

**DEPARTMENT OF COMMERCE****Foreign-Trade Zones Board**

[Order No. 787]

**IPR Pharmaceuticals, Inc.,  
(Pharmaceutical Products), Guayama  
and Carolina, Puerto Rico; Grant of  
Authority for Subzone Status**

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment \* \* \* of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Commercial and Farm Credit and Development Corporation of Puerto Rico, grantee of Foreign-Trade Zone 61, for authority to establish special-purpose subzone status at the pharmaceutical manufacturing facilities of IPR Pharmaceuticals, Inc., in Guayama and Carolina, Puerto Rico, was filed by the Board on December 16, 1994, and notice inviting public comment was given in the Federal Register (FTZ Docket 42-94, 59 FR 66892, 12-28-94); and,

Whereas, the Board has found that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby authorizes the establishment of subzones (Subzones 61F and 61G) at the plant sites of IPR Pharmaceuticals, Inc., in Guayama and Carolina, at the locations described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 28th day of November 1995.

Susan G. Esserman,

*Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.*

ATTEST:

John J. Da Ponte, Jr.,

*Executive Secretary.*

[FR Doc. 95-30091 Filed 12-8-95; 8:45 am]

BILLING CODE 3510-DS-P

[Order No. 786]

**Hoffmann-La Roche Inc.,  
(Pharmaceutical Products), Freeport,  
TX; Grant of Authority for Subzone  
Status**

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment \* \* \* of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Port of Freeport, Texas, grantee of Foreign-Trade Zone 149, for authority to establish special-purpose subzone status at the pharmaceutical manufacturing facility (vitamins and fine chemicals) of Hoffmann-La Roche Inc., in Freeport, Texas, was filed by the Board on November 29, 1994, and notice inviting public comment was given in the Federal Register (FTZ Docket 39-94, 59 FR 65752, 12-21-94); and,

Whereas, the Board has found that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby authorizes the establishment of a subzone (Subzone 149B) at the plant of Hoffmann-La Roche Inc., in Freeport, Texas, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 28th day of November 1995.

Susan G. Esserman,

*Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.*

ATTEST:

John J. Da Ponte, Jr.,

*Executive Secretary.*

[FR Doc. 95-30090 Filed 12-8-95; 8:45 am]

BILLING CODE 3510-DS-P

**International Trade Administration****Antidumping Administrative Reviews;  
Time Limits; Correction to Notice of  
Extension of Time Limits**

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

**EFFECTIVE DATE:** December 11, 1995.

**FOR FURTHER INFORMATION CONTACT:** John Kugelman, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th St. and Constitution Avenue NW., Washington DC 20230, telephone: (202) 482-0649.

**CORRECTION:** In the notice of extension of time limits for certain antidumping administrative reviews, published in the Federal Register on November 7, 1995 (60 FR 56141), the Department incorrectly included the review of the antidumping duty order on sulfanilic acid from the People's Republic of China; no extension of time limits for that review has been granted, and the deadlines accordingly remain May 2, 1996, for the preliminary results of review, and August 30, 1996, for the final results of review. Furthermore, the correct case number for this order is A-570-815.

This notice is published pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)).

Dated: December 4, 1995.

Joseph A. Spetrini,

*Deputy Assistant Secretary for Compliance.*

[FR Doc. 95-30089 Filed 12-8-95; 8:45 am]

BILLING CODE 3510-DS-P

[A-580-811]

**Steel Wire Rope From the Republic of  
Korea; Final Results of Antidumping  
Duty Administrative Review**

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

**ACTION:** Notice of final results of antidumping duty administrative review.

**SUMMARY:** On March 17, 1995, the Department of Commerce (the Department) issued the preliminary results of its 1992-94 administrative review of the antidumping duty order on steel wire rope from Korea (60 FR 14421; March 17, 1995). The review covers 25 manufacturers/exporters for the period September 30, 1992, through February 28, 1994 (the POR). We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received, we have made changes, including corrections of certain clerical errors, in the margin calculations. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margins for each of the reviewed firms are listed below in the section entitled "Final Results of Review."

**EFFECTIVE DATE:** December 11, 1995.

**FOR FURTHER INFORMATION CONTACT:** Thomas O. Barlow, Davina Friedmann, Matthew Rosenbaum, or Michael Rill, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, Washington, DC 20230; telephone: (202) 482-4733.

**SUPPLEMENTARY INFORMATION:**

**Background**

On March 17, 1995, the Department published in the Federal Register the preliminary results of its 1992-94 administrative review of the antidumping duty order on steel wire rope from the Republic of Korea (60 FR 14421). There was no request for a hearing. The Department has now conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

**Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

**Scope of Review**

The product covered by this review is steel wire rope. Steel wire rope encompasses ropes, cables, and cordage of iron or carbon steel, other than stranded wire, not fitted with fittings or made up into articles, and not made up of brass-plated wire. Imports of these products are currently classifiable under the following Harmonized Tariff

Schedule (HTS) subheadings: 7312.10.9030, 7312.10.9060, and 7312.10.9090. Excluded from this review is stainless steel wire rope, *i.e.*, ropes, cables and cordage other than stranded wire, of stainless steel, not fitted with fittings or made up into articles, which is classifiable under HTS subheading 7312.10.6000. Although HTS subheadings are provided for convenience and Customs purposes, our own written description of the scope of this review is dispositive.

**Best Information Available**

In accordance with section 776(c) of the Act, we have determined that the use of BIA is appropriate for certain firms. In determining what to use as BIA, the Department employs a two-tiered methodology. In the case of respondents who do not cooperate, or who significantly impede the review, we use as BIA the higher of (1) the highest of the rates found for any firm for the same class or kind of merchandise in the LTFV investigation or prior administrative reviews; or (2) the highest calculated rate in the current review for any firm. When a company substantially cooperates with our requests for information, but fails to provide all information requested in a timely manner or in the form requested, we use as BIA the higher of (1) the highest rate (including the "all others" rate) ever applicable to the firm for the same class or kind of merchandise from the same country from either the LTFV investigation or a prior administrative review; or (2) the highest calculated rate in the current review for any firm for the class or kind of merchandise from the same country (*see Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.: Final Results of Antidumping Duty Administrative Reviews*, 57 FR 28360 (June 24, 1992)). *See also Allied-Signal Aerospace Co. v. United States*, 996 F.2d 1185 (Fed. Cir. 1993) (*Allied Signal*); *Krupp Stahl AG et al. v. United States*, 822 F. Supp 789 (CIT 1993).

