DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 933]

Expansion/Relocation of Foreign-Trade Subzone 84L, California Microwave—Microwave Network Systems, Inc. (Telecommunications Products), Houston, Texas Area

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, an application from the Port of Houston Authority, grantee of Foreign-Trade Zone 84, Houston, Texas, area, requesting authority on behalf of California Microwave—Microwave Network Systems, Inc., to relocate subzone status (Subzone 84L) to a larger facility located in Stafford, Texas, was filed by the Board on January 22, 1997 (FTZ Docket 4–97, 62 FR 7751, 2/20/97);

Whereas, notice inviting public comment was given in **Federal Register** and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand/relocate FTZ 84L is approved, subject to the Act and the Board's regulations, including Section 400.28, and further subject to the condition that the company elect privileged foreign status on foreign merchandise admitted to the subzone.

Signed at Washington, DC, this 3rd day of December 1997.

Robert S. LaRussa,

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

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97–32628 Filed 12–12–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–813]

Notice of Extension of Time Limit of Antidumping Duty Administrative Review: Canned Pineapple Fruit From Thailand

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

EFFECTIVE DATE: December 15, 1998.

SUMMARY: The Department of Commerce is extending the time limit for the final results of the first administrative review on canned pineapple fruit from Thailand. The Department has determined that it is not practicable to complete this review within the time limits mandated by section 751(a)(3)(A) of the Tariff Act of 1930, as amended.

FOR FURTHER INFORMATION CONTACT: Gabriel Adler or Kris Campbell, Office of AD/CVD Enforcement II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–1442 and (202) 482–3813, respectively.

SUPPLEMENTARY INFORMATION: On August 7, 1997, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on canned pineapple fruit from Thailand. *See Canned Pineapple Fruit from Thailand; Preliminary Results and Partial Termination of Antidumping Duty Administrative Review* (62 FR 42487). The review covers shipments of this merchandise to the United States during the period of review January 11, 1995, through June 30, 1996, and three manufacturers/exporters of the subject merchandise: Siam Food Products Public Company Ltd., The Thai Pineapple Public Company, Ltd., and Thai Pineapple Canning Industry Corp., Ltd.

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act) directs the Department to issue its final results of review within 120 days after the date on which the preliminary results are published, unless it is not practicable to complete the review in that period, in which case the Department may extend the period to 180 days. Because it is not practicable to complete this review within a 120-day period, the Department is extending the time limit for completion of the final results until 180 days from the date of publication of our preliminary results of review. The deadline for issuance of our final results of review is thus February 3, 1998.

Dated: December 5, 1997.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–32627 Filed 12–12–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–807]

Ferrovanadium and Nitrided Vanadium From the Russian Federation: Notice of 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 August 7, 1997, the Department of Commerce published in the **Federal Register** the preliminary results of its administrative review of the antidumping duty order on ferrovanadium and nitrided vanadium from the Russian Federation (62 FR 42492). This review covers the period January 4, 1995, through June 30, 1996. Based on our analysis of the comments received from interested parties, we have made certain changes to our preliminary results, including corrections of errors. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margin is listed below in the section entitled ''Final Results of Review.''

We have determined that sales have been made below normal value during the period of review. Accordingly, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between export price and normal value.

EFFECTIVE DATE: December 15, 1997.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Mary Jenkins, AD/CVD Enforcement Group II, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–4136 or (202) 482–1756, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

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

Background

The Department of Commerce (the Department) published an antidumping duty order on ferrovanadium and nitrided vanadium from the Russian Federation (Russia) on July 10, 1995 (60 FR 35550).

The Department published a notice of ''Opportunity To Request an Administrative Review'' of the antidumping duty order for this review period on July 8, 1996 (61 FR 35712). We received a timely request for review and on August 15, 1996, we published a notice of initiation of the review (61 FR 42416).

This review covers one exporter of the subject merchandise, Galt Alloys, Inc. (Galt).

On August 7, 1997, the Department published in the **Federal Register** the preliminary results of its administrative review of the antidumping duty order on ferrovanadium and nitrided vanadium from Russia, as well as a recission of the review for a second exporter, Odermet Ltd., which had no shipments during the period of review (POR) (62 FR 42492). Galt and the petitioner, Shieldalloy Metallurgical Co., Inc., submitted case and rebuttal briefs in September 1997. In response to the Department's October 15, 1997, letter, the petitioner submitted additional surrogate value data on October 27, 1997, and Galt submitted comments related to this submission on November 3, 1997. As the Department placed additional surrogate value information on the record on November 6, 1997, we allowed comments on this information from the petitioner, submitted on November 14 and 18, 1997, and rebuttal comments from Galt submitted on November 20, 1997, in accordance with section 782(g) of the Act.

The Department has now completed this review in accordance with section 751(a) of the Act.

Scope of the Review

The products covered by this administrative review are ferrovanadium and nitrided vanadium, regardless of grade, chemistry, form or size, unless expressly excluded from the scope of this order. Ferrovanadium includes alloys containing ferrovanadium as the predominant element by weight (*i.e.*, more weight than any other element, except iron in some instances) and at least 4 percent by weight of iron. Nitrided vanadium includes compounds containing vanadium as the predominant element, by weight, and at least 5 percent, by weight, of nitrogen. Excluded from the scope of this order are vanadium additives other than ferrovanadium and nitrided vanadium, such as vanadium-aluminum master alloys, vanadium chemicals, vanadium waste and scrap, vanadium-bearing raw materials, such as slag, boiler residues, fly ash, and vanadium oxides.

The products subject to this order are currently classifiable under subheadings 2850.00.20, 7202.92.00, 7202.99.5040, 8112.40.3000, and 8112.40.6000 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope is dispositive.

Period of Review

The period of review (POR) is January 4, 1995, through June 30, 1996. The review covers one exporter, Galt.

Facts Available

In accordance with section 776(a) of the Act, we have determined that the use of adverse facts available (FA) is appropriate for sales of merchandise produced by Chusovoy, as discussed in the *Preliminary Results of Antidumping Duty Administrative Review of Ferrovanadium and Nitrided Vanadium from the Russian Federation* (62 FR 42494, August 7, 1997) and below at Comment 1.

Analysis of Comments Received

Comment 1: Application of Facts Available to Chusovoy-produced Merchandise.

