To ensure that the Commission secures an appropriate number of lines for the public, persons are asked to register by contacting Barbara de La Viez of the Eastern Regional Office, 202–376–7533 (TTY 202–375–8116), by 4 p.m. on Tuesday, May 25, 2004.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 18, 2004.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 04–11606 Filed 5–21–04; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

Postponement of Preliminary Determinations of Antidumping Duty Investigations: Certain Frozen and Canned Warmwater Shrimp From Brazil (A–353–838), Ecuador (A–331–802), India (A–533–840), Thailand (A–549–822), the People's Republic of China (A–570–893), and the Socialist Republic of Vietnam (A–503–822).

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

SUMMARY: The Department of Commerce is postponing the preliminary determinations in the antidumping duty investigations of certain frozen and canned warmwater shrimp from Brazil, Ecuador, India, Thailand, the People's Republic of China (PRC), and the Socialist Republic of Vietnam (Vietnam) until no later than July 2, 2004 (PRC and Vietnam) and July 28, 2004 (Brazil, Ecuador, India, and Thailand). These postponements are made pursuant to section 733(c)(1)(B) of the Tariff Act of 1930, as amended (''the Act'').

EFFECTIVE DATE: May 24, 2004.

FOR FURTHER INFORMATION CONTACT: David Goldberger (Brazil and Ecuador) (202) 482–4163, Irina Itkin (India and Thailand) (202) 482–0656, or Alex Villanueva (PRC and Vietnam) (202) 482–3208; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230.

SUPPLEMENTARY INFORMATION:

Postponement of Due Date for Preliminary Determinations

On January 20, 2004, the Department initiated antidumping duty investigations of imports of certain frozen and canned warmwater shrimp from Brazil, Ecuador, India, Thailand, the PRC, and Vietnam. *See Notice of Initiation of Antidumping Duty Investigations: Certain Frozen and Canned Warmwater Shrimp from Brazil, Ecuador, India, Thailand, the People's Republic of China, and the Socialist Republic of Vietnam,* 68 FR 3876 (January 27, 2004). The notice of initiation stated that we would issue our preliminary determinations no later than 140 days after the date of initiation. *See Id.* Currently, the preliminary determinations in these investigations are due on June 8, 2004.

Pursuant to section 733(c)(1)(B) of the Act, the Department may extend the period for reaching a preliminary determination until no later than the 190th day after the date on which the administrating authority initiates an investigation if:

(B) the administrating authority concludes that the parties concerned are cooperating and determines that:

(i) The case is extraordinarily complicated by reason of

(I) the number and complexity of the transactions to be investigated or adjustments to be considered,

(II) the novelty of the issues presented, or

(III) the number of firms whose activities must be investigated, and

(ii) additional time is necessary to make the preliminary determination.

We find that all concerned parties are cooperating in all cases, and we find that these cases are extraordinarily complicated because of the number of firms involved, and the complexity of the transactions and adjustments to be considered. Furthermore, for the market-economy investigations of Brazil, Ecuador, India, and Thailand, unlike the non-market economy cases of the PRC and Vietnam, the Department must make determinations regarding the appropriate comparison markets for normal value calculations, and the initiation of sales-below-cost investigations, which require additional time.

Pursuant to section 733(c)(1)(B) of the Act, we have determined that these cases are extraordinarily complicated and that additional time is necessary to make our preliminary determinations. Therefore, we are partially extending the preliminary determination date for the PRC and Vietnam until no later than July 2, 2004, and we are fully extending the preliminary determination date for Brazil, Ecuador, India, and Thailand until no later than July 28, 2004.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f).

Dated: May 18, 2004.

Jeffrey May,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 04–11674 Filed 5–21–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–891]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Hand Trucks and Certain Parts Thereof From the People's Republic of China

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

SUMMARY: We preliminarily determine that hand trucks and certain parts thereof from the People's Republic of China are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended. Interested parties are invited to comment on this preliminary determination. We will make our final determination not later than 135 days after the date of publication of this preliminary determination. The estimated margins of sales at less than fair value are shown in the ''Suspension of Liquidation'' section of this notice.

DATES: *Effective Date:* May 24, 2004.

FOR FURTHER INFORMATION CONTACT: Daniel J. Alexy, Stephen Cho, or Audrey Twyman, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1540, (202) 482–3798, or (202) 482–3534, respectively.

Preliminary Determination

The Department of Commerce (''the Department'') has conducted this antidumping investigation in accordance with section 733 of the Tariff Act of 1930, as amended (''the Act''). We preliminarily determine that hand trucks and certain parts thereof (''hand trucks'') from the People's Republic of China (the ''PRC'') are being, or are likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Petitioners

The petitioners in this investigation are Gleason Industrial Products, Inc.

and Precision Products Inc. (collectively, the ''petitioners''). Both of these companies are members of the Gleason Group.

Case History

We initiated this investigation on December 3, 2003. *See Initiation of Antidumping Duty Investigation: Hand Trucks and Certain Parts Thereof from the People's Republic of China*, 68 FR 68591 (December 9, 2003) (''*Initiation Notice*''). Since the initiation of this investigation the following events have occurred.

On December 22, 2003, we issued a letter to interested parties in this investigation providing an opportunity to comment on the characteristics that we should use in identifying the different models that the respondents sold in the United States. The petitioners and Qingdao Taifa Group Co. Ltd., a PRC producer of hand trucks, submitted comments between January 6 and January 28, 2004. No other party submitted comments.

