

practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and costs) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: November 1, 2000.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 00-28474 Filed 11-6-00; 8:45 am]

BILLING CODE 3510-DR-P

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[A-351-605]

**Frozen Concentrated Orange Juice from Brazil; Amended Final Results of Antidumping Duty Administrative Review**

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

**EFFECTIVE DATE:** November 7, 2000.

**FOR FURTHER INFORMATION CONTACT:** Irina Itkin, AD/CVD Enforcement Group I, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-0656.

**Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the Act are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (1999).

**Amendment to Final Results**

In accordance with section 751(a) of the Act, on October 11, 2000, the Department published the final results of the 1998-1999 administrative review on frozen concentrated orange juice (FCOJ) from Brazil, in which we determined that U.S. sales of FCOJ from Brazil were made at less than normal value (65 FR 60406). On October 12, 2000, we received an allegation, timely filed pursuant to 19 CFR 351.224(c)(2), from the respondent, Citrovia Agro Industrial Ltda./Cambuhy MC Industrial Ltda./Cambuhy Citrus Comercial e Exportadora (collectively "Citrovia"), that the Department made a ministerial

error in its final results. We received comments on this allegation from the petitioners on October 18, 2000.

After analyzing Citrovia's submission and the petitioners' comments, we have determined, in accordance with 19 CFR 351.224, that a ministerial error was made in our final margin calculations for Citrovia. Specifically, we find that we failed to apply the proper U.S. dollar/Brazilian real exchange rate from January 13, 1999, through April 2, 1999, as outlined in the Concurrence Memorandum dated May 30, 2000. For a detailed discussion of the ministerial error, as well as the Department's analysis, see the memorandum to Louis Apple from the Team, dated October 31, 2000.

Therefore, in accordance with 19 CFR 351.224(e), we are amending the final results of the 1998-1999 antidumping duty administrative review on FCOJ from Brazil. The revised dumping margin is as follows:

Exporter/manufacturer	Original final margin percentage	Revised final margin percentage
Citrovia Agro Industrial Ltda./Cambuhy MC Industrial Ltda./Cambuhy Citrus Comercial e Exportadora .....	25.87	14.77

**Scope of the Review**

The merchandise covered by this review is FCOJ from Brazil. The merchandise is currently classifiable under item 2009.11.00 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS item number is provided for convenience and for customs purposes. The Department's written description of the scope of this proceeding remains dispositive.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: October 31, 2000.

**Troy H. Cribb,**

*Assistant Secretary for Import Administration.*

[FR Doc. 00-28565 Filed 11-6-00; 8:45 am]

BILLING CODE 3510-DS-P

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[A-570-803]

**Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China; Preliminary Results and Preliminary Partial Recission of Antidumping Duty Administrative Reviews and Notice of Intent Not To Revoke in Part**

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

**ACTION:** Notice of Preliminary Results and Preliminary Partial Recission of Antidumping Duty Administrative Reviews and Notice of Intent Not To Revoke in Part of Heavy Forged Hand Tools, Finished or Unfinished, With or

Without Handles, From the People's Republic of China.

**SUMMARY:** The Department of Commerce ("the Department") has preliminarily determined that sales by the respondents in these reviews covering the period February 1, 1999 through January 31, 2000, have been made below normal value ("NV"). If these preliminary results are adopted in our final results of reviews, we will instruct the U.S. Customs Service ("Customs") to assess antidumping duties on all appropriate entries.

The Department invites interested parties to comment on these preliminary results.

**EFFECTIVE DATE:** November 7, 2000.

**FOR FURTHER INFORMATION CONTACT:** Frank Thomson or Howard Smith, AD/CVD Enforcement, Office 4, Group II, Import Administration, International

Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482-4793, and 482-5193, respectively.

#### SUPPLEMENTARY INFORMATION:

##### The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended, ("the Act") are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations at 19 CFR Part 351 (1999).

##### Period of Review

The period of review ("POR") is February 1, 1999 through January 31, 2000.

