

provides that the Secretary may extend this time limit if the Secretary decides that it is reasonable to do so. See CFR 351.213(d)(1). In this case, petitioners' withdrawal of their request for review was within the 90-day time limit, and there were no other requests for review. Therefore, the Department is rescinding this administrative review for the period June 1, 2001 through May 31, 2002. The Department will issue appropriate assessment instructions to the U.S. Customs Service. This notice is published in accordance with sections 751(a)(2)(B) and 777(i) of the Act.

Dated: December 24, 2002.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-533-808]

#### **Stainless Steel Wire Rods from India; Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review**

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

**ACTION:** Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review.

**SUMMARY:** The Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on stainless steel wire rods ("SSWR") from India in response to a request by the Viraj Group, Limited ("Viraj Group"), and by petitioners, who requested a review of the following companies: Panchmahal Steel Limited ("Panchmahal"), Mukand Limited ("Mukand") and Isibars Steel ("Isibars"). The period of review ("POR") is December 1, 2000, through November 30, 2001.

We have preliminarily determined that Mukand and the Viraj Group have sold subject merchandise at less than normal value ("NV") during the POR. In addition, we have determined to rescind the review with respect to Isibars based on the withdrawal of the only request for review of the company. Lastly, we have preliminarily determined to apply an adverse facts available ("AFA") rate to all sales and entries of Panchmahal's subject merchandise during the POR. If these preliminary results are adopted in our final results of this administrative review, we will instruct the U.S.

Customs Service to assess antidumping duties on entries of subject merchandise during the POR for which the importer-specific assessment rates are above de minimis.

We invite interested parties to comment on these preliminary results. Parties who submit arguments in this segment of the proceeding are requested to submit with the argument: (1) a statement of the issue, and (2) a brief summary of the argument.

**EFFECTIVE DATE:** January 8, 2003

**FOR FURTHER INFORMATION CONTACT:** For the Viraj Group contact Stephen Bailey at (202) 482-1102, for Panchmahal contact Marlene Hewitt at (202) 482-1385, for Mukand contact Jonathen Herzog at (202) 482-4271, and for Isibars contact Lilit Astvatsatrian at (202) 482-6412, or Robert Bolling at (202) 482-3434. AD/CVD Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

#### **SUPPLEMENTARY INFORMATION:**

##### **The Applicable Statute**

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all references to the Department's regulations are to the provisions codified at 19 C.F.R. Part 351 (2001).

##### **Background**

On October 20, 1993, the Department published the final determination in the **Federal Register** that resulted in the antidumping duty order on certain stainless steel wire rod from India. See *Final Determination of Sales at Less Than Fair Value: Certain Stainless Steel Wire Rods From India*, 58 FR 54110 (October 20, 1993) ("*Antidumping Duty Order*"). On December 3, 2001, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of this antidumping duty order. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 66 FR 60183, (December 3, 2001) ("*Opportunity to Request Administrative Review*").

On December 27, 2001, the Viraj Group requested an administrative review of the antidumping duty order on certain stainless steel wire rods from India. See the Viraj Group's December

27, 2001 submission. On December 28, 2001, petitioners requested an administrative review of the antidumping duty order on certain stainless steel wire rods from India for Isibars, Mukand, and Panchmahal. See petitioner's December 28, 2001 submission. In accordance with 19 C.F.R. 351.221(b), we published a notice of initiation of the review of Isibars, Mukand, Panchmahal and the Viraj Group on January 29, 2002. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 67 FR 4236, (January 29, 2002).

On January 29, 2002, the Department issued a questionnaire to the Viraj Group, Panchmahal, Mukand, and Isibars. The Department initiated a cost of production inquiry and requested that Isibars and the Viraj Group respond to section D of the questionnaire in addition to sections A, B, and C.<sup>1</sup> Isibars, Mukand, and the Viraj Group submitted their Section A questionnaire responses on February 26, 2002. On March 15, and 20, 2002, Panchmahal submitted its Section A questionnaire response in two submissions.

On March 26, 2002, petitioners submitted comments regarding Isibars' Section A questionnaire response. On April 5, 2002, Isibars and Mukand submitted their Sections B and C questionnaire responses. On April 8 and 9, 2002, the Viraj Group submitted its Sections B, C, and D questionnaire responses, respectively. On April 9, 2002, Panchmahal submitted its Sections B and C questionnaire responses. On May 9, 2002, petitioners withdrew their request for an administrative review for Isibars.

On April 23 and 25, 2002, petitioners submitted allegations that Panchmahal and Mukand were selling subject merchandise below their costs of production, respectively. See *petitioners April 23, 2002 submission at 2 and April 25, 2002 at 2*. On May 30, 2002, the Department initiated a cost of production inquiry with respect to Mukand, and issued its Section D questionnaire to Mukand. On June 11, 2002, the Department initiated a cost of production inquiry with respect to Panchmahal, and issued its Section D questionnaire to Panchmahal. On June 27, 2002, Mukand submitted its Section

<sup>1</sup> Because the Department disregarded certain Viraj Group sales made in the home market at prices below the cost of producing the subject merchandise in the most recently completed segment of this proceeding and excluded such sales from normal value, the Department determined that there are reasonable grounds to believe or suspect that the Viraj Group made sales in the home market at prices below the cost of producing the merchandise in this review. See *Final Results*; and section 773(b)(2)(A)(ii) of the Act.

D questionnaire response. On August 1, 2002, Panchmahal submitted its Section D questionnaire response.

The Department issued its first Sections A, B, and C supplemental questionnaire to Mukand on July 3, 2002. The Department received a response to this questionnaire on July 17, 2002. The Department issued a second Sections A, B, C and a first Section D supplemental questionnaire to Mukand on August 7, 2002, and received a response to this questionnaire on August 23, 2002, with accompanying exhibits submitted on August 26, 2002. The Department issued its third supplemental questionnaire for Sections A, B, C and D to Mukand on September 9, 2002, and received a response on September 26, 2002. On October 4, 2002, the Department issued its fourth Sections A, B, C and D supplemental questionnaire to Mukand and received a response on October 11, 2002. On October 17, 2002, the Department issued a fifth supplemental questionnaire concerning Sections A and C to Mukand. The Department received a response to this questionnaire on October 21, 2002. The Department issued a sixth supplemental questionnaire concerning Sections B, C, and D on November 26, 2002, to Mukand and received a response to this questionnaire on December 4, 2002. The Department issued a seventh supplemental questionnaire to Mukand concerning Section C on November 26, 2002, and received a response to this questionnaire on December 13, 2002.

