

submitted during the foregoing period may be submitted during the subsequent 15-day period to May 27, 1998. A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

Office of the Executive Secretary,  
Foreign-Trade Zones Board, U.S.  
Department of Commerce, Room  
3716, 14th and Pennsylvania Avenue,  
N.W., Washington, D.C. 20230  
U.S. Department of Commerce Export  
Assistance Center 55 West Monroe  
St., Suite 2440, Chicago, Illinois  
60603.

Dated: March 16, 1998.

**Dennis Puccinelli,**

*Acting Executive Secretary.*

[FR Doc. 98-6564 Filed 3-12-98; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[Docket 11-98]

#### **Foreign-Trade Zone 147—Reading, Pennsylvania; Application for Foreign-Trade Subzone Status: Bayer Corporation (Aspirin Products), Myerstown, Pennsylvania**

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Foreign Trade Zone Corporation of Southeastern Pennsylvania, grantee of FTZ 147, requesting special-purpose subzone status for the pharmaceutical manufacturing facility (aspirin products) of Bayer Corporation (Bayer), located in Myerstown, Pennsylvania. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on March 4, 1998.

The Bayer facility (2 buildings/177,000 sq. ft.) is located at 410 West Stoeve Avenue in Myerstown (Lebanon County), Pennsylvania. The facility (175 employees) is used for the manufacture of over-the-counter aspirin products. The primary material input is bulk aspirin—ortho-acetylsalicylic acid (HTSUS 2918.22.10), which the company currently purchases from a domestic source. Bayer is now planning to purchase bulk aspirin from abroad (up to some 950,000 kg./yr.).

Zone procedures would enable Bayer to choose the lower duty rate that applies to the finished products (duty-free) instead of the duty rate that would otherwise apply to foreign bulk aspirin

(duty rate—8.7%). The application indicates that the savings from zone procedures would help improve the plant's competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is May 21, 1998. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to May 27, 1998. A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

Office of the Executive Secretary,  
Foreign-Trade Zones Board, U.S.  
Department of Commerce, Room  
3716, 14th and Pennsylvania Avenue,  
N.W., Washington, D.C. 20230  
U.S. Department of Commerce Export  
Assistance Center, 615 Chestnut St.,  
Suite 1501, Philadelphia,  
Pennsylvania 19106.

Dated: March 6, 1998.

**Dennis Puccinelli,**

*Acting Executive Secretary.*

[FR Doc. 98-6563 Filed 3-12-98; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-201-805]

#### **Circular Welded Non-Alloy Steel Pipe From Mexico; Notice of Rescission of Antidumping Duty Administrative Review**

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

**ACTION:** Notice of Rescission of Antidumping Duty Administrative Review.

**EFFECTIVE DATE:** March 13, 1998.

**SUMMARY:** On January 26, 1998, the Department of Commerce ("the Department") published in the **Federal Register** (63 FR 3702), a notice announcing the initiation of an administrative review of the antidumping duty order on Circular Welded Non-Alloy Steel Pipe from Mexico. This review covered the period November 1, 1996 through October 31,

1997. This review has now been rescinded as a result of the withdrawal of the request for review of subject merchandise during the period of review.

#### **FOR FURTHER INFORMATION CONTACT:**

Stephanie Tolson or Helen Kramer, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone (202) 482-2312 or 482-0405, respectively.

#### **SUPPLEMENTARY INFORMATION:**

#### **Background**

On November 28, 1997, Hylsa, S.A. de C.V. (Hylsa) requested a review of its sales that were subject to the antidumping duty order on Circular Welded Non-Alloy Steel Pipe from Mexico during the period November 1, 1996 through October 31, 1997. On February 27, 1998, in accordance with Section 351.213(d)(1) of the Department's regulations, Hylsa withdrew the request for a review of these sales.

Given that the request was received within 90 days of initiation, the Department has determined that it would be reasonable to grant the withdrawal at this time. Therefore, in accordance with 353.213(d) of the Department's regulations, the Department is rescinding this administrative review.

This administrative review is being rescinded in accordance with Section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and Section 351.213(d)(1) of the Department's regulations.

Dated: March 9, 1998.

**Joseph A. Spetrini,**

*Deputy Assistant Secretary, Enforcement Group III.*

[FR Doc. 98-6549 Filed 3-12-98; 8:45 am]

BILLING CODE 3510-DS-M

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-840]

#### **Manganese Metal From the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review**

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

**ACTION:** Notice of final results of the administrative review of the antidumping duty order on manganese

metal from the People's Republic of China.

**SUMMARY:** On Friday November 7, 1997 the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on manganese metal from the People's Republic of China. The period of review is June 14, 1995 through January 31, 1997.

Based on our analysis of comments received, we have made changes to the margins calculated in the preliminary results, 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 during the period of review. Accordingly, we will instruct the US Customs Service to assess antidumping duties based on the difference between export price and normal value.

**EFFECTIVE DATE:** March 13, 1998.

**FOR FURTHER INFORMATION CONTACT:** Greg Campbell or Cynthia Thirumalai, Antidumping/Countervailing Duty Enforcement, Group I, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482-2239 or (202) 482-4087, respectively.

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

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On November 7, 1997, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary results of the administrative review of the antidumping duty order on manganese metal from the People's Republic of China ("PRC"). See *Manganese Metal from the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review*, 62 FR 60226 (November 7, 1997) ("Preliminary Results"). We gave interested parties an opportunity to comment on our preliminary results and held a public hearing on November 19,

1997. The following parties submitted comments: Elkem Metals Company and Kerr-McGee Chemical Corporation (together comprising the "petitioners"), and China Hunan International Economic Development Corporation ("HIED") and China Metallurgical Import & Export Hunan Corporation/Hunan Nonferrous Metals Import & Export Associated Corporation ("CMIECHN/CNIECHN") (together comprising the "respondents"). We have conducted this administrative review in accordance with section 751(a)(1) of the Act and 19 CFR 353.22.

##### **Scope of Review**

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

##### **Rescission**

The Department received responses from Minmetals Precious & Rare Minerals Import & Export Co. ("Minmetals") and China National Electronics Import and Export Hunan Company ("CEIEC") indicating that they had not shipped any subject merchandise during the POR. We confirmed with the US Customs Service that this was correct. Consistent with our administrative practice, therefore, we have rescinded our review of Minmetals and CEIEC. See *Certain Cased Pencils from the People's Republic of China; Preliminary Results and Partial Rescission of Antidumping Administrative Review*, 62 FR 1734 (January 13, 1997) (rescinded review in part with respect to the respondents which the Department determined had made no shipments of subject merchandise during the POR). See also 19 CFR 351.213(d)(3), 62 FR 27296 (May 19, 1997) (although this review is not governed by these new regulations, they do reflect current Department practice.).

