated or aggregated because we use the same steel values for both cups and cones. Therefore, for purposes of calculating Wanxiang's margin, we aggregated the cup and cone gross weights.

Comment 5: Peer/Chin Jun argues that the Department should not disallow a certain supplier's scrap offset to direct materials cost. Peer/Chin Jun argues that the Department has verified this supplier's scrap offset in previous reviews and that this supplier submitted adequate data on behalf of Peer/Chin Jun for the Department to find that the methodology used was reasonable.

Peer/Chin Jun contends further that the Department also cited the great variance in this supplier's reported scrap weights as a percentage of gross weight as a reason for disallowing the scrap offset. Peer/Chin Jun argues that it is logical that scrap weight should vary

depending on the model and component. Peer/Chin Jun also contends that the scrap weight does not vary much when compared only to other components of the same type, and it asserts that scrap rates will be higher for some types of components than for others. Peer/Chin Jun also asserts that the scrap weights reported by this supplier are similar to those claimed by other respondents.

Timken asserts that it would be ludicrous to accept this supplier's unsupported claim for a scrap allowance given the fact that this supplier failed to explain its allocation methodology after having been given an opportunity to do so.

Department's Position: We agree with Timken. We disallowed the scrap offset for this supplier because Peer/Chin Jun failed to support its claim for a scrap offset. Peer/Chin Jun failed to respond to our two requests to describe how it calculated the scrap offset. Moreover, Peer/Chin Jun failed to provide any useful information which we could use to calculate the scrap offset. It is irrelevant whether the great variance in scrap rates is reconcilable. The claim that it is reconcilable does not mitigate the failure to provide an explanation of how the calculation was performed. Therefore, we conclude that this supplier failed to support a scrap offset and we have disallowed this offset.

Comment 6: Timken claims that the verification report confirms CMC buys rings for cups and cones and cages from outside entities and that the turning of rings for cups and cones also occurs at outside entities. Timken states that it has submitted information on the record which will permit the direct valuation of these components based on the cost of those inputs in India and that these should be used in the final results. Timken contends further that the verification report indicates that no more than a certain percentage of scrap produced should be factored into the final result calculations for the final results.

Timken remarks that it has asked repeatedly that the Department conduct a top-down verification of total employment, total production, and total hours allocated to the subject merchandise. Timken claims that the lack of such information leaves each of the reported labor factors without an objective benchmark against which it could be compared.

Timken states that, because data pertaining to forging, machining, heat treatment, and grinding stages of production was provided by facsimile from a subcontractor, the information could not be traced to CMC's source documents. Timken claims that CMC cannot evade verification because operations were performed by subcontractors and that this should be a basis for finding that CMC failed verification, not an excuse to accept unsupported facsimile documents.

CMC responds that, as noted in the verification report, the FOP data for production not completed at CMC was provided voluntarily by its subcontractors and the Department noted no discrepancies; therefore, there is no reason to reject the subcontractors' facsimiles. CMC states that it is not surprising that the data reported by subcontractors could not be traced to CMC's source documents because the source documents involving the subcontractors' operations are maintained by the subcontractors and those documents could have been examined by the Department had it chosen to do so. Therefore, CMC argues, the Department should rely on the FOP information provided by Yantai CMC which included FOP data provided by subcontractors for various phases of the production process.

Department's Position: Although Timken states that it submitted information for the record to permit direct valuation in India of components purchased by CMC, this information is irrelevant. In fact, as the verification report describes on page 8, CMC imported *all* of the steel used in manufacturing all components of the subject merchandise. CMC then sent the imported steel to a subcontractor which made the component from CMC's steel. Thus, CMC did not actually purchase the component from the subcontractor, but rather, CMC purchased the processing services of the subcontractor. In short, the subcontractor merely performed part of the manufacturing process for CMC. Therefore, it is appropriate to use CMC's raw materials expenses and the subcontractor's FOP to construct NV rather than a surrogate value for the finished component.

We disagree with Timken that we should reject the information from verification which was provided to the verifiers at verification by facsimile transmission. We have conducted this administrative review in accordance with section 751(a)(2) of the Act and our regulations. Although a verification was not required by statute, the Department decided to verify the accuracy of CMC's submissions.

The courts have long agreed that verification is a selective procedure and the Department's ability to verify complete responses is constrained by limitations on time and resources. See, e.g., *Bomont Indus.* v. *United States,* 733 F. Supp. 1507, 1508 (CIT 1990). As in this case, it is not always practicable for the Department to conduct verifications of all companies, suppliers, and subcontractors during every review. The Department has considerable latitude in picking and choosing which items it will examine in detail. *See Monsanto Co.* v. *United States,* 698 F. Supp. 275, 281 (CIT 1988) (citing *Hercules, Inc.* v. *United States,* 673 F. Supp. 454, 469 (CIT 1987)). It is enough for the Department ''to receive and verify sufficient information to reasonably and properly make its determination.'' *Hercules,* 673 F. Supp. at 471; *see also Certain Internal-Combustion Industrial Forklift Trucks From Japan:* Final Results of Antidumping Duty Administrative Review, 62 FR 5992, 5602 (February 6, 1997).

Therefore, contrary to Timken's assertions, the fact that the Department could not devote the resources necessary to verify CMC Yantai's entire responses does not, alone, call those responses into question. Moreover, to the extent we found problems with those portions of the responses that we did verify, these problems were relatively minor and did not seriously call the responses into question, neither with respect to the portions we did verify nor those which we did not. See Forklift Trucks From Japan, 62 FR at 5602. For these reasons, we have continued to rely upon the respondents' complete responses, except where indicated.

2.(b) Labor Valuation

Comment 1: Timken argues that the Department should restate all respondents' indirect labor percentages because the reported percentages are, according to Timken, implausible. Citing an affidavit by one of its employees, Timken claims that it requires 3 to 4 minutes to produce a bearing in the United States, but that it requires an hour to produce a bearing in China. Timken then asserts that certain respondents reported direct labor figures lower than 3 to 4 minutes, which, Timken contends, would indicate a productivity rate greater than that which U.S. firms experience. Timken contends that the reported total labor hours per bearing respondents reported are therefore too low and argues that the Department should restate the figures. Timken argues that the available evidence, including an affidavit by one of its employees, as well as the productivity rates, numbers of employees, and indirect labor percentages of other TRB factories in other countries, indicates that respondents have grossly understated

total labor and indirect labor costs. In addition, Timken asserts, respondents have not substantiated their reported indirect labor and selling, general, and administrative (SG&A) labor percentages and supplemental responses have not overcome the deficiencies in the original responses. Timken also suggests that the fact that the Department found at verification that Luoyang may have misclassified some types of labor indicates that other respondents made the same misclassification, given the uniformity of the indirect labor and SG&A labor percentages respondents reported. Timken argues that, for these reasons, the Department should reject the indirect and SG&A labor percentages all respondents reported and use labor percentages calculated based on other information which is on the record as the facts available in this case.

Guizhou Machinery, et al., Peer/Chin Jun, and L&S argue that the Department verified the ratios respondents reported in this review and in all previous reviews. Respondents also contend that the data which petitioner submitted in order to support its arguments are unsupported, self-serving, and unverified and that because petitioner's assertions are inconsistent with verified information, the Department should not use Timken's information to contradict substantiated data. Finally, respondents assert that petitioner has grossly exaggerated the significance of the discrepancy in Luoyang's data and use of facts available for all respondents as a result would be inappropriate.

Department's Position: We disagree with Timken. Timken essentially argues that we should restate respondents' indirect and SG&A labor percentages because the labor data respondents submitted is allegedly implausible. However, we examined the data Timken uses to support its assertions and found, as described below, that Timken's analysis of that data was flawed. Moreover, as respondents note, that data was neither verified nor substantiated on the record.

