**Longkou Haimeng Machinery Co., Ltd., et al. v. United States**
**Court No. 07-00321; Slip Op. 08-114 (CIT October 21, 2008)**

**FINAL RESULTS OF REDETERMINATION PURSUANT TO COURT REMAND**

## A. SUMMARY

The Department of Commerce ("Department") has prepared these final results of redetermination pursuant to the remand order of the U.S. Court of International Trade ("CIT" or the "Court") in Longkou Haimeng Machinery Co., Ltd., et. al. v. United States, Court No. 07-00321, Slip Op. 08-114 (CIT October 21, 2008) ("Haimeng v. United States"). The Court's opinion and remand order were issued with regard to Brake Rotors From the People's Republic of China: Final Results of Antidumping Duty Administrative and New Shipper Reviews and Partial Rescission of the 2005-2006 Administrative Review, 72 FR 42386 (August 2, 2007), and accompanying Issues and Decision Memorandum ("Final Results").

The Court remanded the following issues to the Department for further administrative proceedings consistent with the Court's opinion and order: 1) to explain whether Sorelmetal® is fundamentally different from the pig iron consumed by respondents[1] and cannot be used in the production of subject brake rotors, or alternately 2) whether pig iron imports into India under the harmonized tariff schedule ("HTS") subcategory 7201.1000 are the best available information for valuing the pig iron consumed by plaintiffs in the production of subject brake rotors. See Haimeng v. United States, Slip Op. 08-114 at 43.

[1] The mandatory respondents for which the Department valued factors of production in this administrative review include Longkou Haimeng Machinery Co., Ltd. ("Haimeng"); Yantai Winhere Auto-Part Manufacturing Co., Ltd. ("Winhere") and Qingdao Meita Automotive Industry Co., Ltd. ("Meita"). Haimeng is the only mandatory respondent party to this litigation. The remaining plaintiffs in this litigation that have challenged the Department's pig iron valuation in the Final Results, (i.e., Laizhou Auto Brake Equipment Company ("LABEC"), Laizhou Hongda Auto Replacement Parts Co., Ltd. ("Hongda"), Laizhou Luqi Machinery Co., Ltd. ("Luqi"), and Qingdao Gren (Group) Co.) were separate rate respondents. Haimeng and the other four plaintiffs challenged the pig iron valuation as they apply specifically to plaintiffs. See Plaintiff's Complaint at 1 and 3. Longkou TLC Machinery Co. Ltd. ("Longkou") was also a separate rate respondent and the plaintiff in Court No. 07-00333, consolidated with this action, but it did not challenge this issue before the CIT. Therefore, this redetermination is not applicable to Longkou.

Therefore, in accordance with the Court's instructions, we have examined whether Sorelmetal® is fundamentally different from the pig iron consumed by respondents in the production of its subject brake rotors. We have concluded and explain below, pursuant to the Court's order, that Sorelmetal® is not fundamentally different from the pig iron consumed by Haimeng, the only mandatory respondent party to this litigation, and can be used in the production of subject brake rotors.

**B. BACKGROUND**

In the Final Results, we valued respondents' factors of production ("FOPs") for pig iron using World Trade Atlas ("WTA") Indian import statistics for HTS category 7201.1000 (non-alloy pig iron containing less than or equal to 0.5 percent phosphorous), because we determined that this HTS category description was specific to respondents' reported input and was contemporaneous with the period of review ("POR"). See Final Results at Comment 1.

