DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 3–98]

Foreign-Trade Zone 93—Raleigh/Durham, NC; Request for Manufacturing Authority Rike Industries, Inc. (In-Line Skates)

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Triangle J Council of Governments, grantee of FTZ 93, pursuant to § 400.28(a)(2) of the Board's regulations (15 CFR part 400), requesting authority on behalf of Rike Industries, Inc. (Rike), to assemble in-line skates under FTZ procedures within FTZ 93. It was formally filed on January 13, 1998.

The Rike facility (41,000 sq. ft.) is located within Site 1 of FTZ 93 at 1000 Parliament Court in the Imperial Business Center, in Durham, North Carolina. The Rike facility (12 employees) is used to assemble in-line skates under contract for Fila Sports, Inc., for the U.S. market and export. The assembly process involves the attachment of domestically sourced in-line skate chassis to foreign-origin textile/leather boots (HTSUS 6402—6404, as sports footwear; duty rate: 20%). The finished in-line skates are classified under HTSUS 9506.70 (duty free). The application indicates that 15 percent of the facility's shipments will be exported.

FTZ procedures would exempt Rike from Customs duty payments on the foreign components used in export production. On its domestic sales, Rike would be able to elect the Customs duty rate during Customs entry procedures that applies to finished in-line skates (duty free) for the foreign boots/footwear noted above. The request indicates that the savings from FTZ procedures would help improve the facility's international 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 March 23, 1998. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to April 6, 1998).

A copy of the application and the accompanying exhibits will be available for public inspection at the following locations:

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th Street & Pennsylvania Avenue, NW, Washington, DC 20230–0002

Office of the Service Area Port Director, U.S. Customs Service—Raleigh/Durham, 120 South Center Court, Morrisville, NC 27560.

Dated: January 13, 1998.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–1397 Filed 1–20–98; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–832]

Pure Magnesium From the People's Republic of China: Final Results of Antidumping Duty New Shipper Administrative Review

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

SUMMARY: On October 23, 1997, the Department of Commerce published the preliminary results of the new shipper administrative review of the antidumping duty order on pure magnesium from the People's Republic of China (62 FR 55215). This review covers one manufacturer/exporter of the subject merchandise to the United States, Taiyuan Heavy Machinery Import and Export Corporation, and the period of review is May 1, 1996, through October 31, 1996. We gave interested parties an opportunity to comment on our preliminary results.

We have determined that U.S. sales have been made below the normal value, and we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between Export Price and Normal Value.

EFFECTIVE DATE: January 21, 1998.

FOR FURTHER INFORMATION CONTACT: Everett Kelly or Brian C. Smith, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4194 or (202) 482–1766, respectively.

SUPPLEMENTARY INFORMATION: Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930, as amended (the Act), by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce (the Department) regulations are to those codified at 19 CFR part 353 (April 1997). Where appropriate, references are made to the Department's final regulations, codified at 19 CFR part 351 (62 FR 27296), as a statement of current departmental practice.

Background

On October 23, 1997, the Department published in the **Federal Register** (62 FR 55215) the preliminary results of its new shipper administrative review of the antidumping duty order on pure magnesium from the PRC (62 FR 55215). On November 13, the petitioner [1] and Taiyuan Heavy Machinery Import and Export Corporation (Taiyuan) submitted publicly available information on surrogate values for factors of production for consideration in the final results. On November 18, the petitioner and Taiyuan each submitted case briefs. On November 20, both parties submitted comments on the other's publicly available information submitted on November 13. On November 26, the parties submitted rebuttal briefs. On December 2, 1997, the Department held a public hearing.

Scope of Order

The product covered by this order is pure primary magnesium regardless of chemistry, form or size, unless expressly excluded from the scope of this order. Primary magnesium is a metal or alloy containing by weight primarily the element magnesium and produced by decomposing raw materials into magnesium metal. Pure primary magnesium is used primarily as a chemical in the aluminum alloying, desulfurization, and chemical reduction industries. In addition, pure primary magnesium is used as an input in producing magnesium alloy.

Pure primary magnesium encompasses products (including, but not limited to, butt ends, stubs, crowns and crystals) [2] with the following primary magnesium contents:

(1) Products that contain at least 99.95% primary magnesium, by weight

[1] The petitioner includes the following entities: Magnesium Corporation of America, International Union of Operating Engineers, Local 564, and the United Steelworkers of America, Local 8319.

[2] Since the antidumping duty order was issued, we have clarified that the scope of the original order includes, but is not limited to, butt ends, stubs, crowns and crystals. *See* May 22, 1997, instructions in U.S. customs and November 14, 1997, *Final Scope Rule of Antidumping Duty Order on Pure Magnesium from the PRC.*

(generally referred to as ''ultra-pure'' magnesium);

(2) Products that contain less than 99.95% but not less than 99.8% primary magnesium, by weight (generally referred to as ''pure'' magnesium); and

(3) Products (generally referred to as ''off-specification pure'' magnesium) that contain 50% or greater, but less than 99.8% primary magnesium, by weight, and that do not conform to ASTM specifications for alloy magnesium.

''Off-specification pure'' magnesium is pure primary magnesium containing magnesium scrap, secondary magnesium, oxidized magnesium or impurities (whether or not intentionally added) that cause the primary magnesium content to fall below 99.8% by weight. It generally does not contain, individually or in combination, 1.5% or more, by weight, of the following alloying elements: Aluminum, manganese, zinc, silicon, thorium, zirconium and rare earths.