Timken asserts that some respondents reported direct labor figures which would indicate a productivity rate greater than the United States. In fact, when we examined the data, we found that, contrary to Timken's assertion, no respondent reported direct labor for a complete bearing as low as 4 minutes. Furthermore, in most instances, the reported direct labor for complete bearings was approximately two to three times the 3 to 4 minutes that Timken states are required to produce a bearing in the United States and, in some instances, the reported direct labor was significantly higher than 4 minutes. While we did find direct labor figures for individual components that were lower than 3 minutes, it is to be expected that the production time for a component would be less than that of a complete bearing. It would be inappropriate to presume that respondents understated direct labor because the reported time required to produce a component in China is less than the time Timken states is required to produce a whole bearing in the United States.

In addition, the affidavit Timken presents is internally inconsistent regarding productivity rates. See Memorandum from Program Manager to Office Director dated October 29, 1997. However, as noted above, we found that, in most instances, the direct labor respondents reported for complete bearings was approximately two to three times the 3 to 4 minutes that Timken states are required to produce a bearing in the United States. Thus, the direct-labor rates respondents reported are generally consistent with the productivity rates we can infer from the statements at paragraph 12 of the Timken affidavit.

From the evidence on the record, we conclude that the data respondents reported, far from being implausible, suggests strongly that the productivity rate for respondents is much lower than the rate for companies in the United States.

While respondents, as Timken notes, generally reported in their original responses that the indirect and SG&A labor percentages were both about twenty percent of direct labor, most respondents revised the reported percentages in response to our supplemental questionnaires. We have verified the direct labor hours and the indirect and SG&A labor percentages of two respondents.

Finally, while Luoyang may have misclassified some types of labor, as discovered at verification (*see* Luoyang Verification Report dated April 23, 1997 at page 8), we regard this as inconsequential in Luoyang's case. Luoyang reported some labor, which Timken asserts should have been classified as indirect labor, as direct labor. It is important to note that the labor which may be more properly classified as indirect labor is captured in the response as direct labor. Thus, were we to reclassify some of this labor as indirect labor, we would increase the indirect labor percentage and decrease the total direct labor figure by the amount of labor that was reclassified. The net result of this reclassification would therefore yield no difference in the total labor for Luoyang's merchandise. Moreover, as noted above, it would be inappropriate to make inferences about the data other respondents reported based on our findings at the verification of Luoyang's response.

In conclusion, for the reasons stated above, we find that the data respondents reported are reasonable and accurate. We see no reason to reject respondents' reported labor data or to resort to the use of facts available in order to restate the reported labor data. Therefore, we have accepted respondents' labor data as reported and corrected at verification.

Comment 2: Timken contends that the hourly costs which the Department used to value indirect labor and SG&A labor were understated in the preliminary results. Timken asserts that it is not appropriate to use the direct-labor hourly cost for indirect and SG&A labor rates because these hourly costs are considerably higher than direct-labor hourly costs, which the data from SKF India support. Timken also asserts that office employees, constituting SG&A labor, have a considerably shorter work week than factory workers in India and that the Department should have taken this into account in calculating hourly labor costs based on annual or monthly compensation.

Timken suggests that the Department assign costs among the different types of labor by applying the average hourly labor cost from SKF India's 1995–96 annual report to all labor hours. Timken contends that such a blended rate would reflect appropriate weights among direct, indirect, and SG&A labor hours, as well as among skilled, semi-skilled, and unskilled workers, at an actual bearing factory in a country at a level of economic development comparable to the PRC. Timken also suggests, as alternatives, a simple average of the average costs of workers that can be properly included and indirect and SG&A labor from Investing, Licensing & Trading Conditions Abroad, India (IL&T), rates based on SKF India's labor contract and rates based on data from Tata Timken, Timken's affiliate in India.

Guizhou Machinery, *et al.* argue that the Department should continue to use IL&T data because these data reflect publicly available published information, which Guizhou Machinery, *et al.* contend is more reliable than company-specific data which Timken submitted. Guizhou Machinery, *et al.* also note that the use of publicly available published information is consistent with the Department's practice and prior reviews of this order. Guizhou Machinery, *et al.* point out that all of Timken's alternative methodologies, except for the suggestion

to use a blended rate, rely on unpublished, unverified data that produce distortive results. Guizhou Machinery, *et al.* contend further that the Department should reject Timken's suggested blended-rate methodology because the Department has data more specific to the POR, because SKF India manufactures products other than bearings, and because the blended-rate methodology inflates the costs of skilled and unskilled direct labor improperly.

Peer/Chin Jun and L&S contend that hourly costs for indirect labor and SG&A labor were not understated in the preliminary results. Peer/Chin Jun and L&S argue that Timken's suggested methodology does not take into account the number of workers in each category of worker, which results in an improperly high representation of higher-paid workers. Based on the factual situation developed in this record, Peer/Chin Jun and L&S contend that the Department's methodology is appropriate.

Department's Position: We disagree with Timken. While it is true that some categories in IL&T, such as accountants and inspectors, have higher average labor costs than those of skilled laborers, other categories of workers that can be included properly in indirect and SG&A labor, such as quality inspectors, cleaning workers, clerks, and typists, have lower average labor costs than those of skilled laborers. Timken argues that, because the simple average of these wage rates is greater than the rates which we used in our preliminary results, the cost of indirect and SG&A labor was understated. We generally do not regard simple averages to be accurate reflections of actual experience because simple averages do not reflect factors other than the one being averaged. In this instance, a simple average of labor costs does not take into account the number of each type of worker employed by a producer. For example, it is unlikely that the respondents in this case employ the same number of toolmakers, quality inspectors, foremen, mechanical engineers, and cleaning workers. Thus, a simple average of the labor costs for these types of workers is an inaccurate measure of the actual experience because it assumes that there is an equal number of workers from each of the named vocations. The record does not contain any information which specifies the number and vocation of workers employed at each factory. Therefore, we conclude that the simple averages of wages from IL&T that Timken cites are an improper tool for analysis in this instance. In addition, for these same reasons, we conclude that Timken's suggestion to use a simple average of rates from IL&T in order to value indirect and SG&A labor costs is inappropriate and therefore unacceptable.

Timken also points to SKF India's 1995–96 annual report in support of its assertion that indirect and SG&A labor costs are higher than direct labor costs. As noted earlier, it is inappropriate to use SKF India's data, given the fact that we have other, broader-based data available for the valuation of indirect and SG&A labor expense. As we indicated in Butt-Weld Pipe at 21062, it is appropriate in NME cases to rely, to the extent possible, on publicly available statistical information from the first choice surrogate country to value factors of production over company-specific data. In addition, while it might be true that SKF India's overhead and SG&A labor costs are, on average, higher than its direct labor costs, it is not clear from the record that this is true of most, or even any, other companies that produce tapered roller bearings in India. It is also not clear whether SKF India employs workers of the various vocations found at a TRB factory in the same proportions as the Chinese respondents. Finally, SKF India produces merchandise other than TRBs and we cannot segregate the amount of labor dedicated to non-TRB production from the given total labor costs. Therefore, we continue to use public statistical information in place of company-specific data. We note, however, that we use SKF India's data for valuing overhead expenses other than indirect labor solely because we have no other, more appropriate data with which to value such expenses.

We find that Timken has not demonstrated successfully that direct-labor rates are not a reasonable surrogate for valuing indirect and SG&A labor expenses. For these reasons, we have not altered our methodology for these final results. We will examine this issue in future reviews, however, to determine the continued appropriateness of this methodology.

Comment 3: Timken asserts that the Department based labor costs on the hours paid rather than hours actually worked and contends that this methodology does not take into account vacations, sick leave, or any other time for which respondents paid but for which employees did not work. Consequently, Timken argues, the hourly rate thus calculated does not represent what the employer paid for an hour of actual work.