The Department explained that it selected the HTS category 7201.1000 as the product most similar to the reported type of pig iron used by respondents based on the questionnaire responses of Haimeng and the other two mandatory respondents, who are not parties to this litigation. The questionnaire responses indicated that respondents used pig iron with a phosphorus content of less than or equal to 0.5 percent in the production of subject merchandise. See id. n.13 (citing inter alia Longkou Haimeng Machinery Co., Ltd.'s October 30, 2006, supplemental response at 13). Respondents argued that the WTA data used by the Department in Brake Rotors From the People's Republic of China: Preliminary Results of the 2005-2006 Administrative and New Shipper Reviews and Partial Rescission of the 2005-2006 Administrative Review, 72 FR 7405 (February 15, 2007) were not the best available information to value their pig iron input because South African imports of pig iron in the WTA were a trademarked brand of metal, called Sorelmetal®. Respondents based their claim on product

information and Infodrive India data ("Infodrive") for the HTS category 7201.1000 that they placed on the record of the administrative review. See 2nd publicly available information for surrogate values submission of Haimeng, Meita, Winhere LABEC, Luqi, and Hongda dated March 28, 2007, at Exhibit 1 ("Respondents' 2nd PAI"). Respondents also argued that Sorelmetal® was used to produce ductile iron castings, which they claimed were intermediate products with different applications from the gray cast iron used to produce brake rotors. See Respondents' Case Brief to the Department, dated May 21, 2007, at 5. The Department determined in the Final Results that the record lacked evidence indicating that Sorelmetal® was a product different from "non-alloy pig iron containing less than or equal to 0.5 percent phosphorus," (HTS category 7201.1000).

In the Final Results, we stated that when selecting surrogate values, the Department is guided by the description of the HTS category in comparison to respondents' reported input rather than the end use of the products contained within the HTS category. See Final Results at Comment 1. We found that HTS 7201.1000 was the most specific category for valuing respondents' pig iron input because respondents reported that the pig iron they used to produce subject merchandise was for pig iron containing less than or equal to 0.5 percent phosphorus. See id.; see also Haimeng's 1st supplemental submission, dated October 30, 2006, at 13 and Exhibit 10 ("Haimeng's 1st Supplemental").

Respondents also argued that Sorelmetal® represented a higher-quality metal (and hence, higher value) than that used by respondents. However, in the Final Results, we examined the country-specific import data for the HTS category 7201.1000 and found that the average unit value ("AUV") imports from South Africa (19.85 Rupees/kilogram) fell within the range of

AUVs for imports from the other six countries (i.e., 11.96 Rs/kg to 45.00 Rs/kg).[2] Based on our analysis, we did not find that South African imports of pig iron varied materially in price from the pig iron imported from the other six countries, and we continued to include those figures in our calculation of the surrogate value for pig iron for the final results.

On October 21, 2008, the Court issued its opinion and remanded the following issues to the Department: 1) to explain whether Sorelmetal® is fundamentally different from the pig iron consumed by respondents and cannot be used in the production of subject brake rotors, or alternately 2) whether pig iron imports into India under the HTS subcategory 7201.1000 are the best available information for valuing the pig iron consumed by plaintiffs in the production of subject brake rotors. See Haimeng v. United States, Slip Op. 08-114 at 43.

On January 15, 2009, we released our Draft Results of Redetermination Pursuant to the Court Remand ("Draft Results") to the interested parties. On January 22, 2009, we received comments from plaintiffs, Haimeng, LABEC, Hongda, Luqi, and Qingdao Gren (Group) Co., on our Draft Results ("Plaintiffs' Comments"). No other party submitted comments.

In accordance with the Court's instructions, and after careful examination of the record, the Department has responded to the Court's request. Upon reexamination of the record, we determine that Sorelmetal® is not fundamentally different from the pig iron consumed by Haimeng in its production of subject merchandise. Accordingly, we continue to find that the best available information on the record with which to value pig iron is WTA Indian data for HTS category 7201.1000 (non-alloy pig iron containing less than or equal to 0.5 percent phosphorous), as further discussed below.

[2] The country-specific AUVs are as follows: United States (45.00 Rs/kg), Malaysia (20.21 Rs/kg), Russia (16.59 Rs/kg), Germany (16.00 Rs/kg), Egypt (14.57 Rs/kg), and Iran (11.96 Rs/kg).

