INCOME ELIGIBILITY GUIDELINES—Continued

[Effective from July 1, 1997 to June 30, 1998]

Household size	Federal poverty guidelines			Reduced price meals—185%			Free meals—130%		
	Annual	Month	Week	Annual	Month	Week	Annual	Month	Week
8	33,670	2,806	648	62,290	5,191	1,198	43,771	3,648	842
For each add'l family member add	+3,400	+284	+66	+6,290	+525	+121	+4,420	+369	+85
HAWAII									
1	$9,070	$756	$175	$16,780	$1,399	$323	$11,791	$983	$227
2	12,200	1,017	235	22,570	1,881	435	15,860	1,322	305
3	15,330	1,278	295	28,361	2,364	546	19,929	1,661	384
4	18,460	1,539	355	34,151	2,846	657	23,998	2,000	462
5	21,590	1,800	416	39,942	3,329	769	28,067	2,339	540
6	24,720	2,060	476	45,732	3,811	880	32,136	2,678	618
7	27,850	2,321	536	51,523	4,294	991	36,205	3,018	697
8	30,980	2,582	596	57,313	4,777	1,103	40,274	3,357	775
For each add'l family member add	+3,130	+261	+61	+5,791	+483	+112	+4,069	+340	+79

Authority: (42 U.S.C. 1758(b)(1))

Dated: February 13, 1997.

William E. Ludwig,

Administrator.

[FR Doc. 97–6358 Filed 3–12–97; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 57–96]

Foreign-Trade Zone 189—Muskegon, Michigan Application for Subzone Status ESCO Company Limited Partnership (Colorformer Chemicals) Muskegon, Mich.; Extension of Public Comment Period

The comment period for the above case, requesting special-purpose subzone status for the colorformer chemicals manufacturing facility of ESCO Company Limited Partnership (ESCO) (jointly owned by Mitsui Toatsu Chemicals and Yamamoto Chemicals (Japan)), in Muskegon, Michigan (61 FR 38137, 7/23/96) is further extended to April 14, 1997, to allow interested parties additional time in which to comment on the proposal.

Comments in writing are invited during this period. Submissions should include 3 copies. Material submitted will be available at: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th & Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: March 7, 1997.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97–6377 Filed 3–12–97; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–122–822, A–122–823]

Certain Cut-to-Length Carbon Steel Plate and Corrosion-Resistant Carbon Steel Products From Canada: Postponement of Preliminary Results of Reviews

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

ACTION: Notice of postponement of preliminary results of antidumping duty reviews.

SUMMARY: The Department of Commerce (''the Department'') is postponing the preliminary results for the third reviews of certain cut-to-length carbon steel plate and certain corrosion-resistant carbon steel products from Canada. These reviews cover the period August 1, 1995 through July 31, 1996.

EFFECTIVE DATE: March 13, 1997.

FOR FURTHER INFORMATION CONTACT: N. Gerard Zapiain or Jean Kemp at 202–482–3793; Office of AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930 (''the Act'') are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Rounds Agreements Act.

Postponement of Preliminary Results

The Department has determined that it is not practicable to issue its preliminary results within the original time limit. (See Decision Memorandum from Joseph A. Spetrini, Deputy Assistant Secretary, Enforcement Group III to Robert LaRussa, Acting Assistant Secretary for Import Administration, March 3, 1997). The Department is extending the time limit for completion of the preliminary results until September 2, 1997 in accordance with Section 751(a)(3)(A) of the Act.

The deadline for the final results of these reviews will continue to be 120 days after publication of the preliminary results.

Dated: March 4, 1997.

Joseph A. Spetrini,

Deputy Assistant Secretary for Enforcement Group III.

[FR Doc. 97–6337 Filed 3–12–97; 8:45 am]

BILLING CODE 3510–DS–P

[A–570–803]

Heavy Forged Hand Tools From the People's Republic of China; Final Results of Antidumping Duty Administrative Reviews

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

ACTION: Notice of final results of antidumping duty administrative reviews.

SUMMARY: On November 6, 1996, the Department of Commerce (the Department) published the preliminary

results of its administrative reviews of the antidumping duty orders on heavy forged hand tools (HFHTs) from the People's Republic of China (PRC). The period of review is February 1, 1995 through January 31, 1996.

We gave interested parties an opportunity to comment on our preliminary results. Based upon our analysis of the comments received, we have changed the results from those presented in the preliminary results of review.

EFFECTIVE DATE: March 13, 1997.

FOR FURTHER INFORMATION CONTACT: Daniel Singer or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise stated, 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 (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

Background

On November 6, 1996, the Department published in the Federal Register the preliminary results of the administrative reviews of the antidumping duty orders on HFHTs from the PRC (61 FR 57384). We received case briefs from petitioner, respondents, and an importer. We received rebuttal briefs from petitioner and respondents. We held a hearing on December 20, 1996. The Department has now completed these administrative reviews in accordance with section 751 of the Act.