Excluded from the scope of this order are alloy primary magnesium (that meets specifications for alloy magnesium), primary magnesium anodes, granular primary magnesium (including turnings, chips and powder), having a maximum physical dimension (i.e., length or diameter) of one inch or less, secondary magnesium (which has pure primary magnesium content of less than 50% by weight), and remelted magnesium whose pure primary magnesium content is less than 50% by weight.

Pure magnesium products covered by this order are currently classifiable under *Harmonized Tariff Schedule of the United States* (HTSUS) subheadings 8104.11.00, 8104.19.00, 8104.20.00, 8104.30.00, 8104.90.00, 3824.90.11, 3824.90.19 and 9817.00.90. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope is dispositive.

Separate Rates

In proceedings involving non-market-economy (''NME'') countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty deposit rate. To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China* (56 FR 20588, May 6, 1991) and amplified in *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*). Under the separate rates criteria, the Department assigns separate rates in nonmarket economy cases only if the respondent can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

1. De Jure Control

Taiyuan has placed on the administrative record documents to demonstrate absence of *de jure* control: the ''Law of the People's Republic of China on Industrial Enterprises Owned by the Whole People,'' adopted on April 13, 1988; (the Industrial Enterprises Law), and the 1992 regulations that supplemented it, ''Regulations for Transformation of Operational Mechanisms of State-Owned Industrial Enterprises'' (Business Operation Provisions). We have analyzed these laws in previous cases and have found them sufficiently to establish an absence of *de jure* control of companies ''owned by the whole people,'' such as Taiyuan. (*See, e.g., Final Determination of Sales at Less than Fair Value: Furfuryl Alcohol from the People's Republic of China* (''*Furfuryl Alcohol*'') 60 FR 22544 (May 8, 1995)). The Industrial Enterprises Law provides that enterprises owned by ''the whole people'' shall make their own management decisions, be responsible for their own profits and losses, choose their own suppliers, and purchase their own goods and materials. The Business Operation Provisions confer upon state-owned enterprises the responsibility for making investment decisions, the right to dispose of retained capital and assets, and the authority to form joint ventures and to merge with other enterprises. Taiyuan also states that pure magnesium does not appear on any government lists regarding export provisions or export licensing, and that no quotas are imposed on pure magnesium. In sum, in prior cases, the Department examined both the Industrial Enterprises Law and the Business Operations Provisions, and found that they establish an absence of *de jure* control. We have no new information in this proceedings which would cause us to reconsider this determination with regard to Taiyuan.

2. De Facto Control

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by or subject to the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. *See Silicon Carbide* and *Furfuryl Alcohol*.

Taiyuan asserted the following: (1) It establishes its own export prices; (2) it negotiates contracts, without guidance from any governmental entities or organizations; (3) it makes its own personnel decisions; and (4) it retains the proceeds of its export sales, uses profits according to its business needs and has the authority to sell its assets and to obtain loans. During verification proceedings, Department officials viewed such evidence as sales documents that showed Taiyuan sales prices were negotiated solely by Taiyuan and its customer. In addition, the Department generally noted no significant indication of government involvement in Taiyuan's business operations. Taiyuan officials are appointed by a bureau of the provincial government, rather than the central government, and there are no other known exporters of the subject merchandise under the control of the provincial government. Sales documents reviewed indicated that Taiyuan sales prices were negotiated solely by Taiyuan and its customer. In addition, the Department reviewed sales payments, bank statements and accounting documentation that provided evidence that Taiyuan received payment in U.S. dollars, which was deposited into its bank account after being converted to renminbi (RMB). *See* Taiyuan Sales Verification Report. This information, taken in its entirety, supports a finding that there is *de facto* an absence of governmental control of export functions. Consequently, we have determined that Taiyuan has met the criteria for the application of separate rates. *See Notice of Final Determination at Less Than Fair Value: Persulfates from the Peoples Republic of China*, 62 FR 27222 (May 19, 1997).

Fair Value Comparisons

To determine whether sales of the subject merchandise by Taiyuan to the United States were made at less than fair value, we compared the export price (EP) to the normal value (NV), as described in the ''Export Price and

Constructed Export Price'' and ''Normal Value'' sections of this notice, below.

Export Price

We calculated EP in accordance with section 772(a) of the Act, because the subject merchandise was sold directly by the PRC exporter to unaffiliated parties in the United States prior to importation into the United States and the constructed export price methodology was not warranted based on the facts of record. We calculated EP based on the same methodology used in the preliminary results, with the following exception:

To value foreign inland freight, we used the average rate contained in the Indian periodical *The Times of India.* We have used this same rate in numerous NME cases where India has been selected as the primary surrogate. *See Final Determinations of Sales at Less Than Fair Value: Brake Drums and Brake Rotors from the People's Republic of China (PRC),* 62 FR 9160 (February 28, 1997) (*Brake Rotors*)).

Normal Value

We calculated NV in accordance with section 773(c) of the Act, which applies to non-market economy countries. In accordance with section 773(c)(4) of the Act, we must, to the extent possible, value the factors of production in one or more market economy countries that (1) are at a level of economic development comparable to that of the non-market economy country, and (2) are significant producers of comparable merchandise. We have determined that Indonesia and India are the countries most comparable to the PRC in terms of overall economic development and both are significant producers of comparable merchandise (aluminum). Further, India also produces magnesium. For these final results, we have continued to use India as a surrogate country because it meets the Department's criteria for surrogate country selection.