On January 5, 2004, the United States International Trade Commission (''ITC'') issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of the subject merchandise from the PRC. *See Hand Trucks and Certain Parts Thereof from China*, 69 FR 1603 (January 9, 2004).

On January 16, 2004, we sent a partial Section A questionnaire to all of the producers/exporters named in the petition and to the exporters who comprise the top 70 percent of exporters in terms of quantity imported (pieces) of the subject merchandise according to data from U.S. Customs and Border Protection (''CBP''). We requested information on the quantity and value of subject hand trucks sold by these producers/exporters during April 1, 2003 through September 30, 2003, the period of investigation (''POI''), in order to identify potential respondents in the investigation.

We received responses from six PRC producers/exporters of hand trucks. We did not receive responses from a number of firms in the PRC although the record indicates that these companies received our January 16, 2004, questionnaire. Also, a number of our January 16, 2004, questionnaires were returned to us as ''undeliverable.'' On February 6, 2004, we selected the following four mandatory respondents: Qingdao Huatian Hand Truck Co., Ltd. (''Huatian''), Qingdao Taifa Group Co., Ltd. (''Taifa''), Qingdao Xinghua Group Co., Ltd. (''Xinghua''), and True Potential Company (''True Potential''). *See* February 6, 2004 respondent selection memorandum from John Brinkmann to Susan Kuhbach.

On February 6, 2004, the Department issued its full antidumping questionnaire to the mandatory respondents. All of the companies responded to the questionnaire. In addition, we received Section A responses from the following companies: Qingdao Future Tool Inc. (''Future Tool''), Qingdao Zhenhua Industrial Group Co., Ltd. (''Zhenhua''), and Shandong Machinery Import & Export Group Corp. (''Shandong''). We issued supplemental questionnaires to the mandatory respondents between March and April of 2004, to which the respondents filed timely responses.

On March 19, 2004, we received a submission from the petitioners requesting that the Department examine their allegations of significant government control over the hand trucks industry in Qingdao and issue a supplemental questionnaire to the Chinese central, provincial, and municipal governments to determine the role played by the respective governments in the development and expansion of the hand truck industry in Qingdao. We discuss this submission in more detail in the ''Separate Rates'' section below.

On March 22, 2004, we requested publicly available information for valuing the factors of production and comments on surrogate-country selection. On April 8, 2004, we received surrogate-country selection comments and information for factor valuations from the petitioners and the mandatory respondents Huatian, Taifa, and True Potential.

On April 6, 2004, pursuant to section 733(c)(1)(B) of the Act, we postponed the preliminary determination in this investigation by 26 days to May 17, 2004, after determining that this investigation was ''extraordinarily complicated'' and additional time was necessary. *See Hand Trucks and Certain Parts Thereof from the People's Republic of China: Notice of Postponement of Preliminary Antidumping Duty Determination*, 69 FR 19153 (April 12, 2004).

Postponement of Final Determination

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On May 11, 2004, we received requests to postpone the final determination from all the mandatory respondents. In their requests, the respondents consented to extend the provisional measures to not more than six months. Accordingly, since we have made an affirmative preliminary determination and no compelling reasons for denial exist, we have postponed the final determination until not later than 135 days after the publication of the preliminary determination.

Period of Investigation

The POI corresponds to the two most recent fiscal quarters prior to the filing of the petition, *i.e.*, April 1, 2003 through September 30, 2003.

Scope Comments

In accordance with the preamble to our regulations (see *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*. We did not receive any scope comments from interested parties within the comment period. However, on May 4, 2004, Angelus Manufacturing, a hand trucks manufacturer based in California, requested that certain specific parts be excluded from the scope of this investigation. We did not receive this request in time for the preliminary determination. Therefore, we will address this scope request in the final determination.

Scope of Investigation

For the purpose of this investigation, the product covered consists of hand trucks manufactured from any material, whether assembled or unassembled, complete or incomplete, suitable for any use, and certain parts thereof, namely the vertical frame, the handling area and the projecting edges or toe plate, and any combination thereof.

A complete or fully assembled hand truck is a hand-propelled barrow consisting of a vertically disposed frame

having a handle or more than one handle at or near the upper section of the vertical frame; at least two wheels at or near the lower section of the vertical frame; and a horizontal projecting edge or edges, or toe plate, perpendicular or angled to the vertical frame, at or near the lower section of the vertical frame. The projecting edge or edges, or toe plate, slides under a load for purposes of lifting and/or moving the load.

That the vertical frame can be converted from a vertical setting to a horizontal setting, then operated in that horizontal setting as a platform, is not a basis for exclusion of the hand truck from the scope of this petition. That the vertical frame, handling area, wheels, projecting edges or other parts of the hand truck can be collapsed or folded is not a basis for exclusion of the hand truck from the scope of the petition. That other wheels may be connected to the vertical frame, handling area, projecting edges, or other parts of the hand truck, in addition to the two or more wheels located at or near the lower section of the vertical frame, is not a basis for exclusion of the hand truck from the scope of the petition. Finally, that the hand truck may exhibit physical characteristics in addition to the vertical frame, the handling area, the projecting edges or toe plate, and the two wheels at or near the lower section of the vertical frame, is not a basis for exclusion of the hand truck from the scope of the petition.

Examples of names commonly used to reference hand trucks are hand truck, convertible hand truck, appliance hand truck, cylinder hand truck, bag truck, dolly, or hand trolley. They are typically imported under heading 8716.80.50.10 of the *Harmonized Tariff Schedule of the United States* (''HTSUS''), although they may also be imported under heading 8716.80.50.90. Specific parts of a hand truck, namely the vertical frame, the handling area and the projecting edges or toe plate, or any combination thereof, are typically imported under heading 8716.90.50.60 of the HTSUS. Although the HTSUS subheadings are provided for convenience and for the purposes of U.S. Customs and Border Protection, the Department's written description of the scope is dispositive.