##### Background

On February 19, 1991, the Department published in the **Federal Register** (56 FR 6622) the antidumping duty orders on heavy forged hand tools, finished or unfinished, with or without handles ("certain heavy forged hand tools" or "HFHTs"), from the People's Republic of China ("PRC"). On February 14, 2000, the Department published in the **Federal Register** (65 FR 7348) a notice of opportunity to request administrative reviews of these antidumping duty orders. On February 28, 2000, four exporters of the subject merchandise requested that the Department conduct administrative reviews of their exports of the subject merchandise. Specifically, Tianjin Machinery Import & Export Corporation ("TMC") requested that the Department conduct administrative reviews of its exports of HFHTs within the axes/adzes, bars/wedges, hammers/sledges, and picks/mattocks classes or kinds of merchandise. Shandong Huarong General Group Corporation ("Shandong Huarong") requested that the Department conduct an administrative review of its exports of HFHTs within the bars/wedges class or kind of merchandise. Liaoning Machinery Import & Export Corporation ("LMC") requested that the Department conduct an administrative review of its exports of HFHTs within the bars/wedges class or kind of merchandise. Shandong Machinery Import & Export Corporation ("SMC") requested that the Department conduct administrative reviews of its exports of HFHTs within the axes/adzes, bars/wedges, hammers/sledges, and picks/mattocks classes or kinds of merchandise.

In addition, on February 29, 2000, the petitioner, O. Ames Co., requested that the Department conduct administrative reviews of exports within all four classes of subject merchandise by TMC, Fujian Machinery & Equipment Import & Export Corp. ("FMEC"), Shandong Huarong, LMC, and SMC. The Department published a notice of initiation of these reviews on March 30, 2000 (65 FR 16875).

The Department is conducting these administrative reviews in accordance with section 751 of the Act.

##### Partial Rescission

In its June 12, 2000, Section A questionnaire response, Shandong Huarong stated that during the POR, it sold only subject merchandise within the bars/wedges and axes/adzes classes or kinds of merchandise. Therefore, Shandong Huarong requested that it be excluded from the review of the hammers/sledges and picks/mattocks classes or kinds of merchandise. Based on our review of U.S. import data obtained from Customs indicating no shipments of hammers/sledges and picks/mattocks, we are preliminarily rescinding our review of Shandong Huarong with respect to sales within these classes or kinds of merchandise.

Furthermore, in its June 12, 2000, Section A questionnaire response, LMC noted that during the POR it sold only HFHTs within the bars/wedges class or kind of merchandise. Based upon our review of U.S. import data obtained from Customs indicating no shipments of axes/adzes, hammers/sledges and picks/mattocks, we are preliminarily rescinding our review of LMC with respect to sales within these classes or kinds of merchandise.

##### Scope of Reviews

Imports covered by these reviews are shipments of HFHTs from the PRC comprising the following classes or kinds of merchandise: (1) hammers and sledges with heads over 1.5 kg (3.33 pounds) (hammers/sledges); (2) bars over 18 inches in length, track tools and wedges (bars/wedges); (3) picks/mattocks; and (4) axes/adzes.

HFHTs include heads for drilling, hammers, sledges, axes, mauls, picks, and mattocks, which may or may not be painted, which may or may not be finished, or which may or may not be imported with handles; assorted bar products and track tools including wrecking bars, digging bars and tampers; and steel wood splitting wedges. HFHTs are manufactured through a hot forge operation in which steel is sheared to required length, heated to forging temperature, and

formed to final shape on forging equipment using dies specific to the desired product shape and size. Depending on the product, finishing operations may include shot-blasting, grinding, polishing and painting, and the insertion of handles for handled products. HFHTs are currently classifiable under the following Harmonized Tariff Schedule ("HTS") subheadings: 8205.20.60, 8205.59.30, 8201.30.00, and 8201.40.60. Specifically excluded are hammers and sledges with heads 1.5 kg (3.33 pounds) in weight and under, hoes and rakes, and bars 18 inches in length and under. Although the HTS subheadings are provided for convenience and Customs purposes, our written description of the scope of these orders is dispositive.

##### Intent Not To Revoke

In their February 28, 2000 requests for review, TMC, Shandong Huarong, and LMC submitted timely requests that the Department revoke the order on certain classes or kinds of HFHTs with respect to their sales of this merchandise. Specifically, TMC requested that we revoke the orders with respect to its sales of hammers/sledges and picks/mattocks, Shandong Huarong requested that we revoke the order with respect to its sales of bars/wedges, and LMC requested that we revoke the order with respect to its sales of bars/wedges.