The selection of the surrogate values was based on the quality and contemporaneity of the data. Where possible, we attempted to value material inputs on the basis of tax-exclusive domestic prices (*see* Comment 17). Where we were not able to rely on domestic prices, we used import prices to value factors. As appropriate, we adjusted input prices to make them delivered prices. Where import values were used, we added an amount for surrogate freight attributable to the lesser of either the distance from the source to the factory or the nearest port to the factory (*see* Comment 18). For those values not contemporaneous with the POR, we adjusted for inflation using wholesale price indices published in the International Monetary Fund's *International Financial Statistics.* For a complete analysis of surrogate values, see the January 14, 1998, Calculation Memorandum (Calculation Memorandum). We note changes to surrogate valuation since the preliminary results as follows:

To value ferrosilicon, we used a simple average of prices applicable during the POR from *Metal Bulletin,* and the *Iron and Steel Newsletter* (*see* Comment 6).

To value calcinate dolomite and fluorite powder, we have used prices from *Monthly Statistics of the Foreign Trade of India* (*Monthly Statistics*) (*see* Comments 8 and 9, respectively).

To value barium chloride, we used prices from *United Nations Import Statistics* (*see* Comment 10).

To value electricity, we used the August 1996 rate in *Business World* (*see* Comment 12).

To value truck freight rates, we used the average rate contained in the Indian periodical *The Times of India.*

To value factory overhead, SG&A, and profit, we used the financial report of Southern Magnesium and Chemicals Ltd. (SMCL) because this company is a producer of the subject merchandise and the data from the report is contemporaneous to the POR (*see* Comment 2).

We have considered the line item labeled ''stores and spares consumed'' to include the reducing vessel and have treated the reducing vessel as part of factory overhead because the reducing vessel is not a direct material consumed in the production process. Although the SMCL financial report may have treated the reducing vessel as a direct material and included the reducing vessel as part of line item ''raw materials consumed,'' we have, in calculating the surrogate overhead percentage, reduced SMCL's cost of materials consumed and increased overhead by the amount attributable to the reducing vessel costs (*see* Comment 1). We have not included in the surrogate overhead and SG&A calculations the excise duty amount listed in SMCL's financial report (*see Brake Rotors* at 9164). We based our factory overhead calculation on the cost of goods manufactured rather than on the cost of goods sold. We also included interest and/or financial expenses in the SG&A calculation. In addition, we only reduced interest and financial expenses by amounts for interest income if the Indian financial report noted that the income was short-term in nature. Where the financial report did not distinguish short-term interest income as a line item within total ''other income,'' we used the relative ratio of interest income to total other income as reported for the Indian metals and chemicals industry in the *Reserve Bank of India Bulletin* (*RBI Bulletin*). For a further discussion of other adjustments made, see January 14, 1998, Calculation Memorandum).

Interested Party Comments

We gave interested parties an opportunity to comment on the preliminary results. We received comments and rebuttal comments from the petitioner and Taiyuan.

Comment 1: Treatment of the Reducing Vessel. The petitioner claims that evidence on the record demonstrates that the reducing vessel is not part of factory overhead and that the Department must treat and value the reducing vessel as a direct material regardless of which public information it uses to calculate a value for factory overhead. The petitioner also refers to a U.S. Bureau of Mines (BOM) study of the silicothermic process of magnesium production which treats the reducing vessel as a direct material cost and not part of factory overhead. If the Department decides to use the financial report of SMCL (an Indian producer) to value factory overhead, the petitioner argues, then it should also take into consideration the fact that the data in the financial report demonstrate that the vessel is treated as a direct material rather than as part of stores and spares. The petitioner points out that even though Indian accounting standards state that a material can be considered part of factory overhead if it assists the manufacturing process but does not enter physically into the composition of the finished product, this is not necessarily the case with reducing vessels. Alternatively, the petitioner argues that if the Department decides to use data from the *RBI Bulletin,* then it should take into consideration the fact that public information on the record demonstrates that the cost of the reducing vessel is not captured in a calculated factory overhead rate using data from the *RBI Bulletin,* because the cost of the vessel is neither indirect nor minor. The petitioner claims that if the Department uses the *RBI Bulletin* to calculate factory overhead, then the Department needs to make an adjustment to the factory overhead rate to account for the cost of the reducing vessel.

Taiyuan contends that the reducing vessel is not a raw material which is part of the direct cost of production. Rather, Taiyuan maintains that the reducing vessel is a reusable piece of equipment that does not physically enter into the finished product, and that

Indian general accounting principles treat such items as part of overhead costs. Therefore, Taiyuan maintains that the Department should continue to consider the reducing vessel as part of factory overhead.

DOC Position: We agree with Taiyuan. The reducing vessel is not incorporated into the finished product. Rather, it is equipment necessary for producing the subject merchandise which eventually needs to be replaced after continuous use. Although we conclude that SMCL treated the reducing vessel as a direct material in its 1995–96 financial report, we do not find that the reducing vessel should be considered a direct material rather than an indirect material for purposes of antidumping law. To the extent possible, we have adjusted the direct material amount reflected in SMCL's financial report by removing from the cost of direct materials and adding to factory overhead an amount for the reducing vessel based on data contained in SMCL's 1994–95 financial report. We have treated the reducing vessel cost as part of factory overhead and have used the SMCL 1995–96 financial report to calculate a factory overhead percentage (*see* Comment 2 for further discussion).