Excluded from the scope are small two-wheel or four-wheel utility carts specifically designed for carrying loads like personal bags or luggage in which the frame is made from telescoping tubular material measuring less than 5/8 inch in diameter; hand trucks that use motorized operations either to move the hand truck from one location to the next or to assist in the lifting of items placed on the hand truck; vertical carriers designed specifically to transport golf bags; and wheels and tires used in the manufacture of hand trucks.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. Section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of producers or exporters, to limit its examination to a reasonable number of such companies if it is not practicable to examine all companies.

On January 16, 2004, we sent a partial Section A questionnaire to all of the producers/exporters named in the petition and to the exporters who comprise the top 70 percent of exporters in terms of quantity imported (pieces) of the subject merchandise according to data from CBP. We also sent the partial questionnaire to the Chinese government and asked for its assistance in delivering the questionnaire to all producers and exporters of the subject merchandise. We received responses from six companies that reported exports of subject merchandise during the POI.

There is no data on the record that indicates conclusively the number of producers or exporters from the PRC which exported the subject merchandise to the United States during the POI. Having received six responses from producers or exporters to our partial Section A questionnaire, we determined that we had the resources to examine a maximum of four of the companies. We found it appropriate to select the largest producers/exporters of the subject merchandise from the six companies in order to cover the greatest possible export volume of the merchandise. Thus, we selected Huatian, Taifa, True Potential, and Xinghua. *See* February 6, 2004 respondent selection memorandum from John Brinkmann to Susan Kuhbach.

Non-Market-Economy Country Status

The Department has treated the PRC as a non-market-economy (''NME'') country in all past antidumping investigations (*see, e.g., Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People's Republic of China,* 64 FR 71104 (December 20, 1999), and *Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China,* 63 FR 72255 (December 31, 1998)). A designation as an NME remains in effect until it is revoked by the Department (*see* section 771(18)(C) of the Act).

No party in this investigation has requested a revocation of NME status for the PRC. Therefore, we have preliminarily determined to continue to treat the PRC as an NME. When we investigate imports from an NME, section 773(c)(1) of the Act directs us to base the normal value on the NME producer's factors of production, valued in a market economy that is at a comparable level of economic development and that is a significant producer of comparable merchandise. The sources used to value individual factors are discussed in the ''Factor Valuations'' section below.

Separate Rates

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty deposit rate. In this case, the mandatory respondents Huatian, Taifa, True Potential, and Xinghua have requested separate company-specific rates. In addition, Future Tool, Shandong, and Zhenhua have requested separate rates.[1]

To establish whether a company operating in an NME country is sufficiently independent to be eligible for a separate rate, the company must establish an absence of governmental control on both a *de jure* and a *de facto* basis. In determining whether a company meets this requirement, the Department analyzes each exporting entity under the test established in *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588 (May 6, 1991), and *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, the Department assigns separate rates in NME cases only if an exporter can demonstrate the absence of both *de jure* and *de facto* governmental control over its export activities. See *Silicon Carbide.*

De Jure Control

In determining whether there is an absence of *de jure* government control, the Department considers the following: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any

[1] As explained in the ''Margins for Exporters Not Selected'' section below, Zhenhua is not entitled to a separate-rate analysis because it did not export the subject merchandise to the United States during the POI.

legislative enactments decentralizing control of companies; (3) any other formal measures by the government decentralizing control of companies. *Id.* In this case, the mandatory respondents Huatian, Taifa, True Potential, and Xinghua provided evidence on the record that indicates that their export activities are not controlled by the government. In addition, evidence on the record indicates that the export activities of the following companies are also not controlled by the government: Future Tool and Shandong (collectively the ''Section A respondents'').

The mandatory respondents and the Section A respondents have placed a number of documents on the record to demonstrate absence of *de jure* government control, including the ''Foreign Trade Law of the People's Republic of China'' (''Foreign Trade Law''), the ''Company Law of the PRC'' (''Company Law''), the ''PRC's Enterprise Legal Person Registration Administrative Regulations'' (''Administrative Regulations''), the ''Law of the People's Republic of China on Chinese-Foreign Equity Joint Ventures'' (''Joint Ventures Law''), the ''Regulations for Transformation of Operational Mechanism of State-Owned Industrial Enterprises'' (''State-Owned Industrial Enterprises Regulations''), and the ''Law of the People's Republic of China on Industrial Enterprises Owned by the Whole People'' (''Industrial Enterprise Law''). These laws indicate that the government lacks control over the mandatory respondents or any of the Section A respondents and that these enterprises retain control over themselves.

The Department has analyzed these laws in prior cases and found that they establish an absence of *de jure* control. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Partial-Extension Steel Drawer Slides With Rollers From the People's Republic of China,* 60 FR 29571 (June 5, 1995), and *Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms From the People's Republic of China,* 63 FR 72255 (December 31, 1998). We have no new information in this proceeding which would cause us to reconsider this determination.

Accordingly, we preliminarily determine that there is an absence of *de jure* government control over export pricing and marketing decisions of Future Tool, Huatian, Shandong, Taifa, True Potential, and Xinghua.