Section 351.222(b)(2) of the Department's regulations notes that the Secretary may revoke an antidumping order in part if the Secretary concludes, inter alia, that one or more exporters or producers covered by the order have sold the merchandise at not less than NV for a period of at least three consecutive years. Thus, in determining whether a requesting party is entitled to a revocation inquiry, the Department must determine that the party received zero or *de minimis* margins for three years forming the basis for the request. *See, e.g., Notice of Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke the Antidumping Duty Order: Brass Sheet and Strip From the Netherlands*, 65 FR 742, 743 (January 6, 2000). *See also* the preamble of the Department's latest revision of the revocation regulation stating: "The threshold requirement for revocation continues to be that respondent not sell at less than normal value for at least three consecutive years . . ." The respondents provided certifications pursuant to 19 CFR 351.222(e) indicating that they based their revocation requests on the results of the instant reviews and the preceding two administrative reviews. However, with

respect to the classes or kinds of merchandise for which they requested revocation, none of these respondents received zero or *de minimis* margins in each of the reviews upon which they based their revocation request. *See, e.g., Heavy Forged Hand Tools From the People's Republic of China; Amended Final Results of Antidumping Duty Administrative Reviews*, 65 FR 50499 (August 18, 2000). Consequently, we preliminarily find that TMC, Shandong Huarong and LMC do not qualify for partial revocation of the orders based upon section 351.222(b) of the Department's regulations.

#### Verification

Following the publication of these preliminary results, we intend to verify, as provided in section 782(i) of the Act, sales and cost information submitted by respondents, as appropriate. At that verification, we will use standard verification procedures, including on-site inspection of the manufacturers' facilities, the examination of relevant sales and financial records, and the selection of original source documentation containing relevant information. We plan to prepare verification reports outlining our verification results and place these reports on file in the Central Records Unit, room B099 of the main Commerce building ("CRU-Public File").

#### Duty Absorption

On February 29, 2000, petitioner requested that the Department conduct a duty absorption inquiry in order to determine whether antidumping duties had been absorbed by a foreign producer or exporter subject to the order. However, the Department's invitation for such requests only applies to certain administrative reviews of orders that were in effect before January 1995. For transition orders as defined in section 751(c)(6)(C) of the Act, *i.e.*, orders in effect as of January 1, 1995, section 351.213(j)(2) of the Department's antidumping regulations provides that the Department will make a duty-absorption determination, if requested, for any administrative review initiated in 1996 or 1998. This approach ensures that interested parties will have the opportunity to request a duty-absorption determination prior to the time for sunset review of the order under section 751(c) on entries for which the second and fourth years following an order have already passed. Because the antidumping duty orders on HFHTs from the PRC have been in effect since 1991, they are "transition orders" in accordance with section 751(c)(6)(C) of the Tariff Act. However, since this

administrative review was not initiated in 1996 or 1998, the Department will not make a duty absorption determination.

#### Separate Rates Determination

To establish whether a company operating in a non-market economy ("NME") is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("*Sparklers*"), as amplified by the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) ("*Silicon Carbide*"). Under this test, NMEs are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in law and in fact, with respect to export activities. Evidence supporting, though not requiring, a finding of *de jure* absence of government control over export activities includes: (1) An absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. *De facto* absence of government control over exports is based on four factors: (1) Whether each exporter sets its own export prices independent of the government and without the approval of a government authority; (2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) whether each exporter has the authority to negotiate and sign contracts and other agreements; and (4) whether each exporter has autonomy from the government regarding the selection of management. *See Silicon Carbide*, 59 FR at 22587 and *Sparklers* 56 FR at 20589.

In the final results of the 1998-1999 reviews of HFHTs, the Department granted separate rates to Shandong Huarong, SMC, LMC, and TMC. *See Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Reviews: Heavy Forged Hand Tools From the People's Republic of China*, 65 FR 43290 (July 13, 2000) ("*Hand Tools*"). While these four companies received separate rates in previous segments of these proceedings, it is the Department's policy to evaluate separate rates questionnaire responses each time a respondent makes a separate

rates claim, regardless of any separate rate the respondent received in the past. *See Manganese Metal From the People's Republic of China, Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 63 FR 12441 (March 13, 1998). In the instant reviews, these companies submitted complete responses to the separate rates section of the Department's questionnaire. The evidence submitted in these reviews by Shandong Huarong, SMC, LMC, and TMC includes government laws and regulations on corporate ownership, business licences, and narrative information regarding the companies' operations and selection of management. This evidence is consistent with the Department's findings in previous reviews and supports a finding that control of companies in the PRC has been decentralized and that the respondent companies' operations are, in fact, autonomous from the PRC government. We therefore preliminarily determine that these companies continue to be entitled to separate rates.