For a discussion of our application of BIA regarding specific firms, see comments one through five, below.

**Analysis of Comments Received**

We gave interested parties an opportunity to comment on the preliminary results. We received case briefs and rebuttal briefs from the petitioner, the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers (the Committee), and nine respondents including Boo-Kook Corp. (Boo-Kook), Chung-Woo Rope Co., Ltd. (Chung Woo), Chun Kee Steel & Wire Rope Co. Ltd. (Chun Kee), Hanboo

Wire Rope, Inc. (Hanboo), Manho Rope & Wire Ltd. (Manho), Kumho Wire Rope Mfg. Co., Ltd. (Kumho), Ssang Yong Steel Wire Co., Inc. (Ssang Yong), Sungjin Company (Sungjin), and Yeonsin Metal Industrial Co., Ltd. (Yeonsin).

*Comment 1:* The Committee argues that the Department should not use its two-tiered methodology for establishing the BIA rate for uncooperative respondents, but instead should apply a dumping margin of 48.8 percent to these firms, as calculated by the Committee. Referring to its letter of November 15, 1994, the Committee urges the Department to establish a rate reflective of POR costs and values based on a comparison of the constructed value of Korean steel wire rope and the U.S. price of Korean wire rope. It claims that the U.S. price of steel wire rope from Korea should be based upon an actual price quotation for sales to the United States.

The Committee cites, in support of that proposition, *Sodium Thiosulfate from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 59 FR 12934 (March 8, 1993) (*Sodium Thiosulfate from China*). The Committee asserts that, in that review, the Department used a BIA rate premised upon petitioner-supplied information because the petitioner demonstrated that costs and prices in the relevant industry had changed substantially since the original investigation. The Committee argues that substantial evidence indicates that Korean wire rope producers' raw material costs increased dramatically over the POR, while the U.S. price of Korean imports of carbon steel wire rope declined. The Committee also cites a decision by the Court of Appeals for the Federal Circuit that states that first-tier BIA "merely establishes a presumption that the highest prior margins are the best information available" (*Allied-Signal* at 1185 and 1187). The Committee argues that the presumption may be rebutted with evidence which included "all information that is accessible or may be obtained, whatever its sources," citing *Timken Co. v. United States*, 11 CIT 786, 673 F. Supp. 495, 500 (October 29, 1987).

In further support of its position, the Committee refers to *Silicon Metal From Argentina: Final Results of Antidumping Duty Administrative Review*, 58 FR 65336, 65337 (December 14, 1993) (*Silicon Metal from Argentina*). The Committee argues that, in that decision, the Department reiterated its position and explained that the BIA provision of the statute

ensures that the antidumping duties assessed are not less than the actual amounts might have been, had the Department received full and accurate information. The Committee concludes that a respondent should not find itself in a better position as a result of its noncompliance than it would have had it provided the Department with complete, accurate and timely data. The Committee argues that respondents are likely to not submit any information to the Department after considering the low dumping margin established in *Steel Wire Rope from Korea: Final Determination of Sales at Less Than Fair Value*, 58 FR 11029, 11032 (February 23, 1993) (*LTFV Final Determination*), and the possibility that the margins calculated in the review will also be low. It states that the Court of International Trade has affirmed the appropriateness of the Department's use of information from other sources. The Committee quotes the Court as saying that BIA "is not necessarily accurate information, it is information which becomes usable because the respondent has failed to provide accurate information," citing *Asociacion Colombiana de Exportadores de Flores v. United States*, 13 CIT 13, 28, 704 F. Supp. 1114, 1126.

Boo-Kook responds by arguing that the purpose of BIA is to set an accurate assessment of current dumping margins. Since there are eight respondents in this review and three companies in the *LTFV Final Determination* for which the Department calculated individual dumping margins, Boo-Kook asserts that the verified data of the companies for which the Department calculated dumping margins should be the most accurate assessment of current dumping margins.

*Department's Position:* We disagree with the Committee and find that reliance on petitioner-supplied data as a basis for BIA would be inappropriate in the context of this review. The Department has broad discretion in determining what constitutes BIA in a given situation. *Krupp Stahl at 792*; see also *Allied Signal* at 1191: "[b]ecause Congress has 'explicitly left a gap for the agency to fill' in determining what constitutes the best information available, the ITA's construction of the statute must be accorded considerable deference," citing *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 833-44 (1984). The Department's two-tiered BIA methodology has been upheld as "a reasonable and permissible exercise of the ITA's statutory authority to use the best information available when a respondent refuses or is unable to

provide requested information." *Allied Signal* at 1192.

The Department has used the two-tiered methodology in the vast majority of cases involving the application of BIA to non-responsive companies since the adoption of this approach in the first administrative review of *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Germany, et al.: Final Results of Antidumping Duty Administrative Reviews* (56 FR 31692, 31705 (July 11, 1991)). In such cases we have been satisfied that the two-tiered methodology effectuates the purpose of the BIA provision of the Act, which is to encourage compliance in our reviews.