Scope of Review

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

HFHTs include heads for drilling hammers, sledges, axes, mauls, picks, and mattocks, which may or may not be painted, which may or may not be finished, or which may or may not be imported with handles; assorted bar products and track tools including wrecking bars, digging bars and tampers; and steel wool splitting wedges. HFHTs are manufactured through a hot forge operation in which steel is sheared to required length, heated to forging temperature, and formed to final shape on forging equipment using dies specific to the desired product shape and size. Depending on the product, finishing operations may include shot-blasting, grinding, polishing, and painting, and the insertion of handles for handled products. HFHTs are currently provided for under the following Harmonized Tariff System (HTS) subheadings: 8205.20.60, 8205.59.30, 8201.30.00, and 8201.40.60. Specifically excluded are hammers and sledges with heads 1.5 kg (3.33 pounds) in weight and under, hoes and rakes, and bars 18 inches in length and under. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of these orders is dispositive. These reviews cover three exporters of HFHTs from the PRC, Fujian Machinery Import & Export Corporation (FMEC), Shandong Machinery & Equipment Import & Export Corporation (SMC), and Tianjin Machinery & Equipment Import & Export Corporation (TMC). The review period is February 1, 1995 through January 31, 1996.

Analysis of the Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received case briefs and rebuttal briefs from petitioner and FMEC, SMC, and TMC, and a case brief from Olympia Industrial, Inc. (Olympia), an interested party.

Comment 1

Petitioner argues that, when valuing the steel input as a factor of production in the manufacture of HFHTs, the Department should use Indian steel prices quoted by a consultant familiar with the Indian steel industry and submitted for the record by petitioner, rather than 1992 data from the Monthly Statistics of the Foreign Trade of India (Indian Import Statistics), adjusted for inflation. (Petitioner points out that the Department determined that 1993–1995 data from the Indian Import Statistics was aberrational or unreliable.) Petitioner argues that the production of HFHTs requires special, high quality grades of steel with exacting characteristics in areas such as surface quality, grain structure, and internal strength. If these requirements are not met, petitioner claims, the use of lower grade qualities of steel can result in cracking during the production or use of the HFHT. Petitioner argues that the Indian Import Statistics data for the HTS subheading 7214.50, ''Forged Bars and Rods Containing 0.25% or Greater But Less Than 0.6% of Carbon,'' which the Department used to value steel for the preliminary results, is inadequate because this subheading is too broad and encompasses both merchant quality and special bar quality (SBQ) steel products. As a result, petitioner claims, the average import values are too low and do not accurately reflect the value of the steel used in making HFHTs. Petitioner maintains that the specific price quotations for the grades of steel used in the production of HFHTs provided by a consultant familiar with the Indian steel industry are superior to the Indian Import Statistics or data published by the Steel Authority of India Limited (SAIL), the latter of which was suggested by respondents. Furthermore, petitioner argues that, in situations where import statistics were found to be distortive or aberrational, the Department has used alternatives, such as specific price quotations, citing Furfuryl Alcohol from the PRC; Final Results of Administrative Review, 60 FR 22544, 22548 (May 8, 1995) (Furfuryl Alcohol), and Coumarin from the PRC; Final Results of Antidumping Duty Administrative Review, 59 FR 66895, 66900 (December 28, 1994) (Coumarin).

Respondents argue that the steel price quotes are for a different quality of steel than the steel used in the PRC to produce the subject merchandise.

Department's Position

We disagree with petitioner that we should use its submitted Indian price quotations for valuing steel. There is no evidence on the record supporting petitioner's contention that respondents use SBQ steel for the production of HFHTs. As we explained in the fourth administrative review, our objective is to value the surrogate steel at prices which most closely reflect the type of steel used by the PRC producers. See Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China; Final Results of Antidumping Administrative Review, 61 FR 51272 (October 1, 1996). We verified that the respondents use 1045 carbon steel, which is classified under HTS subheading 7214.50. See Memorandum to the file from Daniel Singer, regarding the verification of Tianjin Machinery Import & Export Corporation (December 19, 1996). The price quotation submitted by petitioner is for an alloy steel with a higher carbon content than

1045 carbon steel. Furthermore, HTS subheading 7214.50 would include both merchant quality and SBQ steel. Unlike in Furfuryl Alcohol and Coumarin, we have not found the Indian Import Statistics to be distortive or aberrational. (See Comment 2.) Therefore, we have continued to value steel using HTS subheading 7214.50 of the Indian Import Statistics.

Comment 2

Respondents argue that the steel value the Department used in the preliminary results, 1992 data from the Indian Import Statistics inflated by the wholesale price index (WPI), is not supported by evidence on the record and does not reflect ''the best available evidence'' of the factor values. Respondents maintain that the Department's steel valuation was unreasonable since the value is inconsistent with secondary evidence.

Respondents argue that the steel value used by the Department is higher than the value of steel imported into the United States and into Indonesia under HTS category 7214.50, and European steel wire rod export prices for a similar HTS category. Respondents maintain that changes in the WPI reflect exchange rate changes rather than changes in the value of steel. Respondents argue that, because the value of the Indian rupee decreased since 1992, domestic Indian steel prices should have fallen relative to world steel prices. Respondents assert that the SAIL data on the record of these reviews supports this argument. Respondents argue that the 1992 Indian import value for steel used by the Department in the preliminary results, adjusted for inflation by the WPI, does not accurately reflect this decrease in Indian domestic steel prices.