With respect to FMEC, since it has not provided any information on the record in this review, we preliminarily determine that FMEC did not establish its entitlement to a separate rate.

#### Facts Available

##### (1) Separate Rates Facts Available

In the instant review, SMC, FMEC, and Shandong Huarong failed to provide certain information requested by the Department. SMC failed to provide sales and factor of production information regarding its sales of axes/adzes, bars/wedges and picks/mattocks. FMEC failed to respond to the Department's questionnaire at all. Shandong Huarong failed to provide sales and factor of production information regarding its sales of axes/adzes. In accordance with section 776(b) of the Act, the Department has determined that the use of adverse facts available is appropriate for purposes of determining the preliminary dumping margins for the classes or kinds of subject merchandise for which SMC and Shandong Huarong failed to provide information.

Section 776(a)(2) of the Act provides that:

if an interested party or any other person (A) withholds information that has been requested by the administering authority or the Commission under this title; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information

but the information cannot be verified as provided in section 782(i), the administering authority and the Commission shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.

Moreover, section 776(b) of the Act provides that:

if the administering authority or the Commission (as the case may be) finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the Commission, the administering authority or the Commission (as the case may be), in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available.

Consistent with section 776(a)(2)(B) of the Act, where SMC (axes/adzes, bars/wedges and picks/mattocks) and Shandong Huarong (axes/adzes) failed to provide requested information, we based the preliminary margins on facts available. In the instant case, SMC chose not to provide certain information requested by the Department.<sup>1</sup> Section 782(c)(1) of the Act is not applicable for SMC because it did not notify the Department that it could not respond and did not suggest an alternative form by which to respond. Section 782(e) of the Act is not applicable because no information was ever provided. Therefore, we have determined for SMC for axes/adzes, bars/wedges and picks/mattocks that use of the facts available is appropriate.

In the instant case, Shandong Huarong did not respond to the Department's questionnaire regarding axes/adzes. In its June 12, 2000 questionnaire response, Shandong Huarong stated that it did not have access to the required information to participate in the review on axes/adzes. We informed Shandong Huarong, in our August 31, 2000 supplemental questionnaire, that if it did not report its sales of axes/adzes, then these sales would be subject to the facts available for purposes of determining a dumping margin for the preliminary results. In its September 18, 2000 supplemental response, Shandong Huarong claimed that its supplier factory refused to provide the information on axes/adzes. See Shandong Huarong's September 18, 2000 questionnaire response at page 1. Section 782(c)(1) of the Act is not applicable for Shandong Huarong

<sup>1</sup> SMC noted in its supplemental questionnaire response that it has chosen to participate in this review only with respect to sales of hammers/sledges and that it understands that its sales of subject merchandise other than hammers/sledges will be subject to the Department's use of facts available.

because it did not suggest an alternative form by which to respond. Regarding Shandong Huarong's supplier, because factors data for Shandong Huarong's U.S. sales were not provided by its supplier with regard to axes/adzes, we preliminarily determine that such party did not demonstrate that it cooperated to the best of its ability. See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Preliminary Results of 1998–1999 Administrative Review, Partial Rescission of Review, and Notice of Intent To Revoke Order in Part*, 65 FR 41944, 41946–41947 (July 7, 2000). Section 782(e) of the Act is not applicable because no information was ever provided. Therefore, we have determined for Shandong Huarong's sales of axes/adzes that use of the facts available is appropriate. We intend to issue further supplemental requests for information regarding the factory's refusal to provide information on axes/adzes after the preliminary results.

Pursuant to section 776(b) of the Act, we have determined that SMC and the supplier of Shandong Huarong have failed to cooperate to the best of their ability with respect to the classes or kinds of merchandise discussed above. Accordingly, we have used an adverse inference in selecting facts available separate rate margin for the classes or kinds of merchandise for which SMC and Shandong Huarong failed to provide information and have not cooperated to the best of their ability. As outlined in section 776(b) of the Act, adverse facts available may include reliance on information derived from: (1) The petition; (2) a final determination in the investigation; (3) any previous review under section 751 of the Act or determination under section 753 of the Act; or (4) any other information placed on the record. Specifically, we based SMC's preliminary margin for bars/wedges, axes/adzes, and picks/mattocks, and Shandong Huarong's preliminary margin for axes/adzes on the highest margin for each respective class or kind of merchandise from this or any prior segment of this proceeding— 1998–1999 POR: axes/adzes (70.15 percent), bars/wedges (139.31 percent), picks/mattocks (98.77 percent) and 1999–2000 POR: hammers/sledges (72.04 percent). See *Ferro Union v. United States* 44 F. Supp. 2 1310 (CIT 1999) (“*Ferro Union*”). With respect to FMEC, we preliminarily determine that FMEC is not entitled to a separate rate and will be subject to the PRC country-wide rates, which are based on adverse facts available. See *Separate Rates*