Comment 2: Surrogate Values for Factory Overhead, SG&A and Profit. The petitioner claims that the Department must use the financial statement of SMCL rather than the *RBI Bulletin* to value factory overhead, SG&A and profit because the Indian producer uses the silicothermic process employed by Taiyuan's supplier and therefore consumes the reducing vessel in producing magnesium. In addition, the petitioner claims that the data contained in SMCL's financial statement are more specific to magnesium production and more contemporaneous to the period of review (POR) than the data in the *RBI Bulletin.*

Taiyuan argues that the Department should use the data on the chemicals and metals industry from the *RBI Bulletin* to value factory overhead, SG&A and profit because the Department has used these data in numerous NME cases and because it has a high degree of reliability given that it contains data compiled from many companies. Taiyuan argues that the Department should not rely on the SMCL financial report to calculate these surrogate percentages because that financial report is not publicly available published information. Taiyuan also alleges that the SMCL financial report is not in accordance with Indian generally accepted accounting principles (GAAP) because SMCL may have considered the reducing vessel as part of direct materials and Indian GAAP require that materials which assist in the manufacturing process, but which do not enter physically into the finished product, are not to be considered as direct materials. Finally, Taiyuan argues that the SMCL financial report is unusable because information in the report indicates that SMCL was unable to produce and sell product during periods of high demand, undertook major capital improvement projects and maintained an abnormally high level of raw material stocks, all of which may have distorted its factory overhead, SG&A and profit ratios.

DOS Position: We agree with the petitioner. In numerous NME cases, we have expressed a preference for using the ''most product-specific information possible from the surrogate market'' (*see, e.g., Brake Rotors* at 9168). We find that SMCL's 1996 financial report is for an Indian producer of the subject merchandise and more specific than the industry-wide data for metals production contained in the 1992–93 RBI Bulletin. Moreover, we find that the 1996 SMCL financial report contains data which is more contemporaneous to the POR than data contained in the 1992–93 RBI Bulletin. In addition, we find that the SMCL financial report is publicly available information within the meaning of 19 CFR 351.301. As for Taiyuan's argument that SMCL's financial report is not in accordance with Indian GAAP, we find that the financial report has been audited by an Indian accounting firm and that even though SMCL may have treated the reducing vessel as a direct material in its financial report, this designation does not necessarily indicate that the financial report is not in accordance with Indian GAAP. With regard to the argument that SMCL's financial report is not usable because of possible production, capital investment and inventory irregularities, we note that there is no evidence in the financial report which indicates that these factors were abnormal for Indian producers in general. In addition, we find that Taiyuan has not provided any evidence which indicates that the data contained in the 1996 SMCL financial report is not reasonably representative of the production and selling experience of other producers of the subject merchandise in India during the time period in question.

Comment 3: Calculation of SG&A. Taiyuan contends that the Department should deduct from SG&A certain selling expenses (*i.e.*, royalty, selling commission, and advertisement) normally deducted from EP and CEP and also an amount reflected in the *RBI Bulletin* for ''other expenses'' and then take the remainder and divide it by the sum of total SG&A and COM to derive the SG&A percentage. Taiyuan cites to the Department's *Antidumping Manual* which states that SG&A should be expressed as a percentage of the cost of goods sold.

The petitioner contends that the Department should not deduct the royalty, selling commissions, or advertisement expenses from SG&A because it has made no such deductions to EP and because it cannot make a circumstance-of-sale (COS) adjustment based on the data on the record. Moreover, the petitioner maintains that the Department should not deduct ''other expenses'' from SG&A because there is no evidence that this expense category includes expenses already reported separately in the response (*i.e.*, packing costs). Finally, the petitioner states it is the Department's established practice to include only the COM in the denominator of the SG&A ratio.

DOC Position: We agree in part with the petitioner. We have not made a COS adjustment to NV. In NME proceedings, the Department does not generally adjust NV for COS differences given (a) the imprecise information for distinguishing between direct and indirect selling expenses in the surrogate SG&A source (*i.e.*, SMCL's financial report); and (b) the absence of non-NME information about what direct selling expenses are included in EP (except where CEP is used) (*see Final Determination of Sales at Less Than Fair Value: Bicycles from the People's Republic of China,* 61 FR 19026, 19031 (April 30, 1996) (*Bicycles*)). As for accounting for expenses already reported separately in the response (*i.e.*, packing expenses), we note that SMCL's financial report does not provide a separate line item for packing expenses. Since there is no information in the financial report which indicates that SMCL incurs packing expenses, we have not removed any packing expenses from the SG&A calculation. Regarding the calculation of the SG&A percentage, we have used the cost of goods manufactured, not the cost of goods sold, in the denominator of the SG&A ratio consistent with our current practice, which is not reflected in the *Antidumping Manual* (*see Brake Rotors* at 9164).

Comment 4: Material Consumption Figures. The petitioner argues that the Department should not have subtracted the monthly values reported as negative from the total amount of material consumed because it is impossible that Taiyuan's supplier consumed negative amounts of inputs in any months in

which it produced magnesium ingots. Instead, the petitioner argues that the Department should require Taiyuan to provide additional information on its supplier's actual consumption figures for the inputs and months for which the supplier provided negative values. Alternatively, the petitioner argues that the Department should not reduce the quantities of the factors of production consumed by the amount of the reported negative consumption figures.