##### **Separate Rates**

It is the Department's standard policy to assign all exporters of the merchandise subject to review in non-market economy ("NME") countries a single rate unless an exporter can demonstrate an absence of government control, both in law and in fact, with respect to exports. To establish whether an exporter is sufficiently independent of government control to be entitled to a separate rate, the Department analyzes the exporter in light of the criteria established in the Final Determination of Sales at Less Than Fair Value: *Sparklers from the People's Republic of China*, 56 FR 20588, (May 6, 1991) ("Sparklers"), as amplified in the Final Determination of Sales at Less Than Fair Value: *Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) ("Silicon Carbide"). Evidence supporting, though not requiring, a finding of de jure absence of government control over export activities includes: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. See *Sparklers* at 20589. A de facto analysis of absence of government control over exports is based on four factors—whether the respondent: (1) sets its own export prices independent from the government and other exporters; (2) can retain the proceeds from its export sales; (3) has the authority to negotiate and sign contracts; and (4) has autonomy from the government regarding the selection of management. See *Silicon Carbide* at 22587, and *Sparklers* at 20589.

In our final determination in the investigation of sales at less than fair value ("LTFV"), the Department determined that there was de jure and de facto absence of government control of each company's export activities and determined that each company warranted a company-specific dumping margin. See *Final Determination of Sales at Less Than Fair Value: Manganese Metal from the People's Republic of China*, 60 FR 56045 (February 6, 1996) ("LTFV investigation"). For this period of review, HIED and CMIECHN/CNIECHN have responded to the Department's request for information regarding separate rates. We have found that the evidence on the record is consistent with the final determination in the LTFV investigation and continues to demonstrate an absence of government

control, both in law and in fact, with respect to their exports, in accordance with the criteria identified in Sparklers and Silicon Carbide.

### Export Price

For sales made by HIED and CMIECHN/CNIECHN to the United States, we calculated an export price, in accordance with section 772(a) of the Act, because the subject merchandise was sold to unrelated purchasers in the United States prior to importation into the United States and a constructed export price ("CEP") methodology was not warranted.

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

### Normal Value

#### 1. Non-Market Economy Status

For companies located in NME countries, section 773(c) (1) of the Act provides that the Department shall determine normal value ("NV") using a factors of production methodology if (1) the merchandise is exported from an NME country, and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act.

The Department has treated the PRC as an NME country in all previous antidumping cases. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is a NME country shall remain in effect until revoked by the administering authority. None of the parties to this proceeding has contested such treatment in this review. Furthermore, available information does not permit the calculation of NV using home market prices, third country prices or constructed value ("CV") under section 773(a) of the Act. Therefore, we treated the PRC as an NME country for purposes of this review, and calculated NV by valuing the factors of production in a market economy country at a comparable level of economic development and which is a significant producer of comparable merchandise. Factors of production include, but are not limited to: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and

other utilities consumed; and (4) representative capital cost, including depreciation. See Section 773(c)(3) of the Act.

#### 2. Surrogate Country

In accordance with section 773(c)(4) of the Act and 19 CFR 353.52(c), we determined that India is comparable to the PRC in terms of (1) per capita gross national product ("GNP"), (2) the growth rate in per capita GNP, and (3) the national distribution of labor. In addition, India is a significant producer of ferromanganese, which for this proceeding the Department has determined to be comparable merchandise. Therefore, for this review we have selected India as the surrogate country on the basis of the above criteria, and have used publicly available information relating to India, unless otherwise noted, to value the various factors of production. See Memorandum to Susan Kuhbach, Nonmarket Economy Status and Surrogate Country Selection, May 28, 1997 (attached to June 25, 1997 letters to interested parties), and Memorandum to Richard W. Moreland, From the Team, October 24, 1997. (A public version of all documents on the record cited in this notice can be obtained from the Central Records Unit (room B099 of the main Department of Commerce building).)

#### 3. Factors of Production

For purposes of calculating NV, we valued PRC factors of production, in accordance with section 773(c)(1) of the Act. In examining surrogate values, where possible we selected the publicly available value which was: (1) An average non-export value; (2) representative of a range of prices within the period of review ("POR") or most contemporaneous with the POR; (3) product-specific; and (4) tax-exclusive. Where we could not obtain a POR-representative price for an appropriate surrogate value, we selected a value in accordance with the remaining criteria mentioned above and which was the closest in time to the POR. For a more detailed explanation of the methodology used in calculating the various surrogate values, see Memorandum to the File, From the Case Team, Calculations for the Final Determination, March 9, 1998. In accordance with this methodology, we have valued the factors as described below.

We valued manganese ore using a September 1993 export price quote from a Brazilian manganese mine for manganese carbonate lump ore (see Comment 3). While it is our normal

practice to apply an inflation adjustment to prices predating the period of review, information on the record indicates that prices for world-traded manganese ore have fallen over time. Therefore, we adjusted the price to account for declining manganese ore world prices between September 1993 and the POR.

For the value of process chemicals used in the production process of manganese metal, we used values obtained from the following Indian sources: Indian Chemical Weekly (June 1995–May 1996); the Monthly Trade Statistics of Foreign Trade of India, Volume II—Imports, (February 1996); and the 1995 Indian Minerals Yearbook ("IMY"). Where necessary, we adjusted these values to reflect inflation up to the POR using an Indian wholesale price index ("WPI") published by the International Monetary Fund (IMF). Additionally, we adjusted these values, where appropriate, to account for differences in chemical content and to account for freight costs incurred between the suppliers and manganese metal producers.

To value the labor input, we used data from the 1996 Yearbook of Labor Statistics ("YLS") published by the United Nations. We adjusted these rates to reflect inflation up to the POR using an Indian consumer price index ("CPI") published by the IMF. We used the CPI, rather than the WPI, for calculating the inflation adjustment to labor because the Department views the CPI as more representative of changes in wage rates, while the WPI is more representative of prices for material goods. See Heavy Forged Hand Tools From the People's Republic of China; Final Results of Antidumping Duty Administrative Reviews, 62 FR 11813, 11816 (March 13, 1997).