Respondents also note that the surrogate value of steel scrap used by the Department in these reviews is lower, not higher, than the 1992 value of steel scrap. Respondents argue that the value for steel scrap should be positively correlated to the value for steel, and conclude that this is evidence that the value of Indian steel decreased.

Respondents argue that, in light of the above, the Department should use the price of HTS category 7214.50 steel from the Indian Import Statistics for the current period of review (POR), after excluding aberrational values. Respondents argue that the fact that import quantities were small does not, *ipso facto*, render the prices aberrational or invalid. Respondents argue that prices of 1995 imports into India from Saudi Arabia are not aberrational in comparison with 1992 Indian imports, 1995 Indonesian and U.S. import prices, and European steel wire rod export prices. If the Department determines not to use the price of Indian imports from Saudi Arabia, respondents argue, the Department should consider other surrogate countries, such as Indonesia, or U.S. steel import prices.

Petitioner argues that the alternative factor value sources cited by respondents, including the Indonesian Import Statistics, U.S. import prices, and European wire rod export prices, are largely irrelevant to the price of carbon steel bar in India. In addition, petitioner objects to the use of wire rod export prices for comparison purposes because wire rod is an entirely different product than bar and requires different production methods. Petitioner also questions the respondents' recommendation of steel wire rod prices when they had objected to use of those prices in prior administrative reviews of these orders. Petitioner maintains that, since India and China are highly protected markets, there is no reason to believe that steel prices in either country track such prices in other countries with more open trade policies or a world market price. Petitioner also argues that there is no evidence on the record demonstrating a positive correlation between steel scrap and steel prices, and that evidence would actually reveal otherwise.

Petitioner argues that it is reasonable to inflate the steel value through the use of the WPI because China and India have significant inflationary economies, citing International Financial Statistics, published by the International Monetary Fund, November 1996. Petitioner also states that the use of the WPI is appropriate because it reflects prices paid for inputs at the wholesale level, as well as overall economic activity. Petitioner maintains that, because it is widely recognized that steel prices move with overall economic activity and because the Department has used the WPI as an inflator in the original investigations, in subsequent reviews of these dumping orders, and in other non-market economy (NME) cases, the Department should therefore continue to use the WPI.

Petitioner asserts that the record demonstrates that the Indian Import Statistics, adjusted for inflation and used in the preliminary results of these reviews, are reasonable. The petitioner argues that, since the inflated Indian Import Statistics correspond closely to data submitted by the petitioner on actual steel prices during the POR for the specific type and grade of steel used in manufacturing HFHTs, the inflated import values used in the preliminary results are representative of the actual prices charged in the surrogate country. Therefore, the petitioner requests that, for the final results, the Department use either the Indian steel price quotations it submitted, or the 1992 Indian Import Statistics, adjusted for inflation.

Department's Position

We agree with respondents that the steel surrogate value we used in the preliminary results is not the best information by which to value the steel factor. It is our objective to value surrogate steel at prices which most closely reflect the type of steel used by the PRC producer during the POR. As stated in the October 30, 1996 surrogate value memorandum for the preliminary results (Surrogate Value Memorandum, Preliminary Results), the 1995 Indian Import Statistics reflected a small quantity of imports. In the 1994/1995 administrative reviews of these orders, we determined that 1994 Indian Import Statistics were based on a small quantity of imports and that 1993 Indian Import Statistics were aberrational when compared to 1992 Indian and 1993 U.S. import statistics. Therefore, we used the 1992 Indian Import Statistics value, adjusted for inflation, in the preliminary results.

For these final results, we reevaluated the 1995 Indian import data. We determined that the price of 1995 Indian imports from Saudi Arabia was reliable because it is comparable to 1995 U.S. import data, 1995 Indonesian import data, and the inflated 1992 Indian import data we used for the preliminary results. See the Analysis Memorandum for the final results of these reviews, (Analysis Memorandum, Final Results, March 6, 1997). We used the 1995 Indian steel value from Saudi Arabia for HTS category 7214.50 because it is contemporaneous with the POR, and is specific to the grade and chemical composition of the type of steel used by respondents. Because we have changed our source for steel valuation to a source contemporaneous with the POR, the issue of how best to inflate earlier data is moot.

Comment 3

Respondents argue that the Department failed to use the most contemporaneous labor rate data. Respondents note that the Department determined a POR labor rate based on 1990 data from the International Labor Organization's Yearbook of Labor Statistics (YLS) and adjusted for inflation using the consumer price index (CPI) reported in International Monetary Fund's International Financial Statistics. Respondents contend that the Department has not shown that indexed

1990 data is the best data available or that the labor rate in India during the POR corresponds to the 1990 rate inflated by the CPI.

Respondents argue that the Department failed to determine whether the daily wage rate for 1990 in the YLS was for 5 or 6 days a week. It is equally possible, even probable, respondents maintain, that the work week includes 5 and one-half days, with the rate being for the full day (or even a work week of five days with more than 8 hours per day). Respondents further state that the Department assumed that an Indian employee works 6 days a week, 52 weeks a year. Respondents maintain that instead of working 4.333 weeks a month (6 days a week every week of the year), it is more accurate to assume a 50 work-week year.