## C. ANALYSIS

**Whether Sorelmetal® is fundamentally different from the pig iron consumed by respondents and cannot be used in the production of subject brake rotors**

Based on record evidence, we find that Sorelmetal® is not fundamentally different from the pig iron used by respondents. With respect to Sorelmetal®, plaintiffs argued that "approximately seventy percent of the pig iron imported into India during the POR was Sorelmetal®, a *high-purity, ductile iron* that is not used, and cannot be used, to produce the subject merchandise," (see Plaintiffs' brief to the Court at 25 (emphasis added)) and thus should be disregarded. Additionally, we note that the Court stated that ductile iron is dissimilar to the type of pig iron used by respondents. See Haimeng v. United States, Slip Op. 08-114 at 40. Although we agree that Sorelmetal® appears to make up a significant percentage of the imports into India, we disagree with the plaintiffs' assertion in the emphasized language quoted above that Sorelmetal® is ductile iron. Rather, we find that Sorelmetal® is a non-alloy pig iron, and that it does not contain qualities that fundamentally distinguish it from the pig iron used in the production of subject merchandise.[3]

Specifically, record evidence indicates that the producers of Sorelmetal® do not use the term "ductile iron" to describe Sorelmetal®, but rather they describe Sorelmetal® as a "high-purity pig iron" that has low concentrations of manganese, phosphorous, sulfur and other undesirable elements. See Respondents' 2nd PAI at Exhibit 4 at "A Better Product Means Better Results" and at "Richard Bay Minerals – Marketing" page 2. Furthermore, we note that the Court also recognized that "{t}he record evidence indicates that Sorelmetal is an ingredient in the composition of ductile iron." See Haimeng v. United States, Slip Op. 08-114 at 40.

[3] See Respondents' 2nd PAI at Exhibit 1, where respondents provided pages from Infodrive, which includes a product description of the entered product, and Respondents' 2nd PAI at Exhibit 4, where respondents provided pages from websites where the producers of Sorelmetal® provide a product description of Sorelmetal®.

Ductile iron, also called nodular iron, is produced by treating molten pig iron with a "nodulizing mix" of magnesium and/or cerium alloys in addition to inoculants, such as ferrosilicon. See Respondents' 2nd PAI at Exhibit 3 at 1224 and 1228. The record neither indicates that Sorelmetal® is a ductile iron nor does it state that Sorelmetal® inherently contains magnesium and/or cerium alloys. See Respondents' 2nd PAI at Exhibit 4. Rather, on their website, the Sorelmetal® producers recommend the addition of alloys, such as copper, to Sorelmetal® to improve its machinability. See id. at "More Metal for Your Money" page 1. Thus, we find that Sorelmetal® is not itself a ductile iron, but a type of pig iron. It is similar to the pig iron consumed by Haimeng in that it does not contain magnesium and/or cerium alloys. See Haimeng's 1st Supplemental at Exhibit 10 for its supplier's "raw material quality inspection record."

In addition, in order to obtain efficiency from the alloy additions, ductile iron production requires a pig iron with a low sulfur content. See Respondents' 2nd PAI at Exhibit 3 at 1228 ("Iron having a sulphur content below about 0.10 per cent is required for the process. A sulphur content of 0.05 per cent would be a reasonable aim, with 0.03 per cent preferred for economy to obtain the maximum efficiency from the additions."). Thus, we find that ductile iron foundries require a pig iron with low concentrations of sulfur, making Sorelmetal®, given its low sulfur content, marketable for the production of ductile iron. With respect to the pig iron consumed by Haimeng in the production of subject brake rotors, we find that Haimeng's pig iron also contains a low sulfur content, below 0.05 percent, based on the testing certificates from its supplier of pig iron. See Haimeng's 1st Supplemental at Exhibit 10. Accordingly, we find that Sorelmetal® is similar in sulfur content to the pig iron consumed by Haimeng.