De Facto Control

The Department typically considers the following four factors in evaluating whether a company is subject to *de facto* governmental control of its export functions: (1) Whether each exporter sets its own export prices independently 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. *Id.*

With respect to the absence of *de facto* government control over the export activities of the mandatory respondents and the Section A respondents, evidence on the record indicates that the government has no involvement in their determination of export prices, profit distribution, marketing strategy, and contract negotiations; nor is the government involved in the daily operations or the selection of management for these companies. In addition, we found that these companies' pricing and export strategy decisions are not subject to any governmental review or approval and that there are no governmental policy directives that affect these decisions.

Consequently, because evidence on the record indicates an absence of government control, both in law and in fact, over the export activities of Future Tool, Huatian, Shandong, Taifa, True Potential, and Xinghua, we preliminarily determine that these companies have met the requirements for receiving a separate rate for purposes of this investigation.

Petitioners' March 19, 2004, Submission

On March 19, 2004, we received a submission from the petitioners alleging that there has been a significant government role in and control over the establishment of the hand truck producers in Qingdao and the structure of the hand trucks industry, resulting in the Qingdao hand truck industry attaining its giant size and production capabilities. The petitioners request that the Department issue a supplemental questionnaire to the Chinese central, provincial, and municipal governments to determine the role played by the respective governments in the development and expansion of the hand truck industry in Qingdao. The petitioners contend that the Department should deny separate rates for the hand truck producers in Qingdao if the evidence on record shows that there is significant government involvement in the hand trucks industry.

The Department's current separate rates test, as detailed above in this section, does not examine the types of government control alleged by the petitioners.

The actions allegedly undertaken by the Chinese central, provincial and municipal governments are indicia that the PRC is a non-market economy, a point which is not contested in this case. In applying the separate rates test, however, we are seeking to identify governmental interference in the individual companies' export making decisions. We note that the Department recently issued a notice soliciting comments on the Department's current separate rates policy and whether the current policy appropriately measures whether exporters act, *de facto*, independently of the government in their export activities. *See Separate Rates Practice in Antidumping Proceedings Involving Non-Market Economy Countries: Request for Comments,* 69 FR 24119 (May 3, 2004) (''*Separate Rates Notice*''). The petitioners may wish to pursue their concerns by offering comments in that process.

Margins for Exporters Not Selected

Future Tool, Shandong, and Zhenhua have requested separate rates. These parties responded to Section A of the Department's antidumping questionnaire but were not selected as mandatory respondents in this investigation. They provided information to the Department, in a timely manner, for a separate-rate analysis. Although we are unable to calculate a company-specific rate for these companies due to administrative constraints (*see* Memorandum from John Brinkmann to Susan Kuhbach regarding selection of respondents, dated February 6, 2004), they have cooperated in providing the information that we requested.

However, based on record evidence, we determine that Zhenhua did not have any sales to the United States during the POI because all of its reported sales during the POI were made to a Chinese trading company. With respect to those sales, the Chinese trading company sets the terms of sale and negotiates prices with the U.S. buyer. *See* Zhenhua's April 7, 2004 questionnaire response at 3. Therefore, Zhenhua is not entitled to a separate rate because it did not export the subject merchandise to the United States during the POI. Thus, we have calculated a

separate dumping margin only for Shandong and Future Tool based on the rates we calculated for the mandatory respondents. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Freshwater Crawfish Tail Meat From the People's Republic of China,* 62 FR 41347, 41350 (August 1, 1997).

The PRC-Wide Rate

All exporters were given the opportunity to respond to the Department's questionnaire. As explained above, we received responses to the full questionnaire from Huatian, Taifa, True Potential, and Xinghua. We have received responses to Section A of our questionnaire from Future Tool, Shandong, and Zhenhua. We assume that the firms which received our January 16, 2004, questionnaire but did not respond to it (*see* the ''Case History'' section above) also exported the subject merchandise to the United States during the POI. Consequently, we are applying a single antidumping rate—the PRC-wide rate—to all other exporters in the PRC based on our presumption that those respondents which failed to demonstrate entitlement to a separate rate constitute a single enterprise under common control by the Chinese government. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Synthetic Indigo from the People's Republic of China,* 65 FR 25706, 25707 (May 3, 2000). The PRC-wide rate applies to all entries of subject merchandise except for entries from companies which we have preliminarily determined to have met the requirements for receiving a separate rate for purposes of this investigation.

Use of Facts Otherwise Available

Section 776(a)(2) of the Act provides that, if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form or manner requested, significantly impedes a proceeding under the antidumping statute, or provides such information but the information cannot be verified, the Department shall, subject to sections 782(d) and (e) of the Act, use facts otherwise available in reaching the applicable determination.

Section 776(a)(2)(B) of the Act requires the Department to use facts available when a party does not provide the Department with information by the established deadline or in the form and manner requested by the Department. In addition, section 776(b) of the Act provides that, if the Department 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,'' the Department may use information that is adverse to the interests of that party as facts otherwise available.