The Department issued a Section A supplemental questionnaire to Panchmahal on May 7, 2002. The Department received a response to this questionnaire on May 29 and 30, 2002. The Department issued to Panchmahal a Sections B and C supplemental questionnaire on July 16, 2002, and received a response to this questionnaire on July 29, 2002. The Department issued to Panchmahal a Sections A, B, C, and D supplemental questionnaire on August 27, 2002, and received a response on September 19, 2002, with additional material and exhibits on September 23, 2002. The Department issued to Panchmahal a Section D supplemental questionnaire on September 12, 2002, and received a response on September 23, 2002. The Department issued to Panchmahal a Sections B, C, and D supplemental questionnaire on October 1, 2002, and received a response to this questionnaire on October 18, 2002. The Department issued to Panchmahal a Section D supplemental questionnaire on October 23, 2002, and received a response to this questionnaire on

October 25, 2002. The Department issued to Panchmahal a Sections B, C, and D supplemental questionnaire on October 28, 2002, and received a response to this questionnaire on November 5, 2002. The Department issued to Panchmahal a Section D supplemental questionnaire on November 7, 2002, and received a response to this questionnaire on November 12, 2002.

The Department issued its first Sections A, B, C, and D supplemental questionnaire to the Viraj Group on June 12, 2002. The Department received a response to this questionnaire on July 23, 2002. The Department issued a second Sections A, B, C, and D supplemental questionnaire to the Viraj Group on September 13, 2002, and received a response to this questionnaire from the Viraj Group on October 4, 2002, with the accompanying exhibits submitted on October 7, 2002. The Department issued a third supplemental questionnaire to Viraj for Sections B and C on September 20, 2002, in which we asked for a revised database for the home and U.S. markets. The Department received a response to this supplemental questionnaire on October 7, 2002. The Department issued a fourth supplemental questionnaire for Sections A, B, C, and D to the Viraj Group on November 18, 2002. The Department received a response to this questionnaire on December 2, 2002.

On July 9, 2002, due to the reasons set forth in the *Extension of Time Limit for the Preliminary Results of Antidumping Administrative Review: Certain Stainless Steel Wire Rod from India*, 67 FR 45481, the Department extended the due date for the preliminary results. In accordance with section 751(a)(3)(A) of the Act, the Department extended the due date for the notice of preliminary results 60 days, from the original due date of September 2, 2002, to November 1, 2002. See *Extension of Time Limit for the Preliminary Results of Antidumping Administrative Review: Certain Stainless Steel Wire Rod from India*, 67 FR 45481 (July 9, 2002).

Additionally, on September 17, 2002, in accordance with section 751(a)(3)(A) of the Act, the Department again extended the due date for the notice of preliminary results an additional 30 days, from the revised due date of November 1, 2002 to December 1, 2002. See *Extension of Time Limit for the Preliminary Results of Antidumping Administrative Review: Certain Stainless Steel Wire Rod from India*, 67 FR 58585 (September 17, 2002).

Further, on November 13, 2002, in accordance with section 751(a)(3)(A) of the Act, the Department again extended

the due date for the notice of preliminary results an additional 30 days, from the revised due date of December 1, 2002 to December 31, 2002. See *Stainless Steel Wire Rod from India: Extension of Time Limit of Preliminary Results of Antidumping Duty Administrative Review*, 67 FR 68834 (November 13, 2002).

#### Period of Review

The period of review ("POR") is December 1, 2000, through November 30, 2001.

#### Scope of the Review

The merchandise under review is certain SSWR, which are hot-rolled or hot-rolled annealed and/or pickled rounds, squares, octagons, hexagons or other shapes, in coils. SSWR are made of alloy steels containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. These products are only manufactured by hot-rolling and are normally sold in coiled form, and are of solid cross section. The majority of SSWR sold in the United States are round in cross-section shape, annealed and pickled. The most common size is 5.5 millimeters in diameter.

The SSWR subject to this review are currently classifiable under subheadings 7221.00.0005, 7221.00.0015, 7221.00.0030, 7221.00.0045, and 7221.00.0075 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under review is dispositive of whether or not the merchandise is covered by the review.

#### Verification

As provided in section 782(i) of the Act, we verified sales and cost information provided by Mukand from October 21 through October 31, 2002, using standard verification procedures, including an examination of relevant sales, cost, financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public version of the verification report and are on file in the Department's Central Records Unit located in Room B-099 of the main Department of Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

#### Partial Rescission of Review

Section 351.213(d)(1) of the Department's regulations provides that a party which requests an administrative

review may withdraw the request within 90 days after the date of publication of the notice of initiation of the requested administrative review. The Department may extend this deadline if it is reasonable to do so. On May 9, 2002, petitioners withdrew their request for an administrative review of Isibars. Although petitioners withdrew their request for the review after the 90-day period had expired, the Department is rescinding the administrative review of Isibars for the order on SSWR from India for the period December 1, 2000 through November 30, 2001, because the review for this company had not yet progressed beyond a point where it would have been unreasonable to allow the petitioners to withdraw their request for review, no other party requested a review of Isibars, and no party objected; it is therefore reasonable for the Department to rescind the review with respect to Isibars. This action is consistent with the Department's practice. See *Frozen Concentrated Orange Juice From Brazil: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 40913 (June 14, 2002) and *Antifriction Bearings and Parts Thereof From France, Germany, Japan, and the United Kingdom: Partial and Full Rescissions of Antidumping Duty Administrative Reviews*, 67 FR 65089 (October 23, 2002) where, pursuant to a request filed after the 90 day deadline, the Department rescinded the review with respect to one respondent because the review of that respondent had not progressed beyond a point where it would have been unreasonable to grant the request for rescission. Therefore, in accordance with 19 C.F.R. 351.213(d)(1) and consistent with the Department's practice, the Department is rescinding the review with respect to Isibars.

#### Facts Available

In the instant review, despite numerous requests and clarifications from the Department, Panchmahal failed to provide or withheld the information the Department requested. As explained in detail below, because the Department received inadequate responses to the questionnaire and multiple supplemental questionnaires from Panchmahal, the Department could not verify the incomplete information that Panchmahal did provide, which is necessary for the margin analysis.

Section 776(a)(2) of the Act provides that, if an interested party: (A) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested subject to sections 782 (c) and

(e); (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) of the Act, the Department shall, subject to Section 782(d), use the facts otherwise available in reaching the applicable determination.

Section 782(c)(1) of the Act provides that, if an interested party promptly notifies the Department that it is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative forms in which such party is able to submit the information, the Department shall take into consideration the ability of the party to submit the information in the requested form and manner, and may modify such requirements to the extent necessary to avoid imposing an unreasonable burden on that party. Section 782(c)(2) of the Act similarly provides that the Department shall consider the ability of the party submitting the information and shall provide such interested party assistance that is practicable.

Section 782(d) of the Act provides that, if the Department determines that a response to a request for information does not comply with the request, the Department will inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person the opportunity to remedy or explain the deficiency. If the person submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department may, subject to section 782(e) of the Act, disregard all or part of the original and subsequent responses, as appropriate.

