

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-570-827]

Notice of Amended Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Cased Pencils from the People's Republic of China

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

ACTION: Notice of Amended Final Results and Partial Rescission of Antidumping Duty Administrative Review.

EFFECTIVE DATE: September 19, 2002.

FOR FURTHER INFORMATION CONTACT: Michele Mire, Paul Stolz, or Crystal Crittenden at (202) 482-4711, (202) 482-4474, or (202) 482-0989, respectively; AD/CVD Enforcement Office IV, Group II, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:**The Applicable Statute and Regulations**

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, as amended (the Act), by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce (the Department) regulations refer to the regulations codified at 19 CFR part 351 (April 2002).

Background

On July 25, 2002, the Department of Commerce (the Department) published the final results of the administrative review of the antidumping duty order on pencils from the People's Republic of China (PRC). *See Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Cased Pencils from the People's Republic of China*, 67 FR 48612 (July 25, 2002) (*Final Results*). On July 30, 2002, Kaiyuan Group Corporation (Kaiyuan) timely filed an allegation that the Department made three ministerial errors in calculating the final margin for Kaiyuan. On July 31, 2002, the respondents, China First Pencil Co., Ltd. (CFP), Orient International Holding Shanghai Foreign Trade Co., Ltd (OIHSFTC), Guangdong Stationery &

Sporting Goods Import & Export Co., Ltd (Guangdong), and Three Star Stationery Industry Co., Ltd. (Three Star) timely filed an allegation that the Department made several ministerial errors in the final results. The Writing Instrument Manufacturers Association, Inc., Pencil Section; Sanford Corp.; Berol Corp.; General Pencil Co., Inc.; J.R. Moon Pencil Co.; Tennessee Pencil Co.; and Musgrave Pencil Co., filed comments regarding the respondents' allegations of ministerial errors on August 5, 2002.

Scope of The Investigation

Imports covered by this review are shipments of certain cased pencils of any shape or dimension which are writing and/or drawing instruments that feature cores of graphite or other materials, encased in wood and/or man-made materials, whether or not decorated and whether or not tipped (e.g., with erasers, etc.) in any fashion, and either sharpened or unsharpened. The pencils subject to this order are classified under item number 9609.10.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Specifically excluded from the scope of this order are mechanical pencils, cosmetic pencils, pens, non-cased crayons (wax), pastels, charcoals, and chalks. Although the HTSUS item number is provided for convenience and customs purposes our written description of the scope of the order is dispositive.

Allegation of Ministerial Errors

In their July 30 and 31, 2002 submissions, respondents alleged that the Department: (1) Used an incorrect surrogate to value the wax used by Kaiyuan, (2) assigned Guangdong an incorrect dumping margin, (3) used an incorrect averaging methodology in calculating the average surrogate value for lacquer, paint and dipping lacquer (collectively lacquer), and (4) used an incorrect surrogate to value black and color cores.

Section 751(h) of the Act authorizes the Department to correct ministerial errors. In that vein, 19 CFR 351.224(e) notes that "the Secretary will analyze any comments received and, if appropriate, correct any significant ministerial error by amending the preliminary determination, or correct any ministerial error by amending the final determination or the final results of review (whichever is applicable)." A ministerial error is defined under 19 CFR 351.224(f) as "an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of

unintentional error which the Secretary considers ministerial."

After reviewing respondents' allegations we have determined, in accordance with 19 CFR 351.224(e), that the *Final Results* were based on several ministerial errors. We agree with respondents that the Department used an incorrect averaging methodology in calculating the average surrogate value for lacquer. The Department also found that it used this same incorrect averaging methodology in calculating the average value for a number of other factors. *See Memorandum from Holly A. Kuga to Bernard T. Carreau*, regarding the ministerial error allegations with respect to the final results of the instant review, dated concurrently with this notice (Ministerial Errors Memorandum), a public version of which is on file in room B-099 of the main Commerce building.

The alleged ministerial errors with which we do not agree concern the respondents' assertion that the Department assigned Guangdong an incorrect dumping margin and used incorrect surrogates to value the wax used by Kaiyuan and the black and color cores. For a detailed description of all these allegations and, where applicable, our resultant corrections, *see* the Ministerial Errors Memorandum. Therefore, in accordance with 19 CFR 351.224(e), we are amending the final results of the antidumping duty administrative review of certain cased pencils from the People's Republic of China to reflect the correction of the ministerial errors outlined above. The revised weighted-average dumping margins are in the Amended Final Results section, below.