Guizhou Machinery, *et al.* argue that the Department has rejected this argument in prior reviews and should continue to do so in this review. Guizhou Machinery, *et al.* contend that there is no support for Timken's contention that hourly labor costs should reflect only the expenses accrued to an employer for the time the employee performs actual work. Guizhou Machinery, *et al.* further note that the Department's calculations include the cost of fringe benefits and argue that no adjustment is necessary. Finally, Guizhou Machinery, *et al.* claim that the verification report for CMC Yantai demonstrates that factory workers are not paid for idle time and thus Timken's argument that the Department's hourly rate does not represent what the employer paid for an hour of actual work is incorrect.

Department's Position: We disagree with Timken. In our preliminary results we valued direct labor using rates reported in IL&T, which states that fringe benefits normally add between 40 percent and 50 percent to base pay. See FOP Memorandum, attachment II at page 52. Accordingly, we multiplied base pay by 1.45 in order to incorporate fringe benefits. FOP Memorandum at 4.

Whereas Timken suggests we calculate a wage rate based only on time spent on the job, we find that expenses related to holidays, vacation, sick leave, etc., belong in the numerator of the surrogate labor-rate calculation and that the amount of time spent on vacation and sick leave belongs in the denominator of the calculation. Because the employer incurs expenses both for employees on vacation and employees on the job, it incurs a fully loaded labor cost to produce the merchandise. By adjusting the base pay to include such fringe benefits as vacation, sick leave, and casual leave, we calculated a fully loaded direct-labor rate that more accurately represents the actual direct-labor cost to the manufacturer. See TRBs VII at 6200–6201. Therefore, there is no need to account for actual hours worked.

Comment 4: Guizhou Machinery argues that the Department treated all labor reported from one supplier as skilled labor rather than unskilled labor erroneously. Guizhou Machinery cites its supplemental response in support of its assertion.

Timken contends that it is not clear from the record that the Department accepted Guizhou Machinery's claimed ratio of skilled to unskilled labor hours and argues that the Department should only make this change if it is convinced of the accuracy of the claimed ratio.

Department's Position: We agree with Guizhou Machinery. Guizhou Machinery indicated the actual amount of unskilled labor for the models

produced by the supplier in its April 24, 1997 response at page 6. Furthermore, the proportion of this unskilled labor to the total labor reported in the response is consistent with Guizhou Machinery's characterization in the narrative of its October 30, 1996 response at pages 6 through 7. Therefore, we have made this change for these final results.

Comment 5: Xiangfan argues that the Department treated all labor reported from one supplier as skilled labor rather than unskilled labor erroneously. Xiangfan cites its supplemental response in support of its argument. Xiangfan requests that the Department correct its labor rate by using the ''blended'' labor rate cited in the FOP memorandum at 4.

Timken contends that it is not clear from the record that the Department accepted Xiangfan's claimed ratio of skilled to unskilled labor hours and argues that the Department should only make this change if it is convinced of the accuracy of the claimed ratio.

Department's Position: We agree with Xiangfan. Although Xiangfan only reported assembly labor in the skilled-labor field in its database, its narrative response contained the ratio of skilled and unskilled labor. Upon review, it is clear that we should have applied the ''blended'' labor rate rather than the skilled labor rate and we have corrected this rate for these final results.

Comment 6: Timken argues that the selling activities of the U.S. affiliate are not included in the total labor hours upon which CMC bases its indirect and SG&A labor percentages. Timken notes that, while selling labor hours would need to be included in order to derive fair indirect and SG&A labor expenses, it is too late for CMC to place information on the record for the first time. Timken requests that the Department use the facts available to determine the margin or at least for the purpose of calculating indirect and SG&A labor.

Timken also contends that another respondent in this review included support workers in direct labor, thereby allegedly understating the percentage of indirect workers and, because the two respondents share the same counsel, it is possible that a similar problem exists with CMC's labor reporting.

CMC responds that Timken provides no basis for its argument that selling activities are not part of the calculation of SG&A. CMC states that the Department verified CMC's reported SG&A percentage by calculating the percentage itself and, therefore, the Department should use the verified number.

Department's Position: We disagree with Timken that we should recalculate CMC's indirect and SG&A labor percentages to reflect labor incurred by CMC's U.S. affiliate. This labor has nothing to do with the production of subject merchandise and is not a part of the cost of manufacture (COM). Rather, we find that CMC's U.S. affiliate's labor cost pertains to selling the merchandise to unaffiliated customers in the United States. Therefore, we have deducted the expenses associated with such labor from CEP instead of including them in the COM. As described in our response to comment 5 of section 6 (Miscellaneous Issues), below, we have deducted all expenses incurred by the U.S. affiliate from CMC's CEP.

We also disagree with Timken's supposition that CMC may have made an error in its SG&A calculation simply because another respondent, who shares the same counsel, made an error. It would be inappropriate for us to make such an assumption. Furthermore, we verified the SG&A percentage and, therefore, have used it for the final results.

2.(c) Overhead, SG&A and Profit Valuation

Comment 1: Timken argues that SKF India's overhead and SG&A ratios the Department used to calculate overhead and SG&A are understated. Timken contends that SKF India purchased forgings from its subcontractors. Because production of forgings from bearing-quality alloy steel is capital-intensive, Timken argues, a producer that subcontracts the forging operation would have higher material costs but lower fixed and overhead costs. Timken claims that, because the Chinese producers do not purchase forged materials, their experience is dissimilar to that of SKF India. Based on this reasoning, Timken states that the Department should increase the costs of raw materials to reflect the forging values or increase the overhead costs to reflect the use of lower-value materials and additional capital-intensive overhead costs. Timken suggests a method which the Department could use to achieve this. Finally, Timken states that the Department should also recalculate the ratio of SG&A to material costs using the revised material costs.

Guizhou Machinery, et al. state that, although the Department has a preference for basing overhead and SG&A rates on industry-wide published information, because industry-wide information is not available, the Department used overhead and SG&A rates applicable to SKF India. Guizho Machinery, et al. state further that, because SKF India produces non-subject merchandise, its annual report does not allow for the specific allocation of labor for overhead and SG&A used in the production of TRBs and, therefore, the Department cannot make any specific adjustments to these company-wide overhead and SG&A ratios. Furthermore, Guizhou Machinery, et al. state that the Department does not typically adjust the component values used to derive SG&A and overhead ratios in the manner Timken suggests. Consequently, Guizhou Machinery, et al. argue, the Department should not adjust the expenses it used from the SKF report to formulate ratios to determine actual amounts for overhead and SG&A.

Citing TRBs VIII at 6178, Peer/Chin Jun and L&S state that the Department should use the same methodology that it has in previous reviews.

Department Position: We disagree with Timken's request that we adjust the overhead and SG&A rates. While we prefer to base our factors information on industry-wide public information, information regarding overhead and SG&A rates for producers of subject merchandise during the POR (except for the indirect-labor portion of overhead and SG&A, which we valued separately) is not available. Therefore, we used the overhead and SG&A rates applicable to SKF India, a company that produces subject and non-subject merchandise.

In deriving these rates, we used the SKF data both with respect to the numerators (total overhead and SG&A expenses, respectively) and denominator (total cost of manufacturing). This methodology allowed us to derive internally consistent ratios of SKF India's overhead and SG&A expenses. These ratios, when multiplied by the factors of production we used in our analysis, constitute the best available information concerning the overhead and SG&A expenses that would be incurred by a PRC bearings producer given such factors of production. Timken's recommended adjustment would reduce the denominator but would leave the overhead and SG&A expenses in the numerator unchanged. As such, we find that this adjustment would itself distort the resulting ratio, rather than cure the alleged distortion in our calculations. Furthermore, because SKF India produces non-subject merchandise, its annual report does not allow us to allocate labor for overhead and SG&A used specifically in the production of TRBs. Thus, we cannot make any specific adjustments to these company-wide overhead and SG&A ratios. Therefore, we have used the ratios we

used in the preliminary results for these final results.