Pursuant to section 782(e) of the Act, notwithstanding the Department's determination that the submitted information is "deficient" under section 782(d) of the Act, the Department shall not decline to consider such information if all of the following requirements are satisfied: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

In this investigation, Panchmahal failed to provide or withheld the information necessary to properly calculate a dumping margin, in the form and manner requested by the

Department, which prevented the Department from conducting verification. Despite numerous requests and extra assistance from the Department, Panchmahal failed to provide cost reconciliations, that is, an explanation as to how it compiled its POR per-unit costs as derived from its cost accounting system/financial statements. Furthermore, Panchmahal is aware of the Department's requirements given that it has participated in other reviews in other proceedings in which the Department verified Panchmahal's cost and sales information. See *Stainless Steel Bar From India: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Administrative Review* 66 FR 8939, (February 5, 2001).

The Department specifically requested the cost reconciliations in the original questionnaire sent to Panchmahal on January 29, 2002. The Department offered Panchmahal the opportunity to supplement its questionnaire response pursuant to section 782(d) of the Act to address the deficiencies and omissions of data which rendered its previous response inadequate for use in the preliminary determination. In particular, the Department issued six supplemental questionnaires for section D (*i.e.*, August 27, 2002; September 12, 2002; October 1, 2002; October 23, 2002; October 28, 2002; and November 7, 2002). Five of these supplemental questionnaires requested that Panchmahal reconcile its reported POR per-unit costs to its financial statements. In the supplemental questionnaires, the Department also requested Panchmahal to calculate its cost of production figures based on actual costs incurred by Panchmahal during the POR. Moreover, in accordance with section 782(c) the Department also considered Panchmahal's difficulties in submitting the requested information and provided additional telephone and electronic-mail clarifications.

Although Panchmahal eventually provided what it alleged were its reported cost data on a POR basis in the fifth supplemental questionnaire response, Panchmahal still failed to explain the methodology it used to derive its POR per-unit costs from its cost accounting system. See fifth Supplemental Questionnaire Response, received November 4, 2002. Panchmahal's failure to reconcile its financial statements to its POR per-unit costs as requested by the Department in its original and six supplemental questionnaires constitutes a failure because Panchmahal did not provide the required information without

explanation and because Panchmahal also withheld the information although it knew the requirements of the Department for cost verification based on its own previous experience and declined to comply to the best of its ability under sections 776(a)(2)(A) and (B). Most importantly, this failure to provide or withholding of the requested information by Panchmahal has resulted in an inadequate response that prevented the Department from conducting verification and using its data in the preliminary results. See Cancellation of Verification Memorandum to the File from Stephen Bailey to Edward Yang, dated November 18, 2002. Thus, pursuant to sections 776(a)(2)(A) and (B) of the Act, and having satisfied sections 782(c)(2), (d), and (e) of the Act, the Department must apply facts otherwise available in this case.

In selecting from among the facts otherwise available, section 776(b) of the Act provides that adverse inferences may be used in selecting from the facts available if a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." See Statement of Administrative Action ("SAA") accompanying the Uruguay Round Agreements Act ("URAA"), H.R. Doc. No. 103-316, Citation No. (1994), at 870. Furthermore, "an affirmative finding of bad faith on the part of the respondent is not required before the Department may make an adverse inference." See also *Antidumping Duties, Countervailing Duties; Final Rule*, 62 FR 27340 (May 17, 1997).

In this case, Panchmahal has failed to cooperate by not acting to the best of its ability to comply with the request for information. As discussed above, despite the numerous requests by the Department, Panchmahal failed to provide or withheld requested information from the Department. In response to Panchmahal's request for assistance via a telephone call from Mr. Pratik of Panchmahal, the Department clarified to Panchmahal the Department's cost reconciliation requests both in the telephone conversation and in a follow-up e-mail. See Memorandum to the File dated November 1, 2002. Panchmahal was provided numerous opportunities and supplemental questionnaires to fully respond to the Department's request for a cost reconciliation and to correct response deficiencies, in accordance with section 782(d) of the Act. See

Cancellation of Verification Memorandum to the File from Stephen Bailey to Ed Yang, dated November 18, 2002. However, despite the assistance offered and provided by the Department's staff, Panchmahal failed to submit a questionnaire response that addressed the most important deficiency identified by the Department in each of the six supplemental questionnaires, the cost reconciliation.

Due to Panchmahal's failure to provide the necessary requested information that the Department had identified as necessary for the verification, the Department was precluded from conducting verification by the inadequacy of information on the record. Moreover, Panchmahal failed to provide a reasonable explanation for its failure to comply with these standard requests for information. Accordingly, the Department finds that Panchmahal did not act to the best of its ability to provide the information requested, despite the extensive assistance provided by the Department. As facts available, we have preliminarily assigned Panchmahal the all others rate of 48.80 percent.

#### Collapsing

In the previous administrative review, the Department decided to collapse Viraj Forgings Limited ("VFL"), Viraj Alloys Limited ("VAL") and Viraj Impoexpo Limited ("VIL") because the companies were found capable, through their sales and production operations, of manipulating prices or affecting production decisions (of each other). See *Stainless Steel Wire Rod From India; Final Results of Antidumping Duty Administrative Review*, 67 FR 37391 (May 29, 2002). In this case, the Viraj Group reported that there were no operational or legal changes to the Viraj Group during this POR. See the Viraj Group's July 23, 2002 submission at page 1. Based on the decision in the previous administrative review and because no information on the record deviates from the facts of the previous administrative review with respect to the factors which are used to determine collapsing, the Department will continue to treat VFL, VAL, and VIL as one entity for purposes of this administrative review, called "Viraj Group."

#### Normal Value Comparisons

To determine whether Mukand's and the Viraj Group's sales of subject merchandise from India to the United States were made at less than normal value, we compared the export price ("EP") and constructed export price ("CEP"), as appropriate, to the normal

value ("NV"), as described in the "Export Price/Constructed Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted-average prices for NV and compared these to individual EP and CEP transactions.

#### Product Comparisons

In accordance with section 771(16) of the Act, we considered all products covered by the *Scope of the Review* section above, which were produced and sold by Mukand and the Viraj Group in the home market during the POR, to be foreign like products for purposes of determining appropriate comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics and reporting instructions listed in the Department's questionnaire.

#### Mukand

Mukand submitted information on the record which claimed that all of its grades should be treated as distinct grades for calculation purposes. See *Mukand's July 17, 2002 submission* at 2. To verify this claim, the Department requested that Mukand provide a chemical breakdown of each of its grades. After analyzing the data presented by Mukand, the Department has determined that there is insufficient record evidence to support Mukand's position that grade 304M is a distinct grade from 304, that grade 304LN is a distinct grade from 304L and that grade 420 is a distinct grade from grade 410. Therefore, the Department has preliminarily determined to combine the above grades; specifically, the Department has determined that grade 304M should be treated as grade 304, grade 304LN should be treated as grade 304L, and grade 420 should be treated as grade 410.