For selling, general, and administrative expenses (SG&A), factory overhead, and profit values, we used information from the January 1997 Reserve Bank of India Bulletin for the Indian industrial grouping "Processing and Manufacturing: Metals, Chemicals, and Products Thereof." To value factory overhead, we calculated the ratio of factory overhead expenses to the cost of materials, labor, and energy. From the same source, we were able to calculate the selling, general & administrative (SG&A) expense as a percentage of the cost of manufacturing, and profit as a percentage of the cost of production (i.e., the cost of manufacturing plus SG&A).

For most packing materials values, we used the per kilogram values obtained from the Indian Import Statistics. For one particular packing material, we

used a price quote from an Indian manufacturer and adjusted the value to reflect inflation up to the POR using the WPI published by the IMF. We used this price quote rather than the Indian Import Statistics because the quoted price was for the appropriate type of container used, whereas the Indian Import Statistics were aggregated over various types of containers. We made further adjustments to account for freight costs incurred between the PRC supplier and manganese metal producers.

To value electricity, we used the average rate applicable to large industrial users throughout India as reported in the 1995 Confederation of Indian Industries Handbook of Statistics. We adjusted the March 1, 1995 value to reflect inflation up to the POR using the WPI published by the IMF.

To value rail freight, we relied upon rates quoted by a manganese mine in India. We adjusted the rate to reflect inflation up to the POR using WPI published by the IMF. To value truck freight, we used a rate derived from a newspaper article in the April 20, 1994 issue of *The Times of India*. We adjusted the rate to reflect inflation up to the POR using WPI published by the IMF.

#### Changes Subsequent to Preliminary Results

The Department has made the changes indicated below to its margin calculations pursuant to comments received from interested parties. We note that because business proprietary treatment was requested by the respondents for certain factor inputs, these inputs will be referred to in the discussion below only as "Factor A," "Factor B," "Factor C," etc. A key to this naming convention is provided in an attachment to the Memorandum to the File, From the Case Team, Calculations for the Final Determination (March 9, 1998).

Rather than using the 82–84% MnO<sub>2</sub> ore series listed in the 1995 Indian Minerals Yearbook, we are now using an ore price submitted by the respondents from an Indian ore producer to value "Factor B."

In the Preliminary Results, we considered the expense items "provident fund" and "employee welfare expense," as taken from the Reserve Bank of India Bulletin, to be part of factory overhead. Following previous Department decisions, however, in these Final Results we have determined that these expenses are included in the direct labor costs. Consequently, these expenses have been

excluded from the components of factory overhead.

We have changed the conversion factor used in converting liters to cubic centimeters in the calculation of the per unit cost of packing material "Factor L." The conversion factor used in the preliminary results was incorrect.

#### Analysis of Comments Received

We received comments from interested parties regarding the following topics:

1. Valuation of Factors of Production
  - (a) Ore
  - (b) Electricity
  - (c) Labor
  - (d) Chemicals
  - (e) Overhead, SG&A and Profit
  - (f) Packing
2. Valuation of By-product Credit
3. Combined Rates

Summaries of the comments and rebuttals, as well as the Department's responses to the comments, are included below. For a more in-depth analysis of the various surrogate options see Memorandum to Richard W. Moreland, From the Manganese Metal Team, (October 24, 1997).

#### 1. Valuation of Factors of Production

##### (a) Ore Valuation

*Comment 1:* The petitioners argue that a price provided by Sandur Manganese & Iron Ores Ltd. ("Sandur") for a manganese ore with 46–48% contained manganese is the best ore surrogate because this ore can be used to make manganese metal, its manganese-to-iron ratio is very close to that of the ore actually used by the respondents ("PRC ore"), and it represents a domestic Indian transaction price.

The respondents contend that the Sandur ore is not chemically comparable to that ore actually used by the PRC producers because of the very significant difference in the manganese contents between the two. The respondents cite information on the record indicating that manganese content is a more important determinant of ore price than the manganese-to-iron ratio.

*Department's Position:* The Department disagrees with the petitioners' contention that the Sandur price is the best ore surrogate option available. Information provided by the manganese industry expert at the US Geological Survey (the "Department's expert") indicates that manganese content is generally a more important determinant of ore prices than the manganese-to-iron ratio. See Memorandum to the File, From the Team, (October 14, 1997). Furthermore,

according to the Department's expert, adjustments to ore prices to account for differences in the manganese contents of the PRC and surrogate ores would be reasonable only if the differences were small. The magnitude of difference in manganese contents between the PRC and Sandur ores suggests that the price of the latter is not representative of the value of the PRC ore. Moreover, the record is not explicit as to whether the Sandur price quote is an export price quote or a domestic price. For these reasons, the Department does not consider the Sandur ore price to be the best available surrogate in this review.

*Comment 2:* The respondents argue in favor of using a domestic Indian price for an ore produced by a certain Indian manganese ore producer ("Producer X"). This price is the most suitable ore surrogate value, the respondents maintain, because the ore from Producer X has a manganese content very similar to that of the PRC ore. The respondents cite expert testimony on the record that this particular ore could theoretically be used to produce manganese metal. The petitioners counter, citing other expert testimony on record, that Producer X's ore is an unsuitable surrogate because its low manganese-to-iron ratio as well as certain other chemical features would prevent it from being used in manganese metal manufacture.

*Department's Position:* We disagree with the respondents' contention that the ore from the Indian Producer X is the best possible surrogate for the primary ore input in this review. Information on the record from the Department's expert indicates that ore in India with a similar manganese content as that of Producer X's ore is generally not used as the primary ore input in manganese metal production for reasons pertaining to the ore's chemistry. See Memorandum to the File, From Daniel Lessard, May 3, 1995 (included in the record of this review as an attachment to the October 10, 1997 Memorandum to the File, From the Team). The expert's opinion is further confirmed by information contained in the 1995 Indian Minerals Yearbook ("IMY"), which indicates that both the manganese content and the manganese-to-iron ratio of Producer X's ore fall below those of a range of standardized specifications for ore used in Indian ferromanganese manufacture. Moreover, the manganese content of the Brazilian surrogate used by the Department is closer to that of the PRC ore than the content of Producer X's ore. The Department also notes that the manganese-to-iron ratio of ore from Producer X is significantly below the minimum threshold argued by the

petitioners as necessary for producing manganese metal.