In any given review, a respondent will have knowledge of the antidumping rates from the investigation and past reviews but not of the rates that will be established in the ongoing review. Because the two-tiered approach incorporates the highest rate from the current review as one source of BIA, potentially uncooperative respondents will generally be less able to predict their BIA rate as the number of participants in the ongoing review increases. Thus the two-tiered methodology induces respondents to participate and receive their own known rates as opposed to a potentially much higher unknown rate. Therefore in most cases the BIA selection pursuant to the two-tiered methodology satisfies the cooperation-inducing function of the BIA provision. However, the Department recognizes that there are instances in which the BIA resulting from the two-tiered methodology may not induce respondents to cooperate. The rare cases in which we have not relied on this approach have involved an extremely limited number of participants, and a consequent small number of rates available for use as BIA. For instance, in *Sodium Thiosulfate*, we used information supplied by the petitioner to establish the BIA rate for the one respondent that had shipments of subject merchandise during the POR. Similarly, in *Silicon Metal*, we resorted to petitioner-supplied data where we had a calculated rate for only one firm: "[i]n this instance, we have only Andina's rate from the LTFV investigation \* \* \*. Because Andina's rate is also the 'all other' rate, Silarsa would be assured a rate no higher than Andina's, the only respondent who cooperated fully with the Department in this administrative review. The use of the two-tier methodology, in this instance, restricts the field of potential BIA rates to the rate established for one firm." *Silicon Metal*, 58 FR 65336, at 65337 (December 14, 1993) (emphasis

added). The concern in such cases with respect to the two-tiered methodology is that the lack of past rates, as well as the small number of participants in the current review, could allow a respondent in such a review to manipulate the proceeding by choosing not to comply with our requests for information. In such cases the cooperation-inducing function of the BIA provision of the Act may not be achieved by use of the two-tiered BIA methodology, in which case the Department will resort to alternatives sources in determining the BIA rate for uncooperative respondents.

The cases cited by the Committee thus establish only that we will consider, on a case-by-case basis as appropriate, petitioner-supplied data in situations involving a number of calculated rates insufficient to provide an adequate indication of the best information available and to induce cooperation by respondents in the proceeding. In those cases, we did not have rates for more than one company and therefore determined that use of a BIA rate outside our two-tiered methodology was appropriate to encourage future cooperation.

Our recent determination in *Certain Malleable Cast Iron Pipe Fittings from Brazil; Final Results of Antidumping Duty Administrative Review* is a further example of a situation in which the circumstances of the case clearly demonstrated that the two-tiered BIA selection was not sufficient to induce the respondent to cooperate. In *Pipe Fittings*, we applied a petition-based BIA rate to a non-responsive company that was the only company to have ever been investigated or reviewed: "[we] have only calculated one margin, which was in the less-than-fair-value (LTFV) investigation. Due to the unusual situation, we have determined to use as BIA the simple average of the rates from the petition \* \* \*. In not responding to our requests for information, Tupy could be relying upon our normal BIA practice to lock in a rate that is capped at its LTFV rate." *Pipe Fittings*, 60 FR 41876, 41877-78 (August 14, 1995).

Given the number of rates and respondents involved in both the LTFV investigation and in this review, the concern over potential manipulation of antidumping rates cited in *Sodium Thiosulfate*, *Silicon Metal*, and *Pipe Fittings* does not exist in the present case, wherein we have calculated rates from three companies in the LTFV final determination and eight companies in this review. We are satisfied that selection of the highest of these rates is appropriate for BIA for this review, is consistent with our practice, and

effectuates the cooperation-inducing purpose of the BIA rule.

*Comment 2:* The Committee contends that Boo-Kook should be treated as an uncooperative respondent in this review and receive a dumping margin based on the best information available (BIA). It argues that Boo-Kook was uncooperative since it did not respond to the Department's cost of production (COP) questionnaire and canceled the scheduled verification. The Committee states that the Department was unable to substantiate the information submitted by Boo-Kook since the Department did not verify the sales questionnaire response. Further, the Committee claims that the Department has determined that a company which does not permit verification of its response to the sales questionnaire and does not respond to the COP questionnaire must be classified as an "uncooperative" respondent, citing *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany: Final Determinations of Sales at Less Than Fair Value*, 54 FR 18992, 19033 (May 3, 1989) (*AFBs from Germany*).

In response, Boo-Kook argues that it filed timely responses to the Department's initial sales questionnaire and to the supplemental questionnaires. It states that during its preparation of the sales response it discovered that it was the victim of misconduct, including embezzlement, by the company's former chief director and the company's accountant. Due to these circumstances, Boo-Kook contends that key records were unavailable to it. Boo-Kook maintains that some of the key records were missing and it assumes that they were destroyed by the embezzler, while others were confiscated by Korean authorities as evidence. Hence, Boo-Kook argues that it was unable to undergo verification or respond to the COP questionnaire. It states further that the uncooperative (first-tier) BIA rate is intended to induce foreign manufacturers to respond and that Boo-Kook did respond to the best of its ability.

*Department's Position:* We agree with Boo-Kook. Boo-Kook submitted a timely response to our original and supplemental sales questionnaires. Before its cost response was due and before the verification, Boo-Kook informed us that a former president and the present chief accountant had been arrested and prosecuted for embezzlement. Boo-Kook indicated that it hoped to recover missing records and be able to respond to the cost questionnaire in 90 days.

In addition, Boo-Kook also requested that we postpone the verification for 60 to 90 days. In *Allied Signal*, the U.S. Court of Appeals ruled that "[i]n order to apply the first tier [BIA] to a particular respondent, the ITA must conclude that the respondent 'refused to cooperate with the ITA or otherwise significantly impeded' the review. However, if the respondent 'substantially cooperated \* \* \* but failed to provide the information in a timely manner or in the format required,' the second tier (cooperative rate) is applicable." (At 1192). The court concluded, in that case, that, because respondent supplied as much of the requested information as it could and offered to provide the remaining information in a simplified form, it was unreasonable for the Department to have characterized respondent's behavior as a refusal to cooperate. Therefore, because Boo-Kook cooperated with the Department to the best of its ability, and given the unusual and extenuating circumstances, we have applied second-tier total BIA to Boo-Kook's U.S. sales.

