Estimated Time Per Response: 58 minutes per response.

Estimated Total Annual Burden Hours: 14,214.

Estimated Total Annual Cost: No start-up capital expenditures.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: January 6, 2005.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05–568 Filed 1–11–05; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Import Certificates, End-User Certificates, and Delivery Verification Procedures

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before March 14, 2005.

ADDRESSES: Direct all written comments to Diana Hynek, DOC Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Pat Heinig, BIS ICB Liaison, (202) 482–4848, Department of Commerce, Room 6704, 14th and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information is the certification of the overseas importer to the U.S. government that he/she will import specific commodities from the U.S. and will not reexport such commodities except in accordance with U.S. export regulations.

II. Method of Collection

Requests for information, copies of documents or requirements to send notifications submitted to BIS.

III. Data

OMB Number: 0694–0093.

Form Number: Not applicable.

Type of Review: Regular submission for extension of a currently approved collection.

Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.

Estimated Number of Respondents: 6,421.

Estimated Time Per Response: 15 minutes per response.

Estimated Total Annual Burden Hours: 1,968 hours.

Estimated Total Annual Cost: No start-up capital expenditures.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: January 6, 2005.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05–569 Filed 1–11–05; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–827

Certain Cased Pencils from the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review and Intent to Rescind in Part

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

SUMMARY: The Department of Commerce (the Department) has preliminarily determined that sales by the respondents in this review, covering the period December 1, 2002, through November 30, 2003, have been made at prices less than normal value (NV). In addition, we are preliminarily rescinding this review with respect to Tianjin Custom Wood Processing Co., Ltd. (TCW), because TCW reported, and we confirmed, that it made no shipments of subject merchandise to the United States during the period of review (POR). If these preliminary results are adopted in the final results of this review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. The Department invites interested parties to comment on these preliminary results.

EFFECTIVE DATE: January 12, 2005.

FOR FURTHER INFORMATION CONTACT: Paul Stolz or Marin Weaver, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–4474 and (202) 482–2336, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 2, 2003, the Department published in the **Federal Register** a notice of ''Opportunity to Request Administrative Review'' of the antidumping duty order on certain cased pencils from the People's Republic of China (PRC) (the order) covering the period December 1, 2002, through November 30, 2003. *See Antidumping or Countervailing Duty Order, Finding, or Suspended*

Investigation; Opportunity to Request Administrative Review, 68 FR 67401–02.

On December 4, 2003, in accordance with 19 CFR 351.213(b), a PRC exporter, Shandong Rongxin Import and Export Co., Ltd. (Rongxin), requested an administrative review of the order on certain cased pencils from the PRC. On December 31, 2003, the petitioners, Sanford L.P., Musgrave Pencil Company, RoseMoon Inc., and General Pencil Company, requested that the Department conduct an administrative review of exports of subject merchandise made by eight producers/exporters.[1] In addition, on December 31, 2003, China First Pencil Company, Ltd. requested a review of its exports of subject merchandise to the United States.

The Department published a notice announcing its initiation of an antidumping duty administrative review covering the exports of the above–referenced companies during the POR. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 69 FR 3117–3119 (January 22, 2004).[2] On January 30, 2004, we issued antidumping duty questionnaires to the exporters/producers subject to this review.

In its February 19, 2004, response to the Department's questionnaire, TCW stated that it did not export subject merchandise to the United States during the POR. CFP/Three Star, Orient International Holding Shanghai Foreign Trade Co., Ltd. (SFTC), and Rongxin submitted timely questionnaire responses. The remaining exporters/producers did not submit questionnaire responses and did not request that we extend the applicable deadlines for doing so.[3]

On August 19, 2003, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), the Department extended the time limit for the preliminary results of this review until December 30, 2004. See *Certain Cased Pencils from the People's Republic of China: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 69 FR 47866 (August 6, 2004).

The Department is conducting this administrative review in accordance with section 751 of the Act.

Scope of the Order

Imports covered by this order are shipments of certain cased pencils of any shape or dimension (except as described below) 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 the order are classified under subheading 9609.10.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Specifically excluded from the scope of the order are mechanical pencils, cosmetic pencils, pens, non–cased crayons (wax), pastels, charcoals, chalks, and pencils produced under U.S. patent number 6,217,242, from paper infused with scents by the means covered in the above–referenced patent, thereby having odors distinct from those that may emanate from pencils lacking the scent infusion. Also excluded from the scope of the order are pencils with all of the following physical characteristics: 1) length: 13.5 or more inches; 2) sheath diameter: not less than one–and-one quarter inches at any point (before sharpening); and 3) core length: not more than 15 percent of the length of the pencil.

Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Intent to Rescind Review in Part

We are preliminarily rescinding this review with respect to TCW because it made no shipments of subject merchandise to the United States during the POR. The Department reviewed CBP data and entry documents which indicate that TCW did not export subject merchandise to the United States during the POR.

Separate–Rates Determination

In proceedings involving non–market-economy (NME) countries, the Department begins with a rebuttable presumption that all companies within the country are subject to governmental control and thus should be assessed a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to investigation in an NME country this single rate unless an exporter can demonstrate that its export activities are sufficiently independent so that it should be granted a separate rate. Rongxin, CFP/Three Star, and SFTC provided the separate–rates information we requested and reported that their export activities are not subject to governmental control.

We examined the separate–rates information the respondents provided in order to determine whether the companies are eligible for a separate rate. The Department's separate–rates test, which is used to determine whether an exporter is independent from governmental control, does not consider, in general, macroeconomic/border–type controls, *e.g.*, export licenses, quotas, and minimum export prices, particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision–making process at the individual firm level. See *Certain Cut-to–Length Carbon Steel Plate from Ukraine: Final Determination of Sales at Less than Fair Value*, 62 FR 61754, 61757 (November 19, 1997), and *Tapered Roller Bearings and Parts*

[1] The eight producers/exporters covered by the petitioners' request are Anhui Import/Export Group Corporation, Beijing Light Industrial Products Import/Export Corporation, China First Pencil Company, Ltd., Orient International Holding Shanghai Foreign Trade Co., Ltd., Rongxin, Sichuan Light Industrial Products Import/Export Corporation, Shanghai Three Star Stationery Industry Corp., and Tianjin Custom Wood Processing Co., Ltd.

[2] The Department initiated separate reviews of China First Pencil Company, Ltd. (CFP) and Shanghai Three Star Stationery Industry Corp. (Three Star) based on timely requests from domestic interested parties. Subsequent to the initiation of this review, in the final results of the 2001-2002 administrative review the Department collapsed CFP and Three Star for purposes of its antidumping analysis. See *Certain Cased Pencils from the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 69 FR 29266 (May 21, 2004) and the accompanying Issues and Decision Memorandum at Comment 6. In light of that decision, the Department for this review continues to consider CFP and Three Star as a single entity, hereinafter referred to as CFP/Three Star. Also see Memorandum to the File from Charles Riggle: Affiliation and Collapsing of China First Pencil Co., Ltd. and Shanghai Three Star Stationery Industry Corp., dated December 30, 2004.

[3] On July 26, 2004, we sent letters to Sichuan Light Industrial Products Import Export Corp. (Sichuan) and Anhui Import/Export Group Corp. (Anhui) notifying them that the applicable deadlines for them to respond to our questionnaire had passed and that we had not received their questionnaire responses or requests to extend the deadline for receipt of their questionnaire responses. We asked them to notify us in writing if they had no shipments, sales or entries of subject merchandise. We notified Sichuan and Anhui that, if they did not respond, we may use facts available which could be adverse to their interests. We also sent a letter to the Chinese Ministry of Foreign Trade and Economic Cooperation (MOFTEC) informing them that Sichuan and Anhui had not responded to our questionnaire and that we may use facts available which could be adverse to the companies' interests. In addition, we informed MOFTEC that the questionnaire that we sent to Beijing Light Industrial Products Import Export Corporation (Beijing Light) had been returned as undeliverable and asked that MOFTEC forward a copy of the questionnaire to Beijing Light. On August 27, 2004, we sent an additional letter to MOFTEC notifying them that our letter to them, dated July 26, 2004, was returned to us after three unsuccessful delivery attempts and repeated the contents of our July 26, 2004, letter. We confirmed that this letter was delivered to MOFTEC on September 1, 2004. We did not receive any response to our July 26, 2004, letters or to our August 27, 2004, letter.

Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 62 FR 61276, 61279 (November 17, 1997).

To establish whether a firm is sufficiently independent from governmental control of its export activities so as to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (Sparklers), as amplified by the *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*). In accordance with the separate–rates criteria, the Department assigns separate rates in NME cases only if the respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

1. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. See *Sparklers*, 56 FR at 20508 (May 6, 1991).