Taiyuan contends that if the Department recognizes adjustments to increase material usage, then the Department should also recognize adjustments which decrease material usage.

DOC Position: We agree with the respondent. The negative numbers do not reflect negative consumption amounts. Rather, the negative numbers noted in the inventory records are corrections to Taiyuan's supplier's records to reflect actual usage. The verification report specified all necessary corrections to reported data, and the correct information has been used for the final results.

Comment 5: Reseller SG&A Expenses and Profit. The petitioner argues that in calculating CV and/or EP, the Department failed to account for expenses Taiyuan incurred in reselling its product to the United States market. The petitioner contends that the Department should have included in CV both surrogate producer SG&A expenses and profit (noted in SMCL's financial statement) plus an amount of reseller SG&A expenses and profit (noted in the *RBI Bulletin*). Alternatively, the petitioner argues that the Department should reduce EP by the amount of reseller SG&A expenses and profit in accordance with 19 U.S.C. 1677a(c)(2)(A) and also adjust EP for reseller SG&A expenses and profit as a COS adjustment in accordance with 19 U.S.C. 1677b(a)(6)(C)(iii).

Taiyuan states that if the Department decides to include in CV an additional amount for the reseller's SG&A and profit, then the Department must make a corresponding level of trade adjustment to account for the different marketing level represented by such costs. However, Taiyuan states that the Department should not add these additional amounts to CV based on applicable costs to be included in the CV to establish NV.

DOC Position: We disagree with the petitioner. In cases involving NMEs, we do not use exporter expenses and profit in our analysis. Instead, we obtain ratios for expenses and profit from a surrogate country, which in this case is India, and include in NV amounts based on the surrogate ratios. We consider those selling expenses and profit to approximate the selling expenses incurred and profit realized by both Taiyuan and Taiyuan's supplier of the subject merchandise. Therefore, we have accounted for the expenses incurred and profit realized by Taiyuan in reselling the subject merchandise to the U.S. market. As for subtracting an amount for these expenses and profit from export price or making a COS adjustment we have no basis to conclude that such adjustments are warranted or feasible (*see* Comment 3 for further discussion).

Comment 6: Surrogate Value for Ferrosilicon. Taiyuan argues that the publication the Department used to value ferrosilicon in the preliminary results (*i.e., Metal Bulletin*) does not provide sufficient details on or reliable information for domestic values. Instead, Taiyuan claims that the Department should use a ferrosilicon import value submitted on November 13, 1997, from the publication *Iron and Steel Newsletter* (*Iron and Steel*). According to respondent, this information is more specific and reliable.

The petitioner contends that the Department should not derive an import value from data in *Iron and Steel* because the value (1) Is either based on imports from NME countries (*i.e.,* Russia) or from countries that are not ferrosilicon producers (*i.e.*, Germany, the Netherlands); and (2) does not most closely correspond to the actual input consumed by Taiyuan. In addition, the petitioner contends that the import data on ferrosilicon contained in *Iron and Steel* are not representative of the price paid by purchasers in India nor are these import values most contemporaneous with the POR. Furthermore, the petitioner argues that the Department should not use price data from a 1995–96 Indian producer financial statement submitted on November 20, 1997, because the price is aberrationally low when compared with the data from *Monthly Statistics* and *Metal Bulletin*. Therefore, the petitioner maintains that the Department should continue to use data from *Metal Bulletin* to value ferrosilicon.

DOC Position: We disagree in part with the petitioner. We have used a simple average POR value for all grades of ferrosilicon from two publications (*i.e., Metal Bulletin* and *Iron and Steel*). We find the July 1996 value of ferrosilicon in *Metal Bulletin* is no more representative or contemporaneous to the POR than is the July and August 1996 values of ferrosilicon in *Iron and Steel.* Therefore, we have used both values in the average price calculation. However, we have not removed an amount for excise or sales taxes from the domestic ferrosilicon value listed in *Metal Bulletin* because the publication does not indicate that the price is inclusive of these taxes. We have not included the values or quantities of ferrosilicon exported to India by countries listed in *Iron and Steel* which the Department has determined are NMEs (*i.e.,* Russia, Kazakhstan). We have included the values and quantities of ferrosilicon from countries listed in *Iron and Steel* that are market economies but which the petitioner claims are not known to be producers of ferrosilicon because these countries are the exporters of record and are market economies that are determining the price of ferrosilicon that they sell to the Indian market. We have no evidence on the record which indicates that the ferrosilicon exported from these countries originates in NMEs.

Comment 7: Surrogate Value for Dolomite. Taiyuan argues that the Department should not continue to use the April 1995–March 1996 value from a 1995–96 financial report of a single company (*i.e.,* Indian Ferroalloy) to value dolomite because that price is unreliable and because there is no information in the financial report which indicates the type of dolomite referenced in that report. Instead, Taiyuan contends that the Department should use an indexed and averaged import value for three grades of dolomite from the Indian government publication *1994 Index Numbers of Wholesale Prices in India* (*Index Numbers*). According to respondent, the data have been updated in this publication and are more contemporaneous to the POR than the data from a single company.

The petitioner contends that the Department should continue to use the 1995–96 dolomite value from Indian Ferroalloy's financial report because the report provides a more contemporaneous value that is specific to the grade of dolomite used in magnesium production.