Comment 2: Timken claims that the Department must isolate the direct-labor component of SKF India's cost of goods sold in order to calculate the overhead rate as a percentage of the total of materials, plus direct labor, and overhead based on SKF India's annual report. Timken suggests that this can be done by subtracting from SKF India's total labor costs the proportion that relates to overhead and SG&A. Citing its comments with regard to labor costs, Timken also asserts that the Department should account for the differences in labor costs between direct labor and labor for overhead and SG&A.

Guizhou Machinery, et al. state that Timken has confused labor costs with labor inputs and attempted erroneously to use the former to establish ratios for the latter. Guizhou Machinery et al. contend that the Department calculates surrogate values for cost, not input quantities, and that the Department should reject Timken's suggested methodology.

Department's Position: We disagree with Timken. Timken mischaracterizes our calculation of overhead. Our calculation of overhead incorporates both direct and indirect labor costs as explained below. As we noted in the FOP Memorandum at page 5, we calculate an overhead-to-COM ratio by dividing SKF's total overhead expense by the sum of SKF's total materials, direct labor, indirect labor, and overhead expenses from its annual report. We calculate the COM component of constructed value for subject merchandise by summing direct material expense, direct labor expense, indirect labor expense, and overhead expense. However, while we know the direct material expense, direct labor expense, and indirect labor expense of the subject merchandise, we do not know the overhead expense of the subject merchandise. Therefore, in order to calculate the COM component of constructed value for subject merchandise, we must substitute a surrogate for overhead expense. We calculate this surrogate overhead expense by multiplying COM by the overhead-to-COM ratio we calculated using SKF India's data. This substitution leaves COM as the sole unknown factor. Therefore, we solve for COM using the direct material expense, direct labor expense, indirect labor expense, and the overhead-to-COM ratio. Because both direct and indirect labor figures are part of this calculation, we do not need to adjust for the fact that both direct and indirect labor are included in SKF India's labor expense in our calculation of the overhead-to-COM ratio. Therefore, there is no need to segregate the direct-labor component from SKF's financial statements in order to calculate the percentage because we do not use only direct labor expense in our calculations.

Comment 3: Timken argues that the Department designated the line item ''traded goods'' in the SKF India report incorrectly as a materials cost to include in the calculation of the overhead, SG&A, and profit rates. Timken asserts that ''traded goods'' are finished products which SKF India purchased and which have nothing to do with its manufacturing operations. Timken states that SKF India's financials segregate ''purchases of traded goods'' from ''raw materials and bought out components consumed'' and, in a different part of the report, separates them from products SKF ''manufactured and sold during the year.'' Timken states further that the report identifies ''purchases of traded goods'' as ''ball and roller bearings,'' ''bearing accessories and maintenance products,'' and ''textile machinery components.'' Timken notes that, in past reviews, the Department included only steel costs in the cost of materials, not finished products. Petitioner contends that this prior approach is correct and, because traded goods are already manufactured and do not affect production, the Department should exclude them from the overhead denominator.

Guizhou Machinery, et al. respond that Timken's argument with regard to ''traded goods'' is misguided and that the Department's calculations in the preliminary results concerning this line item were correct. Guizhou Machinery, *et al.* state further that the fact that SKF India did not manufacture these items does not mean that the expense of purchasing them should not be included as a part of the denominator the Department's overhead calculations.

Department's Position: We disagree with Timken. In past reviews we did not include a line item for ''purchases of traded goods'' in the COM because the SKF India financial statements that we used in those reviews did not include this line item. In this review, however, the SKF financials include a separate line item for this cost and we have included it in the COM. According to the description in the SKF report, it is appropriate to consider ''purchases of traded goods'' as COM expenses. They are not overhead or SG&A expenses but instead reflect the common practice of manufacturers purchasing finished and semi-finished goods to meet their clients' demand. SKF does not incur direct materials or direct labor expenses with respect to these products but instead incurs the expense of purchasing them. Because these purchased goods are an integral portion of cost of goods sold, they are ordinary business expenses that we cannot ignore. Therefore, for the final results, we included ''purchases of traded goods'' as part of the denominators in the overhead, SG&A, and profit-rate calculations.

3. Freight

Comment 1: Timken contends that the Department understated the marine-insurance expense by applying a per-ton insurance rate for sulfur dye instead of a value-based insurance rate as a surrogate value for shipments of subject merchandise. As evidence, Timken cites the Department's questionnaire as indicating marine-insurance premiums are normally based on the value of merchandise. Timken recommends that the Department calculate a marine-insurance factor based on the ratio of the insurance charge per ton of sulfur dye divided by the value of sulfur dye per ton (based on U.S. Customs value) and apply this factor to the price of TRBs sold in the United States. Timken claims that this rate can more reasonably be applied to U.S. TRB prices to estimate marine-insurance expenses.

Guizhou Machinery, *et al.* contend that it is not reasonable to assume that the difference, if it exists, in Indian marine-insurance rates applicable to shipments of sulfur dye and TRBs can be measured accurately simply by comparing the difference in product values because, Guizhou Machinery, *et al.* assert, insurance rates are not based on value alone. Guizhou Machinery, *et al.* claim that Timken has not demonstrated that its suggested adjustment would be more accurate than the actual rates which the Department used in the preliminary results and which are consistent with the calculations in other NME cases. Finally, Guizhou Machinery, *et al.* assert that Timken's argument is based upon Customs values which have not been submitted on the record for this review.

Department's Position: While we agree with Timken that the use of value-based rates is preferable to weight-based rates, we cannot use its suggested methodology to calculate an insurance rate based on value. Timken suggest that we use Customs value to compute the insurance rate. However, premiums are typically based on the sales value of the merchandise, not the U.S. Customs value. There may be a significant difference between the value that

Customs assigns to merchandise and the value that the market assigns to merchandise. Therefore, because we do not have the total sales price for sulfur dye, and because we do not have the Customs values of the imported subject merchandise, we must continue to value insurance expense based on weight, which we do have on the record.

It has been our practice in Chinese cases to base insurance rates on the sulfur dye data, regardless of the type of value of the product. See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Freshwater Crawfish Tail Meat from the People's Republic of China, 62 FR 14392, 14396 (March 26, 1997), and Sebacic Acid from the People's Republic of China; Preliminary Results of Antidumping Administrative Review, 62 FR 42755, 42758 (August 8, 1997). Therefore, we have applied those data in this case.

Comment 2: Wanxiang asserts that the Department failed to convert the marine-insurance expense from rupees to U.S. dollars in its margin calculation.

Department's Position: We agree with Wanxiang and have corrected it for these final results.

Comment 3: Guizhou Machinery contends that the Department erred by using the east-coast rate to calculate ocean freight for all transactions in spite of the fact that some transactions had west-coast destinations.

Department's Position: We agree with Guizhou Machinery. This error is obvious from the record and we have corrected it for these final results.

4. Facts Available

Comment 1: Peer/Chin Jun argue that the Department inappropriately resorted to the use of facts available for calculating the margins for certain models for which FOP data were actually available. In one instance, Peer/Chin Jun contend that the Department failed to match U.S. sales appropriately with their FOP data because respondent miscoded the supplier code in the database.

In a second instance, Peer/Chin Jun argue that the Department should not have used facts available for models supplied by a firm which received facts available. Peer/Chin Jun asserts that such a decision penalizes Peer/Chin Jun unfairly. Peer/Chin Jun assert that the Department should apply the weighted-average margin it calculated for all of Peer/Chin Jun's other U.S. sales to these sales, as the Department did in the preliminary results for models for which Peer/Chin Jun's suppliers did not provide FOP data.

In a third instance, Peer/Chin Jun argue that the Department should use the FOP data for a certain model that was submitted by a ''substitute'' producer, which is a producer other than the actual supplier of the merchandise.