Furthermore, respondents assert that the Department erred in calculating the hourly labor rate. Respondents point out that the Department used data for labor hours worked per week from the IL&T and argue that the IL&T does not explain how the daily wage rate was determined for the YLS. Respondents contend that the IL&T data does not correspond to the POR nor does it correspond to the rates in the YLS. Respondents cite chapter 12 of the YLS as specifically including the number of hours worked per week in manufacturing.

Respondents also assert that the Department failed to adjust labor rates to reflect different levels of labor skills. Respondents state that the workers in the factories have different skill levels and that, to the extent possible, the Department should determine different labor rates to correspond with the different skill levels. Respondents argue that the Department used data for hours worked from Investing, Licensing, and Trading Conditions Abroad (IL&T), published by the Economist Intelligence Unit in November 1994, and could have used the same source to reflect estimates of the rate differentials. Respondents suggest that, absent more contemporaneous data, the Department should use the information contained in Foreign Labor Trends—India (FLTI), published by the American Embassy in New Delhi. The FLTI provides 1992 Indian wage rates for three skill categories: skilled, semi-skilled, and unskilled. If the Department chooses to use the YLS, respondents contend, the Department should determine different skill level wage rates, considering the single YLS rate as the semi-skilled worker rate. Respondents assert that, since the Department has preliminarily determined to use IL&T for hours worked, the IL&T can be used as the ''best evidence available'' of the wage differentials.

Department's Position

We disagree with respondents. When labor data contemporaneous with the POR is unavailable, and an inflation index specific to labor is also unavailable, the Department's practice in NME cases is to adjust labor values prior to the period of review using the CPI. See, *e.g.*, Chrome-Plated Lugnuts from the PRC; Final Results of Administrative Review, 61 FR 58518, 58518 (November 15, 1996) (Lug Nuts).

As respondents noted, chapter 12 of the YLS contains the hours worked per week specific to SIC code 381, the category that includes the HFHT industry, and from which we used the daily wage rate. See Analysis Memorandum, Final Results, page 3. For these final results, we have used the hours worked per week in chapter 12 of the YLS rather than in the IL&T because it is more specific to the HFHT industry.

We disagree with the respondents' comments on the days worked per week and the weeks worked per year. The IL&T specifies that factory workers work a six-day week. The YLS specifies the daily wage rate earned and the hours worked per week. Since the number of days worked per week was not specified in the YLS, we have continued to use the six-day work week indicated in the IL&T, along with the daily wage rate and hours worked per week as shown in the YLS, in our calculations of the hourly wage rate. (See Analysis Memorandum, Final Results.) Because we are using the hours worked per week from the YLS, respondents' claim regarding the number of weeks worked per year is moot.

With respect to valuing labor by skill level, although the YLS data is less contemporaneous than the FLTI data submitted by respondents and does not specify labor rates covering different skill levels, the YLS provides labor rates on an industry-specific basis. As in Lug Nuts and Notice of Final Results of Antidumping Duty Administrative Review; Helical Spring Lock Washers from the PRC, 66260 (December 17, 1996), we used SIC code 381 because this category covers the HFHT industry. Because the YLS data does not break out labor rates among skill levels, we applied the same wage rate to each skill level reported by respondents. See page 7 of Surrogate Values Memorandum, Preliminary Results.

Comment 4

Respondents argue that the data used by the Department to determine selling, general, and administrative expenses (SG&A), factory overhead, and profit do not comport with the legislative history to Section 773(c) (the NME provision). Respondents cite the Conference Report, Omnibus Trade and Competitiveness Act of 1988, at 591, which states that ''Commerce should seek to use, if possible, data based on production of the same general class or kind of merchandise using similar levels of technology and at similar levels of volume * * *'' as in the NME. Respondents assert that the April 1995 Reserve Bank of India Bulletin (RBI) data for ''Processing and Manufacture: Metals, Chemicals and Products Thereof,'' used by the Department in the preliminary results, encompasses a broader industry spectrum than the same general class or kind of merchandise in these reviews. Respondents argue that the Department has failed to provide a rationale for why the SG&A expenses incurred in the chemical industry in India are similar to SG&A expenses incurred in the Chinese HFHT industry. Respondents suggest that the Department revise its methodology in calculating SG&A, factory overhead, and profit, and use the same basic methodology it used in Helical Spring Lock Washers from the PRC; Notice of Preliminary Results of Antidumping Administrative Review, 61 FR 42000 (August 13, 1996) (Lock Washers 1994/1995), noting that, in Lock Washers 1994/1995, the Department prorated certain expenses. Respondents suggest the elimination of royalty, research and development, and insurance expenses, which they claim the Chinese companies do not incur. Respondents maintain that these changes would change the SG&A, overhead, and profit percentages significantly.