*Comment 3:* The Committee contends that the Department's preliminary results regarding Jinyang Wire Rope (Jinyang), Koropeco Co. (Koropeco), and Sungsan Special Steel Processing Inc. (Sungsan) were erroneous. It states that the Department incorrectly applied a zero dumping margin to the companies based on the companies' claims that they had no shipments or sales of subject merchandise during the POR. The Committee states further that the Department must classify Jinyang and Koropeco as uncooperative respondents because their submissions were not submitted according to the Department's regulations. It claims that it was never served with submissions from Jinyang and Koropeco. Petitioner argues that it has seen in the public file a copy of a letter from the Department to Jinyang that refers to a June 22, 1994 letter from Jinyang and a copy of a letter from the Department referring to a July 28, 1994 letter from Koropeco. In these letters, the Committee further argues, the Department asked Jinyang and Koropeco to resubmit their letters. Since the companies neglected to do so, the petitioner believes that the Department should consider them to be uncooperative respondents and apply the first-tier BIA rate to their U.S. sales.

The Committee acknowledges that Sungsan submitted a letter on the file indicating that it sold subject merchandise during the POR that was not manufactured by Sungsan. However, the Committee notes, the Department then sent Sungsan a letter, asking it to demonstrate that the manufacturer had

knowledge of the ultimate destination of the merchandise. The Committee states that Sungsan failed to respond to the above-mentioned inquiry and thus should also be treated as an uncooperative respondent and receive the first-tier BIA rate.

*Department's Position:* We agree with the Committee regarding Jinyang and Koropeco and we disagree regarding Sungsan. Sungsan submitted for the record on August 5, 1994, a letter and attachment indicating that the supplier of the steel wire rope that it shipped to the United States during the POR was aware at the time of purchase that the product was destined to the United States. The attached invoice from the supplier to Sungsan indicates the destination as the United States. Therefore, we have sufficient evidence on the record that the only shipments of subject merchandise that Sungsan made to the United States during the POR were manufactured by a supplier that had knowledge that the product was destined to the United States. Hence, we have not applied BIA to Sungsan's shipments.

Neither Jinyang nor Koropeco properly submitted a response to our original questionnaire. In accordance with section 777(d) of the Tariff Act, we do not accept documents that are not served on all interested parties. In addition, section 777(e) of the Tariff Act states that all submissions shall be submitted in a timely manner. Jinyang submitted a letter, but did not serve it upon interested parties. Because Jinyang did not serve interested parties, we have rejected Jinyang's response and we have applied first-tier BIA to its sales of subject merchandise to the United States. Koropeco submitted a late response which it also did not serve upon interested parties. Therefore, we have rejected Koropeco's submission and have applied first-tier BIA to Koropeco.

*Comment 4:* The Committee argues that Atlantic and Pacific, Dong-Il Metal, Dong Yong Rope, Kwang Shin Industries and Seo Hae Industrial (Seo Hae), which the Department classified as "unlocated companies," should be assigned a BIA rate. It argues that the Department provided no indication of whether these five companies remain functioning entities or what efforts the Department took to locate them. Further, it states that, for Dong-Il Metal, the address was set forth on the service list for this administrative review. The Committee argues that, in the absence of verified information, the Department must determine that these companies are still functioning entities and that they have refused to cooperate or have significantly impeded this proceeding

and should be treated as uncooperative respondents.

*Department's Position:* We disagree with the Committee and have assigned the "All Others" rate to the unlocated companies. The U.S. Embassy in Seoul, Korea, provided us with information for each company and their response to our inquiry is in the public file. The Embassy confirmed, with help from the Korea Iron and Steel Association, that Atlantic and Pacific was bankrupt, Seo Hae was closed, and Kwang Shin Industries was closed. None of these companies had forwarding addresses. The Embassy initially provided us with addresses for Dong-Il metal and Dong Yong and we sent them questionnaires. We did not receive responses from these companies and later the questionnaires for these companies were returned by the U.S. Postal Service as undeliverable. Also, upon further inquiry, we learned through the Embassy that Dong Yong Rope and Dong-Il Metal were closed. We are not applying BIA to these companies because we use BIA as an adverse assumption for companies that have refused to cooperate in the Department's solicitation or verification of information. Therefore, we are continuing to classify these companies as "unlocated companies," and are assigning them the "All Others" rate.

*Comment 5:* The Committee states that, because the Department did not verify Chun Kee's COP information, it must use constructed value in the calculation of the foreign market value for Chun Kee. The Committee contends that the Department was obligated to verify Chun Kee's COP response under the statute and the Department's regulations. Further, it argues that Chun Kee's constructed value information cannot be relied upon without a cost verification. Therefore, the Committee asserts, the Department should base its calculation on information submitted in the Committee's original petition, dated November 15, 1994, which constitutes BIA.

Chun Kee responds by stating that it was fully cooperative and provided all of the cost information as requested. Further, it was ready, willing, and able to substantiate its cost information through verification. It cites *Olympic Adhesives v. United States*, 889 F.2d 1565, 1574 (Fed. Cir. 1990), to argue that the Department may not make adverse inferences unless a respondent refuses or is unable to provide information requested by the Department. Further, Chun Kee argues that the Committee's request for a verification was timely and in any case there was not good cause for verification. Further, even if the Department should have verified the

COP information, Chun Kee asserts that there would still not be a basis for making adverse inferences against it.

*Department's Position:* We agree with Chun Kee. Although the Committee cites 19 CFR 353.36(a)(1)(v) in arguing that we were required to verify Chun Kee's submitted information, the statute and regulations state that we will verify all factual information submitted if no verification was conducted during either of the two immediately preceding administrative reviews. Section 776(b)(3)(B) of the Act. See also 19 CFR 353.36(a)(v)(B). Since this is only the first administrative review, and no information has been placed on the record indicating that Chun Kee's response is inaccurate, we are not obligated to verify any responses. Hence, we have used the cost information Chun Kee submitted in this review.