Galt contends that the use of an adverse facts available rate of 88.63 percent for Galt's sales of merchandise produced by Chusovoy, a non-cooperative party to the proceeding, is contrary to the statutory requirements and Department precedent, and punishes the wrong party for non-cooperation. Galt cites section 776(b) of the Act which provides that adverse FA may be applied when an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Accordingly, while Chusovoy may be uncooperative, Galt notes that it has cooperated to the best of its ability, and thus adverse FA cannot be applied in calculating its margin. In a recent case with a similar fact pattern, *Final Results of Antidumping Duty Administrative Review: Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China,* 62 FR 6173 (February 11, 1997) (*PRC TRBs*), Galt states that the Department did not apply adverse FA from the less than fair value (LTFV) investigation petition for the merchandise from the uncooperating producers sold by the cooperating exporter, as was applied in these preliminary results, but rather used the facts available from other producers in that proceeding to calculate normal value (NV) for those sales. Galt thus argues that the margin for these sales should be calculated using Galt's actual sales prices for export price (EP) and the information obtained from the other producer in this proceeding, Tulachermet, or, alternatively, Chusovoy's data from the LTFV investigation, to calculate NV.

The petitioner argues that the Department properly considered Chusovoy an uncooperative respondent in the preliminary results and correctly applied adverse FA to sales of Chusovoy's merchandise. Given the absence of the required data from Chusovoy, the petitioner contends that the petition rate properly constitutes the ''facts otherwise available'' in accordance with section 776(b) of the Act. This approach, the petitioner continues, is consonant with the Department's established, and judicially approved, pre-URAA two-tiered ''best information available'' (BIA) methodology, and the Department's practice regarding facts available under the URAA. With regard to Galt's proposed alternatives to the LTFV petition rate, the petitioner claims that Chusovoy's data from the LTFV segment of the proceeding cannot be considered in this segment because Galt improperly submitted the information on this record without Chusovoy's consent or knowledge. The petitioner also notes that the facts in this case are different from those in *PRC TRBs,* where, the petitioner contends, the amount of usable information was much greater than in this instance.

DOC Position: We find no basis to change our finding in the preliminary results that the use of adverse FA is warranted for Chusovoy's factors of production. As we stated in the preliminary results, we find that, pursuant to section 782(e) of the Act, the limited information that Chusovoy

submitted is so incomplete that it cannot serve as a reliable basis for reaching a determination in this review. Further, by failing to respond, Chusovoy is an interested party which has not cooperated to the best of its ability under section 776(b) of the Act. Therefore, we have continued to use an adverse inference in selecting from the facts available to determine the margins for Galt's sales of Chusovoy-produced merchandise and applied the 88.63 percent margin used in the preliminary results for these sales.

With regard to Galt's reference to a different approach applied in *PRC TRBs*, we note that the facts in *PRC TRBs* are distinguishable from the instant situation in a number of ways. Premier purchased the subject merchandise from eight suppliers, two of which did not cooperate; here, Galt purchased only from two suppliers, of which one did not cooperate. Premier's six cooperating suppliers reported little variation in factor-utilization rates; thus, using their data to calculate the unreported factor data for the same model may have been appropriate for that case. Here, we only have one cooperating producer's fully reported factors of production to consider and thus an insufficient basis to conduct a similar evaluation of variation in consumption rates. Under these circumstances, it is inappropriate to allow Chusovoy (or any producer) to benefit for not cooperating in a proceeding.

With regard to petitioner's comment concerning Galt's submission of Chusovoy data from the LTFV investigation, we do not agree that the information was improperly submitted. The information in question was originally obtained by Galt and submitted to the Department by counsel common to Galt and Chusovoy. Galt did not obtain the information through a violation of the administrative protective order, but rather had direct access to the information and thus was in a position to submit it for this record.

Comment 2: Valuation of Chusovoy's Vanadium Slag for Facts Available Rate.

The petitioner contends that the Department cannot use Tulachermet's purchase price of South African vanadium slag to value Chusovoy's consumption of vanadium slag. According to the petitioner, Department precedent and policy establish the Department's intent to apply the price paid by an NME producer for a market economy input only to that producer's own consumption of the input. The petitioner also claims that, in applying the facts available rate as NV for Galt's sales of Chusovoy merchandise, the Department improperly concluded that Chusovoy procured all of its slag requirements from Russian suppliers and thus improperly applied a quality adjustment in valuing vanadium slag. As facts otherwise available, the petitioner holds that the Department should adversely assume that this uncooperative respondent did not purchase any of its vanadium slag requirements from Russian suppliers of low grade vanadium slag, but rather consumed high grade vanadium slag such as South African slag, containing 23 percent vanadium pentoxide, and thus apply, without adjustment, the LTFV margin of 108 percent to all of Galt's sales of subject merchandise produced by Chusovoy.

Galt objects to the use of the unadjusted petition value for vanadium slag (*i.e.*, the price paid by Shieldalloy for South African slag exported to the United States) because it relates to sales to a different market and is thus less accurate than a price to the Russian market. According to Galt, the price paid by Tulachermet for South African vanadium slag imported into Russia is the best available information to value Chusovoy's slag.

DOC Position: We have not valued Chusovoy's consumption of vanadium slag based on Tulachermet's South African purchase, but rather we applied the LTFV investigation margin rate, adjusted to reflect the quality of Russian-sourced vanadium slag as we did for the preliminary results of this administrative review, for all of Galt's sales of Chusovoy-produced merchandise. We disagree with the petitioner that the Department must make an adverse assumption of the facts available that Chusovoy obtained higher quality South African slag for all of its vanadium slag consumption. The facts available in this segment include all of the relevant information obtained and verified during the LTFV segment of the proceeding, and placed specifically on the record prior to the preliminary results, as well as information in the public record. In the LTFV investigation, Chusovoy reported, and the Department verified, that none of its slag was obtained from market economy sources. The LTFV investigation established that Chusovoy obtained slag from two sources: as a by-product of its production of other goods, and from a steel manufacturer in Nizhni-Tagil in Russia. There is no basis to assume, adversely or otherwise, that Chusovoy has completely changed its supply pattern and relies exclusively on foreign-sourced vanadium inputs.

Comment 3: Application of Facts Available to Galt and Tulachermet Data.

The petitioner claims that Galt's and Tulachermet's data as well as Chusovoy's should be disregarded for the final results because of numerous deficiencies and failure to provide requested data. Moreover, the petitioner argues that these parties are also uncooperative and adverse FA must be applied for the final results. The petitioner cites the following areas as the basis for its claim:

(a) Failure to meet certification requirements—The petitioner contends that the respondents failed to comply with the Department's certification requirements of 19 CFR 353.31(i) by omitting certifications from Chusovoy or its counsel, or by submitting certifications that were merely copies of faxes used in previous submissions and have never replaced them with original signed certifications.