Regarding the function of pig iron, we find that pig iron is an intermediate product used to produce iron castings. See id. at Exhibit 3 at 1220 ("In general, castings are made by mixing

and melting together different grades of pig iron; different grades of pig iron and foundry scrap; foundry scrap and steel scrap; different grades of pig iron, foundry scrap, and steel scrap; or different grades of pig iron, foundry scrap, steel scrap and ferroalloys or other metals."). In our review of the record, we found that Sorelmetal®, like other forms of pig iron, is used for re-melting into iron castings. Specifically, the Sorelmetal website states the following:

- "With a melting temperature of 1145ºC (2095ºF), Sorelmetal® goes into solution very rapidly and increases the melting rate of the furnace;"
- "Due to its low manganese level and dilution effectiveness, most castings produced with Sorelmetal® can be made as cast if desired, eliminating costly heat treatment;" and
- "It can also minimize handling during charge makeup, reduce furnace charging time and allow better electrical efficiency when melting with induction furnaces."

See id. at Exhibit 4 at "More Metal for Your Money" pages 1-2.

Moreover, we find that Sorelmetal® is not fundamentally different than Haimeng's pig iron and can be used to produce brake rotors, because the producers of Sorelmetal® market it as a less expensive, energy efficient substitute for steel scrap, "alternative iron units," and "alternative ferrous charge materials," (see id.) which are all materials used to make iron castings. Specifically, the producers of Sorelmetal® compare Sorelmetal® to steel scrap, stating "{a}t approximately 4000 kg/$m^3$ (250 lb/$ft^3$), the bulk density of Sorelmetal® is more than three times that of steel scrap. This much higher density dramatically reduces the amount of storage space required." See id. at 1. Additionally, Sorelmetal® is compared to "alternative ferrous charge materials": "Compared to alternative ferrous charge materials, Sorelmetal® has lower energy requirements for melting." See id. at 2. Finally, Sorelmetal® is described as a substitute for "alternative iron units": "{t}he metallic yield for Sorelmetal® (the amount of metal tapped versus the amount of metallics charged) is also higher than alternative iron units." See id. Thus,

because the website compares Sorelmetal® to other types of materials used for remelting into iron castings, touting its energy savings and cost effectiveness, we find that Sorelmetal® is not only used to produce ductile iron castings, but can be used to produce various types of iron castings, including gray iron castings such as brake rotors.

Regarding the HTS classification of Sorelmetal® (i.e., 7201.1000), pig iron is classified under HTS heading "7201" (i.e., pig iron or spiegeleisen in pigs, blocks or other primary forms), and further defined under subheading "1000, 2000, or 5000" (i.e., non-alloy pig iron containing by weight 0.5 percent or less of phosphorous; pig iron containing by weight more than 0.5 percent of phosphorous; and alloy pig iron or spiegeleisen, respectively). See Haimeng's 1st Supplemental at Exhibit 10. Haimeng provided information (i.e., excerpts from chapter 72 "Base Metals and Articles of Base Metals" of the PRC's HTS) in which it specifically identified HTS subheading 7201.1000, "non-alloy pig iron with a phosphorous content of less than or equal to 0.5 percent") as being specific to the pig iron it used to produce subject merchandise during the POR. See id. at 13 and Exhibit 10. Although the Court has accepted that phosphorous is not the defining characteristic of pig iron (see Haimeng v. United States, Slip Op. 08-114 at 41), the HTS categories are defined based on their (1) phosphorous content and (2) alloy or non-alloy characteristics. See Respondents' 2nd PAI at Exhibit 4 at "A Better Product Means Better Results" ("Sorelmetal® is an iron-carbon alloy containing low concentrations of manganese, phosphorous, sulfur, and other undesirable elements."). Thus, based on the definition of the HTS category for pig iron, we find that record evidence supports that Sorelmetal® is properly classified under HTS 7201.1000 as a non-alloy pig iron containing low amounts of phosphorous. Moreover, there is no argument contesting the classification of Sorelmetal® as a non-alloy pig iron. See id.

Although we agree that Haimeng did not specifically use Sorelmetal® pig iron in its

production of subject merchandise (because Haimeng reported that it uses domestic pig iron and record evidence indicates that Sorelmetal® is only produced in Canada and South Africa (see id.), we find that the properties of Sorelmetal® are not so different (i.e., low concentrations of phosphorous and sulfur) to preclude respondents from using it to produce subject merchandise. Therefore, we find that the pig iron that is trademarked as Sorelmetal® is not fundamentally different from the pig iron consumed by the respondents in this case and can, in fact, be used in the production of subject brake rotors.