*Comment 6:* The Committee asserts that the Department should reject the claimed circumstance-of-sale (COS) adjustment to foreign market value for Chun Kee, Chung Woo, and Manho regarding home market credit expenses. The Committee argues that these three respondents' calculations for credit expenses are incorrect because they used the total value of home market sales, including non-subject merchandise, and divided this amount by the total accounts receivable balance. The Committee asserts that these calculations must include non-subject merchandise since the total sales values of subject merchandise for each firm vary from the figures in the credit expense calculations. The Committee argues that the Department has only allowed such an adjustment when the calculations are exclusive of non-subject merchandise, citing *AFBs from Germany and Final Determination of Sales at Less Than Fair Value: Polyethylene Terephthalate File, Sheet, and Strip from the Republic of Korea*, 56 FR 16305, 16310 (April 22, 1991) (*Pet Film from Korea*).

All three respondents argue that they provided their home market imputed credit expenses in accordance with well-established Department policy. They argue further that the Department never asked any of the respondents to revise their methodology, nor did the petitioner urge the respondents to do so during the course of the review. They cite *Final Determination of Sales at Less than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Certain Cut-to Length Carbon Steel Plate from Korea*, 58 FR 37176, 37184 (July 9, 1993)

(*Carbon Steel Flat Products from Korea*), in which the Department accepted credit expenses where company-wide credit periods were used to calculate credit. They also state that, for Chun Kee, Chung Woo, and Manho, the Department verified their methodology and found no discrepancies. They state that, while the calculation included data on non-subject merchandise, there is no difference between the payment terms for subject and non-subject merchandise, nor do terms of payment under the respondents' open accounting system recognize a difference between subject and non-subject merchandise. Due to the similarities among all of the products they sold and the similarities of the payment, the respondents claim that there is no business reason to maintain different accounts based on different types of merchandise, and the payment methods do not even allow it. Hence, respondents argue, they could not possibly provide information that does not exist in their accounting records. Further, the respondents claim that their case is not analogous to the cases petitioner cites since, in *AFBs from Germany*, by including sales of non-subject merchandise in the turnover rate calculation, the respondent distorted the actual average credit period of the subject merchandise. In addition, the respondents assert, at verification in *AFBs from Germany*, the Department found that the average credit period for the subject merchandise was much less than the respondent had originally reported. Chun Kee, Chung Woo and Manho argue that there is no indication that the inclusion of non-subject merchandise in their calculations of the turnover period distorts the credit calculation. Further, respondents claim that, in *Pet Film from Korea*, the Department accepted a respondent's company-wide turnover calculation. Respondents claim that the only difference between *Pet Film from Korea* and the present review is that in the present case the accounts receivable balances for subject and non-subject merchandise cannot be separated. Therefore, respondents argue, the Department should accept their company-wide turnover calculations.

*Department's Position:* We disagree with the Committee and have not changed our adjustment for home market credit expenses. In *AFBs from Germany*, as cited by the Committee, we rejected the respondent's calculation of home market credit expenses because its calculation distorted the actual average credit period on the products under investigation and we discovered that the average credit period on sales of subject

merchandise in the home market was consistently much less than respondent had originally reported. In *Pet Film from Korea*, we accepted respondent's reported home market credit expenses and at verification we calculated all balances exclusive of non-subject merchandise. In that case, we also indicated that reliance on an average collection period method to determine home market credit expense is reasonable.

At verification of Chun Kee, Chung Woo, and Manho, we verified the amounts of total sales and receivables and found no discrepancies and have no reason to believe that the inclusion of sales not under review distorted the actual average credit period on the products under review. Moreover, it has been our practice to accept such calculations where we are satisfied that a company has provided us reasonable information, given its normal record-keeping system. See *Carbon Steel Flat Products from Korea*. Therefore, we are accepting Chun Kee's, Chung Woo's, and Manho's calculations of home market credit expenses.

*Comment 7:* The Committee argues that six respondents incorrectly calculated the turnover ratio in their calculations of imputed credit by including value added tax (VAT) in the accounts receivable (AR) balance and the total home market sales amount. The Committee argues that the Department should revise the home market credit expenses for these respondents by excluding VAT. The Committee cites *Pet Film from Korea* and argues that the Department determined in that case that an adjustment for VAT payments was not warranted when the respondent did not pay the VAT to the government at the time of sale, but instead maintained a rolling account. Citing the *LTFV Final Determination* at 11032 for this case, the Committee asserts that the Department determined that the calculation of home market credit expenses inclusive of VAT was erroneous.

Respondents claim that they included the VAT both in the numerator and the denominator in the calculation of the turnover ratio, resulting in an "apples-to-apples" ratio and the same results would be achieved by excluding VAT from total home market sales and the AR balance. They also argue that VAT is part of the actual sales price respondents charged to their customers and, therefore, they should receive an imputed credit expense on the VAT. They claim that removing the VAT would be equivalent to removing the profit from the sales price. They cite *Color Television Receivers from Korea: Final Results of Antidumping Duty*

*Determination*, 51 FR 41365 (November 14, 1986), to support their position that respondents justifiably may include VAT in their total sale price when calculating credit expense.

*Department's Position:* We disagree with the Committee concerning exclusion of VAT from the turnover ratio calculation. The respondents calculated the turnover rates reasonably, including VAT in the AR balance and the total home market sales amount, and, because VAT is included in both the denominator and the numerator of the turnover ratio, the resulting figure is not distorted. However, we agree with the Committee concerning the adjustment to FMV for the imputed VAT credit expenses. We find that there is no statutory or regulatory requirement for making the proposed adjustment. While we recognize that there may be a potential opportunity cost associated with the respondents' prepayment of the VAT, this fact is not sufficient for us to make an adjustment in price-to-price comparisons. Most charges or expenses associated with price-to-price comparisons are either prepaid or paid for at some point after the cost is incurred and they may each involve an opportunity cost or gain. Therefore, to allow an adjustment for the VAT in this case would imply that we make adjustments for every charge and expense reported by the respondents. Such an exercise would make our dumping calculations inordinately complicated, placing an unreasonable and onerous burden on both respondents and the Department (see *LTFV Final Determination* at 11032). Therefore, we have changed the final results and adjusted the credit expense to not include VAT for the final results, and we have not adjusted the potential opportunity cost related to each expense.