(b) Galt failed to report all of its POR sales—The petitioner contends that Galt failed to report all of its sales during the POR because it did not report data for merchandise sold from a shipment that allegedly entered the United States prior to suspension of liquidation. The petitioner claims that in order to exclude these sales, Galt must meet the stringent requirements outlined in *Final Results of Antidumping Duty Administrative Review: Certain Stainless Steel Wire Rod from France*, 62 FR 7206 (February 18, 1997) (*SSWR*), namely that such sales may be excluded only if the Department determines that these sales (1) entered the United States prior to suspension of liquidation, and (2) that there is sufficient linkage between the entry and the POR sales. The petitioner argues that Galt had provided insufficient documentation to establish the date of entry as being prior to the suspension of liquidation, and that Galt has not adequately demonstrated linkage between this entry and corresponding sales.

(c) Galt failed to provide all required audited financial statements—The petitioner states that Galt never provided the audited financial statement for Galt International for the fiscal year ending September 30, 1996, as requested by the Department. The internal financial documents Galt submitted, the petitioner contends, were untimely and inadequate.

(d) Tulachermet failed to provide critical information—The petitioner contends that Tulachermet did not adequately respond to the Department's questionnaire because it did not provide full translations of production worksheets, revealed late in this proceeding that it produced an intermediate product, limestone, in making the subject merchandise, failed

to provide complete packing materials and labor factor data for the POR, and omitted other information specifically requested by the Department.

Galt counters that it has fully cooperated with the Department. Galt's responses to the petitioner's comments are as follows:

(a) Failure to meet certification requirements—Galt contends that all submissions included the necessary certifications for factual information and that no submission has been rejected by the Department because of the absence of a proper certification. Galt adds that the petitioner is incorrect in its understanding of the certification regulation in that it does not specify the particular form of certification that the petitioner is demanding. Accordingly, there is no reason to reject Galt's and Tulachermet's submission on this basis.

(b) Galt failed to report all of its POR sales—Galt replies that it has adequately demonstrated that the sales in question were properly excluded from its reporting because the merchandise entered the United States prior to suspension of liquidation. Galt states that, although the petitioner insists that Galt has supplied insufficient documentation, the petitioner fails to identify what piece of documentation, other than the actual entry documents, Galt should have submitted. Galt asserts that the entry summary provided to U.S. Customs sufficiently establishes the date of entry for this merchandise. Further, Galt argues that it has already established during the LTFV investigation verification that it keeps records in the ordinary course of business that enables it to link entered merchandise and sales.

(c) Galt failed to provide all required audited financial statements—Galt responds that there is no audited financial statement for its affiliate Galt International for the fiscal year ending September 30, 1996; thus, Galt cannot be said to be uncooperative in this regard.

(d) Tulachermet failed to provide critical information—Galt states that Tulachermet reported all inputs to the Department. The production summary worksheet translations are adequate, Galt states, because each monthly summary has year-to-date cumulative calculations, so that by providing translations for December 1995 and June 1996, Tulachermet has provided translations for the entire POR. With regard to Tulachermet's own production of lime from limestone, Galt states that the necessary information was immediately submitted to the Department after the Department raised the issue, and that the labor and energy consumed in the production of lime already had been included in the reporting of vanadium pentoxide production. Galt states that Tulachermet's packing input reporting is complete in that a comparison of the response for the POR to the verified response in the LTFV investigation shows that the petitioner's claim that all of its packing materials were not reported is baseless, and that the petitioner has failed to identify even one material that is missing.

DOC Position: We continue to hold, as we stated in our preliminary results, that Galt and Tulachermet have fully cooperated with the Department and that the information submitted by Galt and Tulachermet meets the requirements of section 782(e) of the Act in that:

(1) the information is timely;

(2) the information is verifiable;

(3) the information is not so incomplete that it cannot serve as a reliable basis for our determination;

(4) these parties have acted to the best of their abilities in providing the requested information; and

(5) the information can be used without undue difficulties.

Accordingly, we have relied upon the information submitted by Galt and Tulachermet for the final results. We address the specific areas raised by the petitioner as follows:

(a) In our review of Galt's submissions, we found that all submissions that required certifications were accompanied by a certification that meets the regulatory requirement. Most of these certifications were of the faxed, copied type. While this type may not be ideal, there is no regulatory or statutory basis for rejecting such certification.

(b) The Department is satisfied that the ''unreported sales'' claimed by the petitioner are for pre-antidumping duty order entries. We disagree with the petitioner that Galt failed to meet the two-prong test as articulated in *SSWR* from France. The first prong of the test is established by showing that the merchandise entered the United States before the suspension of liquidation. Galt met this part of the test by submitting entry documents for the sales in question which established that the merchandise entered the United States prior to suspension of liquidation. In addition, the second part of the test was met because a comparison of the lot number for the entry to the lot numbers supplied in the sales listing confirms that Galt has been able to link specific sales to entries. We verified in the LTFV investigation that Galt is able to link specific sales to specific entries of the subject merchandise and we have no reason to believe that circumstances have changed with regard to Galt's ability to link these entries and sales.

(c) We find no basis to conclude that Galt has withheld any financial statements. Galt has stated that there is no financial statement for its affiliate and we have no reason to dispute this assertion.

(d) With respect to Tulachermet's provision of information, the information provided is timely, verifiable, complete to the extent that it serves as a reliable basis for our determination, and can be used without undue difficulty. Galt provided Tulachermet's production worksheets in full compliance with the Department's instructions, and provided adequate translations for them. The information on lime production, which constitutes only a small portion of NV, by value, was provided in a timely manner for this segment of the proceeding. The information provided for the relatively minor packing factors is sufficient to serve as a reliable basis for our final results.

Comment 4: ''Combination Rates'' for Galt.

Galt contends that, if the Department applies adverse FA to sales of Chusovoy merchandise, it should do so in a way that punishes Chusovoy for its non-cooperation, but not Galt. Accordingly, Galt advocates establishing separate deposit rates for each producer/exporter combination (''combination rates'')—*i.e.*, a deposit rate for Chusovoy (producer) and Galt (exporter) based on adverse FA, and a deposit rate for Tulachermet (producer) and Galt (exporter) based on the Department's margin calculations using the submitted data. Galt also advocates a different basis for assessment purposes using the actual sales information from Galt.

The petitioner argues that the issuance of a single dumping margin for Galt is proper and consistent with the Department's practice. Indeed, it would be inappropriate and improper for the Department to issue separate combination rates, according to the petitioner. The petitioner cites a number of past determinations where the Department has refused to establish producer/exporter combination rates, except where a producer/exporter margin is found to be zero or de minimis and thus excluded from an antidumping duty order. The petitioner further contends that the issuance of a single dumping margin for Galt facilitates administration of the antidumping duty order. Finally, the petitioner notes that establishing assessment and deposit rates on

different bases would have the effect of rewarding Chusovoy for its failure to cooperate since, under Galt's proposal, little or no antidumping duties would be assessed on the sales already made, while there would be no impact for future sales since Chusovoy has shown no further interest in exports to the United States.