As explained above, the exporters comprising the single PRC-wide entity failed to respond to the Department's requests for information. Pursuant to section 776(a) of the Act, in reaching our preliminary determination, we have used facts available for the PRC-wide rate because we did not receive the data needed to calculate a margin for that entity. Also, because the exporters comprising the PRC-wide entity failed to respond to our requests for information, we have found that the PRC-wide entity failed to cooperate to the best of its ability. Therefore, pursuant to section 776(b) of the Act, we have used an adverse inference in selecting from the facts available for the margin for that entity. As adverse facts available, we have recalculated the margins that the petitioners alleged in their November 13, 2003, petition using surrogate values in the petition, updated to the period of investigation and where appropriate, surrogate values from the preliminary determination and surrogate values derived from other information submitted by the petitioners. For the adverse facts available rate, we have selected the highest of the petition margins, since the margins derived from the information in the petition exceed those we calculated for the mandatory respondents. As discussed in the memorandum to file regarding the corroboration of facts available, dated May 17, 2004, we found that the margin of 346.94 percent has probative value. Accordingly, we find that the highest margin, based on petition information and adjusted as described in the May 17, 2004, corroboration of facts available memorandum, of 346.94 percent is corroborated within the meaning of section 776(c) of the Act. For details on this calculation, see the Memorandum from John Brinkmann to the File regarding calculation of the adverse-facts-available margins dated May 17, 2004.

Regarding the mandatory respondents, the Department has observed significant deficiencies or inconsistencies between information presented in the sales responses and factors of production (''FOP'') responses by each producing respondent: Taifa, Huatian and Xinghua (True Potential does not produce the subject merchandise it exports to the United States). Specifically, in reporting their United States sales to the Department, among other information, each respondent was requested to report the net weight of the hand truck model or hand truck part sold to the United States. In their FOP responses, among other information, the producing respondents were requested to identify the raw material inputs used to produce each model/part sold in the United States and the amount of the input (by weight) needed to produce the model/part.

We compared the total weight of the material inputs for the models/parts sold to the United States that accounted for the largest total sales values to the weights reported in the sales responses. From this comparison, we found that, for many models/parts, the sum of the material input weights was significantly lower than the weight reported for that model/part. We then examined other sources of information submitted by the producing respondents in their questionnaire responses, such as respondent product catalogs and samples of sales and shipping documents. These sources also showed total product weights that were higher than the total weights of the material inputs used to produce the products.

On May 7, 2004, we contacted counsel for Huatian, Taifa and Xinghua seeking explanations for these discrepancies. See the May 7, 2004, memoranda from John Brinkmann to File regarding questions related to reported FOP input weights. On May 10, counsel for Huatian and Taifa stated that the total weights reported in each company's sales response were supplied by the companies' sales staff while the input weight data was prepared by the production workshops. They stated that the weights reported in the sales responses were not necessarily the current actual weights of the hand truck or hand truck part but rather were based upon information available to the sales staff. Counsel claimed that the reported weights likely either came from information that was out of date or from estimates made by the sales staff and as such did not necessarily reflect the current construction of the hand trucks or hand truck parts. See the May 10, 2004, memoranda from John Brinkmann to File regarding the Department's follow-up on questions related to reported FOP input weights (''FOP Weight Memo'').

Counsel for Xinghua stated that the discrepancy was likely due to the fact that several of the significant material input fields were reported in the company's response as U.S. dollar amounts. Xinghua's counsel stated that these U.S. dollar amounts reflected the prices Xinghua paid for its market economy purchases of these inputs. As

a result, Xinghua's FOP data did not reflect the physical amounts of these significant inputs. Counsel for Xinghua further advised the Department of an additional error in reporting FOP usage rates. See FOP Weight Memo for Xinghua.

On the basis of our specific findings for each company, which are detailed below, we preliminarily determine that the use of facts otherwise available is appropriate for Huatian, Taifa and Xinghua because these companies have not provided certain information in the form or manner requested. Specifically, we have concluded that we are unable to calculate a normal value on the basis of the information provided by Taifa and Huatian because the FOP information is incomplete. For Xinghua, we have used the reported data to compute normal value despite certain deficiencies described below. Pursuant to section 351.301 (b)(1) of the Department's regulations, for a final determination in an antidumping investigation, parties may submit additional factual information seven days before the date on which the verification of any person is scheduled to commence. Pursuant to section 351.307(b)(1)(i), the Department will conduct verifications of the factual information submitted by parties and any factual information that is submitted in a timely manner will be subject to verification. If the respondents do not amend their responses to provide the information in the form or manner requested in a timely manner, the Department may resort to adverse facts available for the final determination.

Xinghua

For Xinghua, we are applying partial facts available in our calculation of normal value because, as explained below, we are able to utilize the reported FOP data for each model/part sold to the U.S. using information on the record. We have found that adverse facts available is not warranted in the selection of facts available for Xinghua because Xinghua has provided timely responses to all of our requests for information.

Xinghua reported certain significant raw material inputs as U.S. dollar amounts rather than as physical amounts (*i.e.*, kilogram of inputs used to produce on unit of output), while other material inputs were reported in physical units. For those raw material inputs not reported as physical amounts, Xinghua claims that it has instead reported the U.S. dollar value per hand truck of their market economy inputs. Although the Department's questionnaire requested that the respondents report the amount of raw material utilized to produce one unit of the subject merchandise, for purposes of this preliminary determination, we are able to utilize these market economy values into our calculation of normal value. We note, however, that these U.S. dollar values may include purchases from other non-market economy countries or values from certain countries with export subsidies, which the Department typically would exclude from its calculation of market economy prices. This information will be verified by the Department and adjusted by the Department as necessary for the final determination. Similarly, for the other error in reported FOP usage rates, as facts available, we are utilizing the factor inputs as reported because, based on our understanding of the reporting error, it is not clear what effect (if any) this has on the results.

Taifa

For Taifa, we are applying partial facts available in our calculation of normal value because, as explained below, we are able to adjust the reported FOP data for each model/part sold to the U.S. using information on the record. We have found that adverse facts available is not warranted in the selection of facts available for Taifa because Taifa has provided timely responses to all of our requests for information and the FOP information provided by Taifa is more complete than the FOP information provided by Huatian, where we are applying adverse facts available.