*Comment 3:* The petitioners argue that the surrogate ore must be similar to the PRC ore, most importantly with regard to its manganese-to-iron ratio, so that adjustments would not have to be made to other quantitative inputs. The petitioners continue, however, that though chemically similar to the PRC ore, the Brazilian ore value used by the Department is not the best surrogate choice because (1) Brazil is not among the Department's list of eligible surrogate countries for the PRC, (2) the Brazilian value represents an export price, which in the past the Department has considered less preferable to a domestic price because the exported ore may benefit from subsidies, (3) the value is a single price observation rather than an average value over a period of time, and (4) the price does not reflect a mine-mouth ore price and is therefore not representative of the PRC producers' ore costs.

The respondents argue that the Brazilian ore price is an unsuitable surrogate value because it exceeds the value of high-grade Indian peroxide ore listed in the *IMY* which the Department's expert argued would itself overstate the value of the PRC ore. Moreover, the manganese-to-iron ratio of the Brazilian ore price is almost double the minimum argued by the petitioners. The petitioners counter that the respondents are wrong, as a point of fact, and that the record clearly indicates that both the Brazilian ore value used by the Department in its preliminary results and the Sandur ore price recommended by the petitioners are significantly lower on an MTU basis (*i.e.*, per percent of contained manganese) than the high grade Indian peroxide ore.

*Department's Position:* The Department disagrees with both the petitioners and the respondents. In considering the totality of evidence on record and in weighing the relative merits of all the surrogate options, the Department maintains that the Brazilian ore best reflects the physical and chemical characteristics of the PRC ore and, thus, best reflects the value of the PRC ore.

With regard to the petitioners' first specific objection to the Brazilian ore as enumerated above, while it is true the Department's preference is to use surrogate values from a country it has deemed to be at a level of economic development comparable to that of the non-market economy involved, the Act states that the Department must only do so "to the extent possible." See section 773(c)(4) of the Act. Section 773(c)(1) of

the Act further states that, "the valuation of the factors of production shall be based on the best available information regarding values of such factors in a market economy country or countries considered appropriate by the administering authority." In the past, in proceedings where the facts on record indicate that the Department's usual practice would not permit the accurate valuation of a factor input, the Department has chosen surrogates from countries not included among the Department's list of potential surrogate countries. See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cased Pencils from the People's Republic of China, 59 FR 55625 (November 8, 1994) ("Pencils").

After careful consideration of the information submitted in this review by both the petitioners and the respondents, as well as information resulting from the Department's own research, we have determined that none of the proposed Indian ore prices represents the best surrogate for the PRC ore available in this review. In making this decision we have taken into account *inter alia* the fact that there is no consensus among the petitioners and the respondents regarding the suitability of any of the Indian ore surrogate choices. Each party has submitted a considerable amount of evidence and expert opinion detailing why every one of the other party's proposed Indian surrogate is inappropriate on grounds of either price or chemical comparability.

The proposed Brazilian ore surrogate, however, falls within the criteria for comparability advocated by both sides. The manganese content of the Brazilian ore is even closer to that used by the PRC producers than the Indian surrogate advocated by the respondents, while the manganese-to-iron ratio is above the minimum necessary, as the petitioners argue it should be, for the ore to be useable in manganese metal manufacture. Moreover, with regard to a certain unique chemical feature, the Brazilian ore is of the same type as the PRC ore, whereas none of the potential Indian surrogates is of this type. Information on the record indicates that certain unique aspects of the respondents' manufacturing process and, consequently, the respondents' costs of production are contingent on the use of ore with this particular chemical feature.

Regarding the petitioners' second objection, it is correct that the Department has generally not chosen to use for a surrogate value an export price from a country which maintains non-specific export subsidies, or subsidies specific to the factor in question. We

note however, that the Department has the discretion to use such a factor where appropriate.

The petitioners have cited the 1997 National Trade Estimate on Foreign Trade Barriers (USTR), which indicates that the government of Brazil offers a variety of tax and tariff incentives to encourage production of exports. The one export subsidy program identified explicitly in that report is Brazil's export credit program known as PROEX.

The Department first notes that the Brazilian price quote was for exports of manganese ore to the United States. In the course of its investigations into subsidies in other cases of Brazilian exports to the United States, the Department has identified certain export subsidies schemes in Brazil. However, in all the cases reviewed these programs have been deemed by the Department either to have been not in use at the time, terminated altogether, or of such a small magnitude as to confer only a *de minimis* or minimal benefit. See, e.g., Final Results of Countervailing Duty Administrative Review: Certain Castor Oil Products from Brazil, 60 FR 20478 (April 26, 1995); Cotton Yarn from Brazil; Preliminary Results of Countervailing Duty Administrative Review 59 FR 68 (January 3, 1994); Certain Agricultural Tillage Tools from Brazil; Final Results of Countervailing Duty Administrative Review, 60 FR 48692 (September 20, 1995); Final Affirmative Countervailing Duty Determination: Certain Hot Rolled Lead and Bismuth Carbon Steel Products from Brazil, 58 FR 6213 (January 27, 1993). PROEX, in particular, is among the programs the Department determined were not in use. In the two Brazilian countervailing cases involving iron ore and iron ore pellets, the Department determined that iron ore, a mineral extraction industry like manganese ore, was not eligible to participate in the PROEX (or its predecessor FINEX) program, which is available only to producers of "manufactured" products. See Pig Iron from Brazil; Preliminary Results of Countervailing Duty Administrative Review, 58 FR 6246 (January 27, 1993) and Final Affirmative Countervailing Duty Determination: Iron Ore Pellets from Brazil, 51 FR 21961, 21964 (June 17, 1986). For these reasons, the Department has determined that the merits of using the Brazilian ore price outweigh concerns over Brazilian export subsidies and, consequently, that an exception to the Department's more general practice of not using export prices as surrogate values is appropriate in this case.

Addressing the petitioners' point that the Brazilian price is for an individual transaction, information on the record indicates that prices for globally-traded manganese ore are usually set on an annual contract basis. It is therefore reasonable to assume that the September 1993 Brazilian price quote represents a price which was in effect at least over several months rather than a stand-alone spot price.

Finally, in their fourth objection to the Brazilian ore, the petitioners imply that there is significant variation in the price of a given ore, on an MTU, ex-mine basis, arising from differences in the distance over which the ore must be transported. However, information on the record provided by the Department's expert indicates that prices for relatively high-quality ore—which, the petitioners have argued, any ore useable in manganese metal production (including the Brazilian ore series) must be—are largely uniform worldwide. There is no significant bifurcation of the market for higher-grade ores. Consequently, the Brazilian export price, adjusted for inland transportation, is a reasonable surrogate value for the PRC ore at the mine-mouth.