DOC Position: We have followed our long-established practice and calculated a single rate applicable to the exporter, Galt, consistent with our approach in similar cases (*see, e.g., Final Determination of Sales at Less Than Fair Value: Pure Magnesium From Ukraine,* 60 FR 16433, March 30, 1995). As the rate calculated merely reflects the margins determined on all of Galt's U.S. sales, we are not persuaded that there is a compelling reason to deviate from our normal practice.

Comment 5: Whether Verification Should Have Been Conducted in this Proceeding.

The petitioner claims that it established a compelling and apparent need for verification of the sales and factors of production responses in this proceeding, based on, inter alia, the changes in Galt's distribution system since the LTFV investigation, alleged deficiencies in Galt's and Tulachermet's responses, and Tulachermet's failed verification in the LTFV investigation. The petitioner further contends that the respondents have ''ducked'' verification by claiming that verification would be a needless expense and that all required information could be provided without verification. Instead, the petitioner argues, the respondents have provided an incomplete and contradictory record; they should not benefit from their objection to verification.

The respondents counter that they have not ''ducked'' verification, but rather contend that it would be an unnecessary expense for the Department and for the respondents to conduct on-site verifications again in this review when the Department could achieve the same ends through written submissions. The respondents also contend that the petitioner failed to meet the deadline for requesting verification in this review and therefore has no standing to object to the Department's decision not to conduct a verification in this instance.

DOC Position: As stated in section 782(i)(3) of the Act, the Department shall verify information relied on for the final results of an administrative review if (A) there is a timely request for verification, and (B) no verification was made during the two immediately preceding reviews and investigations, unless good cause for verification is shown. Under the applicable regulation, 19 CFR 353.36(a)(v)(A), the petitioner's request was not timely, as it was made more than 120 days after the initiation of this administrative review. However, 19 CFR 353.36(a)(iv) also provides for verification if the Department determines that good cause for verification exists. In response to the petitioner's assertions, we do not find that good cause exists for verification in the instant segment of the proceeding.

Both Galt and Tulachermet were verified in the LTFV investigation, which immediately preceded this review. While Tulachermet failed verification of its sales response in the LTFV investigation, its reported factors of production were successfully verified and used to calculate foreign market value for an unaffiliated exporter. Although Galt has made changes in its distribution system since our last verification, it has fully responded to our requests for information and provided sufficient data in this review for the Department's analysis and reliance upon for the final results. We do not consider a change in a respondent's distribution system, in and by itself, sufficient cause to require a verification. In sum, we are satisfied that the data provided by Galt and Tulachermet is sufficiently reliable under section 782(e) of the Act so as to form the basis of our final results without conducting verification.

Comment 6: Surrogate Value for Vanadium Slag.

In the preliminary results, the Department valued Tulachermet's Russian-sourced vanadium slag based on the price Tulachermet paid for a purchase of South African slag immediately prior to the POR, adjusted for the quality difference between the South African and Russian material using the methodology applied in the LTFV final determination. The petitioner contends that the use of a single, pre-POR purchase of vanadium slag, which is of an insignificant quantity in comparison to Tulachermet's consumption of Russian slag, is an inadequate basis for the surrogate value. The petitioner claims that the Department rejected its valuation proposal—the weighted-average of the petitioner's own South African vanadium slag purchases during the POR—because of the Department's faulty mathematical analysis of the petitioner's purchases. Because its South African vanadium slag purchases are of the material to be valued, and cover the entire POR, the petitioner argues that these prices are the appropriate basis for the surrogate value. With regard to vanadium price data obtained from the South African Minerals Bureau subsequent to the preliminary results (*see* fax dated November 6, 1997), which includes the domestic average price for vanadium slag, the petitioner objects to this source because the petitioner believes that the South African values stated are likely to be distorted by intracompany transfers not conducted at arm's length, and thus do not represent market value.

Galt claims that the use of Tulachermet's purchase price as the basis for the vanadium slag surrogate value is consistent with the Department's policy and practice, as embodied in section 351.408(c)(1) of the Department's new regulations, which states that the Department will base surrogate value on a market economy purchase when an input is sourced from both market economy and NME suppliers. Galt asserts that Tulachermet made bonafide, substantial purchases for Tulachermet's production, and not a *de minimis* purchase meant to distort a dumping margin; thus, this purchase is a reasonable basis for valuing Russian sourced slag in accordance with the Department's policy. The use of the petitioner's prices for vanadium slag, Galt further contends, would be unfair and unpredictable because this business proprietary information is unavailable when the respondents make sales. Thus, argues Galt, how could Tulachermet know if Shieldalloy purchased slag at the beginning, at the end, or anytime at all during the POR, and in what quantities? And, how could Galt even attempt to price fairly if it must guess at the value of an important input rather than use a figure that is readily accessible? Galt also notes that relying on the petitioner's purchase prices would involve the use of prices to the United States rather than to an appropriate surrogate country, contrary to section 773(c)(4) of the Act. Finally, with regard to petitioner's contentions regarding the use of the vanadium slag price data from the South African Minerals Bureau, Galt claims that its analysis shows that any price distortion that exists in this value would be to respondents' detriment and the value should be adjusted accordingly if it were to be used.

DOC Position: Vanadium slag is the single most important input for production of ferrovanadium. Tulachermet obtained nearly all of its vanadium slag consumed during the POR from a Russian source, which provided the material at a grade of approximately 15–16 percent contained vanadium pentoxide. Tulachermet purchased a relatively small amount of vanadium slag from South Africa immediately prior to the POR for POR

consumption. This market economy purchase was of 22–24 percent contained vanadium pentoxide. As in the preliminary results, we valued the quantity purchased from South Africa at the purchase price for this material. Because this material is different from the Russian-sourced material, on the basis of the vanadium pentoxide content, we did not apply this price to the remainder of the vanadium slag consumed by Tulachermet, nor did we assign this price as the basis for the vanadium slag surrogate value (prior to adjustment), as we did in the preliminary results. As explained further below and in the Final Results Valuation Memorandum dated December 4, 1997 (FRVM), we have applied a different surrogate value and adjustment methodology (*see* Comment 7) for the final results.

The Department's stated practice in determining which surrogate value to use for valuing each factor of production is to select, where possible, publicly available information which is: (1) an average non-export value; (2) representative of a range of prices within the POR if submitted by an interested party, or most contemporaneous with the POR; (3) product-specific; and (4) tax-exclusive (*see, e.g., Final Results of Antidumping Duty Administrative Review: Sebacic Acid From the People's Republic of China*, 62 FR 10530, 10534, March 7, 1997 (*Sebacic Acid*), and *Preliminary Results of Antidumping Administrative Review: Manganese Metal From the People's Republic of China*, 62 FR 60226, 60227, November 7, 1997). The Department has also articulated a preference for a surrogate country's domestic prices over import values (*see, e.g., Final Determinations of Sales at Less Than Fair Value: Brake Drums and Brake Rotors From the People's Republic of China*, 62 FR 9160, 9163, February 28, 1997).