*Determination* above; and *Country-Wide Rates Facts Available* below.

## (2) Country-Wide Rates Facts Available

The Department has determined that the use of facts available is appropriate for purposes of establishing the country-wide rate for these preliminary results of reviews, pursuant to section 776(a)(2)(B) of the Act. The Act provides that the administering authority shall use facts otherwise available when an interested party “fails to provide such information by the deadlines for the submission of the information or in the form and manner requested.” On June 1, 2000, the Department sent a questionnaire to the Ministry of Foreign Trade and Economic Cooperation (“MOFTEC”) in order to collect information relevant to the calculation of the PRC-wide rate. MOFTEC did not respond to our questionnaire.

Section 776(b) of the Act authorizes the Department to use adverse facts available whenever it finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information. Because MOFTEC did not respond to our questionnaire or direct us to send the questionnaire to any other party, and because FMEC failed to respond to the Department's questionnaire, we preliminarily determine that these entities did not act to the best of their ability to comply with our requests. Therefore, pursuant to section 776(b) of the Act, we are relying on adverse facts available to determine the margins for the PRC-wide entity. When applicable, for adverse facts available for the PRC-wide rates we have applied the PRC-wide rates as follows—1998–1999 POR: axes/adzes (70.15 percent), bars/wedges (139.31 percent), picks/mattocks (98.77 percent) and 1999–2000 POR: hammers/sledges (72.04 percent)—because they are the highest rates from any segment of these proceedings with respect to each class or kind of merchandise.

## Corroboration

Section 776(c) of the Act provides that when the Department relies on the facts otherwise available and relies on “secondary information,” the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The Statement of Administrative Action (“SAA”) (H.R. Doc. 103–316 (2nd Sess. 1994) states that “corroborate” means to determine that the information used has probative value. See SAA at 870. To corroborate secondary information, the Department will, to the extent

practicable, examine the reliability and relevance of the information to be used. However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. The only source for margins is administrative determinations. Thus, in an administrative review, if the Department chooses as total adverse facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. See *Grain-Oriented Electrical Steel From Italy; Preliminary Results of Antidumping Duty Administrative Review*, 61 FR 36551, 36552 (July 11, 1996). With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers from Mexico: Final Results of Antidumping Administrative Review*, 61 FR 6812 (February 22, 1996), the Department disregarded the highest margin in that case as adverse best information available (the predecessor to facts available) because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin. Similarly, the Department does not apply a margin that has been discredited. See *D & L Supply Co. v. United States*, 113 F.3d 1220, 1221 (Fed. Cir. 1997) (the Department will not use a margin that has been judicially invalidated). None of these unusual circumstances are present here. Accordingly, for each class or kind of HFHTs for which we have resorted to adverse facts available, we have used the highest margin from this or any prior segment of the proceeding as the margin for these preliminary results because there is no evidence on the record indicating that such margins are not appropriate as adverse facts available.

#### **Classification of U.S. Sales as Export Price ("EP") vs. Constructed Export Price ("CEP")**

For respondents SMC, LMC, and Shandong Huarong, we calculated an EP for sales to the United States because the first sale was made before the date of importation and the use of CEP was not otherwise warranted. Sales classification (EP vs. CEP) is an issue

that requires further analysis for one respondent, TMC, because its affiliate in the United States, CMC T.M., performs some selling functions in the United States for TMC's sales. Specifically, CMC T.M. finds new U.S. customers, transmits purchase orders from U.S. customers to TMC, receives and processes warranty claims, and provides technical service. However, the sales documentation on the record in these reviews indicates that the material terms of TMC's U.S. sales were established in the PRC between TMC and the unaffiliated U.S. purchaser. Specifically, we have found the following facts from analyzing TMC's questionnaire responses: (1) First contact with a U.S. customer may be made either by TMC or CMC T.M., (2) all contracts are signed by TMC in the PRC, (3) TMC arranges for shipping and other services in the PRC, (4) TMC issues the invoice directly from the PRC to the U.S. customer, (5) title passes from TMC to the U.S. customer upon shipment from the PRC, and (6) TMC accepts payment from the U.S. customer. Given these facts, we preliminarily determine that these sales were made in the PRC by TMC and, thus, should be treated as EP transactions.

