International Trade Administration

[A-570-840]

Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Manganese Metal From the People's Republic of China

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

EFFECTIVE DATE: June 14, 1995.

FOR FURTHER INFORMATION CONTACT: David Boyland or Sue Strumbel, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–4198 or (202) 482–1442.

Preliminary Determination

We preliminarily determine that manganese metal from the People's Republic of China (PRC) is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930 ("the Act"), as amended. The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the initiation of this investigation on November 28, 1994 (59 FR 61869, December 2, 1994), the following events have occurred: On December 23, 1994, the United States International Trade Commission (ITC) issued an affirmative preliminary injury determination (see ITC Investigation No. 731-TA-724). On December 30, 1994, we sent a letter to the Ministry of Foreign Trade and Economic Cooperation (MOFTEC) and to the China Chamber of Commerce for Metals, Minerals, and Chemical Products (CCCMMCP) requesting names and addresses of PRC producers and exporters of manganese metal sold in the United States. On February 13, 1995, we received a list of producers and exporters of manganese metal from the Beijing Foreign Economic Relations and Trade Commission. This list indicated the number of exporters of manganese metal during the period of investigation.

On February 15, 1995, we postponed the preliminary determination until June 6, 1995 (60 FR 10065, February 23, 1995). On February 6 and 23, 1995, responses to the Department's questionnaire were received from the following exporters of manganese metal: China Hunan International Economic Development Corporation (HIED), China

Metallurgical Import and Export Hunan Corporation (CMIECHN), China National Electronic Import and Export Hunan Company (CEIEC), Great Wall **Industry Import and Export Corporation** (GWIIEC), Hunan Golden Globe Import and Export Company (HGG), and Minmetal Precious and Rare Minerals Import and Export Company (Minmetals). On April 14, 1995, we sent supplemental questionnaires to the respondents, as well as questionnaires regarding sales to intermediate countries. Responses to the intermediate and supplemental questionnaires were received on April 24 and May 10, 1995, respectively. Based on the April 24, 1995 responses to the Department's intermediate country questionnaires, the Department sent out questionnaires on May 15, 1995, to those companies in third countries that purchased subject merchandise from respondent companies during the POI. To date the Department has received three responses from these third-country purchasers.

Postponement of Final Determination

Pursuant to section 735(a)(2)(A) of the Act, on June 2, 1995, the PRC respondents in this investigation requested that, in the event of an affirmative preliminary determination in these proceedings, the Department postpone the final determination in these proceedings to 135 days after the date of publication of the affirmative determination in the **Federal Register**. Given that there is no compelling reason not to do so, we are postponing the final determination.

Scope of the Investigation

The subject merchandise in this investigation is manganese metal, which is composed principally of manganese, by weight, but also contains some impurities such as carbon, sulfur, phosphorous, iron and silicon. Manganese metal contains by weight not less than 95 percent manganese. All compositions, forms and sizes of manganese metal are included within the scope of this investigation, including metal flake, powder, compressed powder, and fines. The subject merchandise is currently classifiable under subheadings 8111.00.45.00 and 8111.00.60.00 of the Harmonized Tariff schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Period of Investigation

The period of investigation (POI) is June 1 through November 30, 1994.

Nonmarket Economy Country Status

The Department has treated the PRC as a nonmarket economy country (NME) in all past antidumping investigations (see Notice of Final Determination of Sales at Less than Fair Value: Saccharin from the PRC (59 FR 58818, November 15, 1994)). No information has been provided in this proceeding that would lead us to overturn our former determinations. Therefore, in accordance with section 771(18)(C) of the Act, we have treated the PRC as an NME for purposes of this investigation.

Where the Department is investigating imports from an NME, section 773(c)(1) of the Act directs us when possible to base foreign market value (FMV) on the NME producers' factors of production, valued in a market economy that is at a level of economic development comparable to that of the NME under investigation and that is a significant producer of comparable merchandise. We have done so in this preliminary determination. The sources of individual factor prices are discussed in the FMV section below.

Intermediate Country Resellers

Based on the responses to the Department's May 5, 1995 questionnaires to third-country purchasers of subject merchandise from the PRC, none of the subject merchandise that such parties purchased from the PRC during the POI was subsequently sold to the United States.

Separate Rates

All six respondent companies have requested separate antidumping duty rates. For the reasons indicated in the June 6, 1995, concurrence memorandum to the Deputy Assistant Secretary, the Department does not consider HGG to be the seller of subject merchandise for the sales activity reported by that company. Accordingly, HGG's request for a separate rate is not considered below. Its exports will be subject to the PRC-wide margin.

In cases involving nonmarket economies, the Department's policy is to assign a separate rate only when an exporter can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities. In determining whether companies should receive separate rates, we focus our attention on the exporter rather than the manufacturer, as our concern is the manipulation of export prices.