As we have noted throughout this proceeding (*see, e.g.*, Preliminary Results Valuation Memorandum (PRVM) at page 3), we have not been able to identify a market economy surrogate value for vanadium slag with 16 percent contained vanadium pentoxide from any source. Indeed, our research indicates that vanadium slag of this quality is not produced outside of Russia and, perhaps, the People's Republic of China. Accordingly, the Department must identify the most comparable surrogate match.

Based on the available choices, we have rejected both the values offered by the petitioner based on its own purchases of South African vanadium slag, and the value based on Tulachermet's December 1994 South African purchase. These values are not product-specific (*i.e.*, are for vanadium slag of a different quality than that obtained by Tulachermet from its Russian supplier), and are export prices. We are also concerned that the use of the petitioner's proprietary purchase prices, unavailable to Galt and its suppliers, as the surrogate value for a major input would effectively allow the petitioner to directly influence our calculation of NV and hinder the exporter from adjusting its prices to eliminate dumping. As for Tulachermet's price, we agree with the petitioner that the use of a single price quote from December 1994 does not adequately represent the price levels of vanadium products experienced during the POR.

In this proceeding, we obtained data from the South African Minerals Bureau on the vanadium industry and price levels for a variety of products. Some of this information was in published form (*see* PRVM), while other data was obtained directly from the Bureau (*see* fax dated November 6, 1997). In addition, the South African Minerals Bureau, the petitioner, and Galt have provided information from the industry publication *Metal Bulletin* on vanadium pentoxide and ferrovanadium prices in the world market. We have relied on these public, independent sources as the bases for valuing vanadium slag and other vanadium products.

For vanadium slag, we have used as the base value the POR-average South African FOB value for 24 percent vanadium pentoxide content slag, as reported by the South African Minerals Bureau in the November 6 fax. This value is a domestic South African price for a material that is most comparable to the product among the publicly available values. The value calculated is an average of 1995 and 1996 values and is thus representative of the range of prices during the POR. Moreover, it is derived from the only source of public data for vanadium slag (of any grade) we have obtained in the course of this proceeding.

In our view, the inferences, speculations, and assumptions the petitioner and Galt applied in their respective analyses of the South African domestic prices fail to establish that these South African slag values are not market values. A comparison of the annual averages of the South African slag prices to the annual averages of CIF Europe spot prices for vanadium pentoxide shown in the November 6 fax, which are market-based prices, shows a consistent relationship of about 20 to 25 percent (*i.e.*, the slag price is about 20–25 percent of the European market price for vanadium pentoxide). Given the absence of any other public source for slag prices, based on the available information, we have no basis to conclude that, to the extent a market exists for vanadium slag, these prices are not the South African market prices for vanadium slag.

Comment 7: Quality Adjustment to Vanadium Slag Surrogate Value.

The petitioner disagrees with the Department's adjustments for what it considers alleged quality differences between the South African and Russian inputs. The petitioner contends that the record evidence does not support the Department's position in its preliminary results that Russian-sourced vanadium slag, of approximately 15–16 percent vanadium pentoxide content must be valued lower than South African slag of approximately 22–24 percent vanadium pentoxide, on a contained-vanadium basis [1]. The petitioner objects to the use of a quality adjustment methodology based on a ratio derived from the prices of Russian (*i.e.* NME) goods. Such a use of NME prices, the petitioner contends, is contrary to the Department's established policy and practice. Finally, if the Department were to make a quality adjustment to the South African input value, the petitioner states that the adjustment must be based on POR data and proposes an adjustment factor of .96, derived from *Metal Bulletin* news articles during the POR, rather than the .7292 factor derived from 1993–94 *Metal Bulletin* price comparisons. Alternatively, the petitioner suggests that, if the Department believes it has insufficient information from market economy countries to value the vanadium slag consumed by Tulachermet, the Department should base NV on the sales of South African ferrovanadium to other countries.

Galt agrees with the Department's approach to adjusting the surrogate value for quality differences between the South African material and the Russian-sourced material. Galt states that, contrary to the petitioner's assertion, the statute does not prohibit the use of NME-based value information to adjust a market-based surrogate value. Galt notes that this case differs from the *Final Determination of Sales at Less than Fair Value: Refined Antimony Trioxide from the People's Republic of China*, 57 FR 6801 (February 26, 1992),

[1] "Contained vanadium basis" refers to adjusting the price or value of the material based solely on the amount of vanadium contained, regardless of the content of other materials. Thus, products with varying percentages of contained vanadium or vanadium pentoxide can be compared on an equal basis.

cited by the petitioner in that (1) the non-market prices in question are being used to determine an adjustment factor, not to determine the base price to be used, and (2) there are no market economy prices available. Thus, Galt contends, under these conditions the Department has no choice but to use the available information in order to make the adjustment to the vanadium slag surrogate value that the record overwhelmingly shows is necessary. Galt also objects to the petitioner's proposed alternative methodology using POR price quotes, claiming that the information is anecdotal and does not adequately identify the Russian merchandise to allow for proper calculation of the quality adjustment ratio.

DOC Position: As we stated in the PRVM, the record throughout this proceeding overwhelmingly demonstrates that vanadium slag with a vanadium pentoxide content below 24 percent is lower quality than the 24 percent product, and its value to consumers cannot be quantified in terms of a straight-line adjustment based on relative percentages of vanadium pentoxide, as argued by the petitioner. Principally, the Russian-sourced vanadium slag contains a higher level of impurities than the 24 percent vanadium pentoxide content slag, which, in turn, results in higher processing and waste disposal costs. We concluded in the LTFV investigation that the South African slag value should be adjusted in order to properly value the Russian-sourced vanadium slag to account for the latter's lower quality. Our finding and methodology was upheld in *Shieldalloy Metallurgical Corp*. v. *United States*, 975 F.Supp. 361 (Ct. Int'l Trade 1997) and *Shieldalloy Metallurgical Corp*. v. *United States*, 947 F.Supp. 525)Ct. Int'l Trade 1996). In this review, we continue to believe that Russian-sourced slag must be valued lower than the 24 percent vanadium pentoxide slag, on a contained vanadium basis.