#### **Export Price**

In accordance with section 772(a) of the Act, the Department calculated an EP for sales to the United States for all respondents because the first sale was made before the date of importation and the use of CEP was not otherwise warranted. When appropriate, we made deductions from the selling price to unaffiliated parties for ocean freight, marine insurance and foreign inland freight. Each of these services, with one exception, was either provided by a NME vendor or paid for using a NME currency. Thus, we based the deduction for these movement charges on surrogate values. See *Normal Value* section of this notice. The one exception referred to above concerns ocean freight. Each respondent reported that a market economy vendor provided ocean freight for a portion of their U.S. sales and that they paid for this service using a market economy currency. Therefore, for all sales, we applied the reported market economy ocean freight expense in calculating EP.

We valued marine insurance using the rate in effect in India which was reported in the public version of the questionnaire response placed on the record in *Stainless Steel Wire Rod From India; Final Results of Administrative Review*, 63 FR 48184 (September 9, 1998) ("*India Wire Rod*"). We valued foreign brokerage and handling using

the rate reported in the questionnaire response in *India Wire Rod*. The sources used to value foreign inland freight are identified below in the *Normal Value* section of this notice.

To account for inflation or deflation between the time period that the freight, brokerage, and insurance rates were in effect and the POR, we adjusted the rates using the wholesale price indices ("WPI") for India as published in the International Monetary Fund's ("IMF") publication, *International Financial Statistics*. See *Memorandum From Frank Thomson Regarding Surrogate Values Used for the Preliminary Results of the Ninth Administrative Reviews of Certain Heavy Forged Hand Tools From the People's Republic of China*, (October 31, 2000), ("*Surrogate Value Memorandum*"), which is on file in the CRU-Public File.

#### **Normal Value**

For exports from NMEs, section 773(c)(1) of the Act provides that the Department shall determine NV using a factors of production ("FOP") methodology if (1) the subject merchandise is exported from an NME country, and (2) available information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value. Section 351.408 of the Department's regulations sets forth the Department's methodology for calculating the NV of merchandise from NME countries. In every case conducted by the Department involving the PRC, the PRC has been treated as an NME. Since none of the parties to these proceedings contested such treatment in these reviews, we calculated NV in accordance with section 773(c) of the Act and section 351.408 of the Department's regulations.

In accordance with section 773(c)(3) of the Act, the FOP utilized in producing HFHTs include, but are not limited to: (A) Hours of labor required; (B) quantities of raw materials employed; (C) amounts of energy and other utilities consumed; and (D) representative capital costs, including depreciation. In accordance with section 773(c)(4) of the Act, the Department valued the FOP, to the extent possible, using the costs of the FOP in a market economy that is (A) at a level of economic development comparable to the PRC, and (B) a significant producer of comparable merchandise. We determined that India is comparable to the PRC in terms of per capita gross national product, the growth rate in per capita income, and the national distribution of labor. Furthermore, India is a significant producer of comparable merchandise. See *Memorandum From*

Jeff May, Director, Office of Policy, to Thomas Futtner, Acting Office Director, AD/CVD Enforcement Group II, dated August 31, 2000, which is on file in the CRU-Public File.

In accordance with section 773(c)(1) of the Act, for purposes of calculating NV, we attempted to value FOP using surrogate values that were in effect during the POR. However, this data was not available. Therefore, we utilized surrogate values that were in effect during periods prior to the POR, and adjusted the values, as appropriate, to account for inflation or deflation between the effective period and the POR. We calculated the inflation or deflation adjustments for all factor values, except labor, using the wholesale price indices for India that were reported in the IMF's publication, *International Financial Statistics*. We valued the FOP as follows:

(1) We valued direct materials used to produce HFHTs (i.e., steel, steel scrap, paint, wood handles, resin glue, fiberglass handles and anti-rust oil) and the steel scrap generated from the production of HFHTs (except as noted below) using the rupee per metric ton or rupee per kilogram value of imports that entered India during the period February 1998 through January 1999 as published in the *Monthly Statistics of the Foreign Trade of India*, Volume II—Imports (“*Indian Import Statistics*”). We valued steel for SMC using the company's average reported purchase price because it purchased steel from a market economy vendor using a market economy currency. For wood handles, resin glue and fiberglass handles, we used the rupee per metric ton or rupee per kilogram value of imports that entered India during the period February 1998 through July 1998 as published in the *Indian Import Statistics*.