Rongxin, CFP/Three Star, and SFTC reported that the merchandise under review was not subject to restrictive stipulations associated with their business license (*e.g.*, pencils were not on the government's list of products subject to export restrictions or subject to export licensing requirements). Rongxin, CFP/Three Star, and SFTC submitted copies of their business licenses in their questionnaire responses. We found no inconsistencies in their statements regarding the absence of restrictive stipulations associated with their business licenses. Furthermore, Rongxin, CFP/Three Star, and SFTC submitted copies of PRC legislation demonstrating the statutory authority for establishing the *de jure* absence of governmental control over the companies. Thus, the evidence on the record supports a preliminary finding of the absence of *de jure* governmental control based on an absence of restrictive stipulations associated with the business licenses of Rongxin, CFP/Three Star, and SFTC and the applicable legislative enactments decentralizing control of PRC companies.

2. Absence of De Facto Control

Typically, the Department considers the following four factors in evaluating whether a respondent is subject to *de facto* governmental control of its export functions: (1) whether the export prices are set by, or are subject to, the approval of a governmental agency; (2) whether the respondent has the authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses. See *Silicon Carbide*, 59 FR at 22586–87 (May 2, 1994); see also *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. See *Silicon Carbide*, 56 FR at 22587 (May 2, 1994). Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

Rongxin, CFP/Three Star, and SFTC reported that they determine prices for sales of the subject merchandise based on market principles, the cost of the merchandise, and profit. Moreover, Rongxin, CFP/Three Star, and SFTC stated that they negotiated their prices directly with their customers. Also, each company claimed that their prices are not subject to review or guidance from any governmental organization. In addition, the record indicates that Rongxin, CFP/Three Star, and SFTC have the authority to negotiate and sign contracts and other agreements. Further, these companies claimed that their negotiations are not subject to review or guidance from any governmental organization. Finally, there is no evidence on the record to suggest that there is any governmental involvement in the negotiation of their contracts.

Furthermore, Rongxin, CFP/Three Star, and SFTC reported that they have autonomy in making decisions regarding the selection of management. All three companies indicated that their selection of management is not subject to review or guidance from any governmental organization.

Finally, Rongxin, CFP/Three Star, and SFTC reported that there are no restrictions on the use of their export revenues. There is no evidence on the record with respect to any of these companies to suggest that there is any governmental involvement in decisions regarding disposition of profits or financing of losses.

Therefore, the evidence on the record supports a preliminary finding of the absence of *de facto* governmental control based on record statements and supporting documentation showing the following: (1) Rongxin, CFP/Three Star, and SFTC set their own export prices independent of the government and without the approval of a governmental authority, (2) Rongxin, CFP/Three Star, and SFTC have the authority to negotiate and sign contracts and other agreements, (3) Rongxin, CFP/Three Star, and SFTC have adequate autonomy from the government regarding the selection of management, and (4) Rongxin, CFP/Three Star, and SFTC retain the proceeds from their sales and make independent decisions regarding the disposition of profits or financing of losses.

The evidence placed on the record of this review by Rongxin, CFP/Three Star, and SFTC demonstrates an absence of governmental control, both in law and in fact, with respect to their exports of the merchandise under review in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. Therefore, for purposes of these preliminary results, we are granting separate rates to Rongxin, CFP/Three Star, and SFTC .

Fair–Value Comparisons

To determine whether the respondents' sales of subject merchandise were made at less than NV, we compared the export price (EP) to NV, as described in the ''Export Price'' and ''Normal Value'' sections of this notice, below.

Export Price

In accordance with section 772(a) of the Act, the Department calculated EPs for sales by Rongxin, CFP/Three Star, and SFTC to the United States because the subject merchandise was sold directly to unaffiliated customers in the United States (or to unaffiliated resellers outside the United States with knowledge that the merchandise was destined for the United States) prior to importation and constructed export–price methodology was not otherwise indicated. We made deductions from the net sales price for foreign inland

freight and foreign brokerage and handling. Each of these services was provided by an NME vendor and, thus, as explained in the ''Normal Value'' section below, we based the deductions for these movement charges on values from a surrogate country.