*Comment 8:* The Committee asserts that the Department must revise its calculations of the addition to United States price (USP) for Korean VAT. Although the Department stated that it had applied its methodology from *Silicomanganese from Venezuela: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 59 FR 31204 (June 17, 1994) (*Silicomanganese from Venezuela*), the Committee asserts that, for some respondents, the Department's calculations in this case contradicted *Silicomanganese from Venezuela*. The committee claims that, although the Department stated in *Silicomanganese from Venezuela* that the addition to USP should be the result of applying the foreign market tax rate to the price of

the United States merchandise at the same point in the chain of commerce that the foreign market tax was applied to foreign market sales, in the preliminary results the Department performed the VAT adjustment to the net unit price of subject merchandise, which includes an adjustment for duty drawback. The Committee argues that the addition of the amount for duty drawback to the base price against which the Department applied VAT was inconsistent with earlier determinations. In the Committee's view, the Department should not apply VAT to the duty drawback adjustment because respondents do not receive duty drawback on sales in the home market. Therefore, the Committee argues, to apply a VAT adjustment after adjusting USP for duty drawback ignores the importance of applying VAT at an analogous point in the chain of commerce. In addition, the Committee argues that the Department must limit the VAT adjustment to the USP at the absolute level of the VAT adjustment it applies to the home market price of the subject merchandise.

Respondents argue that the Court of International Trade has upheld the Department's decision to include duty drawback in the USP base to calculate the VAT adjustment in *Avesta Sheffield v. United States*, Court No. 93-01-00062, Slip Op. 94-53 (1994). They state that the Department, in that case, argued that it includes duty drawback in the U.S. base to avoid the creation of fictitious margins. Respondents argue that the cases the Committee cites are not relevant here and that they simply explain that the tax base for the U.S. sale should be calculated by applying the foreign market tax rate to the price of the United States merchandise at the same point in the chain of commerce that the foreign market tax was applied to the foreign market sale. The respondents interpret Section 772(d)(1)(B) of the Tariff Act to mean that USP is comparable to the home market price only when duty drawback is added to USP, since this is the price which is comparable to the home market price. Concerning the Committee's proposed limit on the VAT adjustment, the respondents argue that the CIT presently requires the Department to apply the home market tax rate to a U.S. tax base that is appropriately adjusted rather than adjusting for the absolute amount of the foreign tax. They further argue that it is not appropriate to limit the adjustment under the new methodology in which the Department applies the home market tax rate to the USP citing *Zenith Electronics, Corp. v. United*

*States*, Consol. Ct. No. 88-07-00488, Slip op. 95-38 (1995). The respondents also cite *Zenith Electronic Corp. v. United States*, 10 CIT 268, 633 F. Supp. 1382 (1986), to argue that the Department's prior methodology is no longer applicable.

*Department's Position:* In light of the Federal Circuit's decision in *Federal Mogul v. United States*, CAFC No. 94-1097, the Department has changed its treatment of home market consumption taxes. Where merchandise exported to the United States is exempt from the consumption tax, the Department will add to the U.S. price the absolute amount of such taxes charged on the comparison sales in the home market. This is the same methodology that the Department adopted following the decision of the Federal Circuit in *Zenith v. United States*, 988 F.2d 1573, 1582 (1993), and which was suggested by that court in footnote 4 of its decision. The Court of International Trade (CIT) overturned this methodology in *Federal Mogul v. United States*, 834 F. Supp. 1391 (1993), and the Department acquiesced in the CIT's decision. The Department then followed the CIT's preferred methodology, which was to calculate the tax to be added to U.S. price by multiplying the adjusted U.S. price by the foreign market tax rate; the Department made adjustments to this amount so that the tax adjustment would not alter a "zero" pre-tax dumping assessment.

The foreign exporters in the *Federal Mogul* case, however, appealed that decision to the Federal Circuit, which reversed the CIT and held that the statute did not preclude Commerce from using the "Zenith footnote 4" methodology to calculate tax-neutral dumping assessments (*i.e.*, assessments that are unaffected by the existence or amount of home market consumption taxes). Moreover, the Federal Circuit recognized that certain international agreements of the United States, in particular the General Agreement on Tariffs and Trade (GATT) and the Tokyo Round Antidumping Code, required the calculation of tax-neutral dumping assessments. The Federal Circuit remanded the case to the CIT with instructions to direct Commerce to determine which tax methodology it will employ.

The Department has determined that the "Zenith footnote 4" methodology should be used. First, as the Department has explained in numerous administrative determinations and court filings over the past decade, and as the *Federal Circuit* has now recognized, Article VI of the GATT and Article 2 of the Tokyo Round Antidumping Code

required that dumping assessments be tax-neutral. This requirement continues under the new Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade. Second, the Uruguay Round Agreements Act (URAA) explicitly amended the antidumping law to remove consumption taxes from the home market price and to eliminate the addition of taxes to U.S. price, so that no consumption tax is included in the price in either market. The Statement of Administrative Action (p. 159) explicitly states that this change was intended to result in tax neutrality.

While the "Zenith footnote 4" methodology is slightly different from the URAA methodology, in that section 772(d)(1)(C) of the pre-URAA law required that the tax be added to United States price rather than subtracted from home market price, it does result in tax-neutral duty assessments. In sum, the Department has elected to treat consumption taxes in a manner consistent with its longstanding policy of tax-neutrality and with the GATT. Accordingly, in the final results, we have not applied VAT to the adjustments for duty drawback.