Finally, Peer/Chin Jun argue that, due to a typographical error, some sales had an incorrect factory code in the database. Peer/Chin Jun add that, even if the Department does not determine that this error is obvious from the record, the Department should use data submitted by a particular producer that did supply FOP data for this model.

With regard to the first instance, Timken notes that Peer/Chin Jun admit that this may have been the result of a typographical error. Timken argues that it is too late to attempt a correction of so fundamental an error.

Timken argues that, with respect to the second instance, the Department should continue to use facts available because the data submitted by the supplier of that data contained major flaws. Due to the proprietary nature of the flaws, cannot be discussed in this notice. See Peer/Chin Jun's final results analysis memorandum dated October 29, 1997.

With respect to the third instance, Timken argues the NV of merchandise of a producer is the NV of merchandise of that producer regardless of how the NV is determined. Timken contends that Peer/Chin Jun's request would be no different if it came from an importer of a respondent whose margin is determined on the basis of facts available asking to have the margin of a cooperating respondent applied instead. Timken argues that it would be contrary to the remedial purpose of the antidumping law to honor Peer/Chin Jun's request.

With regard to the final instance, Timken argues that the Department should not accept data from a ''substitute'' producer, which, Timken asserts, would enable a respondent to review the record for the most favorable data, unrelated to its own operations, which other respondents have submitted.

Timken adds that Peer/Chin Jun has not shown sufficient effort in gathering information from its suppliers or in encouraging those suppliers to submit complete information. Timken argues that, in light of this failure, the Department should base Peer/Chin Jun's margin on the facts available.

Department's Position: With regard to the first instance, we agree with Peer/Chin Jun that the firm reported the wrong factory code for these models in Exhibit 1 of its June 3, 1997 supplemental response. It is obvious from the record as it existed prior to the preliminary results that this was a clerical error and that the correct factory code can be obtained from the other models listed in that exhibit. Therefore, we have corrected the code for these models.

With regard to the second instance, we disagree with Peer/Chin Jun, but, because of its proprietary nature, we cannot discuss this issue in the context of this notice. For a discussion of this issue, please see Memorandum from Laurie Parkhill to Richard Moreland dated November 3, 1997.

With respect to the third instance, we agree with Peer/Chin Jun. We inadvertently omitted a constructed value for one particular model. We have corrected this error for the final results.

Finally, with regard to the last instance, we disagree with Peer/Chin Jun. Proprietary information contained in Exhibit 6 of the firm's November 12, 1996 response prevents our conclusion that this was a typographical error. See Peer/Chin Jun's final results analysis memorandum dated October 29, 1997 for a further discussion of this issue. Moreover, because Peer/Chin Jun failed to either provide FOP data directly from this supplier or name a source for substitute data in its supplemental response, we have applied facts available to these U.S. sales.

5. Assessment

Comment 1: Timken contends that one of the Harmonized Tariff Schedule (HTS) numbers listed in the scope section of the preliminary results does not exist and requests that the Department announce the correct number for TRBs in the final results. Timken also contends that the scope section did not include products corresponding to Tariff Schedules of the United States (TSUS) item number 692.32, which it claims were subject to the original order. Timken argues that, if the Department is unable to identify all of the HTS numbers that correspond to TSUS 692.32, it should at least identify two particular HTS numbers as within the scope of the order.

Department's Position: We agree with Timken. We examined the HTS and discovered that there were inaccuracies in the scope section of the *Preliminary Results,* we have fixed this error in the scope section of this notice, above, and we have reiterated the textual description of the order in this notice. Finally, we attempted to identify the HTS numbers which correspond to TSUS 692.32, but, aside from the two particular HTS numbers which Timken identified, we were unable to identify the specific HTS numbers that correspond to TSUS 692.32. We

determined that it is appropriate to apply the order to TRBs which enter under the two HTS numbers Timken identified (8708.99.80.15 and 8708.99.80.80) and we have added these two particular HTS numbers to the scope section of this notice.

Comment 2: Great Wall and Huangzhou argue that the Department should issue instructions to Customs to liquidate entries from Great Wall and Huangzhou at the duty rate at which entries from these companies were made. In addition, both companies claim that the deposit rate for future shipments from both companies should be 8.83 percent.

Timken argues that the Department should apply a rate of 25.56 percent to Great Wall because the 8.83 percent quoted in the final results of the 1994–95 review was a clerical error. Timken also asserts that the Department should apply a rate of 29.4 percent to Huangzhou because that is the PRC rate in the review in which it was first differentiated as a separate entity.

Department's Position: We agree with respondents in part. During this POR, Great Wall's and Huangzhou's entries of subject merchandise entered the United States with a cash-deposit requirement of 8.83 percent, the PRC-wide rate in effect during the POR, because we had never conducted a review of either entity. For this review, we determined that both respondents were separate from the PRC entity (see *Preliminary Results* at 36766–7). However, no party requested a review of either separate entity. Consistent with 19 CFR 353.22(e) which establishes the automatic liquidation of entries if the party is not subject to review, we will instruct Customs to liquidate entries during the POR at the rate required at the time of entry. Further, these companies will be required to post cash deposit at their current cash-deposit rate until such time as that rate is changed pursuant to a final results of review of the company.

Comment 3: Transcom argues that the Department cannot alter the rate of duties assessed on or to be deposited on entries of merchandise that were exported by companies which were not subject to this review because the statute limits the review, and the resulting determination, to those companies for which a review was requested. Transcom argues that the Department's regulations provide an explicit directive that merchandise exported by unreviewed companies will be liquidated at the duty deposit rate and that an exporter that is not under review would have no reason to anticipate that antidumping duties assessed on its merchandise would vary from the deposit rate. Citing *Sigma Corp.* v. *United States*, 841 F. Supp. 1255 (CIT 1993), Transcom contends that the Department's failure to provide notice to the unreviewed companies precludes a change in their deposit and assessment rates. Transcom also argues that, because unreviewed exporters do not meet the prerequisites for application of facts available, the Department is precluded from resorting to facts available in determining a rate for such companies. Finally, Transcom argues that the Department should not assign the PRC-wide rate to TRBs exported by companies outside of China. Transcom contends that the premise underlying the PRC rate is inapplicable to companies outside China.

Timken argues that Transcom fails to establish its claim that the companies to which it refers are not covered by review because it failed to name those companies. Timken contends that, to obtain separate rates, it is incumbent on Transcom to request a review and provide the necessary information for the Department to make a determination.

Department's Position: We disagree with Transcom. As we discussed in TRBs VIII at 6187:

> It is our policy to treat all exporters of subject merchandise in NME countries as a single government-controlled entity and assign that entity a single rate, except for those exporters which demonstrate an absence of government control, both in law and in fact, with respect to exports * * * Pursuant to our NME policy, we presume that all PRC exporters or producers that have not demonstrated that they are separate from PRC government control belong to a single, state-controlled entity (the ''PRC enterprise'') for which we must calculate a single rate (the ''PRC rate''). The CIT has upheld our presumption of a single, state-controlled entity in NME cases. See *UCF America, Inc.* v. *United States*, 870 F. Supp. 1120, 1126 (CIT 1994), *Sigma Corp I*, and *Tianjin Machinery Import & Export Corp.* v. *United States*, 806 F. Supp. 1008, 1013–15 (CIT 1992). Section 353.22(a) of our regulations allows interested parties to request an administrative review of an antidumping duty order once a year during the anniversary month. This regulation specifically states that interested parties must list the ''specified individual producers'' to be covered by the review. In the context of NME cases, we interpret this regulation to mean that, if at least one named producer or exporter does not qualify for a separate rate, the PRC enterprise as a whole (i.e., all exporters that have not qualified for a separate rate) is part of the review (this is analogous to our practice in market-economy cases of including in reviews persons affiliated to a company for which a review was requested). On the other hand, if all named producers or exporters are entitled to separate rates, there has been no request for a review of the PRC enterprise and, therefore, the NME rate remains unchanged.