For the reasons stated in the ''Normal Value'' section below, we selected India as the primary surrogate country. We valued foreign brokerage and handling using Indian values that were reported in the public version of the questionnaire response placed on the record in *Certain Stainless Steel Wire Rod from India; Preliminary Results of Antidumping Duty Administrative and New Shipper Review*, 63 FR 48184 (September 9, 1998). We identify the source used to value foreign inland freight in the ''Normal Value'' section of this notice, below. We adjusted these values, as appropriate, to account for inflation or deflation between the effective period and the POR. We calculated the inflation or deflation adjustments for these values using the wholesale price indices (WPI) for India as published in the International Monetary Fund's (IMF's) publication, *International Financial Statistics*.

Normal Value

For exports from NME countries, section 773(c)(1) of the Act provides that the Department shall determine NV using a factors of production (FOP) methodology if the subject merchandise is exported from an NME country and available information does not permit the calculation of NV using home–market prices, third–country prices, or constructed value under section 773(a) of the Act. Section 351.408 of the Department's regulations sets forth the methodology the Department uses to calculate the NV of merchandise exported from NME countries. The Department has treated the PRC as an NME country in every proceeding involving the PRC. Because none of the parties to this proceeding contested such treatment, we calculated NV in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c).

In accordance with section 773(c)(3) of the Act, the factors of production (FOP) the parties used in producing pencils include but are not limited to the following inputs: (1) hours of labor required, (2) quantities of raw materials employed, (3) amounts of energy and other utilities consumed, and (4) representative capital costs, including depreciation. In accordance with section 773(c)(4) of the Act, the Department valued the FOPs, to the extent possible, using the costs of the FOP in one or more market–economy countries that are at a level of economic development comparable to that of the PRC and are significant producers of comparable merchandise. We determined that India is comparable to the PRC in terms of *per capita* gross national product and the national distribution of labor. Furthermore, India is a significant producer of comparable merchandise. In instances where we were unable to use Indian surrogate–value information, we relied on Indonesian, Filipino, and U.S. values as discussed below. Indonesia and the Philippines are also comparable to the PRC in terms of *per capita* gross national product and the national distribution of labor, and both are significant producers of comparable merchandise. See *Memorandum From Ronald Lorentzen, Director, Office of Policy, to Thomas F. Futtner, Acting Office Director, AD/CVD Enforcement*, dated February 11, 2004, and *Memorandum from Paul Stolz to File*, dated December 30, 2004, which are available in the public file located in the Department's Central Records Unit, room B099, of the main Commerce building (CRU).

In accordance with section 773(c)(1) of the Act, for purposes of calculating NV, we attempted to value the FOPs using surrogate values that were in effect during the POR. If we were unable to obtain surrogate values that were in effect during the POR, we adjusted the values, as appropriate, to account for inflation or deflation between the effective period and the POR. We calculated the inflation or deflation adjustments for all factor values, as applicable, except labor using the WPI for the appropriate surrogate country as published in *International Financial Statistics*. We valued the FOPs as follows:

1) For producers that purchased Chinese lindenwood pencil slats, we valued slats using publicly available, published U.S. prices for American basswood lumber because price information for Chinese lindenwood and American basswood is not available from any of the potential surrogate countries.[4] The U.S. lumber prices for basswood are published in the 2004 *Hardwood Market Report* for the period December 2002 through November 2003.
2) For producers that manufactured slats from Chinese lindenwood timber, we valued the timber using publicly available, published U.S. prices for American basswood timber because price information for Chinese lindenwood and American basswood is not available from any of the potential surrogate countries. The U.S. timber prices for basswood are published in the *Sawlog Bulletin*. Timber prices were published in the *Sawlog Bulletin* in the months of January, February, April, May, July, August, October, and November 2003.
3) We valued the following material inputs using Indian import data from the World Trade Atlas (WTA) for December 2002 through November 2003: acetone, alkyds resin, beeswax, butanes, butyl ester, calcium carbonate, cellulose, erasers, dibutyl ester, diluent, dyestuff, ethanol, ethyl ester, ferrules, foam grips, foil, formaldehyde, glitter, glue, graphite powder, hardening oil, heat transfer film, kaolin clay, key chains, lithopone, malice acid ester, methyl benzene, nitro–paint/lacquer, penetrating agent, pigment, plastic, printing ink, propylene, pyroxylin, sawdust/wood, soap, soft agent, stearic acid, sticker paper, talcum powder, titanium, toppers, velvet wrap, wax, and dye.
4) We valued black and color cores using Indonesian import data from the WTA for January 2002 through December 2002. We were not able to calculate separate surrogate values for black versus color cores based on information on the record of this review.