DOC Position: We agree with the petitioner. We have used the April 1995–March 1996 value from Indian Ferroalloy's financial report because it is more representative and more contemporaneous to the POR than the data contained in *Index Numbers.* We also have not used the data in *Index Numbers* because, although the Indian government publication appears to provide POR values for dolomite, there is no explanation how the product-specific indices were determined or why 1994 prices were selected for

indexation. We have not removed an amount for excise or sales taxes from the domestic dolomite value listed in Indian Ferroalloy's financial report because the financial report does not indicate that the price is inclusive of these taxes.

Comment 8: Surrogate Value for Calcinated Dolomite (i.e., Calcinate). Taiyuan argues that it is the Department's policy to use, to the extent possible, statistics from a single country when developing the values for the factors of production. According to respondent, the Department used import statistics from Indonesia to value calcinated dolomite in the preliminary results. Taiyuan claims that because India is the primary surrogate country in this case, the Department should use the April–July 1996 Indian import value for calcinated dolomite from *Monthly Statistics* which Taiyuan furnished in its November 13, 1997, submission.

DOC Position: We agree with Taiyuan. We have used the April–July 1996 import value from *Monthly Statistics* to value calcinated dolomite.

Comment 9: Surrogate Value for Fluorite Powder. Taiyuan argues that the April 1995–March 1996 value from *Monthly Statistics* the Department used in the preliminary results to value fluorite powder provides unreliable information during the POR. Taiyuan claims that the Department should use the April–July 1996 fluorite value import value from *Monthly Statistics* contained in its November 13, 1997, submission. The respondent argues that the data from this publication are more contemporaneous to the POR than the data used in the preliminary results.

DOC Position: We agree with Taiyuan. We have used the April-July 1996 import value from *Monthly Statistics* to value fluorite powder because it is more contemporaneous to the POI than is the April 1995-March 1996 import value.

Comment 10: Surrogate Value for Barium Chloride. The petitioner contends that the Department should use the January-December 1996 Indian import value from *United Nations Import Statistics* instead of the Indonesian import value used in the preliminary results. The petitioner maintains that even though the Indian import value includes imports from the United States while the U.S. export data does not show exports of barium chloride to India, the export data of one country may not correspond to the import data of another for any number of reasons, including shipment of goods through intermediate countries. The petitioner also argues that if the Department continues to use the Indonesian import data to value barium chloride, the Department should not derive a hypothetical volume and value of U.S. imports into Indonesia and remove those amounts from the Indonesian import data since the Indonesian import data is not separately broken out by country of origin and because there is no necessary correlation between two different countries' import and export data.

Taiyuan argues that the Department should use the Indonesian import data rather than the Indian import data to value barium chloride because the Indian import data contains imports from the United States while U.S. export data does not show exports of barium chloride to India. Taiyuan also maintains that the U.S. quantity and value data contained in the Indonesian import data is aberrational and that the Department should therefore remove the U.S. data from Indonesian import data by taking the volume and value of imports of barium chloride from all countries reported in the Indonesian import data and subtracting the volume and value of exports of barium chloride to Indonesia reflected in U.S. export data.

DOC Position: We agree with the petitioner. Since India is the primary surrogate country in this case, we have used the Indian import prices to value barium chloride. We have used the January-December 1996 Indian import price from *United Nations Import Statistics* to value barium chloride because the data in *United Nations Import Statistics* for this material is more contemporaneous to the POR than the Indian import prices contained in *Monthly Statistics.* We do not agree that the Indian import data are necessarily in error because they do not correlate with U.S. export data. The lack of correlation between two different countries' import and export data could result from various factors such as the reporting of intermediate destinations on export declarations. Therefore, we have no basis to conclude that the Indian data are erroneous.

Comment 11: Surrogate Value for Coal. Taiyuan argues that the April 1995-March 1996 import value from *Monthly Statistics* the Department used in the preliminary results is unreliable. Instead, Taiyuan claims that the Department should use an indexed and averaged import value for coal from the *Index Numbers.* As asserted by the respondent, the data are current to the POR and thus need no index calculation.

The petitioner maintains that the Department should not use the prices from *Index Numbers* because those prices are domestic prices for coal produced in India, which are subject to government control. In addition, the petitioner asserts that the prices from this publication predate the POR by more than two years and are for a range of coal grades, none of which are used by Taiyuan. If the Department decides to use a domestic Indian coal price, then the petitioner contends that the Department should calculate an average price from *Index Numbers* using only the ''heat-intensive'' grades of coal listed in the publication.

DOC Position: We disagree with Taiyuan. Taiyuan has offered no reason for finding that the April 1995-March 1996 coal import price from *Monthly Statistics* is unreliable. We have not used the coal prices from *Index Numbers* because, although that Indian government publication appears to provide POR values for coal, there is no explanation for how the product-specific indices were determined or why 1994 prices were selected for indexation.

Comment 12: Surrogate Value for Electricity. Taiyuan argues that the Department should not use the August 1996 price in *Business World* to value electricity because this publication is not one normally considered by the Department in previous NME cases. Taiyuan maintains that the Department should use instead a 1995 value from the publication *Confederation of India Industrial Handbook* (''*Industrial Handbook*''), which has been used in previous NME cases, because the publication provides electricity rates applicable for rural areas in India. Taiyuan argues that since its producer is located in a rural area in the PRC, the rural electricity rates contained in *Industrial Handbook* would more accurately reflect the electricity costs incurred by the PRC producer.