The practice described above is a longstanding one. Therefore, we disagree with Transcom's assertion that companies not named in the initiation had no notice and opportunity to defend their interests by demonstrating their independence from the PRC entity. We attempted to send requests for information to every company named in the notice of initiation and to the government of the PRC, and we inquired with the U.S. Embassy and consulates in the PRC for addresses and telephone numbers of TRB producers in the PRC. See Letter from Laurie Parkhill to Interested Parties dated August 12, 1996, Letter from Laurie Parkhill to China Chamber of Commerce dated August 12, 1996, and the two Memoranda from Analyst to Program Manager dated August 19, 1996. Furthermore, the antidumping duty order on TRBs is 10 years old. Thus, any company in the PRC which exports TRBs to the United States should be aware of the fact that it must request a separate-rate determination in order to avoid the application of the PRC rate to its entries.

Any company that believes it is entitled to a separate rate may place evidence on the record supporting its claim. See our response to comment 2 of this section. Because the companies to which Transcom refers (Transcom does not name the companies in question; it is therefore impossible for us to determine who they are) evidently did not exercise their opportunity to request an administrative review or separate-rate determination, we have continued to apply the PRC rate to these firms.

Finally, we disagree with Transcom that we should not assign the PRC-wide rate to TRBs exported by companies outside of China. Although Transcom asserts that the premise underlying the PRC rate is inapplicable to companies outside China, it is impossible, given the lack of any information about these firms, to determine whether the appropriate sale to review is made by the third-country reseller to the United States or by the Chinese producer or exporter to the third-country reseller. If a third-country exporter of subject merchandise wishes to have its own margin rate, it is incumbent upon that exporter to submit information, as Premier and Chin Jun have done, demonstrating that it, and not the Chinese producers or exporters, made the sale to the United States.

6. Miscellaneous Issues

Comment 1: Timken argues that the Department should treat sales of subject merchandise by Chinese suppliers to Chin Jun as export price (EP) sales made by the Chinese suppliers instead of Peer/Chin Jun's sales because the record indicates that Peer/Chin Jun's suppliers knew or had reason to know that sales to Peer/Chin Jun were ultimately destined for sale to the United States and, therefore, the review should be terminated with respect to Chin Jun because Chin Jun had no reviewable sales.

Timken contends that Peer/Chin Jun's suppliers had reason to know the ultimate destination of the subject merchandise because bearings sold to the U.S. market are all identified with Peer's trade name. Citing Titanium Sponge from Russia (Titanium Sponge), 61 FR 9676, 9677 (1996), and Fresh Garlic from the People's Republic of China (Garlic), 61 FR 68229, 68230 (December 27, 1996), Timken argues that, for the reasons stated above, there is sufficient evidence on the record for the Department to impute knowledge on behalf of Peer/Chin Jun's suppliers.

Timken also asserts that Chin Jun is simply a purchasing office of Peer and has no independent existence. Timken argues that, because Peer and Chin Jun are effectively the same company, the sale from the unaffiliated supplier to Peer/Chin Jun is the appropriate sale to examine and, citing Persulfates from the People's Republic of China (Persulfates), 62 FR 27222, 27234 (May 19, 1997), argues that it is immaterial whether the merchandise purchased by Peer/Chin Jun is resold to a customer outside the United States. Timken also argues that, even if Department precedent permitted consideration of Peer's resales to third countries, Peer's third-country sales were nearly nonexistent and cannot rationally form the basis for assuming that Chinese vendors did not know that the United States was nearly always the ultimate destination. Timken contends that, even if the third-country sales were known by the Chinese suppliers, the volume of sales is small enough that it would not constitute sufficient cause of confusion about the ultimate destination of the merchandise.

Timken alleges that Peer/Chin Jun took affirmative steps to mislead its suppliers of subject merchandise as to the destination of the merchandise and that Peer/Chin Jun made its claim that its suppliers could not have known that the merchandise was for exportation to the United States based on this fact. Timken argues that, to the extent that Peer/Chin Jun affirmatively and deliberately attempted to mislead its suppliers in order to affect the dumping margin, the Department cannot permit this to avoid encouraging respondents to manipulate the rules to their advantage and, if Peer/Chin Jun's suppliers did not report such sales in their responses due to deception on the part of Peer/Chin Jun, the Department should assign a margin separately to Peer/Chin Jun based on adverse facts available.

Peer/Chin Jun argues that the Department correctly issued a rate to Chin Jun and notes that the Department issued antidumping margins to Chin Jun in four previous reviews. Peer/Chin Jun, in citing 19 CFR 353.45(b), argues that the statute and the Department's regulations provide for such a calculation when the reseller/exporter is related to the U.S. customer.

With respect to the sales from Chin Jun's suppliers, Peer/Chin Jun argues that Timken contradicts itself when Timken argues that Chin Jun's suppliers must have known the destination of bearings marked ''Peer'' and yet also argues that Chin Jun's suppliers' lack of knowledge of the destination was the result of Chin Jun's efforts to mislead these suppliers into believing that Peer/Chin Jun sell bearings on a worldwide basis. Peer/Chin Jun contends that both cannot be true. Rather, Peer/Chin Jun argues that its suppliers did not report these sales because they did not know that the ultimate destination was the United States.

Peer/Chin Jun argues that the test employed by the Department is whether Chin Jun's suppliers knew or should have known that the bearings were destined for the United States. Peer/Chin Jun argues that there is no evidence on the record that supports such a finding. Peer/Chin Jun argues that the ''special markings'' referred to in Titanium Sponge provide for specious logic in its case, because, Peer/Chin Jun contends, it is not uncommon for companies such as Peer and Timken to use their brand name for sales made throughout the world. Therefore, the trademark ''Peer'' imprinted on a bearing does not necessarily indicate knowledge of the merchandise's final destination.

In contrast to the cases cited by Timken, Peer/Chin Jun points to *NSK Ltd. et. al.* v. *United States (NSK)*, 969 F. Supp. 34 (CIT, June 17, 1997), in which the Court affirmed the Department's traditional application of the ''knowledge test'' to resellers. Peer/Chin Jun argue that *NSK* requires the Department to find evidence of actual knowledge that particular sales were destined for importation into the United States before concluding that the manufacturer knew or should have known the destination. Peer/Chin Jun contends that the factual situation does not exist in the instant case where it made sales to the United States but also made some sales to third countries.

Peer/Chin Jun also argues that, in *NSK*, the Court recognized that the ''knowledge test'' has such a high standard that a reseller can exploit the system by selectively providing knowledge to its suppliers (which the Court called the ''perfect scenario''). Peer/Chin Jun argues that, even if this were the case, *NSK* would require the Department to reach the same conclusion. In contrast to Timken's allegations, Peer/Chin Jun asserts that it did not concoct a ''perfect scenario.'' Rather, Peer/Chin Jun asserts that the special status of Hong Kong and a rationalized approach to purchasing, warehousing, and shipping lead to its particular manner of conducting business.

Department's Position: We disagree with Timken. In cases where evidence exists that a supplier had knowledge that the ultimate destination of the merchandise was the United States, such as in Titanium Sponge, Garlic, and Persulfates, we have considered the sale by the supplier to the reseller as the starting price in our margin calculations. However, no such evidence of knowledge exists here. We agree with Peer/Chin Jun's interpretation of *NSK*. Lacking evidence of actual knowledge that particular sales were destined for the United States, we cannot assume such knowledge, regardless of general knowledge that some merchandise was intended for exportation to the United States. Therefore, we continue to consider Peer's sales to the first unaffiliated U.S. customer as our starting price for U.S. sales and have neither terminated the review nor used facts available to calculate Chin Jun's margin.