We also valued the following material inputs using Indonesian import data: erasers, graphite powder, tallow, castor oil, and syrup.

5) In accordance with 19 CFR 351.408 (c)(1), we valued certain material inputs used by CFP/Three Star at acquisition cost because it purchased these inputs from a market- economy supplier and paid them for using a market–economy currency.
6) We valued the following packing materials using Indian import data from the WTA for December 2002 through November 2003: cardboard cartons, master cartons, packing boxes, packing tape, pallets, paper labels, plastic boxes, plastic canisters, plastic shrink wrap,

[4] In the antidumping investigation of certain cased pencils from the PRC, the Department found Chinese lindenwood and American basswood to be virtually indistinguishable and thus used U.S. prices for American basswood to value Chinese lindenwood. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cased Pencils from the People's Republic of China*, 59 FR 55625, 55632 (November 8, 1994). This methodology was upheld by the Court of International Trade. See *Writing Instrument Manufacturers Association, Pencil Section, et al. v. United States*, Slip Op. 97-151 (Ct. Int'l. Trade, Nov. 13, 1997) at 16.

plastic straps, and polybags.

7) We valued electricity using the 2002 Indian industry rate for electricity (U.S. dollars/kWh) from the publicly available *Key World Energy Statistics (2002) (Energy Statistics)*, published by the International Energy Agency. We also valued diesel fuel and coal using the Indian value reported in *Energy Statistics*. We adjusted these values, as appropriate, to account for inflation or deflation between the effective period and the POR. We have declined to value one energy input, steam, for these preliminary results as we are unable to find an appropriate surrogate value.

8) In accordance with 19 CFR 351.408(c)(3), we valued labor using a regression–based wage rate for the PRC listed in the Import Administration web site under ''Expected Wages of Selected NME Countries.'' See http://ia.ita.doc.gov/wages.

9) We derived ratios for factory overhead, selling, general and administrative (SG&A) expenses, and profit using the financial statements of Asia Wood International Corporation (Asia Wood), a wood–products producer in the Philippines. As stated above, the Philippines is a significant producer of comparable merchandise. Asia Wood's financial statements represent the best available record information with which to derive financial ratios because Asia Wood employs a number of the same production processes as those used by the respondents, including, for example, cutting wood, sanding wood, glueing wood, and painting wood. From this information, we were able to calculate factory overhead as a percentage of direct materials, labor, and energy expenses, SG&A expenses as a percentage of the total cost of manufacturing, and profit as a percentage of the sum of the total cost of manufacturing and SG&A expenses.

We used the following sources to value truck and rail freight services provided to transport the finished product to the port and direct materials, packing materials, and coal from the suppliers of the inputs to the producers. To value truck freight, we used the freight rates published in the Great Indian Bazaar at http://www.infobanc.com/logtruck.htm. We obtained distances between cities from the following website: http://www.mapsofindia.com. The value reflects freight rates in effect on September 25, 2004. We valued rail–freight services using the April 1995 rates published by the Indian Railway Conference Association. We adjusted these values, as appropriate, to account for inflation or deflation between the effective period and the POR using the WPI published by the Reserve Bank of India.

For further discussion of the surrogate values we used for these preliminary results of review, see the *Memorandum From Paul Stolz Regarding Factors–of-Production Valuation for Preliminary Results* (December 30, 2004), which is on file in the CRU.

Use of Total Adverse Facts Available

Three producers/exporters named in the notice of initiation did not respond to the Department's questionnaire. The PRC- wide rate applies to all entries of subject merchandise except for entries from PRC producers/exporters that have their own calculated rate. Companies that have not demonstrated their entitlement to a separate rate are appropriately considered to be part of the PRC–wide entity. Therefore, we determine it is necessary to review the PRC–wide entity because it did not provide information necessary to the instant proceeding. In doing so, we note that section 776(a)(1) of the Act mandates that the Department use the facts available if necessary information is not available on the record of an antidumping proceeding. In addition, section 776(a)(2) of the Act provides that if an interested party or any other person: (A) Withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the Department shall, subject to section 782(d) of the Act, use the facts otherwise available in reaching the applicable determination under this title.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department shall promptly inform the party submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that party with an opportunity to remedy or explain the deficiency. Section 782(e) of the Act provides that the Department shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the administering authority. Because the PRC–wide entity provided no information, we determine that sections 782(d) and (e) of the Act are not relevant to our analysis. According to section 776(b) of the Act, 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 the party as facts otherwise available. Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' See Statement of Administrative Action (SAA) accompanying the URAA, H. Doc. No. 316, 103d Cong., 2d Session at 870 (1994). Furthermore, ''an affirmative finding of bad faith on the part of the respondent is not required before the Department may make an adverse inference.'' Antidumping Duties; Countervailing Duties: Final Rule, 62 FR 27296, 27340 (May 19, 1997).