The petitioner argues that the Department should reject the respondents' proposal to eliminate costs such as research and development, royalty, and insurance expenses. The petitioner points to the subjective process of naming account categories in financial statements. Petitioner contends the fact that a particular account on the Indian statements does not exist on the Chinese statements does not necessarily imply that the Chinese companies do not incur these costs. Petitioner asserts that it would be inappropriate to pick and choose among the Indian account titles based simply on what the Chinese companies have chosen to name their accounts. Moreover, petitioner maintains, the removal of these costs from the SG&A calculation will only serve to increase

the profit rate and not alter the end result.

Petitioner argues that the Department should follow Lock Washers 1994/1995 by adding fifty percent of employment cost to the SG&A calculation. Petitioner claims that this was done in prior reviews of HFHTs. However, petitioner contends, the Department should not follow Lock Washers 1994/1995 in its omission of the amount listed as ''other expenses'' in the RBI Bulletin.

Department's Position

We disagree with respondents. We note that the RBI data covers both the Indian chemical and metal industries, not solely the chemical industry. Because similar SG&A data specific to the Indian HFHT industry, or the Indian metals industry exclusively, is absent from the record of these reviews, we continue to rely on the RBI data used in the preliminary results.

We also disagree with respondents that we should prorate or eliminate certain expenses from the SG&A calculation. The Department's practice is to use the overall surrogate SG&A expenses to value the SG&A expenses of the NME respondents. Because we do not have detailed knowledge of how and where SG&A expenses are classified by the NME respondents, it would be inappropriate to make item-by-item adjustments to the surrogate SG&A. While the respondents may not incur insurance, research and development, and royalties, there may be other expenses incurred that are not included in the surrogate SG&A calculation. In Lug Nuts, the respondent made a similar argument to eliminate research and development from the surrogate factory overhead calculation, arguing that as a mature industry, it does not incur any research and development expense. We rejected the respondent's argument in that case, stating that while the respondent may not incur research and development expenses, there may be other factory overhead expenses incurred that are not included in the surrogate factory overhead. We have similarly addressed this issue in Lug Nuts and Notice of Final Determination of Sales at Less Than Fair Value; Pure Magnesium and Alloy Magnesium from the Russian Federation, 60 FR 16440 (March 30, 1995). Based on the foregoing, we have not adjusted the surrogate SG&A expenses for claimed differences between respondents and the India surrogate.

We disagree with the petitioner that we should prorate employment costs and add fifty percent of employment costs to the SG&A calculation, as in Lock Washers 1994/1995. As stated in Sulfanilic Acid from the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review, 61 FR 53711 (October 15, 1996), in the absence of any information to the contrary, it is reasonable to assume that the factories involved in these reviews would employ a majority of their workers in production operations, and therefore that most of the employment costs would be applicable to the cost of manufacturing rather than to SG&A expenses. We have continued to include all of the employment costs in the cost of manufacturing. Also, we agree with petitioner that the amount listed as ''other expenses'' should not be omitted. Absent evidence to the contrary, it is reasonable to treat ''other expenses'' as miscellaneous items appropriately included in SG&A. Therefore, we have not adjusted the SG&A expenses used in the preliminary results.

Comment 5

The respondents object to the Department's methodology for valuing inland freight, which used the price of inland rail freight as reported in a 1989 cable from the U.S. embassy in India, inflated by the average WPI for the review period. Respondents contend that because this value is dated, is unsupported by secondary data, and is less contemporaneous than other rail freight data on the record, it does not represent the best available information.

As an alternative source for inland rail freight data, respondents argue that the Department should use information contained in Doing Business in India: An Economic Profile, prepared by the Director, Economic Coordination Unit, Ministry of External Affairs of the Government of India. Respondents argue that this data provides a better source for rail freight prices because (1) it is official Indian government data, (2) it is more current than the data used by the Department for the preliminary results, and (3) it provides specific rates on a per-kilometer basis, thus eliminating the need to separately compute rates for distances over 1,000 kilometers.

Department's Position

We disagree with respondents. The data in the 1989 Embassy cable, though less contemporaneous than data provided by respondents by one year, provides relative freight rates for various distances. Thus, it more precisely reflects freight charges than the average rate provided by respondents. We therefore have continued to use this data for these final results.

Comment 6

Respondents argue that, in calculating weighted-average factor values from the Indian import data, the Department should not disregard prices paid for imports from NME countries. Respondents contend that the practice of excluding such prices is not supported by the Act or the Department's regulations, and distorts the surrogate value. Respondents point out that, in deriving factor values from surrogate country import data, the Department usually rejects three categories of prices: (1) Prices which are aberrational; (2) prices from NME countries; and (3) prices which represent dumped or subsidized prices. In rejecting aberrational prices, respondents maintain that the Department is utilizing its authority to use the ''best available information.'' In rejecting dumped or subsidized prices, respondents state, the Department is relying on the legislative history of the Act, and the fact that dumped prices do not reflect an appropriate value. In the case of NME prices, however, respondents argue that there is no presumption that they are either dumped or subsidized. Thus, respondents argue, the prices of imports from an NME country cannot be excluded automatically.

Petitioner argues that the Department is correct in disregarding prices for imports from NME countries. Petitioner asserts that this is a reasonable methodology, and that the Department should continue to reject import data from NME countries in calculating factor values.