(2) We valued labor using a regression-based wage rate, in accordance with 19 CFR 351.408(c)(3). This rate is identified on the Import Administration's web site (See <http://ia.ita.doc.gov/wages/>).

(3) We derived ratios for factory overhead, selling, general and administrative (“SG&A”) expenses, and profit using information reported for 1992–1993 in the January 1997 *Reserve Bank of India Bulletin*. From this information, we were able to calculate factory overhead as a percentage of direct materials, labor, and energy expenses; SG&A expenses as a percentage of the total cost of manufacturing; and profit as a percentage of the sum of the total cost of manufacturing and SG&A expenses.

(4) We valued packing materials, including cartons, pallets, iron straps, anti-damp paper, anti-rust paper, plastic strips, iron knots, plastic bags, iron wire, and metal clips, using the rupee per metric ton or rupee per kilogram value of imports that entered India during the period February 1998 through January 1999 as published in *Indian Import Statistics*. We valued hessian cloth (a packing material) using the rupee per kilogram value of imports that entered India during the period April 1998 through January 1999 as published in *Indian Import Statistics*.

(5) We valued coal using the price of steam coal in India in 1996 as reported in the International Energy Agency's publication, *Energy Prices and Taxes*, Second Quarter 1999 (“*EPT*”).

(6) We valued electricity using the 1997 Indian electricity prices for industrial use as reported in *EPT*.

(7) We used the following sources to value truck and rail freight services incurred to transport direct materials, packing materials, and coal from the suppliers of the inputs to the factories producing HFHTs:

*Truck Freight:* If a respondent used its own trucks to transport material or subject merchandise, we valued freight services using the average cost of operating a truck, which we calculated from information published in *The Times of India* on April 24, 1994. If a respondent did not use its own trucks or the respondent did not state that it used its own trucks, we valued freight services using the rates reported in an August 1993 cable from the U.S. Embassy in India to the Department. See *Final Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers from the People's Republic of China*, 58 FR 48833 (September 20, 1993).

*Rail Freight:* We valued rail freight services using the April 1995 rates published by the Indian Railway Conference Association. These rates were used in *Brake Drums and Brake Rotors*. For further discussion of the surrogate values used in these reviews, see *Surrogate Value Memorandum*, dated October 31, 2000, which is on file in the CRU-Public File.

**Preliminary Results of the Reviews**

As a result of our reviews, we preliminarily determine that the following margins exist for the period February 1, 1999 through January 31, 2000:

Manufacturer/exporter	Margin (percent)
Shandong Huarong General Group Corporation:	
Axes/Adzes .....	70.15
Bars/Wedges .....	0.44
Liaoning Machinery Import & Export Corporation:	
Bars/Wedges .....	0.01
Tianjin Machinery Import & Export Corporation:	
Axes/Adzes .....	31.11
Bars/Wedges .....	0.84
Picks/Mattocks .....	3.48
Hammers/Sledges .....	72.04
Shandong Machinery Import & Export Corporation:	
Axes/Adzes .....	70.15
Bars/Wedges .....	139.31
Picks/Mattocks .....	98.77
Hammers/Sledges .....	2.84
PRC-wide rates:	
Axes/Adzes .....	70.15
Bars/Wedges .....	139.31
Picks/Mattocks .....	98.77
Hammers/Sledges .....	72.04

The Department will disclose to parties to this proceeding the calculations performed in reaching the preliminary results within ten days of the date of announcement of these preliminary results. An interested party may request a hearing within 30 days of publication of these preliminary results. See 19 CFR 351.310(c). We will issue a memorandum detailing the dates of a hearing, if any, and deadlines for submission of case briefs/written comments and rebuttal briefs or rebuttals to written comments, limited to issues raised in such briefs or comments, after verification. Parties who submit arguments are requested to submit with the argument (1) A statement of the issue, (2) a brief summary of the argument and (3) a table of authorities. Further, the Department requests that parties submitting written comments provide the Department with a diskette containing the public version of those comments. The Department will issue the final results of these administrative reviews, which will include the results of its analysis of issues raised in interested party comments, within 120 days of publication of these preliminary results.