The grade chemistries provided on the record by Mukand indicate that grade 304M is a subset of grade 304, because they have similar chemistries and compositions; thus, Mukand's grades 304 and 304M have been treated by the Department as one grade for purposes of the model match program. Further, when the Department compared the chemistries of Mukand's grades 410 and 420 only slight differences existed, but when compared to the grade standards set out by the American Iron and Steel Institute ("AISI"), the reported chemistry for Mukand's grade 420 is more similar to the grade chemistry of AISI grade 410

than the grade chemistry for AISI grade 420; thus, Mukand's grades 420 and 410 have been treated by the Department as one grade for purposes of the model match program. Finally, the chemistry ranges reported by Mukand for graded 304L and 304LN indicate that grade 304LN has a similar chemistry and composition to grade 304L; thus, Mukand's grades 304LN and 304L have been treated by the Department as one grade for purposes of the model match program.

It is the Department's practice not to create additional categories unless the physical characteristics are significantly different from an existing known category. See *Certain Cold-Rolled Carbon Steel Flat Products From Korea: Final Results of Antidumping Duty Administrative Review*, 63 FR 781 (January 7, 1998). Therefore, for the purposes of these preliminary results, the Department has combined the grades as follows in its model match program: grade 304M should be treated as grade 304, grade 304LN should be treated as grade 304L, and grade 420 should be treated as grade 410.

#### Export Price and Constructed Export Price

In accordance with section 772(a) of the Act, export price ("EP") is the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States. In accordance with section 772(b) of the Act, constructed export price ("CEP") is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d).

For purposes of this review, Mukand has classified certain sales as EP sales and certain sales as CEP sales. Based on the information on the record, we are using both export price and constructed export price as defined in section 772(a) and (b) of the Act.

For purposes of this review, the Viraj Group has classified all sales as CEP sales. Based on the information on the record, we are using constructed export price as defined in section 772(b) of the Act.

#### Mukand

Mukand reported both EP and CEP sales during the POR in the United States. Mukand originally reported all of its U.S. sales as EP sales. Mukand explained that it had reported its sales as EP sales because in the ordinary course of trade, Mukand International Limited ("MIL"), Mukand's wholly-owned subsidiary, which was based in the United Kingdom during the POR, sells to one unaffiliated U.S. customer ("U.S. customer"), a trading company, prior to importation, thus meeting the definition of an EP transaction.

At verification, the Department found that in an ordinary sale, the unaffiliated U.S. customer initiates a sale by sending a purchase order to MIL. See *Sales and Cost Verification of Mukand Limited in the Antidumping Administrative Review of Stainless Steel Wire Rod from India ("Mukand Verification Report")* at page 32. MIL acknowledges the customer's order and then sends the order information on to Mukand. See *Mukand Verification Report* at 32. Mukand produces the subject merchandise and upon completion of the order, invoices MIL and MIL invoices the unaffiliated U.S. customer in a back-to-back transaction. See *Mukand Verification Report* at 32. Mukand then ships the subject merchandise to the unaffiliated U.S. customer. See *Mukand Verification Report* at 32. Mukand arranges for shipping from its production facilities in Mumbai, India, and MIL becomes the importer of record in the U.S. See *Mukand Verification Report* at 32. MIL plays no further role with regard to sales between the unaffiliated U.S. customer and its customers once the subject merchandise is entered into the U.S. See *Mukand Verification Report* at page 32.

During the POR, however, the U.S. customer rejected several shipments, in full or in part, made pursuant to several purchase orders, because the merchandise was shipped late and therefore did not meet the terms of sale. Until this rejection, these sales had occurred in the manner described above. Upon further discussion between MIL and the U.S. customer, MIL cancelled the sales in its books and issued credit notes for the amount of merchandise rejected. See *Mukand Verification Report* at page 31. In addition, MIL and the U.S. customer reached an agreement with unique terms whereby the U.S. customer would hold the rejected subject merchandise at its U.S. warehouse at no expense to MIL until the U.S. customer needed to purchase the merchandise from MIL. See *Mukand Verification Report* at page

30. See also *Mukand's October 21, 2002 supplemental response* at annexure 1.

In accordance with this agreement, MIL's U.S. customer purchased a certain portion from the subject merchandise stored at the U.S. customer's U.S. warehouse during the POR. See *Mukand Verification Report* at page 30. The purchase was made in accordance with the agreement between MIL and the U.S. customer. See *Mukand Verification Report* at page 30. In its original response, Mukand reported these sales as EP sales, however, the Department sought clarification of whether Mukand was claiming that these sales were either EP or CEP sales. In response to the Department's questioning, Mukand reclassified the subject merchandise involved in these sales as CEP sales. Mukand reclassified these sales as CEP sales, because the sale of the subject material was made after its importation to the United States.

The Department has determined that Mukand's EP sales are properly reported sales, because those sales were made in accordance with the definition of an EP sale. In addition, the Department has determined that Mukand properly reported the reclassified EP sales as CEP sales, because those sales were made after the importation of the subject merchandise into the United States to the unaffiliated U.S. customer.

Based on the evidence on the record, the Department has preliminarily determined that those sales classified by Mukand as CEP sales should also be treated as consignment sales (with MIL's U.S. customer as the consignment agent) given the unique terms and circumstances of these sales; in particular, the existence of "consignment stock." Due to the proprietary nature of the information on the record please see the Department's memorandum, *Antidumping Duty Investigation of Stainless Steel Wire Rod from India: Consignment Sales Analysis Memorandum* dated December 3, 2002 ("*Mukand Consignment Memorandum*"), for a detailed explanation of our decision.

On December 5, 2002, the Department formally informed Mukand of its decision to treat the CEP sales as consignment sales and requested Mukand to respond to the Department's November 26, 2002 supplemental questionnaire. See Department's Letter of December 5, 2002. Mukand provided its response to the Department's supplemental questionnaire on December 13, 2002, but failed to provide the requested information concerning costs incurred by its unaffiliated U.S. customer related to the downstream consignment sales that are necessary to

calculate a margin. *See Mukand supplemental response dated December 13, 2002* at 1 and 2. Although Mukand provided some pricing information (a few invoices) on these consignment sales, it failed to provide the relevant expense information related to these invoices and it failed to provide the requested and required database the Department needs to calculate a margin. Nevertheless, the Department issued a second supplemental questionnaire on December 17, 2002, requesting the prices and expenses incurred by MIL's unaffiliated U.S. customers relating to these consignment sales. *See Supplemental Questionnaire* dated December 17, 2002.

The Department has preliminarily determined that the use of facts available, in accordance with section 776(a)(2) of the Act, is warranted for the prices and expenses incurred for the unreported consignment sales in the U.S. market. Consistent with section 776(a)(2)(A) and (B) of the Act, Mukand withheld information that had been requested by the Department and failed to provide such information in a timely manner, justifying the use of facts otherwise available in reaching the applicable determination.

In this case, Mukand failed to provide price and expense information for its consignment sales through MIL's unaffiliated U.S. customer (the consignment agent). By not providing the consignment sales information requested by the Department in a database format that provides specific prices and expenses of these consignment sales, Mukand has prevented the Department from calculating an accurate antidumping duty margin, inclusive of the consignment sales.