*Comment 9:* Chung Woo, Hanboo, Kumho, Ssang Yong, Sungjin and Yeonsin disagree with the Department's decision not to adjust USP for duty drawback. They argue that it was inappropriate to deny the adjustment simply because the respondents used the "simplified fixed amount duty drawback application" method. Respondents argue that this method, in which the Korean Customs Authority determines and refunds duty drawback using a percentage of the export dollar amount, reflects the Korean government's analysis of the average drawback amounts given for particular products under the individual method (which refunds duty drawback on a product-specific basis). They cite Article 2.6 of the GATT Antidumping Code which states that "due allowance shall be made in each case, on its merits, for the difference in conditions and terms of sale, for the differences in taxation, and for the other differences affecting price comparability." In this case, the respondents view duty drawback as a difference in taxation which affects comparability of transactions. In addition, respondents argue, the Department verified that they receive duty drawback under this simplified method.

The Committee argues that the respondents fail to meet the requirements of the Department's two-pronged test for determining whether a party is entitled to an adjustment to USP

for duty drawback. Under this test, according to the Committee, a respondent must demonstrate that (1) the import duty and the rebate received under the duty drawback program are directly linked to and dependent upon one another, and (2) there were sufficient imports of raw materials to account for the duty drawback received on exports of the manufactured product. The Committee claims that this has been upheld by the Court of International Trade, citing *Far East Machinery Co. v. United States*, 12 CIT 972, 699 F. Supp. 309 (1988), and *Carlisle Tire & Rubber Co. v. United States*, 11 CIT 168 (1987). The Committee argues that, in this case, the respondents received a fixed amount of duty drawback based on the export dollar amount and did not demonstrate that the drawback amounts they received were contingent upon the weight and value of imported raw materials incorporated in the exported merchandise. The Committee cites section 772(a)(1)(B) of the Tariff Act to support its view that USP must be increased by "the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States." In this case, the Committee claims, the Department is left without means for determining the amount of any import duties rebated on particular export shipments because respondents received duty drawback under the simplified method.

*Department's Position:* We agree with the Committee. As we stated in the preliminary results, we did not adjust USP for duty drawback for respondents that reported using the simplified method. Under this method, the respondents were unable to demonstrate a connection between imports for which they paid duties and exports of steel wire rope. The second prong of our two-pronged test requires sufficient imports of raw materials to account for the duty drawback received on exports of the manufactured product (*see Fourth Review of AFBs*): "[t]he second prong requires the foreign producer to show that it imported a sufficient amount of raw materials (upon which it paid import duties) to account for the exports, based on which it claimed rebates." In its supplemental questionnaire response of December 19, 1994, Sungjin stated that it is not required to demonstrate to the Korean government that the product it exports contains the actual imported product. All of the respondents clearly stated in their questionnaire responses that the

Korean government determines the drawback amount using its calculation of the amount of duty each importer paid on average. Hence, although respondents do not have to tie their imports to the exports in order to receive duty drawback from the Korean government, this average drawback approach does not satisfy the second prong of our duty drawback test. Although we verified that respondents received duty drawback under the simplified method, an adjustment to USP to determine the amount of dumping of a specific product might be distorted if that adjustment has not been calculated on a product-specific basis. Therefore, we have not adjusted USP for duty drawback where the respondents used the simplified method.

*Comment 10:* Ssang Yong asserts that the Department failed to adjust its USP for drawback it received using the individual drawback system. Ssang Yong further states that it received duty drawback under the individual method and the simplified method. Ssang Yong states that the Department verified its records for drawback and, citing the verification report, was satisfied that there were no discrepancies. Ssang Yong requests that the Department adjust USP for duty drawback in the cases where it was received under the individual drawback system.

*Department's Position:* We are satisfied that Ssang Yong's calculation of duty drawback under the individual method, as calculated during a portion of the POR, meets our test and have adjusted USP for duty drawback where appropriate.

*Comment 11:* Chun Kee asserts that the Department calculated the VAT tax twice on its home market sales by multiplying the net home market price (NETPRIH) by the VAT rate, and by multiplying the final foreign market value (FUPDOL), which the Department derives from NETPRIH, by the VAT rate later in the calculations. Chun Kee states that all positive and negative adjustments to the gross unit price must be multiplied by the VAT rate, but argues that the Department's calculations inflate the entire net price by applying the VAT rate twice.

The Committee responds, that, according to the Analysis Memorandum for Chun Kee, all positive and negative adjustments to the gross unit price must be multiplied by the VAT rate. The Committee further claims that first the Department performs the VAT adjustment with respect to negative adjustments and, later in the calculations, performs the adjustment with respect to the positive adjustments,

and, hence, there was no double-counting of the VAT rate.

*Department's Position:* We agree with Chun Kee that we made a ministerial error. However, for the final results we have made tax adjustments based on our new methodology. See comment eight above.

*Comment 12:* Chun Kee and Manho contend that, in a number of cases, they provided similar home market matches for U.S. sales, but the Department calculated constructed value to determine the dumping margin. They explain that this occurs in the model match portion of the Department's program. Respondents suggest that, because the Department's program retains only the first occurrence of each home market model that matches a U.S. sale, even though a home market model may be comparable to more than one U.S. model, subsequent U.S. sales cannot find a match and, therefore, the Department relied on constructed value. They recommend that one way to correct this would be to ensure that every U.S. sale which does not have an identical home market match, has a home market control number attached to the observation so that a merge of databases and information can occur when appropriate.

*Department's Position:* We agree with respondents and have ensured that, where appropriate, each U.S. sale is matched to a home market model.

*Comment 13:* Chun Kee claims that the Department inadvertently added home market packing to FMV instead of subtracting the expense. It claims that this had a very large impact on FMV and provides an example of the effect of this error.

The Committee argues that Chun Kee's explanation of the error is incorrect and that the Department's calculation of FMV is correct.

*Department's Position:* We agree with Chun Kee and have corrected this ministerial error. In our calculations for Chun Kee we inadvertently inserted a minus sign twice, which had the effect of adding packing instead of subtracting it. We have corrected this by deleting one of the minus signs.

*Comment 14:* Chun Kee claims that the Department failed to subtract home market inspection fees and rebates from the home market net price in its calculations.

*Department's Position:* We agree with Chun Kee and have corrected this ministerial error.