The final results of these reviews shall be the basis for the assessment of antidumping duties on entries of merchandise covered by these reviews and for future deposits of estimated duties.

**Duty Assessment Rates**

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), we

have calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. In order to estimate the entered value, we subtracted international movement expenses from the gross sales value. For those respondents or classes or kinds of merchandise with margins based on facts available, we based the importer-specific assessment rates on the facts available margin percentages. These importer-specific rates will be assessed uniformly on all entries of each importer that were made during the POR. In accordance with 19 CFR 351.106 (c)(2), we will instruct Customs to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis*, *i.e.*, less than 0.5 percent. The Department will issue appraisal instructions directly to Customs.

#### Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the final results of these administrative reviews for all shipments of HFHTs from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies named above which have separate rates (Shandong Huarong, LMC, SMC and TMC) will be the rates for those firms established in the final results of these administrative reviews for the classes or kinds of merchandise listed above; (2) for any previously reviewed PRC or non-PRC exporter with a separate rate not covered in these reviews, the cash deposit rates will be the company-specific rates established for the most recent period; (3) for all other PRC exporters, the cash deposit rates will be the PRC-wide rates established in the final results of these reviews; and (4) the cash deposit rates for non-PRC exporters of subject merchandise from the PRC will be the rates applicable to the PRC supplier of that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative reviews.

#### Notification to Interested Parties

This notice serves as a preliminary reminder to importers of their responsibility under section 351.402(f)(2) of the Department's regulations 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.

We are issuing and publishing this determination in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: October 31, 2000.

**Troy H. Cribb,**

*Assistant Secretary for Import Administration.*

[FR Doc. 00-28571 Filed 11-6-00; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-840]

#### Manganese Metal From the People's Republic of China; Preliminary Results and Rescission in Part of Antidumping Administrative Review

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

**ACTION:** Notice of Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review of Manganese Metal from the People's Republic of China.

**SUMMARY:** The Department of Commerce is currently conducting an administrative review of the antidumping duty order on manganese metal from the People's Republic of China. The period of review is February 1, 1999 through January 31, 2000. This review covers imports of subject merchandise from four producers/exporters.

We have preliminarily determined that sales have been made below normal value. If these preliminary results are adopted in our final results of review, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between the U.S. price and normal value.

We have also determined that the review of China National Electronics Import & Export Hunan Company should be rescinded.

We invite interested parties to comment on these preliminary results. We will issue the final results no later than 120 days from the date of publication of this notice.

**EFFECTIVE DATE:** November 7, 2000.

**FOR FURTHER INFORMATION CONTACT:** Greg Campbell or Suresh Maniam, Office I,

Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-2239 or (202) 482-0176, respectively.

#### SUPPLEMENTARY INFORMATION:

#### The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all references to the Department of Commerce's (Department's) regulations are to 19 CFR Part 351 (April 1999).

#### Background

On February 14, 2000, the Department published in the **Federal Register** an *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 65 FR 7348 (February 14, 2000).

In accordance with 19 CFR 351.213(b)(2), on February 29, 2000, the petitioner, Eramet Marietta Inc., requested that we conduct an administrative review of this order covering China Metallurgical Import & Export Hunan Corporation/Hunan Nonferrous Metals Import & Export Associated Corporation (CMIECHN/CNIECHN), Minmetals Precious and Rare Minerals Import & Export Company (Minmetals), London & Scandinavian Metallurgical Co. Ltd./Shieldalloy Metallurgical Corporation (LSM/SMC),<sup>1</sup> Sumitomo Canada, Ltd. (SCL), and China National Electronics Import & Export Hunan Company (CEIEC). On February 29, 2000, the competitor, Kerr-McGee Chemical, LLC (Kerr-McGee), likewise requested that we conduct an administrative review of this order covering CMIECHN/CNIECHN, Minmetals, CEIEC, LSM, and SCL.

On March 30, 2000, we published a notice of initiation of this antidumping duty administrative review of the companies named by the petitioners. See *Antidumping and Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 65 FR at 16875. On June 9, 2000, we issued questionnaires to the companies. On June 19, 2000, SCL informed the

<sup>1</sup> SMC is the affiliated U.S. importer of manganese metal from the U.K. reseller LSM.