As above stated, the PRC–wide entity did not respond to our requests for information. Because the PRC–wide entity did not respond to our request for information in the form or manner requested, we find it necessary, under section 776(a)(2) of the Act, to use facts otherwise available as the basis for the preliminary results of review for the PRC–wide entity. In addition, pursuant to section 776(b) of the Act, we find that the PRC–wide entity failed to cooperate by not acting to the best of its ability to comply with a request for information. As noted above, the PRC–wide entity failed to respond in the proper format or in a timely manner to the Department's questionnaire, despite repeated requests that it do so. Thus, because the PRC–wide entity refused to participate fully in this proceeding, we find it appropriate to use an inference that is adverse to the interests of the PRC–wide entity in selecting from among the facts otherwise available. By doing so, we ensure that the companies that are part of the PRC–wide entity will not obtain a more favorable result by failing to cooperate than had they cooperated fully in this review. An adverse inference may include reliance on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the

record. See section 776(b) of the Act. It is the Department's practice to assign the highest rate from any segment of the proceeding as total adverse facts available when a respondent fails to cooperate to the best of its ability. Specifically, as adverse facts available, we have assigned to the PRC–entity 114.90 percent, which is the current PRC–wide rate.

Corroboration

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as ''[i]nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' See the Statement of Administrative Action (SAA), H.R. Doc. 103–316 at 870 (1994). Corroborate means that the Department will satisfy itself that the secondary information to be used has probative value. See SAA at 870. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes at 869, however, that the Department need not prove that the selected facts available are the best alternative information.

In this review, we are using as adverse facts available the highest dumping margin from this or any prior segment of the proceeding, the current PRC–wide rate of 114.90 percent. This rate was calculated in the 1999 - 2000 administrative review of the order on certain cased pencils from the PRC. See *Notice of Amended Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Cased Pencils from the People's Republic of China*, 67 FR 59049 (September 19, 2002). Therefore, the PRC–wide rate of 114.90 percent constitutes secondary information within the meaning of the SAA. See SAA at 870. Unlike other types of information such as input costs or selling expenses, however, there are no independent sources for calculated dumping margins. Thus, in an administrative review, if the Department chooses as facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin if it was calculated from verified sales and cost data. The 114.90 percent PRC–wide rate is based on verified information provided by Kaiyuan Group Corporation in the 1999 - 2000 administrative review of the order on certain cased pencils from the PRC. This rate has not been invalidated judicially. Therefore, we consider this rate to be reliable.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. Nothing in the record of this review calls into question the relevance of the margin we have selected as adverse facts available. Moreover, the selected margin is the current PRC–wide rate and is currently applicable to exporters who do not have a separate rate. Thus, it is appropriate to use the selected rate as adverse facts available in the instant review.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following margins exist for the period December 1, 2002, through November 30, 2003:

Manufacturer/exporter	Margin (percent)
Shandong Rongxin Import and Export Co., Ltd.	17.19
China First Pencil Company, Ltd./Shanghai Three Star Stationery Industry Corp.	6.48
Orient International Holding Shanghai Foreign Trade Co., Ltd.	24.66
PRC–Wide Rate	114.90

In accordance with 19 CFR 351.224(b), the Department will disclose to interested parties within five days of the date of publication of this notice the calculations it performed for the preliminary results. An interested party may request a hearing within 30 days of publication of the preliminary results. See 19 CFR 351.310(c). Interested parties may submit written comments (case briefs) within 30 days of publication of the preliminary results and rebuttal comments (rebuttal briefs), which must be limited to issues raised in the case briefs, within five days after the time limit for filing case briefs. See 19 CFR 351.309(c)(1)(ii) and 19 CFR 351.309(d). Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. Further, the Department requests that parties submitting written comments provide the Department with a diskette containing the public version of those comments. We will issue a memorandum identifying the date of a hearing, if one is requested. Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, the Department will issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days of publication of the preliminary results.