Given that Mukand provided the Department with some pricing information, but not the requested expense information and the requested database, the Department finds it appropriate to apply facts available to those sales the Department has determined to be consignment sales. As facts available, the Department has used the weighted-average U.S. price and the weighted-average expenses submitted by Mukand in lieu of the prices and expenses of the consignment sales through MIL's unaffiliated U.S. customer. *Nippon Steel Corp. v. United States*, 2001 CIT 136, Slip-Op at 6 (Oct. 12, 2001); *Notice of Final Determination of Sales at Less Than Fair Value: IQE Red Raspberries from Chile*; 67 FR 35790 (May 21, 2002); *Notice of Preliminary Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from*

*France*; 67 FR 51210, (August 7, 2002). The Department has determined that the weighted-average of prices and expenses of all U.S. sales by MIL to its unaffiliated U.S. customer during the POR is proper because the Department only recently formally requested that Mukand provide its consignment sales information and Mukand provided some invoices. *See Department's Letter* of December 5, 2002. Additionally, the Department recently issued a supplemental questionnaire on these consignment sales. *See Supplemental Questionnaire* dated December 17, 2002. Further, the Department finds that the weighted-average is proper because the consignment sales are reflective of a variety of prices, quantities, and expenses. *See Analysis for Mukand Steel Limited for the Preliminary Results of the Administrative Review on Stainless Steel Wire Rod from India for the period December 1, 2000 through November 30, 2001, December 31, 2002* ("Mukand Analysis Memorandum").

The Department calculated CEP, in accordance with section 772(b) of the Act, based on the packed CIF prices to the first unaffiliated customer in the United States. The Department made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, brokerage and handling, inland freight, international freight, U.S. customs duties, and marine insurance. In accordance with section 772(d)(1) of the Act, we deducted those selling expense associated with economic activities occurring in the United States, including direct selling expenses (bank charges and credit expenses) and indirect selling expenses.

We recalculated Mukand's inventory carrying cost factor to the total cost of manufacturing rather than the variable cost of manufacturing as reported in the questionnaire response. Finally, we recalculated Mukand's calculation of credit insurance to account for a decimal error found in Mukand's reported credit insurance. *See Mukand Verification Report and Mukand Analysis Memorandum*.

We deducted the profit allocated to expenses deducted under sections 772(d)(1) and (d)(2) in accordance with sections 772(d)(3) and 772(f) of the Act. In accordance with section 772(f) of the Act, we computed profit based on total revenues realized on sales in both the U.S. and home markets, less all expenses associated with those sales. We then allocated profit to expenses incurred with respect to U.S. economic activity, based on the ratio of total U.S. expenses to total expenses for both the U.S. and home market.

For purposes of this administrative review, Mukand classified the remainder of its sales as EP sales, stating that it sold subject merchandise directly to an unaffiliated importer in the United States during the POR. Therefore, the Department is using EP as defined in section 772(a) of the Act because the merchandise was first sold, prior to importation, by Mukand's affiliate MIL, which was based in London during the POR, to an unaffiliated purchaser in the United States. The Department based EP on packed prices to unaffiliated purchasers in the United States. The Department made deductions for inland freight, marine insurance, and brokerage and handling in accordance with section 772(c) of the Act. Finally, the Department recalculated Mukand's calculation of credit insurance to account for a decimal error found in Mukand's reported credit insurance. *See Mukand Verification Report and Mukand Analysis Memorandum*.

As explained in the "Duty Drawback" section below, the Department is not making any adjustments for duty drawback for EP or CEP sales.

#### *The Viraj Group*

For purposes of this review, the Viraj Group has classified all of its sales as CEP sales. Based on the information on the record, we are using constructed export price as defined in section 772(b) of the Act.

The Viraj Group has classified those sales made by VIL and VFL through Viraj USA Inc. ("Viraj USA"), an affiliated reseller that is 100% owned by VFL, as CEP sales. VIL and VFL make the shipment from India on a Cost Insurance Freight ("CIF") and Ex-Dock Duty Paid ("EDDP") basis to Viraj USA. Viraj USA clears the goods through customs and oversees customer delivery. Then Viraj USA sells the goods to the unaffiliated U.S. customer who makes payment to Viraj USA.

Based on the evidence on the record, the Department preliminarily determines that VIL's and VFL's U.S. sales through Viraj USA were made "in the United States" within the meaning of section 772(b) of the Act, and thus have been appropriately classified by the Viraj Group as CEP transactions.

The Department calculated CEP, in accordance with section 772(b) of the Act, based on the packed CIF or EDDP prices to the first unaffiliated customer in the United States. The Department made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, brokerage and handling, inland freight, international freight, U.S. customs duties, marine

insurance, customs clearance and delivery arrangements. In accordance with section 772(d)(1) of the Act, we deducted those selling expense associated with economic activities occurring in the United States, including direct selling expenses (bank charges and credit expenses) and indirect selling expenses. As explained in the "Duty Drawback" section below, we are not making any adjustment for duty drawback.

We deducted the profit allocated to expenses deducted under sections 772(d)(1) and (d)(2) in accordance with sections 772(d)(3) and 772(f) of the Act. In accordance with section 772(f) of the Act, we computed profit based on total revenues realized on sales in both the U.S. and home markets, less all expenses associated with those sales. We then allocated profit to expenses incurred with respect to U.S. economic activity, based on the ratio of total U.S. expenses to total expenses for both the U.S. and home market.

### Duty Drawback

#### *The Viraj Group*

In the previous administrative review, the Department denied the Viraj Group's request for an upward adjustment to the U.S. starting price based on duty drawback pursuant to section 772(c)(1)(B) of the Act. *See Stainless Steel Wire Rod from India; Final Results of Antidumping Duty Administrative Review*, 67 FR 37391 (May 29, 2002) ("*Final Results*"). The Department denied the duty drawback adjustment because the reported duty drawback was not directly linked to the amount of duty paid on imports used in the production of merchandise for export as required by the Department's two-part test, which states there must be: (1) a sufficient link between the import duty and the rebate, and (2) a sufficient amount of raw materials imported and used in the production of the final exported product. *See Rajinder Pipes Ltd. v. U.S.* ("*Rajinder Pipes*"), 70 F. Supp. 2d 1350, 1358. The Court of International Trade upheld the Department's decision to deny respondent an adjustment for duty drawback because there was not substantial evidence on the record to establish that part one of the Department's test had been met. *See Viraj Group, Ltd. v. United States of America and Carpenter Technology, Corp., et al.*, Slip Op. 01-104 (CIT August 15, 2001).

Similarly, in the current review, the Department finds that the Viraj Group has not provided substantial evidence on the record to establish the necessary

link between the import duty and the reported rebate for duty drawback. The Viraj Group has reported that it received duty drawback in the form of duty entitlement certificates which are issued by the Government of India to neutralize the incidence of basic custom duty on the import of raw materials used in the production of subject merchandise, but has failed to establish the necessary link between the import duty paid and the rebate given by the Government of India. As in the previous review, the Viraj Group was not able to demonstrate that the import duty paid and the duty drawback rebate were directly linked. Therefore, the Department is denying a duty drawback credit for the preliminary results of this review.