Turning to the respondents' arguments, the Department disagrees with the respondents' assertion that the Brazilian ore price is higher than the prices of the peroxide ores listed in the IMY. Rather, on an ex-mine, \$/MTU basis the Brazilian value is less than two-thirds that of the lowest-cost Indian peroxide ore (i.e., 82–84% MnO<sub>2</sub>). See Exhibit B of Memorandum to the File, From the Team, Calculations for the Preliminary Determination of the First Administrative Review of the Antidumping Duty Order on Manganese Metal from the People's Republic of China (October 31, 1997). Moreover, the respondents have argued that manganese content is the largest determinant of ore prices and, therefore, surrogate suitability. The Department notes that the manganese content of the Brazilian ore is more comparable to that used by the PRC producers than the respondents' proposed ore surrogate from Producer X.

For all these reasons, the Department has decided that none of the possible Indian ore surrogates would allow for the accurate valuation of the PRC ore. Consequently, we are continuing to use the Brazilian ore price for the purposes of the Final Results.

*Comment 4:* The petitioners argue that the Department's adjustment to the 1993 Brazilian ore price to make it contemporaneous with the POR was incorrect. According to the petitioners, the Brazilian ore is more properly

treated as a domestically traded ore influenced by local conditions. The correct adjustment methodology, the petitioners therefore contend, would be to adjust the 1993 Brazilian price (restated in Reals/MTU) by the change in the Brazilian wholesale price index between September 1993 and the POR, and then convert this adjusted price into US dollars using the POR exchange rate.

*Department's Position:* The Department disagrees with the petitioners' proposed method of adjustment. The petitioners have argued that only relatively higher-quality ore can be used in manganese metal manufacture, and they have also noted that the Brazilian ore appears to be suitable for use in the production of manganese metal. We can reasonably conclude, therefore, that the Brazilian ore is a higher-quality ore. Moreover, exports of such ore from Brazil constitute part of an international market for which there are well-established, quoted prices that are denominated in US dollars. In such circumstances, a price index for this market would be the most appropriate basis for making an intertemporal adjustment to the Brazilian export price. However, to the Department's knowledge no such index exists. As a proxy for such an index, therefore, we have used the annual contract prices for the years 1993–1995 charged by one of the largest producers in the international manganese ore market. According to the Department's expert, this is a reasonable adjustment methodology because inter alia the higher-grade manganese ores traded on world markets are generally priced within a narrow band.

*Comment 5:* The petitioners argue that the Sandur ore, with 46–48% contained manganese, is the best surrogate value for Factor B because the chemical composition of the Sandur ore is comparable to Factor B. Moreover, the Sandur ore, the petitioners claim, represents a domestic Indian transaction price. If, the petitioners argue, the Department persists in using the 82–84% MnO<sub>2</sub> peroxide ore as listed in the IMY to value Factor B, the price should be time-adjusted using the Indian wholesale price index to make it contemporaneous to the POR.

The respondents also argue that the 82–84% MnO<sub>2</sub> peroxide ore used by the Department in its preliminary results was an unsuitable surrogate for Factor B because of a significant difference in the manganese contents between the two. For reasons similar to those cited in the Department's response to Comment 1 above, the Department's chosen surrogate significantly overstates the

cost of the ore actually used by the PRC producers. Thus, the respondents contend that the Department should use the ore price of "Producer X" (discussed in Comment 2 above) or, in lieu of that, the Sandur ore proposed by the petitioners.

*Department's Position:* The Department has chosen the ore price quote from Producer X because its manganese content coincides with the reported range of Factor B, the price is contemporaneous with the POR, and it is clearly a domestic price for India, the surrogate country chosen for this review. Although the Sandur ore also coincides with the reported range of manganese content for Factor B, the price is not contemporaneous with the POR. Moreover, as discussed in the Department's position in Comment 1 above, the record is not explicit as to whether the Sandur value is a domestic market or an export price for India.

Finally, with regard to the petitioners' argument about the time-adjustment methodology, the Department is now using the ore price from Producer X to value Factor B. Because this price is contemporaneous with the POR, no time-adjustment is necessary.

#### (b) Electricity Valuation

*Comment 6:* The petitioners argue that the most suitable surrogate value for electricity is an average rate in effect in 1996 across those Indian states which contain the bulk of the Indian manganese ferroalloy production. The rate used by the Department in the Preliminary Results understates the true cost, the petitioners contend, because it represents an average rate applicable to all Indian states, including those states in which the electricity sector is still state-owned and therefore rate increases are tightly controlled, as well as those states in which no ferroalloy production is located. Moreover, although the record indicates that a few Indian ferroalloy producers in these states have captive electricity generation and are therefore not subject to the grid rate for that energy which is self-generated, these producers represent only a small percentage of the total number of Indian producers. The petitioners further argue that the strategy of the manganese industry in China is to locate manganese metal production facilities close to the manganese mine and, therefore, if India did have manganese metal producers they, like the Indian ferroalloy producers, would also likely be located in those states with large manganese ore deposits.

The respondents counter that there is no evidence on the record to support the petitioners' assertion that there is a

general strategy in China to locate the manganese metal plants at the mine-mouth, noting that three or four manganese metal producers investigated by the Department were not located at the mine mouth.

*Department's Position:* We disagree with the petitioners. There is insufficient evidence on the record from which to conclude that the developments affecting the electricity prices of Indian ferromanganese necessarily reflect conditions in which the PRC manganese metal producers likewise must operate. For example, the generally higher electricity rates in those Indian states which contain the bulk of ferromanganese producers are not necessarily a result of the presence of a ferromanganese industry in those states. To the contrary, the record suggests the rate differences among states are usually due to more general, state-specific circumstances such as uneven progress in the privatization of power generation and distribution, as well as local power shortages. See Metal Bulletin, July 4, 1996. In lieu of concrete evidence that the higher state-specific rates are directly a result of the presence of manufacturers of identical or comparable merchandise, Departmental practice in past cases has been to take a simple average of electricity rates for the surrogate country as a whole. See Notice of Final Determination of Sales at Less Than Fair Value; Polyvinyl Alcohol from the People's Republic of China, 61 FR 14057, 14062 (March 29, 1996).