Amended Final Results

We are amending the final results of the antidumping duty administrative review of certain cased pencils from the People's Republic of China as discussed above. The revised weighted-average dumping margins are as follows:

Manufacturer/exporter	Margin (percent)
China First Pencil Co., Ltd.	6.32 ¹
Orient International Holding Shanghai Foreign Trade Co., Ltd.	12.98
Kaiyuan Group Corporation	114.90
Guangdong Stationery & Sporting Goods Import & Export Co., Ltd.	114.90
PRC-Wide Rate	114.90

¹ Shanghai Three Star Stationery Company Ltd. is now considered to be part of China First Pencil Co., Ltd.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of this notice of amended final results of administrative review for all shipments of pencils from the PRC entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies will be the rates shown above; (2) for previously reviewed or investigated companies not listed above, that have separate rates, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) the cash deposit rate for all other PRC exporters will be 114.90 percent; and 4) the cash deposit rate for non-PRC exporters will be the rate applicable to the PRC supplier of that exporter.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Assessment

The Department will determine, and the Customs Service will assess, antidumping duties on all entries of subject merchandise in accordance with these amended final results. For assessment purposes, we have calculated exporter-specific duty assessment rates for subject merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales during the period of review (POR) to the total quantity of sales examined during the POR. We calculated exporter-specific assessment rates because there was no information on the record which identified the importers of record. The Department will issue appropriate assessment instructions directly to the Customs Service within 15 days of publication of these final amended results of review.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: September 9, 2002.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-791-815]

Notice of Amended Preliminary Determination of Sales at Less Than Fair Value; Ferrovanadium from the Republic of South Africa

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

ACTION: Notice of Amended Preliminary Determination of Sales at Less Than Fair Value.

EFFECTIVE DATE: September 19, 2002.

FOR FURTHER INFORMATION CONTACT: Crystal Crittenden or Mark Manning at (202) 482-0989 or (202) 482-5253, respectively; AD/CVD Enforcement Office IV, Group II, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

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 of Commerce (the Department) regulations refer to the regulations codified at 19 CFR part 351 (April 2002).

Background

On June 25, 2002, the Department preliminarily determined that imports of ferrovanadium from the Republic of South Africa (South Africa) 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. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Ferrovanadium from the Republic of South Africa*, 67 FR 45083 (July 8, 2002) (*Preliminary Determination*). On July 9, 2002, one of the respondents, Xstrata South Africa (Proprietary) Limited (Xstrata), timely filed an allegation that the Department made several ministerial errors in its preliminary determination. In addition, during July 2002, Xstrata and Highveld Steel and Vanadium Corporation, Ltd (Highveld), the other respondent in this investigation, separately submitted letters declining

the Department's request to conduct verification.

Scope of The Investigation

The scope of this investigation covers all ferrovanadium regardless of grade, chemistry, form, shape, or size. Ferrovanadium is an alloy of iron and vanadium that is used chiefly as an additive in the manufacture of steel. The merchandise is commercially and scientifically identified as vanadium. It specifically excludes vanadium additives other than ferrovanadium, such as nitride vanadium, vanadium-aluminum master alloys, vanadium chemicals, vanadium oxides, vanadium waste and scrap, and vanadium-bearing raw materials such as slag, boiler residues and fly ash. Merchandise under the following Harmonized Tariff Schedule of the United States (HTSUS) item numbers 2850.00.2000, 8112.40.3000, and 8112.40.6000 are specifically excluded. Ferrovanadium is classified under HTSUS item number 7202.92.00. Although the HTSUS item number is provided for convenience and Customs purposes, the Department's written description of the scope of this investigation remains dispositive.

Allegation of Ministerial Errors

In its July 9, 2002 submission, Xstrata alleged that the Department (1) used the wrong currency exchange rates to convert expenses reported in foreign currencies in the U.S. sales file into U.S. dollars, (2) included the wrong selling expenses in constructed value (CV), (3) failed to deduct imputed credit expenses from CV, and (4) erred by not granting Xstrata a constructed export price (CEP) offset.

A ministerial error is defined under 19 CFR 351.224(f) as "an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial." In addition, 19 CFR 351.224(e) notes that "the Secretary will analyze any comments received and, if appropriate, correct any significant ministerial error by amending the preliminary determination...." Ministerial errors are considered to be "significant" if, in the aggregate, their correction would result in a change of at least five absolute percentage points in, but not less than 25 percent of, the weighted-average dumping margin calculated in the original (erroneous) preliminary determination; or would result in a difference between a weighted-average dumping margin of zero (or *de minimis*) and a weighted-