#### *Mukand*

The Department also finds that Mukand has not provided substantial evidence on the record to establish the necessary link between the import duty and reported rebate for duty drawback. Mukand has reported that it received duty drawback in the form of duty entitlement certificates which are issued by the Government of India to neutralize the incidence of basic custom duty on the import of raw materials used in the production of subject merchandise, but has failed to establish the necessary link between the import duty paid and the rebate given by the Government of India. In this review, Mukand was not able to demonstrate that the import duty paid and the duty drawback rebate were directly linked. *See Mukand Verification Report* at page 21. Therefore, the Department is denying a duty drawback credit for the preliminary results of this review.

### Normal Value

After testing home market viability, we calculated NV as noted in the "Price-to-CV Comparisons" and "Price-to-Price Comparisons" sections of this notice.

#### 1. Home Market Viability

In accordance with section 773(a)(1)(C) of the Act, to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating normal value ("NV") (*i.e.*, the aggregate volume of home market sales of the foreign like product is greater than or equal to five percent of the aggregate volume of U.S. sales), we compared Mukand and the Viraj Group's volume of home market sales of the foreign like product to the volume of each of their U.S. sales of subject merchandise. Pursuant to sections 773(a)(1)(B) and (C) of the Act, because both Mukand and the Viraj Group's aggregate volume of home

market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that sales in the home market provide a viable basis for calculating NV. We therefore based NV on home market sales to unaffiliated purchasers made in the usual commercial quantities and in the ordinary course of trade.

For NV, we used the prices at which the foreign like product was first sold for consumption in India, in the usual commercial quantities, in the ordinary course of trade, and, to the extent possible, at the same level of trade ("LOT") as the EP or CEP as appropriate. After testing home market viability and whether home market sales were at below-cost prices, we calculated NV as noted in the "Price-to-Price Comparisons" and "Price-to-Constructed Value ("CV") Price Comparisons" sections of this notice.

Additionally, the Viraj Group reported the home market sales of VAL. Since we have preliminarily determined to collapse the companies of the Viraj Group, we included the home market sales of VAL as the basis of NV.

#### 2. Cost of Production Analysis

##### *Mukand*

Based on the information contained in a timely filed cost allegation by the petitioners on April 25, 2002, the Department found reasonable grounds to believe or suspect that Mukand's sales of the foreign like product in their respective comparison market were made at prices below the cost of production, pursuant to section 773(b)(1) of the Act based on allegations made by petitioners in this case. *See petitioners' Allegation of Sales Below Cost of April 25, 2002*. As a result, the Department initiated a sales below-cost investigation. *See Letter of Initiation of Sales Below Cost Investigation* dated May 30, 2002.

##### *The Viraj Group*

Because the Department disregarded certain Viraj Group sales made in the home market at prices below the cost of producing the subject merchandise in the most recently completed segment of this proceeding and excluded such sales from normal value, the Department determined that there are reasonable grounds to believe or suspect that the Viraj Group made sales in the home market at prices below the cost of producing the merchandise in this review. *See Final Results*; and section 773(b)(2)(A)(ii) of the Act. As a result, the Department initiated a cost of production inquiry in this case on

January 29, 2002, to determine whether the Viraj Group made home market sales during the POR at prices below their respective COPs within the meaning of section 773(b) of the Act.

### 3. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of Mukand's and the Viraj Group's respective costs of materials and fabrication for the foreign like product, plus amounts for home market selling, general and administrative expenses ("SG&A"), including interest expenses, and packing costs. The Department relied on the COP data submitted by Mukand and the Viraj Group in their original and supplemental cost questionnaire responses.

For the purpose of these preliminary results, we revised the COP information submitted by Mukand as follows: 1) we recalculated Mukand's interest expense ratio to adjust the amount of interest expenses attributed to construction in progress and to eliminate SG&A and interest from the denominator used to determine the interest expense factor; and 2) we recalculated Mukand's general and administrative expenses ("G&A") to account for errors in the allocation of expenses between indirect selling expenses and G&A. *See Mukand Analysis Memorandum.*

For the purpose of these preliminary results, we revised the COP information submitted by the Viraj Group as follows: 1) we adjusted the Viraj Group's financial expenses to include all of the interest expenses reported in the audited financial statements of all of the Viraj Group companies; 2) we recalculated the Viraj Group's reported G&A to include all depreciation reported on its financial statements; and 3) we re-valued the Viraj Group's direct materials for CV based on the COP of control numbers ("CONNUM") with identical grades rather than use the transfer price from collapsed entities in the calculation of CV. *See Analysis for the Preliminary Results of Review for Stainless Steel Wire Rod from India for 2000-2001: The Viraj Group, Limited*, dated December 31, 2002 ("*Viraj Analysis Memorandum*").

### 4. Test of Home Market Prices

We compared the weighted-average COP for Mukand and the Viraj Group's home market sales of the foreign like product as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP. In determining whether to disregard home market sales made at prices less than the COP, we

examined whether such sales were made: (1) in substantial quantities within an extended period of time; and (2) at prices which permitted the recovery of all cost with all costs within a reasonable period of time, in accordance with sections 773(b)(1)(A) and (B) of the Act. We compared the COP to home market prices, less any applicable billing adjustments, movement charges, discounts, and indirect selling expenses.

### 5. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of Mukand's or the Viraj Group's sales of a given product were, within an extended period of time, at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of Mukand's or the Viraj Group's sales of a given product were at prices less than the COP, we determined such sales to have been made in "substantial quantities" within an extended period of time, in accordance with sections 773(b)(2)(B) of the Act and 19 C.F.R. 351.406(b). In such cases, because we used POR average costs, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. We compared the COP for subject merchandise to the reported home market prices less any applicable movement charges. Based on this test, we disregarded below-cost sales. Where all sales of a specific product were at prices below the cost of production, we disregarded all sales of that product.

### Price-to-Price Comparisons

#### *Mukand*

For those products comparisons for which there were sales at prices above the COP, we based NV on the home market prices to the home market customers. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. Additionally, in accordance with section 773(a)(6)(A) and (b), we deducted home market packing costs and added U.S. packing costs. In accordance with the Department's practice, where all contemporaneous matches to a U.S. sale observation resulted in difference-in-merchandise adjustments exceeding 20 percent of the cost of manufacturing ("COM") of the U.S. product, we based NV on CV. We

calculated NV based on prices to unaffiliated home market customers. We applied Mukand's inventory carrying cost factor to the total cost of manufacturing instead of the variable cost of manufacturing as reported by Mukand in its questionnaire response. Finally, we revised Mukand's calculation of credit insurance to account for a decimal error found in Mukand's reported credit insurance calculation at verification. See Mukand Verification Report at 2 and Mukand Analysis Memorandum.