Department's Position

We disagree with respondents. To include import data from NME countries in the weighted-average factor values would be contrary to the Department's established policy. Section 771(18) of the Act defines an NME country as ''* * * any foreign country that the [Department] determines does not operate on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise.'' Section 773 (c)(1)(B) states ''* * * the valuation of the factors of production shall be based on the best available information regarding the values of such factors in a market economy country or countries considered to be appropriate * * *.'' Because the purpose of section 773(c) is to find market values, our established policy is to value factor inputs based on prices paid by the manufacturer for inputs purchased from a market

economy source, because those prices reflect commercial reality, while prices paid for inputs from NME manufacturers may not. See Tapered Roller Bearings, and Parts Thereof, Finished and Unfinished from the People's Republic of China; Final Results of Antidumping Duty Administrative Review, 61 FR 65533 (December 13, 1996).

Comment 7

Olympia, a U.S. importer of the subject merchandise, requests that the Department assign to it the same antidumping cash deposit rate as the Department assigns to FMEC. Olympia notes that, in previous reviews of these orders, the Department assigned dumping margins based on the exporter, rather than the producer. Furthermore, in the 1994/1995 administrative reviews, the Department assigned separate rates to FMEC and SMC, while all other exporters were assigned the single PRC-wide rate.

Olympia argues that the statute and regulations afford the Department flexibility with respect to the assignment of rates in NME cases, and that the statute does not specify an NME standard for deposit rates. Citing to Section 751(a)(2)(A) of the Act, Olympia argues that the statute merely stipulates that the Department will determine the normal value and export price (or constructed export price) of each entry of the subject merchandise and the dumping margins for each entry. Furthermore, Section 751(a)(2)(C) of the Act provides that the determination of the dumping margins ''shall be the basis for the assessment of countervailing or antidumping duties or entries covered by the determination and for deposits of estimated duties.'' Olympia asserts that the Department's regulations are consistent with the statute by simply providing that the Department will publish the final results of an administrative review, including ''the weighted-average dumping margins, if any * * *,'' citing section 353.22(c)(8) of the Department's Regulations.

Olympia further contends that the Department's proposed regulations clearly indicate the possible application of ''producer-assigned'' rates in NME cases. Olympia cites to the explanatory notes to the Department's proposed regulations (61 FR 7316, February 27, 1996), in which it says, the Department stated it was considering the possible use of separate exporter/producer rates. Olympia further noted that these explanatory notes stated that assessment rates should ''be specific to each importer, because the amount of duties assessed should correspond to the degree of dumping reflected in the price paid by each importer.'' (61 FR 7613.) Olympia acknowledged that the Department did not take a position with respect to producer/importer rates.

Olympia asserts that, even though the Department has followed an exporter-assigned rates methodology, it has recognized the significance of producers in assigning NME rates. Olympia cites to several cases to support this point. The first case is the Final Determination of Sales at Less Than Fair Value; Chrome Plated Lug Nuts from the PRC, 56 FR 46153 (September 10, 1991) (Lug Nuts 1990). Olympia states that there was only one producer and one exporter of lug nuts in the PRC, and the Department assigned the same rate to the exporter as to ''all other manufacturers, producers, and exporters.'' Furthermore, Olympia asserts, the Department recognized that the prices it used were from the PRC exporter to the unrelated U.S. importer, and not between the exporter and producer, and the Department ignored any selling expenses incurred by the exporter. The PRC exporter, Olympia maintains, thus became a non-entity. Olympia claims that the Department has a practice of disregarding the exporter, except with respect to the pricing.

Olympia claims that in Final Determination of Sales at Less Than Fair Value; Helical Spring Lock Washers from the PRC, 58 FR 48833, 48849 (September 20, 1993) (Lock Washers 1992), the Department adopted a *de facto* producer rate. In that case, Olympia states, the respondent, the Hangzhou Spring Washer Plant (HSWP), was both producer and exporter. HSWP also sold lock washers to trading companies for export to the United States. Olympia asserts that the Department assigned the HSWP rate to those trading companies instead of assigning them rates based on the trading company's export prices.

Olympia cites the Notice of Preliminary Determinations of Sales at Less Than Fair Value and Postponement of Final Determinations: Brake Drums and Brake Rotors from the PRC, 61 FR 53190 (October 10, 1996) (Brake Drums), and Notice of Final Determination of Sales at Less Than Fair Value; Certain Cased Pencils from the PRC, 59 FR 55625 (November 8, 1994) (Pencils), where the Department excluded from the antidumping order exports of the subject merchandise sold by specific exporters and manufactured by the producers whose factors of production formed the basis for the *de minimis* and zero margins found in those cases.

Olympia argues that, by assigning FMEC's cash deposit rates to both the producer and the importer of the subject merchandise, the Department will avoid effectively tying the NME producer and U.S. importer to selected exporters because of the rates assigned. Olympia suggests that the Department adopt a parallel producer/importer rate in situations where (1) an importer specifically requests such a rate; (2) the transaction between the producer and importer have been subject to at least one previous review; (3) the producer is not state-controlled; and (4) the producer is not related to the exporter. Olympia maintains that its situation satisfies all these requirements. Furthermore, Olympia argues that employing a specific producer/importer rate (1) promotes accuracy and fairness since the rates are specific to, and reflect actual prices paid by, a particular importer; and (2) avoids unnecessary trade restrictions by allowing an importer the freedom to import directly from the producer.