For Taifa, we observed for selected U.S. models/parts that the total material input weights reported in Taifa's May 6, 2004, FOP response were significantly below the total weight of the model/part as reported in Taifa's May 6, 2004, sales response. Where a comparable model was listed in the product catalog submitted by Taifa on February 23, 2004, the weight in the catalog corresponded to the total weight reported by Taifa in its sales response. We also examined sample shipping documents related to one U.S. sale that were submitted in Exhibit A–7 of Taifa's February 23, 2004, response and found that the weight for the model of hand truck covered by this shipment corresponded to the weight reported by Taifa in its sales response. This weight was listed on a detailed purchase order that was generated by Taifa's customer, a packing list generated by Taifa, and a forwarder's cargo receipt.

Based upon these comparisons, we preliminarily find that Taifa's material input information is understated, and we preliminarily determine that the use of facts otherwise available is appropriate to remedy the apparent under-reporting of material usage rates. Because the information in Taifa's actual sales/shipping documents (*i.e.*, the customer's purchase order, packing list, and forwarder's cargo receipt) indicated that the weights reported in Taifa's sales responses more accurately reflected the weight of the model being sold than did the material inputs reported by Taifa, as facts available, we have proportionately increased the reported material input weights to correspond to the total weight reported in the sales response. Specifically, for each model/part sold in the United States by Taifa, we have increased the reported material inputs for each material input by the percentage difference between the sum of the reported material input weights for that model/part (less packing and recoverable scrap) and the high end of the weight range reported for that model. We have used the high end of the total weight range to account for scrap loss that occurs in the production of one unit of subject merchandise.

Huatian

We have determined that the use of a partial adverse facts available is warranted in our calculation of normal value for Huatian in order to remedy the apparent under-reporting of material usage rates.

We have observed for selected models/parts that the total material input weights reported in Huatian's April 26, 2004, FOP response were significantly below the total weight of the model/part as reported in Huatian's April 26, 2004, sales response. Where a comparable model was listed in the product catalog submitted by Huatian on February 27, 2004, the weight in the catalog corresponded to the total reported by Huatian in its sales response. We also examined sample shipping documents related to one U.S. sale that were submitted in Exhibit A–6 of Huatian's February 27, 2004, response and found that the weight for the model of hand truck covered by this shipment was actually higher than the weight reported by Huatian in its sales response. This weight was listed on a packing list generated by Huatian and a bill of lading issued by the freight forwarder. Unlike the situation with Taifa, where the weights reported in Taifa's sales response corresponded to the weight of the model in the sales/shipping documents, the information in Huatian's actual sales/shipping documents indicated that the actual weight of the model exceeded both the

weight reported in the sales response and the total weight of the material inputs. The fact that three different weights were reflected for the same model in Huatian's response indicates that Huatian did not make any attempt to check the accuracy of its response to ensure that the Department had usable data. Therefore, as we are unable to adjust Huatian's reported material usage rates on a model/part specific basis, we preliminarily find that Huatian has not cooperated to the best of its ability in providing us with fully accurate information upon which to make a determination.

As partial adverse facts available, we have taken the weight reported for the model described in the sample sales/shipping documents, and compared it to the sum of the material input weights for that model. We then computed a ratio that quantified the percentage difference between the actual net weight of that model and the reported sum of the material input weights (less packing and recoverable scrap) for that model. We applied that ratio to increase the reported input material usage rates for all models/parts.

On May 10, 2004, Huatian submitted another revised sales and FOP response in which many of the total weights in the sales response have been revised. We have been unable to analyze and clarify that information before our preliminary determination. We will, however, verify this information prior to our final determination.

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs that normal value, in most circumstances, be based on the NME producer's factors of production, valued in a surrogate market-economy country or countries selected in accordance with section 773(c)(4) of the Act. In accordance with that provision, the Department shall utilize, to the extent possible, the prices or costs of factors of production in one or more market-economy countries that are at a level of economic development comparable to the NME country and are significant producers of comparable merchandise. The sources of the surrogate factor values are discussed in the ''Normal Value'' section below.

The Department has determined that India, Indonesia, Sri Lanka, Philippines, Morocco, and Egypt are countries comparable to the PRC in terms of overall economic development. *See* the March 9, 2004 memorandum from Ron Lorentzen to Susan Kuhbach regarding surrogate-country selection. Customarily, we select an appropriate surrogate based on the availability and reliability of data from these countries. In this case, we have found that India is a significant producer of hand trucks and that we have reliable data from India that we can use to value the factors of production. Furthermore, every party that submitted factor-valuation data provided data from India and no party argued that we should use another country as the surrogate country.

We have selected India as the surrogate country and, accordingly, we have calculated normal value using Indian prices when available and appropriate to value the factors of production of the PRC producers. We have obtained and relied upon publicly available information wherever possible. *See* the May 17, 2004 memorandum from the team to Susan Kuhbach regarding surrogate-country selection; *see also* the May 17, 2004 memorandum from the team to Susan Kuhbach regarding factor valuations for the preliminary determination (''Factor Valuation Memorandum'').

In accordance with section 351.301(c)(3)(i) of the Department's regulations, for the final determination in an antidumping investigation, interested parties may submit publicly available information to value factors of production within 40 days of the date of publication of this preliminary determination.

Fair Value Comparisons

To determine whether sales of hand trucks to the United States were made at less than fair value, we compared export price (''EP'') to normal value (''NV''), as described in the ''U.S. Price'' and ''Normal Value'' sections of this notice below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average EPs by product to the appropriate product-specific NV.