Moreover, information on the record provided by the petitioners in fact indicates that some manganese ferroalloy producers in those Indian states with some of the highest electricity rates will likely be forced to close precisely because of their high energy costs. Other producers in these states, the information suggests, will either be forced to move production to other states with lower rates or build self-generating electricity capacity. See Metal Bulletin, June 27, 1996.

The petitioners also maintain that the record only identifies four ferroalloy producers in these states who have captive electrical generation capacity out of a total of roughly 70 Indian ferroalloy producers. In response, the Department notes that according to information in the 1993 Ferroalloy Directory & Databook, the four producers named together represent a disproportionately large percentage of overall Indian ferroalloy production.

Furthermore, we agree with the respondents' contention that there is insufficient information on the record to conclude that the general strategy of the PRC manganese metal industry is to

locate its plants at the mine mouth. To the contrary, information on the record states that imports of manganese ore into China grew to more than 1.5 million tons annually during the POR, making China one of the world's largest importers of manganese ore. Among the reasons cited for an increasing preference among the PRC for imported manganese ore is that the high grade imported ore is more economical than domestically-mined low-grade ore. In the absence of explicit factual information supporting the petitioners' contention of a general PRC strategy, one would expect that the general strategy would be to locate plants close to ports of importation in order to minimize the costs of transportation which, as the petitioners' have argued, can be considerable.

#### (c) Labor Valuation

*Comment 7:* In its preliminary results, the Department used a 1991 labor cost for India as reported in the 1996 Yearbook of Labor Statistics ("YLS"). The respondents argue that this is an inappropriate surrogate because it does not differentiate between skilled and unskilled workers. This is a crucial distinction, the respondents contend, because a very high percentage of lower cost, unskilled labor is used by the respondents. If the unskilled to skilled ratio is lower in India than in China, the average Indian labor cost would overstate the respondents' actual costs of labor. The respondents recommend using instead the labor cost information contained in Investing, Licensing & Trading Conditions Abroad: India 1996 ("IL&T") as published by the Economist Intelligence Unit or, in lieu of the IL&T data, using the cost data in Foreign Labor Trends. Both of these sources, the respondents note, report a separate value for skilled and unskilled workers, and the information in both more closely coincides with the POR. Furthermore, the Department has used information from Foreign Labor Trends to value labor costs in other cases.

The petitioners first argue that the respondents' reported percentage of unskilled to overall workers is unrealistically high. Moreover, the petitioners continue, the data in the Foreign Labor Trends represents minimum wages for factory workers in Delhi only, an area in which no producers of comparable material are located. The petitioners further contend the IL&T is also not a suitable surrogate because its rates are only "indicative" and therefore may be distorted by significant variation in wages by state and industry. Rather, the petitioners argue, the YLS information provides the

best surrogate value because it is specific to the Indian basic metals industry, and it was used in the underlying investigation.

*Department's Position:* We disagree with the respondents' contention that either the IL&T or the Foreign Labor Trends data represent surrogate labor values preferable to the YLS. The data in Foreign Labor Trends represent only minimum wage rates for workers in Delhi factories. Given the information on record indicating that wages in India vary considerably by industry, company size and region, there is no basis on which to conclude that minimum factory wages in Delhi factories reflect average wage rates across the Indian economy. The YLS, on the other hand, provides labor rates for the basic metals industry for India as a whole. The Department notes that in the final determination of the furfuryl alcohol investigation cited by the respondents, the Department changed its methodology and abandoned use of the Foreign Labor Trends data on the grounds that that data were found to be "not appropriate for valuing labor factors." See Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China, 60 FR 22544, 22545 (May 8, 1995).

With regard to the IL&T data, in corresponding with the Economist Intelligence Unit regarding the methodology used to compile labor information, the Department learned that the reported average monthly wages are based solely on wages stipulated by Indian law rather than on any survey of average wages actually paid. Moreover, it appears from the text in the IL&T data that the wage rates do not include additional mandatory and voluntary benefits which normally add an additional 40-50% to the base pay. See IL&T at 52 and 53. The Department, in choosing a surrogate labor value, seeks to reflect the average fully-loaded cost (i.e., including all costs and benefits in addition to basic wage) of employing labor on as industry-specific a basis as possible. See, e.g., Certain Helical Spring Lock Washers from the People's Republic of China; Final Results of Antidumping Administrative Review, 61 FR 66255, 66259 (December 17, 1996) and Notice of Final Determination of Sales at Less Than Fair Value; Polyvinyl Alcohol from the People's Republic of China, 61 FR 14057, 14061 (March 29, 1996).

Finally, it has been a longstanding practice of the Department to apply the single average labor rate reported for India in the YLS to all reported skill levels. See e.g., Notice of Final



Determination of Sales at Less Than Fair Value: Persulfates from the People's Republic of China, 62 FR 27222, 27229 (May 19, 1997); Heavy Forged Hand Tools from the People's Republic of China: Final Results of Antidumping Duty Administrative Reviews, 62 FR 11814, 11815 (March 13, 1997); Certain Helical Spring Lock Washers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 62 FR 61794, 61780 (November 19, 1997).

(d) Chemical Valuation

*Comment 8:* The petitioners argue that the Department's use in the preliminary results of a domestic Indian price for sodium sulphide as a surrogate for a certain process chemical ("Factor C") is incorrect. Instead, the petitioners contend, a U.S. price quote on record for the actual chemical is a preferable surrogate to sodium sulphide which, the petitioners further allege, is not even a true substitute for Factor C. The respondents counter by pointing to expert testimony on the record stating that sodium sulphide is a reasonable substitute for Factor C in the manganese metal production process. The respondents further argue that using the petitioners' U.S. price for a surrogate value for Factor C would be contrary to the Act because the United States is not at a level of economic development comparable to that of China.

*Department's Position:* We agree with the respondents in part. There is sufficient factual information on the record to conclude that sodium sulphide is comparable to Factor C. Generally, the Department's practice is to use values taken from the chosen surrogate country wherever possible. In this review, therefore, the Department has chosen the domestic Indian market price available for sodium sulphide over the surrogate value from the US market.

*Comment 9:* The petitioners contend that the Department erroneously classified four process chemicals (i.e., Factor D, Factor E, Factor F, and Factor G) as part of factory overhead rather than as direct material costs. The petitioners provide an excerpt from Plant Design and Economics for Chemical Engineers (1991) ("Plant Design") which they claim demonstrates that under ordinary cost accounting principles these process chemicals are treated as direct factors of production. Moreover, the petitioners contend, any distinction drawn in the use of these chemicals and other chemicals which have been treated as direct material inputs in this review is arbitrary. They note, for instance, that certain chemicals which were treated as direct material

inputs in the preliminary results are not entirely consumed in the manufacturing process but, rather, are recycled back through the production circuit.