Assessment Rates

Upon completion of this administrative review, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. We have calculated customer–specific antidumping duty assessment amounts for subject merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total quantity of sales examined. We calculated these assessment amounts because there is no information on the record which identifies entered values or the importers of record. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of the final results of review. If these preliminary results are adopted in the final results of review, we will direct CBP to assess the resulting assessment amounts, calculated as described above, on each of the applicable entries during the review period.

Cash Deposit Requirements

The following deposit requirements will apply to all shipments of pencils from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed companies named above will be the rates for those firms established in the final results of this administrative review; (2) for any previously reviewed or investigated PRC or non–PRC exporter, not covered in this review, with a separate rate, the cash deposit rate will be the company–specific rate established in the most recent segment of this proceeding; (3) for all other PRC exporters, the cash deposit rate will be the PRC–wide rate established in the final results of this review; and (4) the cash deposit rate for any non–PRC exporter of subject merchandise from the PRC will be the rate applicable to the PRC exporter that supplied that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Interested Parties

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this determination in accordance with sections section 751(a)(1) and 777(i)(1) of the Act.

Dated: December 30, 2004.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 05–604 Filed 1–11–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of issuance of an Export Trade Certificate of Review, Application No. 04–00004.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to AmRus Ventures, Inc. (''AMRUS''). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: Jeffrey Anspacher, Director, Export Trading Company Affairs, International Trade Administration, by telephone at (202) 482–5131 (this is not a toll-free number), or by e-mail at *oetca@ita.doc.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 400l-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (2004).

Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of the Certificate in the **Federal Register**.Under Section 305 (a) of the Act and 15 CFR 325.ll(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct:

I. Export Trade

A. Products

All products.

B. Services

All services.

C. Technology Rights

Technology Rights, including, but not limited to, patents, trademarks, copyrights, and trade secrets that relate to Products and Services.

D. Export Trade Facilitation Services (as they Relate to the Export of Products, Services, and Technology Rights)

Export Trade Facilitation Services, including, but not limited to, professional services and assistance relating to: government relations; state and federal export programs; foreign trade and business protocol; consulting; market research and analysis; collection of information on trade opportunities; marketing; negotiations; joint ventures; shipping and export management; export licensing; advertising; documentation and services related to compliance with customs requirements; insurance and financing; trade show exhibitions; organizational development; management and labor strategies; transfer of technology; transportation services; and the formation of shippers' associations.

II. Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

III. Export Trade Activities and Methods of Operation

AMRUS may:

1. Provide and/or arrange for the provision of Export Trade Facilitation Services;
2. Engage in promotional and marketing activities and collect information on trade opportunities in the Export Markets and distribute such information to clients;
3. Enter into exclusive and/or non-exclusive licensing and/or sales agreements with Suppliers for the export of Products, Services, and/or Technology Rights in Export Markets;
4. Enter into exclusive or non-exclusive agreements with distributors and/or sales representatives in Export Markets;
5. Allocate export sales or divide Export Markets among Suppliers for the sale and/or licensing of Products, Services, and/or Technology Rights;
6. Allocate export orders among Suppliers;
7. Establish the price of Products, Services, and/or Technology Rights for sale and/or licensing in Export Markets;
8. Negotiate, enter into, and/or manage licensing agreements for the export of Technology Rights;
9. Enter into contracts for shipping; and
10. Exchange information on a one-to-one basis with individual Suppliers regarding inventories and near-term production schedules for the purpose of determining the availability of Products for export and coordinating export with distributors.

IV. Terms and Conditions of Certificate

1. In engaging in Export Trade Activities and Methods of Operation, AMRUS will not intentionally disclose, directly or indirectly, to any Supplier any information about any other Supplier's costs, production, capacity, inventories, domestic prices, domestic sales, or U.S. business plans, strategies, or methods that is not already generally available to the trade or public.
2. AMRUS will comply with requests made by the Secretary of Commerce on behalf of the Secretary of Commerce or the Attorney General for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary of Commerce believes that the information or documents are required to determine that the Export Trade, Export Trade Activities, and Methods of Operation of a person protected by this Certificate of Review continue to comply with the standards of Section 303(a) of the Act.

V. Members

AMRUS has named no members (other than itself as Applicant) that are seeking protection under the Export Trade Certificate of Review.

VI. Definitions

1. ''Supplier'' means a person who produces, provides, or sells Products, Services and/or Technology Rights.

A copy of this certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4001, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.