The petitioner has never convincingly refuted the fact that the Russian-sourced slag is of an inferior quality to the South African slag upon which surrogate values have been based. The petitioner's claims and speculations that the inferior Russian vanadium slag should be valued the same as the higher quality South African material, on a contained vanadium basis, do not stand up against the weight of information to the contrary developed throughout this proceeding. Given that no market economy value exists to our knowledge for vanadium slag of a comparable quality to the Russian-sourced material, a quality adjustment must be made to the South African vanadium slag value in order to arrive at a surrogate value that fairly represents the material to be valued.

The petitioner has argued that the Department's quality adjustment methodology used in the LTFV final determination and the preliminary results of this review is flawed because it is based on NME prices, and is based on noncontemporaneous price data. We acknowledged in the preliminary results that, subsequent to the LTFV investigation and CIT litigation, we learned that the 90% vanadium pentoxide prices published in *Metal Bulletin* and used to calculate our adjustment ratio were based on Russian prices. However, since we have been unable to identify any other information suitable for making this adjustment, we must continue to use the ratio between vanadium pentoxide prices, including the prices of Russian vanadium pentoxide of lower quality, as a facts available basis for the quality adjustment methodology. We emphasize that we are not using any NME prices to arrive at the surrogate value, but rather the relationship between prices for internationally-traded goods in market economies, where some of these goods were produced in a NME country, and applying the resulting ratio to a South African value. Although this methodology may not be ideal because it involves the use of NME price data, it is, nevertheless, the best available information. To fail to apply a quality adjustment to the surrogate value would be, in our view, a far greater distortion to the valuation of Russian-sourced vanadium slag.

Its other objections aside, the petitioner proposes using POR vanadium pentoxide price information to recalculate the quality adjustment. We agree with the petitioner that this approach is preferable. However, we agree with Galt's concerns about the Russian vanadium pentoxide prices the petitioner selected from *Metal Bulletin*. These quotes are anecdotal citations chosen by the petitioner that include no information about the quality of the product allegedly sold. In contrast, the LTFV methodology relied on market research data by an independent source for vanadium pentoxide of a known purity (*see* Attachment 9 to PRVM). While the data is not contemporaneous, it is otherwise more reliable than the information proffered by the petitioner.

For the final results, we have revised our methodology from the preliminary results to incorporate more recent data from *Metal Bulletin*, as submitted by Galt on December 13, 1996. This submission includes 98 percent and 90 percent vanadium pentoxide price data for the last quarter of 1994—the last period that *Metal Bulletin* published 90 percent vanadium pentoxide prices and the quarter immediately prior to the POR. Thus, for the final results, we have applied the ratio between 98 percent vanadium pentoxide and 90 percent vanadium pentoxide prices reported for the fourth quarter of 1994, .9437, as the quality adjustment for the vanadium slag value. Our calculation is shown in the FRVM.

Comment 8: Contemporaneity of Vanadium Slag Surrogate Value.

The petitioner contends that a surrogate value based on a single purchase of vanadium slag immediately prior to the POR is inappropriate in this proceeding due to the price fluctuations of vanadium products during the POR. In support of its position, the petitioner provided information showing the rise and fall of world vanadium pentoxide and ferrovanadium prices during the POR, and that the Tulachermet purchase price is unrepresentative of prices during the POR. The petitioner asserts that the Department must make appropriate adjustments to ensure that the values of vanadium inputs accurately represent POR prices, otherwise the dumping calculation will be distorted. Accordingly, the petitioner claims that the surrogate value should be based on a weighted-average of prices during the POR, such as the weighted-average of the petitioner's vanadium slag purchases, or, if the Department continues to rely on Tulachermet's slag purchase price, an adjustment to that price must be made to reflect the difference between prices at the time of the purchase and the average prices during the POR.

Galt asserts that Tulachermet's purchase of the South African slag, although immediately prior to the POR, was for inputs consumed during the POR and thus is an appropriate value for the POR. Galt claims that to adjust the slag value for the vanadium price increases over the POR without ensuring that appropriate costs, prices, and production factors are matched will create distortions. In this case, Galt continues, the Department does not have the data on the record to link Tulachermet's actual production to its shipments to Galt, as such information was never requested by the Department. Therefore, Galt states that the only alternative is to find that there is no basis on the record to find this type of price inflation for the sales at issue and thus no time period adjustment need be made to Tulachermet's purchase price for vanadium slag.

DOC Position: We agree with the petitioner that, in this instance, it is inappropriate to base the surrogate value for vanadium slag on Tulachermet's single purchase price and have not done so for these final results (*see* Comment 6).

Comment 9: Sulfuric Acid Valuation.

The petitioner argues that Tulachermet's consumption of sulfuric acid should be adjusted to correct the Department's treatment of this input in diluted form. In fact, the petitioner contends that Tulachermet reported that it consumed sulfuric acid at 100 percent concentration. Thus, the petitioner states that, for the final results, Tulachermet's consumption of sulfuric acid should be valued based on the ratio of Tulachermet's 100 percent concentration consumption to the ''standard concentration of commerce'' of 93–98 percent, as identified by the Department. In addition, the petitioner states that the price used in the preliminary results was not the intended value identified by the Department as provided by a South African vanadium producer, and instead was a different value that was outside the POR. For the final results, the petitioner states that this error should be corrected.

DOC Position: We agree with the petitioner that Tulachermet has reported its consumption of sulfuric acid in undiluted form and that we erred in adjusting the consumption factor by the amount of dilution, which Tulachermet performs in the course of its production process. We also agree that the Department erred in its preliminary results in identifying the value source selected as a South African vanadium producer, while actually using the value obtained from the South African Chemical and Allied Industries Association. For the final results, we have continued to use the value for 98% sulfuric acid from the Association, which is a POR average provided to the Department in response to our specific request to the Association (*see* FRVM). The values obtained from both the Association and the vanadium producer were equally contemporaneous domestic tax-exclusive prices for the same material, but we selected the Association value as it is from a more publicly available source than a price quote from a company whose name cannot be revealed in our public documents.

Finally, we have adjusted Tulachermet's consumption factor to match the 98% concentration of the sulfuric acid surrogate value, as suggested by the petitioner.

Comment 10: Valuation of Small-Quantity Inputs.

In the preliminary results, the Department was unable to obtain surrogate values for boron anhydride and ammonium sulphite, and also did not include boron acid in its NV calculation. The petitioner claims that these chemicals are important, individually and in the aggregate, to the production of the subject merchandise, and thus their omission understates Galt's dumping margin. Accordingly, the petitioner contends that the Department should value these inputs based on U.S. price data it submitted, or on the highest surrogate value for any input. In addition, the petitioner asserts that the Department must also continue to assign the farthest distance reported by Tulachermet for any supplier to calculate the freight value cost for all inputs for which Tulachermet failed to provide the distance from its supplier.