The respondents counter that it has been the Department's established policy to treat indirect materials as part of factory overhead. Indirect materials, according to the respondents, have been defined as materials which are not physically incorporated into the final product. The respondents note that during the Department's verification of the PRC production facility, these chemicals were observed to be used for cleaning and pacification purposes only. Therefore, the respondents argue, these chemicals are indirect costs subsumed within the general overhead cost category.

*Department's Position:* We agree with the respondents. In the Final Determination of Sales at Less than Fair Value: Manganese Metal from the PRC, 60 FR 56045, 56051 (November 6, 1995), the petitioners also relied on Plant Design to support their claim that the same process chemicals should be treated as direct factors of production. However, in that segment the Department determined that, because the process chemicals were used either after the metal had been produced or for cleaning purposes unrelated to the actual production process, the chemicals in question are properly classified as part of factory overhead.

This distinction is consistent with the methodology used by the Department in prior cases. See e.g., Heavy Forged Hand Tools from the People's Republic of China, 60 FR 49251, 49254 (September 22, 1995). Furthermore, in the Preliminary Determination of Sales at Less Than Fair Value; Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China, 62 FR 31972, 31977 (June 11, 1997), the Department determined that the treatment of indirect materials as overhead is consistent with the Compendium of Statements and Standards: Accounting (India). Therefore, we have continued to classify the process chemicals in question as part of factory overhead.

(e) SG&A/Profit Valuation

*Comment 10:* The petitioners argue that the Department's use in its preliminary results of data reported in the Reserve Bank of India Bulletin ("RBI Bulletin") to value overhead, SG&A, and profit is incorrect. The reported average for the RBI Bulletin industrial grouping "Processing and Manufacture—metals, chemicals and products thereof," the petitioners contend, understates the actual profit and SG&A expenses

incurred in manganese metal manufacture because the composite includes several low-value-added (fabrication) industries which generally experience low SG&A expenses and profits compared with high-value-added (processing) industries such as manganese metal. The petitioners argue that the understated nature of the RBI Bulletin data is clearly illustrated by comparing the RBI Bulletin profit with the significantly higher certificate of deposit, commercial paper and Treasury Bill yields in effect in India during the same period. No new private investors would invest in the Indian manganese metal or ferroalloy industry, the petitioners contend, if they expected a rate of return on their investment comparable to the RBI Bulletin profit level, especially given the much higher rates of return in the relatively less risky alternative investments noted above. The petitioners argue that a more suitable surrogate for SG&A and profit would be actual data taken from the financial statements of two Indian companies (i.e., Hindalco and TISCO), both operating in high-value-added industries. In the case of profits, the petitioners argue that if the Department chooses not to use the company-specific data it should, at a minimum, use a figure which reflects a low risk alternative investment strategy such as an Indian CD, commercial paper, or Treasury Bill rate.

The respondents counter that neither Hindalco or TISCO, the two Indian companies for which the petitioners have provided financial statements, is dedicated solely to the production of manganese metal or a comparable product and, therefore, their specific financial performance does not necessarily reflect that of the manganese industry. On the other hand, because India is a large producer of comparable merchandise, it is reasonable to assume that the financial performance of the domestic manganese industry is reflected in the RBI Bulletin average data. Therefore, the RBI Bulletin data provides the best surrogate value for SG&A and profit.

*Department's Position:* The Department agrees with the respondents that the RBI Bulletin data represent the best available surrogate value for SG&A and profit in this review. While the Department would generally prefer to base SG&A and profit on financial information specific to the production of identical or comparable merchandise in India, this information is not available in this administrative review.

The petitioners argue that the RBI Bulletin should not be used because it contains a broad variety of industries.



However, according to its 1995-96 Annual Report, TISCO also produces a broad variety of products including, *inter alia*, cement, welded steel tubes, cold rolled strips, ammonium sulphate, bearing rings, and metallurgical machinery in addition to a small amount of comparable merchandise (i.e., ferromanganese). The aggregate TISCO data therefore do not resolve the problems raised by the petitioners.

With respect to Hindalco, this company produces aluminum—a product which has not been found to be comparable to manganese metal by either party or the Department. See e.g., the petitioners' submission dated March 17, 1995 at page 4. Additionally, Hindalco's 1996-97 Annual Report at pages 14 and 37 seems to indicate that the company also produces a number of other products wholly unrelated to the production of manganese metal, including fabricated products (e.g., rolled and extruded products). Moreover, the Hindalco data include energy which cannot be separated from factory overhead.

The Department likewise disagrees with the petitioners' contention that at the very least profit should reflect the return on a low risk investment strategy in India. Whether or not the RBI Bulletin rate would have been sufficient to induce new investment into the industry, what is relevant in this case to the valuation of the PRC profit rate is the actual financial experience of existing Indian ferromanganese producers during the POR. Although the RBI Bulletin data are not specific to producers of comparable merchandise, they do reflect the actual experience of producers of comparable merchandise and a reasonably close group of like industries. Thus, this information is the best surrogate available.

*Comment 11:* The respondents argue that "provident fund" and "employee's welfare expense" should not be included among the overhead expenses as taken from the RBI Bulletin. These expenses, the respondents argue, are labor related and therefore already included in the direct labor cost component of the cost of manufacture ("COM"). The respondents note that in certain recent proceedings the Department included such expenses in the direct labor component rather than in overhead. The petitioners argue that in the underlying investigation, the Department determined that the provident fund should be included in factory overhead based on the nature of how the expense was incurred. There is no information on the record of this review which supports a different determination from that in the

investigation and, therefore, the Department should continue using the methodology used in the preliminary results.

*Department's Position:* We agree with the respondents. The Department has reconsidered the methodology used in its final determination of the LTFV investigation for classifying the expense items "provident fund" and "employee welfare expense." The Department considers the YLS data to be fully loaded with respect to all labor expenses, incorporating such costs as contributions to the provident fund and employee welfare expenses. See Notice of Final Determination of Sales at Less Than Fair Value; Polyvinyl Alcohol from the People's Republic of China, 61 FR 14057, 140614 (March 29, 1996). Therefore, in order to be consistent with Department practice in other cases (e.g., Sulfanilic Acid from the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review, 61 FR 53702, 53710 (October 15, 1996)), we have removed these two expense items from the factory overhead and reclassified them as part of the direct labor inputs component of the COM.