In finding that Sorelmetal® is not fundamentally different than the pig iron consumed by respondents, the Department determines that the WTA Indian import data for HTS category 7201.1000 (non-alloy pig iron containing by weight 0.5 percent or less of phosphorous) continue to be specific to the input in question and represent the best available information with which to value the pig iron consumed by Haimeng in the production of its subject merchandise in this final determination.

**D. INTERESTED PARTIES' COMMENTS**

First, plaintiffs argue that the Department mischaracterized Sorelmetal® as a non-alloy pig iron in its Draft Results. See Plaintiffs' Comments at 2. Citing to Respondents' 2nd PAI at Exhibit 4 headlined, "A Better Product Means Better Results," in which Sorelmetal® is described as an "iron-carbon alloy," plaintiffs argue that record evidence indicates that Sorelmetal® is an alloy pig iron that is fundamentally different than the non-alloy pig iron consumed by plaintiffs in their production of subject merchandise. Moreover, because the website states that Sorelmetal® is an "iron-carbon alloy," plaintiffs argue that Sorelmetal® "imports into India might have been misclassified" under HTS 7201.1000, a non-alloy pig iron category. See Plaintiffs' Comments at 2. Therefore, they argue Indian HTS 7201.1000 should not be used to value the pig iron consumed by respondents in their production of subject merchandise.

Second, plaintiffs argue that although Sorelmetal® is not a ductile iron, Sorelmetal® is used, marketed, and intended to make ductile iron products, not gray-cast iron brake rotors that are subject to the antidumping order. Plaintiffs argue that "{b}y all indications on the record, Sorelmetal® is used only to make ductile products," and that record evidence does not contain any information to indicate that Sorelmetal® is intended for, or marketed for, use in non-ductile iron applications." See Plaintiffs' Comments at 3. Therefore, plaintiffs conclude that the Department ignored all of the record evidence indicating that it is marketed and intended only for ductile iron applications.

Third, plaintiffs assert that the Department's comparison of Sorelmetal® to alternative iron inputs highlights the differences between Sorelmetal® and basic pig iron because of Sorelmetal's® higher bulk density, dilution effectiveness, and higher metallic yield. Plaintiffs argue that these "superior characteristics" result in Sorelmetal's® premium price and, when applied to respondents' consumption of pig iron, that normal values are distorted. Specifically, plaintiffs contest the Department's valuation of the respondents' consumption of basic pig iron with a premium price for Sorelmetal®, because they did not receive the higher material efficiency and lower energy costs associated with using a high purity pig iron, which would have lowered other components of normal value. As such, plaintiffs argue that HTS 7201.1000 was not the best available information to value their pig iron because a significant portion of the imports of pig iron under this category were of Sorelmetal®.[4]

Finally, plaintiffs allege that the Department failed to address the Court's question regarding whether Sorelmetal® is specific to the pig iron consumed by respondents and instead addressed whether Sorelmetal® could be used as a substitute for the pig iron used in the

[4] These were all imports from South Africa.

production of subject merchandise. By not addressing whether Sorelmetal® specifically reflects the material input being valued, plaintiffs argue that Commerce has changed its surrogate value selection standard to whether a potential surrogate source could conceivably be used in the production of subject merchandise.