The petitioner contends that the Department should not use the rates in *Industrial Handbook* to value electricity because the rates it contains are not contemporaneous with the POR. In addition, the petitioner argues that in previous NME cases the Department has not adjusted a surrogate value to account for the fact that a production facility is located in a particular type of region within a country and should not do so in this case. Moreover, the petitioner contends that the data in *Industrial Handbook* identify different rates for rural and urban customers for only two Indian states, and that for the other states, the publication only provides one set of rates without making any distinction between urban and rural areas.

DOC Position: We agree with the petitioner. We have used the August 1996 industrial electricity rate

contained in *Business World* because it is more contemporaneous to the POR than the 1995 industrial electricity rate contained in *Industrial Handbook*. We do not agree with Taiyuan that we should use the rural electricity rate in *Industrial Handbook* because Taiyuan's supplier is located in a rural area in the PRC. The *1995 Industrial Handbook* lists differentiated rural industrial rates for only one Indian state. This indicates that in general rural electricity rates are not different than urban electricity rates in India. Therefore, we find that the cited rural rates from *Industrial Handbook* would not be representative of rural rates for India as a whole.

Comment 13: Inclusion/Exclusion of Provident Fund and Employees' Welfare Expenses in COM. Taiyuan contends that the labor portion of the NV calculation already includes provident fund and employees' welfare expense contributions. Therefore, when calculating COM, Taiyuan maintains that including these expenses in the overhead would result in double-counting.

The petitioner maintains that the Department's new regression-based wage rate methodology uses wage rates from the *Yearbook of Labor Statistics* (*Labor Statistics*) published by the International Labor Office (ILO) and that these rates are based on cash payments received by employees. The petitioner contends that since provident fund payments and employee welfare expenses are not cash payments to employees, Taiyuan is incorrect that these costs are included in the surrogate value for labor. Therefore, the petitioner maintains that the Department should include these expenses in the factory overhead rate calculation.

DOC Position: We agree with Taiyuan. The regression-based wage rate we have used to value labor in this case is based on wage rates contained in *Labor Statistics*. Information contained in Labor Statistics states that the Indian wage rate is a comprehensive wage rate which also includes employers' social security expenditures and welfare services. Therefore, consistent with Department practice, we have not included provident fund payments and employee welfare expenses in the numerator of the factory overhead rate calculation. *See Final Determination for Sales at Less Than Fair Value: Polyvinyl Alcohol from the People's Republic of China* 61 FR 14057, 14061 (March 29, 1996) (Comment 5).

Comment 14: Adjustment of the Surrogate Value for No. 2 Flux. Taiyuan states that the Department made a clerical error in its preliminary results when it did not multiply the flux no. 2 surrogate value by the percentage purity of the input used by Taiyuan's suppliers as specified in the preliminary results calculation memorandum, in effect assuming the value to be for 100 percent pure flux.

The petitioner maintains that the value the Department calculated for no. 2 flux incorporates the percentage factor.

DOC Position: We agree with the petitioner. We have rechecked our calculation and find that our calculation is not in error.

Comment 15: Inclusion of Transportation Fee in Electricity Rate. Taiyuan claims that in the preliminary results the Department incorrectly included a transportation fee in its surrogate value calculation for electricity. Therefore, Taiyuan maintains that the Department should exclude the transportation fee from its electricity value calculation.

DOC Position: We agree with Taiyuan and have removed the transportation fee from the electrical surrogate value calculation.

Comment 16: Packing Cost Calculation. Taiyuan claims that in the preliminary results the Department incorrectly determined the packing labor cost by calculating a cost based on labor hours rather than on labor minutes as reported in the response. Therefore, Taiyuan maintains that the Department should recalculate the packing labor cost using the reported labor minute factor.

DOC Position: We agree with Taiyuan and have calculated a labor cost based on the labor minutes reported in Taiyuan's response.

Comment 17: Deduction of Taxes from Surrogate Values Assigned to Raw Materials. Taiyuan contends that in any case where the Department uses financial statements of Indian producers to establish surrogate values for raw material inputs, the Department should follow the normal practice used in *Brake Rotors* to calculate a tax-exclusive value (*see Brake Rotors* at 9163). To ensure that surrogate values are exclusive of all taxes, Taiyuan states that the excise duty amount between 15 and 20 percent plus a minimum of 4 percent for sales taxes should be deducted from any domestic purchase prices.

Petitioner contends that although in prior NME cases the Department has adjusted for taxes only where the quoted price was specifically identified as being inclusive of excise and/or sales taxes, in this review, Taiyuan has not identified a single surrogate value that is specifically identified as being inclusive of taxes.

DOC Position: We agree in part with Taiyuan. Consistent with Department practice, we have removed, where applicable, an amount for excise taxes (*i.e.*, 15 percent since 1995 based on information contained in the record) and an amount for sales taxes (*i.e.*, 4 percent) from the domestic Indian values we are using in our calculations. Only one of the Indian publications we used for domestic values (*i.e.*, sulfuric acid from *Chemical Weekly*) noted that the price was inclusive of excise and sales taxes. Therefore, we only removed tax amounts from prices we obtained from *Chemical Weekly*. Our decision in this case is consistent with the Department's decision in *Brake Rotors* where we removed taxes from prices for certain steel products obtained from an Indian government steel publication (*i.e., Statistics for Iron and Steel*) because data in the publication indicated that taxes were included in the prices.