#### (f) Packing Material Valuation

*Comment 12:* The respondents and the petitioners both contend that the Department erred in its conversion from liters to cubic centimeters in calculating the per unit cost of Factor L in the preliminary results.

*Department's Position:* We agree with both the petitioners and the respondents that an error was made in the conversion from liters to cubic centimeters in calculating the cost of Factor L. We have made the appropriate changes to the packing calculations for these Final Results.

#### (2) Valuation of By-Product Credit

*Comment 13:* The petitioners argue that the by-product generated during the respondents' manufacturing process is a low-quality and, therefore, low-value product. Electrolytic manganese dioxide ("EMD"), which the respondents argue is a product comparable to the by-product, is a very high-value product. The petitioners contend that because there are such fundamental differences in the chemical composition of EMD and the by-product, EMD would not be a suitable surrogate for the by-product.

The respondents counter that the by-product resulting from manganese metal manufacture has value, as illustrated by the fact that the PRC producers sell it to nearby unaffiliated industrial operations. It cannot be valued as an ore, the respondents continue, because

it is a product resulting from the electrolysis of an ore. Thus, the respondents conclude, a more suitable surrogate would be the value of EMD. The Department, the respondents argue, acknowledged the intrinsic value of this by-product in the original investigation when it used for a surrogate the Indian import value of "Manganese Dioxide, excluding ores."

*Department's Position:* The Department disagrees with the respondents' argument for the use of EMD as a surrogate value. First, the respondents are incorrect in stating that the Department used for a by-product surrogate in the LTFV investigation an Indian import value for manganese dioxide excluding ores. In the LTFV Final Determination, the Department used an 82-84%MnO<sub>2</sub> peroxide ore, as listed in the 1993 Indian Minerals Yearbook, to value the respondents' by-product credit. EMD is a very high-valued product used mainly in the production of dry-cell batteries. See Attachment III to Memorandum to Richard W. Moreland, From the Manganese Metal Team, October 24, 1997. The respondents have not sufficiently demonstrated that the PRC by-product is of the same rigorous specifications as EMD.

The respondents have demonstrated, however, that their by-product does have some resale value. See Memorandum For: The File, From: Daniel Lessard, Subject: Verification of XTMM, October 12, 1997. In lieu of any information on the Indian value of the actual by-product in question, the Department is maintaining the methodology used in the LTFV Final Determination of using for a surrogate the price of high-valued Indian manganese dioxide ore.

#### 3. Combined Rates

*Comment 14:* The petitioners argue, citing the Department's new regulations adopted in May 1997, that combination duty deposit rates should be established separately for XTMM/HIED and XTMM/CNIECHN/CNIECHN. The current company-specific rates are far lower than the China-wide rate, the petitioners argue, leading to the potential for PRC producers not reviewed in this proceeding to export through one of the companies with the lower company-specific rate.

The respondents counter that the new regulations do not change the Department's past policy regarding the assignment of rates in non-market economy cases. Moreover, the current review is not subject to the Department's new regulations.

Therefore combination rates should not be established.

**Department's Position:** We agree with the respondents. It has been the Department's practice in cases involving non-market economies to assign rates to exporters rather than producers because it is the exporter who actually determines the price at which the subject merchandise is sold in the United States. See Persulfates from the People's Republic of China, 62 FR 27222, 27227 (May 19, 1997). Moreover, in the preamble to the final regulations (see, Antidumping Duties; Countervailing Duties, 62 FR 27296, 27305 (May 19, 1997)), the Department states that it intends to continue calculating antidumping rates for NME export trading companies, and not the manufacturers supplying the trading companies. Therefore, combination rates in this case are not appropriate.

#### Final Results of Review

As a result of our analysis of the comments we received, we have made changes to those margins presented in our preliminary results. We determine the following weighted-average margins existed for the period June 1, 1995 through January 31, 1997:

Manufacturer/exporter	Margin (percent)
HIED .....	2.80
CMIECHN/CNIECHN .....	1.56
CEIEC * .....	11.77
Minmetals * .....	5.88
PRC-wide .....	143.32

\*CEIEC and Minmetals both reported that they had no sales to the United States during the POR. The specific rate for each of these companies will therefore remain unchanged from that determined in the Final Determination of LTFV investigation.

#### Assessment Rates

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

appraisement instructions directly to the Customs Service.

The following cash deposit requirements will be effective upon publication of this notice of Final Results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) for the companies named above that have separate rates and were reviewed (i.e., China Hunan International Economic Development Corporation (HIED) and China Metallurgical Import & Export Hunan Corporation/Hunan Nonferrous Metals Import & Export Associated Corporation (CMIECHN/CNIECHN)), the cash deposit rates will be the rates listed above specifically for those firms; (2) for companies which established their eligibility for a separate rate in the LTFV investigation but were found not to have exported subject merchandise to the United States during the POR (i.e., China National Electronics Import & Export Hunan Company ("CEIEC") and Minmetals Precious & Rare Minerals Import & Export Co. ("Minmetals")), the cash deposit rates continue to be the currently applicable rates of 11.77% and 5.88%, respectively; (3) for all other PRC exporters, all of which were found not to be entitled to a separate rate, the cash deposit rate will continue to be 143.32%; and (4) for non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter. These deposit requirements will remain in effect until publication of the Final Results of the next administrative review.

This notice serves as a 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 has occurred and the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective orders ("APOs") of their responsibility concerning disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of the return or 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 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: March 9, 1998.

**Robert S. LaRussa,**

*Assistant Secretary for Import Administration.*

[FR Doc. 98-6551 Filed 3-12-98; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-501]

#### Natural Bristle Paintbrushes and Brush Heads From the People's Republic of China; Final Results of Antidumping Duty Administrative Review

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

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

**SUMMARY:** On November 7, 1997, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping order on natural bristle paint brushes and brush heads (paint brushes) from the People's Republic of China (PRC). The review covers two exporters of the subject merchandise and the period February 1, 1996 through January 31, 1997.

We gave interested parties an opportunity to comment on our preliminary results. We received comments from Hunan Provincial Native Produce and Animal By-Product Import and Export Corporation (Hunan). We did not receive rebuttal comments. After considering these comments, we have not changed the final results from those presented in the preliminary results of review and have determined that sales have not been made below normal value (NV), as explained below.

**EFFECTIVE DATE:** March 13, 1998.

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