U.S. Price

In accordance with section 772(a) of the Act, we used export price for Huatian, Taifa, True Potential, and Xinghua because the subject merchandise was sold directly to unaffiliated customers in the United States prior to importation and because constructed export price was not otherwise indicated. We calculated export price based on the packed F.O.B. PRC port or C.I.F. U.S. port to unaffiliated purchasers in the United States, as appropriate. We made deductions for any movement expenses in accordance with section 772(c)(2)(A) of the Act.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the normal value using a factors-of-production methodology if (1) the merchandise is exported from an NME country and (2) the information does not permit the calculation of normal value using home-market prices, third-country prices, or constructed value under section 773(a) of the Act.

Factors of production include (1) hours of labor required, (2) quantities of raw materials employed, (3) amounts of energy and other utilities consumed, and (4) representative capital costs. We used reported factors of production for materials, energy, labor, and packing. We valued all input factors not obtained from market economies using publicly available published information as discussed in the ''Surrogate Country'' and ''Factor Valuations'' sections of this notice.

In accordance with 19 CFR 351.408(c)(1), where a producer sources an input from a market economy and pays for it in market-economy currency, the Department employs the actual price paid for the input to calculate the factors-based normal value. *See also Lasko Metal Products* v. *United States,* 43 F.3d 1442, 1445–1446 (Fed. Cir. 1994). Huatian, Taifa, and Xinghua reported that some of their inputs were purchased from market economies and paid for in market-economy currency. See the ''Factor Valuations'' section below. Where respondents were unable to provide sufficient documentation that certain inputs were purchased from market-economy suppliers, we valued these inputs using surrogate values.

Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by each respondent for the POI. To calculate NV, we multiplied the reported per-unit factor quantities by publicly available Indian surrogate values. In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. For a detailed description of all surrogate values used for respondents, see the ''Factor Valuation Memorandum.'' For a detailed description of all actual values used for market-economy inputs, see the company-specific calculation memoranda dated May 17, 2004.

Because we used Indian import values to value inputs purchased domestically by the Chinese producers, we added

surrogate freight costs to the calculated surrogate values. We calculated the freight costs by selecting the shorter of the reported distances from a domestic supplier to the factory or the distance from the nearest seaport to the factory in accordance with the decision by the Court of Appeals for the Federal Circuit in *Sigma Corp.* v. *United States,* 117 F. 3d 1401 (Fed. Cir. 1997). Because some of the values were not contemporaneous with the POI, we adjusted those values for inflation using wholesale price indices published in the International Monetary Fund's *International Financial Statistics.*

Except as described below, we valued raw material inputs using the weighted-average unit import values derived from Indian import data available from the *World Trade Atlas* (Internet Version, maintained by Global Trade Information Services, Incorporated) (''Indian Import Statistics'') for the period April through August 2003.[2]

As explained above, a number of respondents purchased certain raw material inputs from market-economy suppliers and paid for them in market-economy currencies. The respondents provided evidence that indicated they paid for their market-economy purchases of inputs in a market-economy currency. Therefore, in accordance with 19 CFR 351.408(c)(1), the Department has determined to use the market-economy prices as reported by the respondents in order to value these inputs in instances where the inputs were obtained from both market-economy and NME suppliers because the market-economy inputs represent a significant quantity of the inputs and they were paid for in a market-economy currency.

Furthermore, with regard to the market-economy input values, we have disregarded prices that we have reason to believe or suspect may be subsidized. We have reason to believe or suspect that prices of inputs from India, Indonesia, South Korea, and Thailand may have been subsidized. We have found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies and, therefore, it is reasonable to infer that all exports to all markets from these countries are subsidized. *See Certain Helical Spring Lock Washers from the People's Republic of China; Final Results of Administrative Review,* 61 FR 66255 (December 17, 1996), at Comment 1. We are also directed by the legislative history not to conduct a formal investigation to ensure that such prices are not subsidized. See H.R. Rep. 100–576 at 590 (1988). Rather, the Department was instructed by Congress to base its decision on information that is available to it at the time it is making its determination. Therefore, based on the information currently available, we have not used prices from these countries in calculating market-economy input values. In instances where a market-economy input was obtained solely from suppliers located in these countries, we used Indian import-based surrogate values to value the input. Similarly, because of the export subsidies maintained by Indonesia, South Korea, and Thailand, in calculating Indian import-based surrogate values, we have not used prices from these countries.

We valued electricity using the International Energy Agency, Energy Prices & Taxes—Quarterly Statistics, First Quarter 2003. The most recent price reported for electricity in India was for the year 2000 and we adjusted the price for inflation using the U.S. producer price index.

The respondents also reported packing inputs. We used Indian import data to value these inputs.

We used Indian transport information in order to value the transportation of raw materials. To calculate domestic inland freight for trucking services, we used an April 2002, article from the Iron and Steel Newsletter which quotes *http://www.infreight.com.* We calculated the total distance in kilometers (''km'') for each city listed to Mumbai. The distances were listed on the World Wide Web at *http://www.mapsofindia.com/distances/mumbai.html.* We adjusted the rate for inflation and converted the Rupee value to U.S. dollars.

For NME-supplied marine insurance, we used a POI price quote from a U.S. insurance provider, as we have in past PRC cases. *See* July 1, 2002, memorandum to Susan Kuhbach, ''Factors of Production Values used for the Preliminary Results,'' in the 14th administrative review of tapered roller bearings and parts thereof, finished and unfinished, from the People's Republic of China.