Comment 2: Timken contends that Premier admitted that its suppliers knew or had reason to know that sales to Premier were destined to the United States in its response. Timken argues that the fact that Premier's suppliers made some shipments directly from China to the United States establishes the suppliers' knowledge of the export destination. Timken alleges that Premier failed to provide information concerning this issue which the Department requested. Given this fact pattern, Timken argues that the Department should treat all sales through Premier to the United States as export price sales of the suppliers and, in light of Premier's failure to provide the requested information, the

Department should apply adverse facts available to such sales.

Premier contends that the Department has reviewed and verified Premier many times in the past and has always based its margin calculations on Premier's own export prices. Premier argues that the fact that there were some direct shipments from China does not prove that the Chinese producers knew the ultimate destination of the bearings. Premier notes that the factories were not the exporters, but that they shipped the merchandise to freight forwarders who were responsible for arranging shipment to the United States and were the only parties other than Premier which knew the ultimate destination of the bearings.

Department's Position: We agree with Premier. As we noted in our response to comment 1 of this section, in cases where evidence exists that a supplier had knowledge that the ultimate destination of the merchandise was the United States, we have considered the sale by the supplier to the reseller as the starting price in our margin calculations. However, the record does not prove that Premier's suppliers knew or had reason to know that sales to Premier were to be shipped to the United States. In its original response, Premier stated that certain suppliers ''may know or have reason to know that the ultimate destination of the merchandise purchased * * * was the United States.'' See Premier's September 26, 1996 submission at A–11. However, in response to a supplemental questionnaire, Premier clarified that ''[s]ome supplier [sic] may have assumed that the subject merchandise would be shipped to the United States.'' Whether a supplier might assume the ultimate disposition of the product is not sufficient evidence of knowledge on the part of the supplier of subject merchandise that Premier sold to the United States. Therefore, we have treated Premier's reported sales as Premier's own sales for the purposes of calculating Premier's margin.

Comment 3: Guizhou Machinery contends that the Department erred by not matching two models purchased from a certain supplier to their correct FOP data. Guizhou Machinery argues that it can demonstrate the Department's error by a review of the catalogs it submitted in its response. Guizhou Machinery also contends that the two model numbers it reported in the FOP data do not actually exist.

Timken contends that this is not an error by the Department but by Guizhou Machinery and argues that it is not apparent from the record that Guizhou Machinery miscoded the entries for these two models inadvertently.

Department's Position: We disagree with Guizhou Machinery. As described in response to comment 4 of section 2.a. (Material Valuation), above, we enumerated the criteria which must be met before we will correct an alleged clerical error in Colombian Flowers. We have not corrected this alleged error because we do not regard the corrective documentation Guizhou Machinery provided in support of the clerical-error allegation to be reliable. The catalogs Guizhou Machinery referenced were not catalogs of the supplier in question but for other suppliers from whom Guizhou Machinery purchased subject merchandise. Furthermore, Guizhou Machinery neither provided nor cited to any documentary evidence to support its claim that the two purportedly erroneous model numbers do not exist. As a result, we find nothing on the record to corroborate Guizhou Machinery's clerical-error allegation and we have not made this change for these final results.

Comment 4: Peer/Chin Jun argue that the Department should correct a ministerial error for a certain U.S. sale. Peer/Chin Jun argue that the entered value for this transaction is incorrectly listed and contend that this error is obvious from the record. Moreover, because the firm's U.S. duties and international freight values are based on entered value, these fields should be adjusted as well.

Timken notes that Peer/Chin Jun admits that it was responsible for the error and that it is now too late to attempt to revise questionnaire responses.

Department's Position: We agree with Peer/Chin Jun. As described in response to comment 4 of section 2.a. (Material Valuation), above, we enumerated the criteria which must be met before we will correct an alleged clerical error in Colombian Flowers. In this case, we compared the data reported for this U.S. sale to additional contemporaneous U.S. sales of the same model. We conclude that Peer/Chin Jun made a simple error, the error is obvious from information already on the record, and that a correction is easy to make. Therefore, for these final results, because the alleged error met the criteria enumerated in Colombian Flowers for us to correct a clerical error, we have corrected the entered value for this transaction and recalculated any variables that are derived from this value.

Comment 5: Timken argues that the Department should deduct U.S. selling expenses for CMC's two U.S. subsidiaries from CMC's CEP. Timken contends that, given CMC's subsidiaries in California and Illinois, there must be costs other than inventory carrying costs, the only costs the Department deducted in the preliminary results, that CMC incurred in relation to these two companies. Timken claims that CMC did not submit financial statements showing indirect selling expenses, including SG&A expenses, incurred by these two subsidiary companies that the Department should have deducted from CEP. Timken requests the Department to either obtain this information from CMC or use the expenses of another company with CEP sales as facts available.

Department's Position: We agree with Timken that we should deduct an amount from CEP to account for selling expenses incurred by CMC's U.S. affiliate. We asked all respondent to report the selling expenses of U.S. affiliates in our original questionnaire. CMC reported only inventory carrying costs. We asked CMC in our supplemental questionnaire dated January 29, 1997 to explain how CMC's U.S. affiliates participate in the sales process. CMC replied that it described that process in its section A response. However, our review of section A revealed no such description beyond the U.S. affiliate's name and address.

We deduct from CEP all selling expenses incurred in connection with economic activity in the United States. Because CMC failed to report either the expenses incurred by its U.S. affiliates or any description of its U.S. affiliate's activities, we had to rely on the facts available to calculate the U.S. affiliate's actual selling expenses. Therefore, as facts available, we have deducted an amount for indirect selling expenses from CEP by basing this adjustment on the ''other expenses'' item from the SKF report, divided by COM. We then applied this ratio to the COM for CMC and deducted the resulting amount to calculate CEP.

Comment 6: Timken states that the fact that CMC failed to report that certain stages of the production process were contracted out to a subcontractor, but instead stated that the factors data were reported correctly, does not constitute verification and, as a result, CMC's responses were deficient. Moreover, Timken asserts, because CMC alerted the Department to the participation of this separate entity only after verification had begun, the Department did not have the opportunity to plan for the verification of the accuracy of information relating to this subcontractor. Timken argues that this oversight is not simply a typographical error. Rather, Timken contends, CMC failed to provide any information about the subcontractor.

Timken claims that, as a result, the Department was prevented from conducting verification relating to this subcontractor and that, when a respondent has not acted to the best of its ability to furnish information, the statute directs that Department to use facts otherwise available.

Timken adds that the name of the joint venture partner as stated in the response contradicts the name of the partner as identified in its verification exhibits.

CMC states that the Department should reject petitioner's claims because CMC Yantai did provide complete FOP data for this subcontractor, which the Department verified. CMC claims that the Department's report states that CMC ''failed to report that the turning state for some cups and cones was contracted out to a subcontractor, but noted that the factors of production data were reported correctly.'' CMC explains that turning is only part of the manufacturing process and that this subcontractor only performed this function for ''some'' cups and cones. CMC states that petitioner's claim that CMC provided no information about this subcontractor is false and contradicted by the verification report. CMC quotes the report, ''[f]actor-of-production data for stages of production not completed at CMC were provided voluntarily by its subcontractors,'' and the Department did not note any discrepancies for raw-material inputs. Furthermore, CMC notes that the Department did verify information provided by this contractor, including the turning stage and scrap, and the Department obtained worksheets and explanations for direct labor hours from subcontractors and identified no discrepancies in the report. CMC claims that it complied with the Department's requests during verification and provided accurate information regarding its factors-of-production data in the questionnaire responses. Therefore, CMC argues, there is no basis to apply facts available.

CMC explains the name of the joint venture partner as reported in the response is different from the name stated in the verification exhibit because the response uses the English translation of the name, whereas the verification exhibit uses the romanization of the Chinese words. Thus, CMC argues, both names refer to the same company, and there is no contradiction.