Petitioner argues that the Department should deny Olympia's request for an exemption from standard antidumping duty deposit rules. Petitioner adds that such exemptions are made only under the most limited circumstances for PRC exporters.

Petitioner states that PRC producers typically export through unrelated trading companies, and, in most cases, the Department establishes a deposit rate for future importation for each trading company. Petitioner claims that the Department has deviated from this principle only in a few unusual cases, such as those cited by Olympia, by applying the dumping margin for a certain producer to imported goods made by that producer. Petitioner argues that the rationale for deviating from the Department's normal practice presented in those cases does not apply to these reviews of HFHTs. Petitioner asserts that the majority of cases cited by Olympia involve PRC producers whose products were assigned a zero dumping margin. Thus, the Department had to assign a specific rate to zero-margin producers to avoid imposing duty deposits on products that had been found not to be dumped. Petitioner asserts that the record in these reviews indicates that all of the HFHT producers have dumping margins, so no such concern applies.

Petitioner points out that in Lug Nuts 1990, since only one factory in the PRC manufactured the subject merchandise, the Department knew that any lug nut exporter would eventually be assigned the margin for the sole producer. Therefore, petitioner argues, it made sense for the Department to apply the producer's dumping margin as the duty deposit rate for all producers in that

case. Petitioner asserts that this rationale does not apply to HFHTs, which are produced by numerous factories in the PRC.

Petitioner asserts that Olympia's request to apply FMEC's dumping margin to all of Olympia's purchases direct from PRC producers is an entirely different situation. Petitioner states that FMEC is a trading company, not a producer, whose dumping margin is based on the producers whose products it bought during the POR. Petitioner maintains that granting Olympia's request would require applying the FMEC dumping margin even to HFHTs made by producers that were not included in the FMEC dumping calculation. Petitioner states that Department practice does not support the application of one producer's dumping margins to the products of another.

Petitioner objects to Olympia's designation of its name as proprietary information. Petitioner states that it is not aware of any Department practice that allows the name of an interested party to be granted proprietary treatment.

Department's Position

We disagree with respondents that the same antidumping cash deposit rate for FMEC should be applied to Olympia, and note that it would be administratively infeasible to apply cash deposit rates on an importer-specific basis.

Olympia's reference to the explanatory notes to our proposed regulations, with respect to importer-specific assessment rates, is misplaced. It has long been the Department's practice to assess duties on an importer-specific basis; what Olympia is asking the Department to do here is to establish an importer-specific cash deposit rate.

However, the cases cited by Olympia entail different circumstances than those presented in these administrative reviews for HFHTs. In Lock Washers 1992, a single company, HSWP, was both producer and exporter. We calculated and assigned a single rate based on HSWP's sales to unrelated customers in the United States, and to market-economy trading companies which were based outside the United States, for sales of lock washers exported from the PRC by HSWP and destined for the United States. HSWP's sales of lock washers sold to the first unrelated customer based in the United States were not assigned a separate cash deposit rate. Unlike in Lock Washers 1992, the exporter and producer are not the same in these reviews.

In Lug Nuts 1990, we determined there was one producer and one exporter of lug nuts from the PRC to the United States during the period. Therefore, the calculated rate was based on the sales from the sole exporter and applied to all other producers and exporters who began to ship after the publication of the order. In these reviews, there is more than one exporter of the subject merchandise. In both Brake Drums and Pencils, we found *de minimis* and zero margins for the subject merchandise that was sold by certain exporters and manufactured by specific producers. In order to ensure that merchandise that was sold by those exporters, but manufactured by other producers, would be subject to the antidumping duty order, we applied the exclusion from the order only to the producer whose factors formed the basis of the zero or *de minimis* rate analysis. Exclusion from the order is not an issue in administrative reviews, therefore, Olympia's references to Pencils and Brake Drums do not support its arguments.

There are no factual circumstances in these reviews similar to those in the NME cases cited by Olympia, and we find no reason to assign a specific importer-producer rate for Olympia. We note that Olympia's lack of a specific importer-producer cash deposit rate does not preclude it from purchasing HFHTs directly from the producer, and subsequently requesting a review of that producer's exports.

Final Results of Review

As a result of our review, we have determined that the following margins exist:

Manufacturer/exporter	Time period	Margin
Fujian Machinery Import & Export Corporation:		
Axes/Adzes	2/1/95–1/31/96	18.72
Bars/Wedges	2/1/95–1/31/96	36.76
Hammers/Sledges	2/1/95–1/31/96	15.95
Picks/Mattocks	2/1/95–1/31/96	98.77
Shandong Machinery Import & Export Corporation:		
Bars/Wedges	2/1/95–1/31/96	36.66
Hammers/Sledges	2/1/95–1/31/96	3.12
Picks/Mattocks	2/1/95–1/31/96	63.87
Tianjin Machinery Import & Export Corporation:		
Axes/Adzes	2/1/95–1/31/96	2.42
Hammers/Sledges	2/1/95–1/31/96	15.81