Galt argues that disregarding these inputs is justified under section 777A(a)(2) of the Act, under which ''the administering authority may decline to take into account adjustments which are insignificant in relation to the price or value of the merchandise.'' In addition, Galt opposes the application of the U.S. values for these inputs presented by the petitioner because these values are not from the primary surrogate country, South Africa, or from any other appropriate surrogate country identified by the Department.

DOC Position: Although the inputs in question are consumed in small quantities, we have accepted the petitioner's position in calculating NV for the final results. Department practice is to attempt to value all inputs in an NME NV for which there is available information. The U.S. price data is the only surrogate value information on the record for these inputs and thus may be used as facts available to value these materials. While the values identified by the petitioner for boric acid and ammonium sulfide acid are not the same as the boron (or boric) anhydride and ammonium sulphite consumed by Tulachermet (*see* ''Telcon with ITC Chemical Industry Analyst Re: Tulachermet Chemical Inputs,'' Memorandum to the File dated October 22, 1997), as facts available, we have accepted the petitioner's contention in its October 27, 1997, letter that these values are for materials similar enough for surrogate valuation purposes, and that the values are, if anything, conservative measures of surrogate value.

Comment 11: Valuation of Factors Unreported by Tulachermet.

The petitioner claims that Tulachermet did not accurately report all of its inputs and omitted several of these inputs from its factors of production response, based on the petitioner's analysis of Tulachermet's production summary worksheets. As AFA, the petitioner contends that the Department should apply the highest consumption factor reported for any input, and apply the highest surrogate value for any input. The petitioner also argues that Tulachermet did not report its consumption of ''technological electricity''; therefore, the Department should use adverse facts available to increase Tulachermet's reported consumption of electricity.

Galt argues that Tulachermet has accounted for all materials consumed and that the inputs cited by the petitioner either are already reported and accounted for, or are recycled materials.

DOC Position: We agree with Galt that certain inputs consumed and listed on the production worksheets—''metal skull,'' ''metal riddlings,'' limestone, steam, compressed air, water, and ''technical water''—are already accounted for in the factors of production worksheet. Tulachermet reported its consumption of vanadium and metal-based inputs on a gross, rather than net, basis. The production worksheets show that metal and vanadium waste was generated in the course of production and then re-used. Tulachermet's consumption of limestone has been reported separately in accounting for its lime production (*see* submission of March 7, 1997). Tulachermet's energy reporting accounts for the energy consumed to generate steam and compressed air. Water inputs are normally considered a factory overhead item and the Department usually does not value water separately (*see, e.g., Final Determination of Sales at Less Than Fair Value: Saccharin from the People's Republic of China From PRC,* 59 FR 58818, November 15, 1994).

The production worksheets indicate consumption of certain other inputs—silicovanadium, vanadium aluminum alloy,[2] and ''technological electricity''—which we agree should have been included in the factors of production worksheet. We have calculated consumption factors for these inputs, based on the data in the production worksheets submitted on February 7,

[2] Galt claims that it has reported vanadium aluminum alloy as ''pre-alloyed material.'' However, our analysis of the questionnaire response reveals that ''pre-alloyed material'' in the factors of production worksheet corresponds to ''iron-vanadium'' alloy in the production worksheets.

1997, and included them in the calculation of NV. We valued silicovanadium and vanadium aluminum alloy, on a contained vanadium basis, based on the POR average South African price for vanadium products, as reported by the South African Minerals Bureau. Because Tulachermet did not report the distance from the suppliers of these items to its factory, we have applied the distance from the farthest supplier, as facts available, to calculate the freight expense incurred in transporting these inputs.

Finally, we note that Tulachermet also consumed a very small amount of ''poliacrid'' during the POR, as indicated by the petitioner. However, there is no surrogate value for this material on the record. Therefore, we have not included a value for this material in our calculation of NV, although we have included a freight amount for this item, calculated in the same manner as discussed above.

Comment 12: Freight and Insurance costs for Surrogate Values derived from the Customs Union of Southern Africa (SACU) Import Statistics.

The petitioner contends that, in the preliminary results, the Department used surrogate values derived from SACU for factors whose input value did not include the cost of insurance and freight. The petitioner argues that the Department has thus understated the values for those inputs.

Galt responds that the Department already has made freight and insurance adjustments in its input freight value that is shown in its margin calculation. Galt states that to make additional adjustments to freight or insurance would be double counting.

DOC Position: We agree with *Galt.* In *Sigma Corp.* v. *United States,* No. 95–1509, 96–1036, 95–1510, 06–1037, 1997 U.S. App. LEXIS 16506 (Fed. Cir. July 7, 1997) (*Sigma*), the United States Court of Appeals for the Federal Circuit (CAFC) held that the calculated freight costs for PRC-made materials may not exceed the calculated freight costs of shipping the material from respondents' importing seaports in the PRC to their factories. The CAFC's decision in *Sigma* requires that we revise our calculation of source-to-factory-surrogate freight for those material inputs that are based in CIF import values in the surrogate country. Accordingly, we have added to CIF surrogate values from South Africa a surrogate freight cost using the shorter of the reported distances from either the closest reported port to the factory (*i.e.,* Ventspils, Latvia), or the domestic supplier to the factory.

Comment 13: Factory Overhead, Selling, General and Administrative Expenses.

The petitioner argues that, in calculating the surrogate value for factory overhead based on the 1995 Annual Report of Highveld Steel and Vanadium Corporation Limited (Highveld), the Department erred in excluding the figure for ''net provision for renewal and replacement of fixed assets'' from overhead expenses. Consistent with the Department's approach in *Final Determination of Sales at Less Than Fair Value: Sulfur Vat Dyes from the People's Republic of China,* 58 FR 7557, (February 8, 1993), the Department should include in the overhead ratio depreciation and all other elements of overhead that are identified in the Highveld's 1995 Annual Report. The petitioner further contends that because the Department verified separate cost centers for Tulachermet in the LTFV investigation, the surrogate overhead ratio should be applied to each cost center (*i.e.* vanadium pentoxide and ferrovanadium production centers). With regard to selling, general and administrative (SG&A) expenses, the petitioner states that the Department should include the amount spent on research and development, which was not included in the preliminary results calculation.

Galt states that the factory overhead figure calculated from the annual report is from the consolidated financial statement and represents the total overhead of all Highveld operations. To apply this percentage to each of Tulachermet's cost centers would result in double-counting overhead, according to Galt. To insure an ''apples to apples'' comparison, Galt contends that the Department should continue to apply the consolidated percentage to the consolidated factor.

DOC Position: We agree with the petitioner with respect to the omitted expenses in our factory overhead and SG&A calculations, and have made the corrections. These corrections result in revised surrogate percentages for factory overhead, SG&A expenses and profit (*see* FRVM).