Department's Position: We agree with CMC. Timken has misinterpreted the verification report. At the beginning of the verification, Department officials asked CMC officials for any corrections to their data. CMC identified the fact that this particular subcontractor's name was omitted from the submitted FOP data, although the data itself was correct. The Department verified the data and found it to be accurate. Therefore, we find no reason to apply facts available.

We agree with CMC that the name of the joint venture partner as stated in the response and the Chinese version of the name both refer to the same company. Therefore, there is no discrepancy.

Comment 7: Timken argues that the Department should use facts available because CMC sold some parts separately but reported, for each component, the price for a set. Timken asserts that this discovery was made only at verification. Timken claims that this is not merely a ministerial error and implies that this type of reporting was intentional. Therefore, Timken argues, to the extent that the sales were not traced back to the invoices, the Department should assume that the pricing is for a set rather than a component.

CMC states that petitioner's assertion that all components were priced as a set cannot be substantiated and must be rejected. CMC claims that, as the Department verified, CMC mistakenly reported complete set prices for certain component sales in the U.S. sales listing. CMC remarks that the Department did not note any other discrepancies in the sales listing, and that the report indicates that these reporting errors were simply an oversight. CMC states further that there is no basis to suggest that CMC reported the prices of other component sales to the United States as sets and, therefore, the Department should rely in the final results on the verified sales prices CMC reported.

Department's Position: As stated in the verification report, the Department discovered an error in which a few sales which were priced as sets instead of components. When asked, CMC officials explained that this was a mistake. We performed sales traces for over fifty percent of CMC's sales and found no evidence to show that the prices for these few sales were intentionally misstated. Therefore, we made appropriate corrections to the submitted data and have used it for these final results.

Comment 8: Timken claims that there is a contradiction between the fact that CMC sold to its affiliate in the United States yet the verification report states that the affiliate did not take title to the merchandise. Timken also asserts that there is no indication that any SG&A labor hours incurred in the United States for sales through CMC's U.S. affiliate were included in the calculation of CMC's SG&A labor hours. Timken contends that these flaws represent reasons for the application of facts available to CMC.

Department's Position: We disagree with Timken. The fact that the affiliate did not take title to the merchandise is consistent with other verification evidence on record showing that CMC, and not its affiliate, actually made the sale. The affiliate was only authorized to sign a sales contract for CMC and then receive payment for the sale. Therefore, there is no contradiction and no correction is necessary. With respect to the SG&A expenses of CMC's U.S. affiliate, see our response to comment 6 of section 2.b. (Labor Valuation).

Comment 9: Timken states that, upon its review of the verification report for CMC, it observed clerical errors in the NV calculations and requests the Department to correct such errors.

CMC states that the request for corrections should be denied because the deadline for commenting on the analysis memoranda has passed. CMC remarks that there was ample time for Timken to include comments on the analysis and that Timken improperly included this comment in the comments intended solely for the verification report.

Department's Position: We agree with Timken in part. We neglected to include factory overhead in our calculation of COM. Correcting this error conforms the calculation with our stated methodology in the FOP Memorandum. With respect to CMC's argument that it is too late to correct this error, we note that, in instances where we make a clerical error in our calculations, we may correct that error at any time regardless of whether parties raise the issue. Accordingly, we have added factory overhead to COM as we intended for the preliminary results. However, contrary to Timken's assertion, we did include SG&A labor in our calculation of the cost of production of the subject merchandise, so no correction is necessary.

Comment 10: Luoyang contends that, in calculating Luoyang's margin, the Department inadvertently used factors-of-production data from the original diskette instead of the revised diskette. Luoyang request that the Department use the correct data to recalculate its dumping margin.

Timken agrees that the Department used the earlier diskette rather than the revised one.

Department's Position: We agree that we used the wrong diskette to calculate the dumping margin for the preliminary results. For these final results, we have used the revised database.

Comment 11: Timken argues that the Department should include a certain expense in CMC's direct materials costs because respondent incurred this expense.

Department's Position: We agree with Timken. Because CMC actually incurred this expense on its material inputs, it is appropriate to capture the expenses in CMC's direct materials costs. Therefore, we have included this expense in CMC's direct materials costs. *See* CMC's final results analysis memorandum dated October 29, 1997 for a discussion of how we captured this expense.

Final Results of the Review

As a result of our analysis of the comments we received, we determine the following weighted-average margins to exist for the period June 1, 1995, through May 31, 1996:

Manufacturer/ exporter [1]	Margin (percent)
Wanxiang	0.03
Shandong	17.76
Luoyang	2.35
CMC	0.39
Xiangfan	0.39
Guizhou Machinery	21.79
Zhejiang	0.18
Jilin	29.40
Liaoning	0.17
Premier	5.43
Chin Jun	5.23
PRC Rate	29.40

[1] The PRC rate applies to CMEC, Hailin, Guizhou Automotive, and all other firms which did not respond to the questionnaire or have not qualified for a separate rate.

Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. With respect to export price sales for these final results, we divided the total dumping margins (calculated as the difference between normal value (NV) and export price) for each importer/customer by the total number of units sold to that importer/customer. We will direct Customs to assess the resulting per-unit dollar amount against each unit of merchandise in each of that importer's/customer's entries under the relevant order during the review period. Although this will result in assessing different percentage margins for individual entries, the total antidumping duties collected for each importer/customer under each order for the review period will be almost exactly equal to the total dumping margins.

For CEP sales, we divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales for each importer/customer. We will direct Customs to assess the resulting percentage margin against the entered Customs values for the subject merchandise on each of that importer's/customer's entries during the review period. While the Department is aware that the entered value of sales during the POR is not necessarily equal to the entered value of entries during the POR, use of entered value of sales as the basis of the assessment rate permits the Department to collect a reasonable approximation of the antidumping duties which would have been determined if the Department had reviewed those sales of merchandise actually entered during the POR.

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of TRBs entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the PRC companies named above that have separate rates and were reviewed (Guizhou Machinery, Luoyang, Jilin, Liaoning, CMC, Zhejiang, Xiangfan, Shandong, Wanxiang) will be the rates shown above except that, for firms whose weighted-average margins are less than 0.5 percent and therefore *de minimis*, the Department shall require a zero deposit of estimated antidumping duties; (2) for PRC companies (*e.g.*, Great Wall) which established eligibility for a separate rate in this review or a previous review but for which no review has ever been requested, the cash deposit rate will continue to be their current cash-deposit rate; (3) for all remaining PRC exporters, all of which were found to not be entitled to separate rates, the cash deposit rate will be 29.40 percent; (4) for non-PRC exporters Premier and Chin Jun the cash deposit rates will be the rates established above; and (5) for non-PRC exporters of subject merchandise from the PRC, other than Premier and Chin Jun, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a 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 the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d) or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This administrative review and this 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: November 6, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

Transition Orders; Schedule and Grouping of Five-Year Reviews; Comment Request

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

ACTION: Amendment to Notice of Proposed Schedule and Grouping of Five-Year Reviews of Transition Orders.

SUMMARY: On October 9, 1997, the Department of Commerce (''the Department'') published a Notice of Proposed Schedule and Grouping of Five-Year Reviews of Transition Orders (62 FR 52686). The Department hereby amends the original notice. This amendment does not alter the comment due date. Comments on the proposed schedule and groupings continue to be due in accordance with the December 8, 1997 due date indicated in the original notice.

Amendment: Comments should be submitted to the Department at the following amended address: Robert S. LaRussa, Assistant Secretary for Import Administration, Central Records Unit, Room 1870, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW., Washington, D.C. 20230. This amends the room number as published in the October 9 notice. In addition, the ITC case number on the antidumping duty order covering large power transformers from France, as listed in the Appendix, is amended from AA–85 to AA–86.