To value factory overhead expenses, selling, general, and administrative expenses (''SG&A''), and profit we calculated a rate based on publicly available financial statements from three Indian producers of comparable merchandise, Jay Equipment and Systems Private Limited, Nagori Engineers Private Limited, and Rexello Castors Private Limited. For a detailed discussion of the surrogate values for overhead, SG&A, and profit, see the Factor Valuation Memorandum.

For labor, consistent with 19 CFR 351.408(c)(3), we used the PRC regression-based wage rate at Import Administration's Web site, *http://ia.ita.doc.gov/wages/corrected00wages/corrected00wages.htm.* The source of the wage-rate data on the Import Administration's Web site is the International Labour Organization's *Yearbook of Labour Statistics 2001.*

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on the monthly average exchange rates as published in the International Monetary Fund's *International Financial Statistics.*

Verification

As provided in section 782(i) of the Act, we will verify the information upon which we will rely in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing CBP to suspend liquidation of all imports of subject merchandise from the PRC that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register.** We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the export price, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter or producer	Weighted-average percent margin
Xinghua	216.36
Taifa	31.87
True Potential	24.62
Huatian	74.88
Shandong	76.15
Future Tool	76.15
PRC-wide Rate	346.94

The PRC-wide rate applies to all entries of the subject merchandise produced in the PRC except for entries from exporters or producers that are identified individually above.

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination of sales at LTFV. Section 735(b)(2) requires that the ITC make a

[2] At the time of this determination, data for the month of September 2003 is not yet avaialble.

final determination before the later of 120 days after the date of the Department's preliminary determination or 45 days after the Department's final determination whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation, of the subject merchandise.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than seven days after the date of the final verification report issued in this proceeding and rebuttal briefs, limited to issues raised in case briefs, no later than five days after the deadline date for case briefs. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, any hearing will be held three days after the deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this notice. *See* 19 CFR 351.310(c). Requests should contain (1) the party's name, address, and telephone number, (2) the number of participants, and (3) a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief and may make rebuttal presentations only on arguments included in that party's rebuttal brief. *See* 19 CFR 351.310(c).

We will make our final determination no later than 135 days after the date of publication of the preliminary determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: May 17, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 04–11676 Filed 5–21–04; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–824]

Silicomanganese From Brazil: Notice of Amended Final Results of Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce (the Department) is amending the final results of administrative review of the antidumping duty order on silicomanganese from Brazil to reflect the correction of a ministerial error in those final results. The review covers the collapsed entity of SIBRA Electrosiderurgica Brasiliera S.A. (SIBRA), Companhia Paulista de Ferro–Ligas (CPFL), and Urucum Mineracao S.A. (Urucum) (collectively ''SIBRA/CPFL/Urucum''). The period of review is December 1, 2001, through November 31, 2002.

EFFECTIVE DATE: May 24, 2004.

FOR FURTHER INFORMATION CONTACT: Katja Kravetsky or Mark Ross, Office of AD/CVD Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0108 or (202) 482–4794, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 24, 2004, the Department published in the **Federal Register** the final results of the administrative review of the antidumping duty order on silicomanganese from Brazil. See *Silicomanganese from Brazil: Final Results of Antidumping Duty Administrative Review*, 69 FR 13813 (*Final Results*). On April 15, 2004, in response to timely filed ministerial–error allegations by SIBRA/CPFL/Urucum and the Eramet Marietta Inc. (the petitioner), we issued a memorandum detailing our analysis of the ministerial–error comments. See the April 15, 2004, memorandum titled ''Silicomanganese from Brazil: Analysis of Ministerial–Error Comments'' (Ministerial–Error Memo), the public version of which is on file in the Central Records Unit in room B–099 of the main Commerce building. On April 21, 2004, the petitioner filed a timely ministerial–error allegation pertaining to the Ministerial–Error Memo. Specifically, the petitioner alleged that the Department did not include the reported manufacturing costs for 15/20–grade silicomanganese in the calculation of the weighted–average cost of production and constructed value of the 16/20–grade silicomanganese sold in the United States as it stated it had in the *Final Results*. SIBRA/CPFL did not reply to this ministerial–error allegation.

Amendment to Final Results

We have reviewed the *Ministerial–Error Memo* and the calculations in the *Final Results* and find that the error alleged by the petitioner on April 21, 2004, constitutes a ministerial error within the meaning of 19 CFR 351.224(f). For a detailed analysis of the ministerial–error allegation and the Department's position, see the Memorandum to Jeffrey May, Deputy Assistant Secretary for Import Administration, from Laurie Parkhill, Office Director, dated May 14, 2004. Pursuant to section 751(h) of the Tariff Act of 1930, as amended (the Act), we have amended the *Final Results* by correcting this error, which changes the final antidumping duty margin from 13.02 percent to 16.50 percent. Consequently, we will issue amended cash–deposit instructions to U.S. Customs and Border Protection (CBP) to reflect the amendment of the final results of review.

Duty Assessment and Cash–Deposit Requirements

The Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated an importer–specific assessment rate. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of these amended final results of review. Further, the following deposit requirements will be effective upon publication of the amended final results of this administrative review for all shipments of silicomanganese from Brazil entered, or withdrawn from warehouse, for consumption on or after the publication date of the amended final results, as provided by section 751(a)(2)(C) of the Act: (1) The cash–deposit rate for SIBRA/CPFL/Urucum will be 16.50 percent; (2) for merchandise exported by producers or exporters that were previously reviewed or investigated, the