We agree with Galt with respect to the application of factory overhead to the total of materials, labor, and energy values, rather than at each stage of production. Because our surrogate percentage is calculated on the basis of the total overhead of Highveld's production, the factory overhead percentage must be applied in the same manner to avoid double-counting (*see Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol From PRC,* 61 FR 14057,14056, March 29, 1996).

Comment 14: Surrogate Profit Calculation.

The petitioner argues that the Department should calculate profit based on ''net income before taxation,'' as reported in Highveld's 1995 Annual Report. The petitioner also contends that the Department erred in using ''net sales turnover,'' rather than ''cost of production,'' as the denominator for the surrogate profit calculation and should correct it for the final results.

Galt argues that the Department should calculate the surrogate profit percentage on the same basis it used to calculate the cost of production from Highveld's 1995 Annual Report. Galt contends that calculating the profit percentage on a different basis than the cost of production would violate the statutory requirement by exceeding the amount of profit normally realized by market economy exporters or producers.

DOC Position: We agree with the petitioner with regard to our surrogate profit calculation. We calculated profit based on the net sales turnover in the report, less cost of production, and applied the resulting ratio to the cost of production. Because of the changes to factory overhead and SG&A, noted above, the resulting profit figure, calculated as the difference between net sales and net costs per the Highveld 1995 Annual Report, differs from that cited by the petitioner (*see* FRVM).

Comment 15: Galt's SG&A and CEP Profit Calculations.

The petitioner contends that Galt has ignored the Department's explicit instructions and followed its own method of reporting and adjusting SG&A and profit used to calculate CEP expenses. The petitioner argues that Galt did not disclose the methodology for its numerous ''revisions'' or provide computations, beginning with the financial statement. Moreover, according to the petitioner, Galt did not provide any indication that its SG&A and profit calculations took proper account of the required antidumping duty.

Galt states that it responded to the petitioner's arguments regarding its SG&A expenses in its letter to the Department of May 21, 1997. Galt states that it explained how the figures are traced into the financial statements and provided additional background information on the figures. Galt objects to the petitioner's implication that the Department should examine backup documentation for financial statements that have already been certified as audited. In addition, Galt claims that it has thoroughly explained to the

Department its methodology regarding management fees and the petitioner has provided no meaningful criticism of Galt's approach.

DOC Position: We agree with Galt with respect to its presentation of the information. Based on our analysis, we have accepted Galt's SG&A calculations for adjustments to CEP sales, as described in Galt's May 21, 1997, submission. We have, however, made corrections to these calculations for mathematical errors (*see* Memorandum to the File dated December 3, 1997.) As in the preliminary results, we revised the SG&A calculation to reflect a value-based, rather than unit-based, amount.

In addition, we have revised the calculation of CEP profit to meet the requirements of section 772(d)(3) and 772(f) of the Act. Accordingly, we calculated the profit allocable to selling and distribution activities in the United States based on the data in Galt's audited financial statements for the two fiscal years that included the POR (*see* Memorandum to the File dated December 3, 1997). Pursuant to section 772(f)(C)(iii) of the Act, this information is the data on the record for calculating CEP profit that comprises the narrowest category of merchandise sold in all countries which includes the subject merchandise.

Comment 16: Valuation of Railway Freight and Insurance.

In lieu of the 1993 South African rail rate information from the LTFV investigation used in the preliminary results, the petitioner contends that the Department should apply the railway rate and insurance data from the POR that the petitioner obtained in a fax from a South African railway source.

Galt states the petitioner's fax is an unreliable basis for this information as it does not contain published rail rates and is largely a handwritten note from someone, apparently in South Africa, which appears to be cut and pasted. Accordingly, Galt contends that the Department should continue to use the rail rates from the LTFV investigation in the absence of any other reliable information.

DOC Position: In this instance, we are asked to choose between the only two available surrogate values for freight—a figure derived from publicly available published data of rail rates for a representative list of destinations, but non-contemporaneous to the POR; or a rail rate quote contemporaneous with the POR obtained by an interested party for a specific route. While the latter choice has the advantage of being contemporaneous with the POR, the rate proffered by the petitioner is based on transport of 144 kilometers, while the rate calculated by the Department for the LTFV investigation is based on transport of 468 to 1,342 kilometers (*see* PRVM at page 10). Most transport to be valued covers distances of hundreds to thousands of kilometers. Therefore, we find that the rate from the LTFV investigation, although non-contemporaneous, is a more representative surrogate value for Tulachermet's movement expenses and we have continued to apply it in the final results.

Comment 17: Valuation of ''Vanadium Pre-alloyed Material''.

The petitioner agrees with the Department's selection of ferrovanadium prices to determine the surrogate value for ''vanadium pre-alloyed material.'' However, the petitioner argues that the Department erred by applying the exchange rate conversion from South African rand to U.S. dollars for this value as the value was already expressed in U.S. dollars.

DOC Position: We agree with the petitioner that we made an error in applying an exchange rate to this value reported in U.S. dollars. However, for the final results, we have selected a different source for the ferrovanadium price. We have used the 1995–96 average South African FOB value for ferrovanadium reported by the South African Minerals Bureau in its November 6, 1997, fax. In applying this value, we have adjusted the consumption factor to reflect the maximum vanadium content of the input, as reported by Tulachermet in the February 7, 1997 response.

Final Results of Review: As a result of the comments received, we have changed the results from those presented in our preliminary results of review. Therefore, we determined that the following margin exists as a result of our review:

Exporter	Period	Margin (percent)
Galt Alloys, Inc.	1/4/95–7/31/96	34.66

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. Individual differences between EP and NV may vary from the percentages stated above. The Department will issue appraisement instructions directly to Customs.

Further, the following deposit requirements will be effective upon publication of these final results for all shipments of ferrovanadium and nitrided vanadium from Russia entered, or withdrawn from warehouse, for consumption on or after the publication date as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for Galt will be the rate established in the final results of this administrative review; (2), for merchandise exported by manufacturers or exporters not covered in this review but covered in the original LTFV investigation and have a separate rate, the cash deposit rate will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received a company-specific rate; (3) for Russian manufacturers or exporters not covered in the LTFV investigation, the cash deposit rate will continue to be the Russia-wide rate of 108.00 percent; and (4) the cash deposit rate for non-Russian exporters of subject merchandise from Russia who were not covered in the LTFV investigation or in this administrative review, will be the rate applicable to the Russian supplier of that exporter. These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Interested Parties

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26(b) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during these review periods. 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 Act (19 U.S.C. 1675(a)(1)) and published in accordance with section 777(i).

Dated: December 5, 1997.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–32631 Filed 12–12–97; 8:45 am]

BILLING CODE 3510–DS–P