#### *The Viraj Group*

For those product comparisons for which there were sales at prices above the COP, we based NV on the home market prices to the home market customers. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. Additionally, in accordance with section 773(a)(6)(A) and (B), we deducted home market packing costs and added U.S. packing costs. In accordance with the Department's practice, where all contemporaneous matches to a U.S. sale observation resulted in differences-in-merchandise adjustments exceeding 20 percent of the cost of manufacturing ("COM") of the U.S. product, we based NV on CV. We calculated NV based on prices to unaffiliated home market customers. We made circumstances of sale adjustments for credit expenses, as appropriate.

### Price-to-CV Comparisons

In accordance with section 773(a)(4) of the Act, we based NV on CV if we were unable to find a home market match of identical or similar merchandise. We calculated CV based on the sum of Mukand's and the Viraj Group's cost of materials, fabrication employed in producing the subject merchandise, and SG&A, including interest expenses and profit. We calculated the COPs included in the calculation of CV as noted above in the "Calculation of COP" section of this notice. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expense and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in India. For selling expenses, we used the actual weighted-average home market direct and indirect selling expenses. For CV, we made the same adjustments described in the COP section above.



### Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade ("LOT") as the EP or CEP transaction. *See also* 19 C.F.R. 351.412. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive SG&A expenses and profit. *See* 19 C.F.R. 351.412(2)(iii). For EP, the LOT is also the level of the starting-price sale, which is usually from the exporter to the importer. *See* 19 C.F.R. 351.412(2)(i). For CEP, it is the level of the constructed sale from the exporter to the affiliated importer. *See* 19 C.F.R. 351.412(c)(ii).

To determine the LOT of a sale, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. Substantial differences in selling activities are a necessary, but not sufficient condition for determining that there is a difference in the stage of marketing. *See* 19 C.F.R. 351.412(C)(2). If the comparison market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the differences in the levels between NV and CEP sales affect price comparability, we adjust NV under section 773(A)(7)(B) of the Act (the CEP offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

In implementing these principles in this review, we obtained information from Mukand and the Viraj Group about the marketing stages involved in their respective U.S. and home market sales, including a description of the selling activities performed by Mukand and the Viraj Group for each channel of distribution. In identifying levels of trade for CEP, we considered only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. *See Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1314–1315 (Fed. Cir. 2001). Generally, if the reported levels of trade are the same in the home and U.S. markets, the functions and

activities of the seller should be similar. Conversely, if a party reports levels of trade that are different categories of sales, the functions and activities should be dissimilar.

In the present review, while Mukand requested an LOT adjustment, the Viraj Group did not. To determine whether an adjustment was necessary, in accordance with the principles discussed above, we examined information regarding the distribution systems in both the United States and home markets, including the selling functions, classes of customer, and selling expenses.

#### Mukand

In the home market ("HM"), Mukand reported three levels of trade. *See April 5, 2002 Questionnaire Response from Mukand*, at 18. Mukand sold through four channels of distribution in the HM. The Department has preliminarily determined that in each of these four channels of distribution, only minor differences in selling functions existed. *See Antidumping Duty Review of Stainless Steel Wire Rod from India: Level of Trade Analysis ("LOT Memo")*. Because the Department has preliminarily determined that only minor differences exist between selling functions in each of the four HM channels of distribution, we preliminarily determine that there is one LOT in the HM. *See LOT Memo*.

For the U.S. market, Mukand reported one level of trade. *See April 5, 2002 Questionnaire Response from Mukand* at 50. For its U.S. sales, Mukand reported two channels of distribution: EP sales made to order to an unaffiliated customer before importation; and CEP sales sold on consignment by an unaffiliated customer after importation. For details of this situation, *See Mukand Consignment Memorandum*. For its EP sales, MIL sold directly to an unaffiliated U.S. customer, and for its CEP sales, MIL sold through a U.S. customer, after importation, which sold the merchandise, or a consignment basis, to other unaffiliated customers in the United States. *See Mukand Consignment Memorandum*. All of Mukand's U.S. sales were made by its wholly-owned subsidiary MIL, which was based in London during the POR. We examined the claimed selling functions performed by MIL for all U.S. sales and have determined that MIL provided the same level of services for both its EP and CEP sales to the United States. *See LOT Memo*.

For EP sales in the U.S. market, Mukand provided the same level of services for both EP and NV sales with only minor differences. *See LOT Memo*.

Based on our analysis of the selling functions performed for sales in the HM and EP sales in the U.S. market, we preliminarily determine that there is not a significant difference in the selling functions performed in the home market and U.S. market, and that these sales are made at the same LOT. *See LOT Memo*.

In order to determine whether NV was established at a different LOT than CEP, we examined stages in the marketing process and selling functions along the LOT between Mukand and its home market customers. We compared the selling functions performed for home market sales with those performed with respect to the CEP transactions, after deductions for economic activities occurring in the United States, pursuant to section 772(d) of the Act, to determine if the home market level of trade constituted a different level of trade than the CEP level of trade. Mukand did not request a CEP offset. Nonetheless, in accordance with the principles discussed above, we examined information regarding the distribution systems in both the United States and the Indian markets, including the selling functions, classes of customer, and selling expenses to determine whether a CEP offset was necessary. In identifying levels of trade for CEP, we considered only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. *See LOT Memo*. Based on our analysis of the channels of distribution and selling functions performed for sales in the home market and CEP sales in the U.S. market, we preliminarily find that there is no significant difference in the selling functions performed in the home market and the U.S. market for CEP sales. *See LOT Memo*. Thus, we find that Mukand's NV and CEP sales were made at the same LOT, and no LOT adjustment or CEP offset need be granted.

#### The Viraj Group

In accordance with the principles discussed above, we examined information regarding the Viraj Group's distribution systems in both the United States and Indian markets, including selling functions, classes of customers, and selling expenses for the Viraj group.

The Viraj Group claimed only one level of trade in the home market. *See* the Viraj Group's April 8, 2002 submission at B-6 and October 7, 2002 submission at 1. Additionally, the Viraj Group reported that it sold through one channel of distribution in the home market: directly to unaffiliated customers (trading companies and end-users). *See* Viraj Group's April 8, 2002

submission at B-6. For sales in the home market, the Viraj Group reported that all of its sales are sold ex-works. See the Viraj Group's April 8, 2002 submission at B-4. The Viraj Group reported that it performs the following selling functions in the home market: price negotiations, order processing, and customer communication. See the Viraj Group's October 7, 2002 submission at 1. Because there is only one channel of distribution in the home market and identical selling functions are performed for all home market sales, we preliminarily determine that there is one LOT in the home market.

The Viraj Group claimed one level of trade in the U.S. market. See the Viraj Group's April 8, 2002 submission at C-4. The Viraj Group reported that it sold through one channel of distribution in the U.S. market, directly from its mill to its U.S. affiliate (*i.e.*, Viraj USA). *Id.* We determined the LOT of the Viraj Group's CEP sales based on the CEP starting price, and adjusted for selling expenses identified in section 772(d) of the Act. We found that the selling functions (*i.e.*, price negotiations, order processing, and customer communication) the Viraj Group performs after the section 772(d) adjustments are the same for all of its U.S. sales. See The Viraj Group's February 26, 2002 submission at A-10. Therefore, we preliminarily determine that the Viraj Group has one LOT in the U.S. market based on its selling functions to the United States.