*Comment 15:* Chun Kee and Manho assert that major errors exist in the COP portion of the Department's calculations which affect the integrity of the COP test. Respondents request that the

Department correct these errors for the final results.

*Department's Position:* We agree with Chun Kee and Manho. We have corrected the error.

*Comment 16:* Chun Kee asserts that the Department neglected to apply the 90/60 day contemporaneity guideline for finding home market sales matches. It claims further that the Department's calculations relied only on home market sales in the same month as the U.S. sale, and, instead of examining the 90/60 window for home market sales, the Department relied on constructed value to determine FMV.

*Department's Position:* We agree with Chun Kee and have applied our 90/60 day contemporaneity guideline in our calculations for Chun Kee.

*Comment 17:* Chun Kee claims that the Department failed to incorporate the corrections which Chun Kee submitted in attachment 13 of its supplemental questionnaire response. Chun Kee requests that the Department reflect these corrections in the final results.

*Department's Position:* We agree with Chun Kee and have made these corrections.

*Comment 18:* Manho claims that the Department mistakenly added U.S. packing to the FMV, even though the calculations for constructed value contains U.S. packing costs. Respondent requests that the Department correct this double-counting error.

*Department's Position:* We agree with Manho and have corrected this ministerial error.

*Comment 19:* Manho claims that the Department incorrectly subtracted duty drawback from USP rather than adding it, as the statute requires. Manho requests that the Department correct this error.

*Department's Position:* We agree with Manho and have corrected this ministerial error.

Final Results of Review

We determine the following percentage weighted-average margins exist for the period September 30, 1992, through February 28, 1994:

Manufacturer/exporter	Margin (percent)
Atlantic & Pacific .....	1.51
Boo Kook Corporation .....	1.51
Chun Kee Steel & Wire Rope Co., Ltd. ....	0.20
Chung Woo Rope Co., Ltd .....	0.14
Dae Heung Industrial Co .....	( <sup>1</sup> )
Dae Kyung Metal .....	1.51
Dong-Il Metal .....	1.51
Dong-Il Steel Manufacturing Co., Ltd .....	1.51
Dong Young .....	1.51

Manufacturer/exporter	Margin (percent)
Hanboo Wire Rope, Inc .....	0.51
Jinyang Wire Rope, Inc .....	1.51
Korea Sangsa Co .....	(1)
Korope Co .....	1.51
Kumho Rope .....	0.01
Kwang Shin Ind. ....	1.51
Kwangshin Rope .....	1.51
Manho Rope & Wire, Ltd .....	0.00
Myung Jin Co .....	1.51
Seo Hae Ind .....	1.51
Seo Jin Rope .....	1.51
Ssang Yong Steel Wire Co., Ltd .....	0.06
Sung Jin .....	0.04
Sungsan Special Steel Processing Inc .....	(1)
TSK (Korea) Co., Ltd .....	(1)
Yeonsin Metal .....	0.18

<sup>1</sup> No shipments or sales subject to this review.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentages stated above. The Department will issue appraisal instructions on each exporter directly to the Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies will be those rates established above (except that if the rate for a firm is *de minimis*, i.e., less than 0.5 percent, a cash deposit of zero will be required for that firm); (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review or the original investigation, the cash deposit rate will be 1.51 percent, the "All Others" rate established in the *LTFV Final Determination* (58 FR 11029).

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d)(1). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

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

Dated: December 4, 1995.

Susan G. Esserman,  
*Assistant Secretary for Import Administration.*

[FR Doc. 95-30088 Filed 12-8-95; 8:45 am]

BILLING CODE 3510-DS-P

#### North American Free Trade Agreement, Article 1904 Binational Panel Reviews: Notice of Completion of Panel Review

**AGENCY:** North American Free Trade Agreement, NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

**ACTION:** Notice of completion of panel review of the final determination made by the U.S. International Trade Administration, in an affirmative countervailing duty administrative review respecting live swine from Canada, Secretariat File No. USA-94-1904-01.

**SUMMARY:** Pursuant to the Order of the Binational Panel dated September 27, 1995, affirming the final determination described above was completed on November 13, 1995.

**FOR FURTHER INFORMATION CONTACT:** James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, D.C. 20230, (202) 482-5438.

**SUPPLEMENTARY INFORMATION:** On September 27, 1995, the Binational

Panel issued an order which affirmed the final affirmative countervailing duty administrative review of the United States International Trade Administration ("ITA") concerning Live Swine from Canada. The Secretariat was instructed to issue a Notice of Completion of Panel Review on the 31st day following the issuance of the Notice of Final Panel Action, if no Request for an Extraordinary Challenge was filed. No such request was filed. Therefore, on the basis of the Panel Order and Rule 80 of the *Article 1904 Panel Rules*, the Panel Review was completed and the panelists discharged from their duties effective November 13, 1995.

Dated: December 1, 1995.

James R. Holbein,

*United States Secretary, NAFTA Secretariat.*

[FR Doc. 95-30093 Filed 12-8-95; 8:45 am]

BILLING CODE 3510-GT-M

#### North American Free Trade Agreement, Article 1904 Binational Panel Reviews: Notice of Completion of Panel Review

**AGENCY:** North American Free Trade Agreement, NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

**ACTION:** Notice of completion of panel review of the final determination made by the U.S. International Trade Administration, in an affirmative countervailing duty administrative review respecting leather wearing apparel from Mexico, Secretariat File No. USA-94-1904-02.

**SUMMARY:** Pursuant to the Order of the Binational Panel dated October 20, 1995, affirming the final redetermination on remand described above was completed on December 1, 1995.

**FOR FURTHER INFORMATION CONTACT:** James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, D.C. 20230, (202) 482-5438.

**SUPPLEMENTARY INFORMATION:** On October 20, 1995, the Binational Panel Issued an Order which affirmed the final affirmative countervailing duty administrative review redetermination on remand of the United States International Trade Administration ("ITA") concerning Leather wearing Apparel from Mexico. The Secretariat was instructed to issue a Notice of