Comment 18: Use of Import Surrogate Values Net of Any Additional Amount for Domestic Inland Freight. Taiyuan argues that if the Department uses Indian import statistics for surrogate values of raw material inputs, it cannot add a constructed freight charge. Taiyuan cites *Sigma Corp.* v. *United States* (*Sigma*), 117 F.3d 1401 (CAFC July 7, 1997) in which Taiyuan claims the Court held that using such a methodology was beyond the limits of permissible approximation. *Sigma* at 15.

Petitioner argues that the Department properly calculated inland freight for raw materials in the preliminary results. Petitioner contends that Taiyuan misread the *Sigma* ruling. Petitioner states that, in *Sigma*, the Court did not determine that no additional amount for inland freight could be included in CV. According to petitioner, *Sigma*'s ruling requires only that, when the surrogate value for an input is based on a CIF import value, any additional amount for freight for that input may not exceed the calculated freight costs of shipping the material from respondents' seaports in the PRC to their factories.

DOC Position: We agree in part with the petitioner. Although the holding in *Sigma* permits, rather than dictates, the methodology referenced by the petitioner, it also does not dictate the outcome urged by Taiyuan. Instead, it leaves to the discretion of the Department the determination of a freight component which is not excessive. We do not find that the import values contained in Indian publications include all of the freight cost associated with transporting the imported input to the factory. Therefore, in accordance with *Sigma* decision, we

have included a freight amount equal to the lesser of: (1) The calculated freight cost of shipping material from the PRC port Taiyuan uses to export finished goods to its PRC factory or (2) the cost of shipping material from the domestic supplier to the factory. *See Final Determination of Sales at Less Than Fair Value: Collated Roofing Nails From the People's Republic of China,* 62 FR 51410,51413 (October 1, 1997).

Currency Conversion

We made currency conversions pursuant to section 773A(a) of the Act and 19 CFR 353.60 based on the rates certified by the Federal Reserve Bank.

Final Results of the Review

As a result of our comparison of EP and NV, we determine that the following weighted-average margin exists for the period May 1, 1996, through October 31, 1996:

Manufacturer/producer/exporter	Percent margin
Taiyuan Heavy Machinery Import and Export Corporation	69.53

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. We have calculated an importer-specific duty assessment rate based on the ratio of the total amount of AD duties calculated for the examined sales made during the POR to the total value of subject merchandise entered during the POR. This rate will be assessed uniformly on all entries of that particular importer made during the POR. The Department will issue appraisement instructions concerning the respondent directly to the U.S. Customs Service.

Furthermore, the following deposit rates shall be required for merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of administrative review, as provided for by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for Taiyuan will be the rate indicated above; (2) for previously reviewed or investigated companies not listed above that have a separate rate, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) for all remaining PRC exporters, the cash deposit rate will be 108.26 percent, the PRC-wide rate established in the LTFV investigation; and (4) for non-PRC exporters, 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 serves as the 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 the 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 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 or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of the APO is a sanctionable violation.

This new shipper administrative review and notice are in accordance with section 751(a)(2)(B) of the Act (19 U.S.C. 1675(a)(2)(B)) and 19 CFR 353.28(c).

Dated: January 14, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–1400 Filed 1–20–98; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 011398C]

North Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will hold public meetings in Anchorage, AK.

DATES: The meetings will be held the week of February 2, 1998. See **SUPPLEMENTARY INFORMATION** for specific dates and times of the meetings.

ADDRESSES: All meetings will be held at the Anchorage Hilton Hotel, 500 W. 3rd Avenue, Anchorage, AK. All meetings are open to the public with the exception of a Council executive session tentatively scheduled for noon on Thursday, February 5, to discuss personnel, international issues, or litigation, as necessary.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Council staff, telephone: 907–271–2809.

SUPPLEMENTARY INFORMATION:

1. The Scientific and Statistical Committee (SSC) will meet beginning at 8:00 a.m. on Monday, February 2, continuing through Wednesday, February 4.

2. The Advisory Panel (AP) will begin meeting at 8:00 a.m. on Monday, February 2, and continue through Thursday, February 5.

3. The Council will meet in joint session with the Alaska Board of Fisheries on Tuesday, February 3, 1998, beginning at 8:30 a.m.

4. NMFS will hold a workshop on preliminary essential fish habit reports to gather public comments on Thursday, February 5, at 7:00 p.m.

5. The Council's regular plenary session will begin at 8:00 a.m. on Wednesday, February 4, and continue through Sunday, February 8. If necessary to complete the agenda, the Council may continue meeting on Monday, February 9.

Other workgroup or committee meetings may be held during the week. Notices of these meetings will be posted at the hotel.

The agenda for the Council's joint meeting with the Alaska Board of Fisheries will include the following:

1. Under halibut management, the Council and Board will discuss the following subjects:

a. Status report on Alaska Department of Fish and Game charterboat logbook;

b. Status report on Council's halibut charterboat guideline harvest level and management measures used off Oregon and Washington for recreations fisheries; and

c. Review and approve draft protocol on development of local area fishery management plans;

2. Groundfish issues for discussion are:

a. State waters Pacific cod fisheries;

b. Approval of letter to industry encouraging resolution of gear conflicts within industry; and

c. Ways to improve exchange of proposals.

3. Crab issues to be discussed are:

a. Status report on development of crab stock assessment document and overfishing definitions; and