In order to determine whether NV was established at a different LOT than CEP sales, we examined stages in the marketing process and selling functions along the chains of distribution between (1) the Viraj Group and its home market customers and (2) the Viraj Group and its affiliated U.S. reseller, Viraj USA, after deductions for expenses and profits. Specifically, we compared the selling functions performed for home market sales with those performed with respect to the CEP transaction, after deductions for economic activities occurring in the United States, pursuant to section 772(d) of the Act, to determine if the home market level of trade constituted a different level of trade than the CEP level of trade. The Viraj Group did not request a CEP offset. Nonetheless, in accordance with the principles discussed above, we examined information regarding the distribution systems in both the United States and Indian markets, including the selling functions, classes of customer, and selling expenses to determine whether a CEP offset was necessary. For CEP sales, we found that the Viraj Group provided many of the same selling functions and expenses for its

sale to its affiliated U.S. reseller Viraj USA as it provided for its home market sales, including price negotiation, order processing, and customer communication. Based on our analysis of the channels of distribution and selling functions performed for sales in the home market and CEP sales in the U.S. market, we preliminarily find that there is not a significant difference in the selling functions performed in the home market and the U.S. market for CEP sales. Thus, we find that the Viraj's NV and CEP sales were made at the same LOT, and no LOT adjustment or CEP offset need be granted.

#### Currency Conversion

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank, in accordance with section 773A(a) of the Act.

#### Preliminary Results of Review

As a result of our review, we preliminarily determine that the following weighted-average dumping margin exists for Panchmahal, Mukand, and the Viraj Group for the period December 1, 2000 through November 30, 2001:

Producer/Manufacturer/Exporter	Weighted-Average Margin
The Viraj Group, Limited .....	0.82%
Panchmahal .....	48.80%
Mukand, Limited .....	32.87%

The Department will disclose calculations performed for these preliminary results within five days of the date of publication of this notice to the parties of this proceeding in accordance with 19 C.F.R. 351.224(b). Any interested party may request a hearing within 30 days of publication of these preliminary results. See 19 C.F.R. 351.310(c). Any hearing, if requested, will be held 37 days after the date of publication, or the first working day thereafter. See 19 C.F.R. 351.310(d). Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. See 19 C.F.R. 351.309(c)(ii). Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 35 days after the date of publication. See 19 C.F.R. 351.309(d). Further, we would appreciate it if parties submitting written comments also provide the Department with an additional copy of those comments on diskette. The Department will issue the

final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

#### Assessment

Upon issuance of the final results of this review, the Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Pursuant to 19 C.F.R. 251.212(b), the Department has calculated an assessment rate applicable to all appropriate entries. We calculated importer-specific duty assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value, or entered quantity, as appropriate, of the examined sales for that importer. Upon completion of this review, where the assessment rate is above de minimis, we will instruct the U.S. Customs Service to assess duties on all entries of subject merchandise by that importer.

#### Cash Deposit

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for each of the reviewed companies will be the rate listed in the final results of review (except that if the rate for a particular product is de minimis, *i.e.*, less than 0.5 percent, no cash deposit will be required for that company); (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be the "all others" rate of 48.80 percent, which is the all others rate established in the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

**Notification to Interested Parties**

This notice also serves as a preliminary reminder to importers of their responsibility under 19 C.F.R. 351.402(f)(2) 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 the 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 the proprietary information disclosed under APO in accordance with 19 C.F.R. 351.305, that continues to govern business proprietary information in this segment of the proceeding. 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 determination is issued and published in accordance with sections 751(a)(1) and 777(I)(1) of the Act.

Dated: December 31, 2002.

**Susan Kubbach,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 03-347 Filed 1-7-03; 8:45 am]

**BILLING CODE 3510-DS-S**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

[I.D. 010303A]

**North Pacific Fishery Management Council; Notice of Committee Meeting**

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

**ACTION:** Committee Meeting.

**SUMMARY:** The North Pacific Fishery Management Council's (Council) Essential Fish Habitat Committee will meet in Seattle, WA.

**DATES:** The meeting will be held on January 26, 2003.

**ADDRESSES:** Renaissance Madison Hotel, 515 Madison Street, Seattle, WA 98104, in the South Room on the 3rd floor.

*Council address:* North Pacific Fishery Management Council, 605 W.

4th Ave., Suite 306, Anchorage, AK 99501-2252.

**FOR FURTHER INFORMATION CONTACT:** Cathy Coon, NPFMC, 907-271-2809.

**SUPPLEMENTARY INFORMATION:** The meeting will begin at 9 a.m. on Sunday, January 26, 2003. The Committee's agenda includes the following issues:

- (1) Comments on the geographic boundaries of Alternative 6.
- (2) Comments on Alternative 5 suboption for the Aleutian Islands.
- (3) Update on the geographic boundaries of the Gulf of Alaska Alternatives in accordance with Coast Guard and NMFS regulatory specifications.
- (4) Discussion of the concept of a baseline for the analysis.

Although non-emergency issues not contained in this agenda may come before the Committee for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), these issues may not be the subject of formal Committee action during this meeting. Committee action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Committee's intent to take final action to address the emergency.

**Special Accommodations**

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen, 907-271-2809, at least 5 working days prior to the meeting date.

Dated: January 3, 2003.

**Richard W. Surdi,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 03-322 Filed 1-7-03; 8:45 am]

**BILLING CODE 3510-22-S**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

[I.D. 010203D]

**North Pacific Fishery Management Council; Notice of Committee Meeting**

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

**ACTION:** Committee Meeting.

**SUMMARY:** The North Pacific Fishery Management Council's (Council) Observer Committee will meet in Seattle, WA.

**DATES:** The meeting will be held on January 23 and 24, 2003.

**ADDRESSES:** Alaska Fisheries Science Center (Center), 7600 Sand Point Way NE, Seattle, WA.

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

**FOR FURTHER INFORMATION CONTACT:** Nicole Kimball, NPFMC, 907-271-2809.

**SUPPLEMENTARY INFORMATION:** The meeting will begin at 9 a.m. on Thursday, January 23, 2003, and continue through Friday, January 24, 2003. The Committee's agenda includes the following issues:

(1) Review a discussion paper which outlines a proposed problem statement and general alternatives and issues for long-term, significant revisions to the Observer Program.

(2) Review a NMFS proposal for a short-term pilot project to test deployment of observer resources to determine catch composition and bycatch rates in a specific fishery.

Although non-emergency issues not contained in this agenda may come before the Committee for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), these issues may not be the subject of formal Committee action during this meeting. Committee action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Committee's intent to take final action to address the emergency.

**Special Accommodations**

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen, 907-271-2809, at least 5 working days prior to the meeting date.

Dated: January 02, 2003.

**Richard W. Surdi,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 03-324 Filed 1-7-03; 8:45 am]

**BILLING CODE 3510-22-S**