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and normal value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of reviews for all shipments of HFHTs from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided for by 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies named above which have separate rates (FMEC, SMC, and TMC) will be the rates for those firms as stated above for the classes or kinds of merchandise listed above; (2) for axes/adzes from SMC, which are not covered by these reviews, the cash deposit rate will be the rate established in the most recent review of that class or kind of merchandise in which SMC received a separate rate—that is, the February 1, 1992 through January 31, 1993 reviews; (3) for bars/wedges and picks/mattocks from TMC, which are not covered by these reviews, the cash deposit rate will be the rate established in the most recent review of those classes or kinds of merchandise, *i.e.*, 66.32 percent for bars/wedges and 108.20 percent for picks/mattocks; and (4) the cash deposit rates for non-PRC exporters of the subject merchandise from the PRC will be the rate applicable to the PRC supplier of that exporter. The PRC-wide rates are 44.41 percent for hammers/sledges, 66.32 percent for bars/wedges, 108.2 percent for picks/

mattocks and 21.93 percent for axes/adzes.

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

This notice also serves as a reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 353.34(d) of the Department's regulations. Timely notification of 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.

These administrative reviews and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Department's regulations.

Dated: March 6, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–6378 Filed 3–12–97; 8:45 am]

BILLING CODE 3510–DS–P

[A–588–810]

Mechanical Transfer Presses From Japan; Final Results of Antidumping Administrative Review

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

ACTION: Notice of final results of antidumping duty administrative review; mechanical transfer presses from Japan

SUMMARY: On November 6, 1996, the Department of Commerce (the Department) published the preliminary results of review of the antidumping duty order on mechanical transfer presses (MTPs) from Japan. The review covers three manufacturers/exporters of the subject merchandise to the United States and the period February 1, 1995 through January 31, 1996. We gave interested parties an opportunity to comment on the preliminary results of review. We received comments from petitioners, Verson Division of Allied Products Corp., the United Autoworkers of America, and the United Steelworkers of America (AFL–CIO/CLC) (petitioners). We received rebuttal comments from Aida Engineering, Ltd. (Aida). Based on our analysis, we have changed the final results from those presented in the preliminary results of review. We have determined that sales have not been made below normal value (NV).

EFFECTIVE DATE: March 13, 1997.

FOR FURTHER INFORMATION CONTACT: Elisabeth Urfer or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–4733.

SUPPLEMENTARY INFORMATION:

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 (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

Background

On November 6, 1996, the Department published the preliminary results of the review of the antidumping duty order on MTPs from Japan (61 FR 57387, November 6, 1996). The Department has now completed this administrative review in accordance with section 751 of the Act.

Scope of Review

Imports covered by this review include MTPs currently classifiable under Harmonized Tariff Schedule (HTS) item numbers 8462.99.0035 and 8466.94.5040. The HTS numbers are provided for convenience and for U.S. Customs purposes. The written description remains dispositive of the scope of the order.

The term ''mechanical transfer presses'' refers to automatic metal-forming machine tools with multiple die stations in which the work piece is moved from station to station by a transfer mechanism designed as an integral part of the press and synchronized with the press action, whether imported as machines or parts suitable for use solely or principally with these machines. These presses may be imported assembled or unassembled. This review does not cover certain parts and accessories, which were determined to be outside the scope of the order. (See ''Final Scope Ruling on Spare and Replacement Parts,'' U.S. Department of Commerce, March 20, 1992; and ''Final Scope Ruling on the Antidumping Duty Order on Mechanical Transfer Presses (MTPs) from Japan: Request by Komatsu, Ltd.,'' U.S. Department of Commerce, October 1, 1996.)

This review covers three manufacturers/exporters of MTPs, and the period February 1, 1995 through January 31, 1996.

Analysis of the Comments Received

We gave interested parties an opportunity to comment on the preliminary results of review. We received comments from petitioners and rebuttal comments from Aida.

Comment 1

Petitioners contend that the Department should exclude below-cost sales from the calculation of constructed value profit (CV profit). Petitioners argue that the Department's decision to include below-cost sales in CV profit is contrary to the statute, the Department's current practice, and the Statement of Administrative Action (SAA) accompanying the URAA. Petitioners note that, in the preliminary results, the Department determined that Aida's home market is viable, but that the particular market situation requires that NV be based on constructed value (CV) due to the many differences in specifications between the various presses, and because no merchandise sold in the home market or to a third country is identical to the merchandise sold to the United States. Petitioners note that, consequently, the Department calculated SG&A and profit based on home market sales of MTPs in accordance with section 773(e)(2)(A) of the Act.

Petitioners state that section 773(e)(2)(A) of the Act requires the Department to add to CV:

> the actual amounts incurred and realized by the specific exporter or producer being examined in the investigation or review of selling, general, and administrative expenses, and for profits, in connection with the production and sale of a foreign like product, in the ordinary course of trade, before consumption in the foreign country, or * * *,

and that section 771(15) of the Act defines the term ''ordinary course of trade'' as excluding sales determined to be below cost under section 773(b)(1) of the Act. Petitioners argue that sales below cost are not in the ordinary