**E. DEPARTMENT'S POSITION**

First, in order to address plaintiffs' argument that Sorelmetal® may have been misclassified as a non-alloy pig iron, and plaintiffs' argument that the Department erred in finding that Sorelmetal® was a non-alloy pig iron, we examined the notes to Chapter 72 of the Indian HTS. Plaintiffs, in their comments, do not argue that Sorelmetal® is not a pig iron. Thus, we find that we can rely on the definition of pig iron as presented in the Indian HTS, in which pig iron is generally defined as an iron-carbon alloy. Indian HTS category 7201, has the following subcategories under which pig iron may be classified: 7201.1000 - Non-alloy pig iron containing by weight 0.5% or less of phosphorus, 7201.2000 - Non-alloy pig iron containing by weight more than 0.5% of phosphorus, 7201.50 - Alloy pig iron; spiegeleisen, which is comprised of 7201.5010 - Cast iron and 7201. 5090 - Other. See page 412 of the Indian HTS. The notes to Chapter 72 define pig irons as "Iron-carbon alloys not usefully malleable, containing more than 2% by weight of carbon and which may contain by weight one or more other elements within the following limits: - not more than 10% of chromium, - not more than 6% of manganese, - not more than 3% of phosphorus, - not more than 8% of silicon, - a total of not more than 10% of other elements." See page 408 of the Indian HTS.[5]

Next, since there is no argument that Sorelmetal® is not a pig iron, for purposes of

[5] The notes accompanying Chapter 72 also define spiegeleisen; ferro-alloys; steel; stainless steel; other alloy steel; remelting scrap ingots of iron and steel; granules; semi-finished products; flat rolled products; bars and rods, hot-rolled, in irregularly wound coils; other bars and rods; angles, shapes and sections; wire; and hollow drill bars and rods. See pages 408-410 of the Indian HTS.

classification under the Indian HTS, pig iron can be classified as either "non-alloy" (falling into two separate "non-alloy" categories based on phosphorous content) or "alloy." Here, the notes to the Indian HTS are also instructive on differentiating between alloy and non-alloy pig irons. On page 411 of the Indian HTS, the Subheading Notes define alloy pig iron specifically as: "Pig iron containing, by weight, one or more of the following elements in the specified proportions: - more than 0.2% of chromium, - more than 0.3% of copper, - more than 0.3% of nickel, - more than 0.1% of any of the following elements: aluminium, molybdenum, titanium, tungsten (wolfram), vanadium." See page 411 of the Indian HTS. As we stated in the Draft Results, Sorelmetal® does not contain the elements that would classify it as an alloy pig iron. Rather, the Sorelmetal® producers' website pages describe Sorelmetal® as a pig iron and recommend the addition of alloys, such as copper, to Sorelmetal® to improve its machinability. See 2nd PAI at Exhibit 4 at "More Metal for Your Money" page 1. Thus, we find that Sorelmetal® is not an alloy pig iron, but a non-alloy pig iron, and find that plaintiffs have misinterpreted the definition of an "iron-carbon alloy." According to the notes to Chapter 27, all pig irons are by definition iron-carbon alloys. Thus, the fact that Sorelmetal® is an "iron-carbon alloy" does not mean that it is an alloy pig iron. Accordingly, based on the notes to the Indian HTS, we continue to find that Sorelmetal® imports into India are properly classified under HTS 7201.1000, a non-alloy pig iron category.

Second, in response to plaintiffs' argument that Sorelmetal® is marketed and intended only for ductile iron applications, we find that plaintiffs have not provided us with any evidence to support their contention. In the Draft Results, we found that Sorelmetal® is not fundamentally different than Haimeng's pig iron and can be used to make subject merchandise. We agree that the websites on the record market Sorelmetal® for use in ductile iron applications. See 2nd PAI at Exhibit 4 at 4. However, as we stated in our Draft Results, we find that ductile iron foundries

require a pig iron with a low sulfur content (similar to Sorelmetal®), and we do not find that Sorelmetal® can only be used for ductile iron applications. See Draft Results at 6. Additionally, we found that Haimeng's pig iron also has a low sulfur content, a fact that plaintiffs did not refute, which is one of the reasons we found that Sorelmetal® is not fundamentally different from respondents' pig iron. See Draft Results at 6.

Additionally, we find that plaintiffs' claim that Sorelmetal® is intended to be used only for ductile applications because the website for Sorelmetal® does not contain a separate tab regarding its non-ductile applications is contradicted by record evidence. See Plaintiffs' Comments at 3. Record evidence shows that producers of Sorelmetal® market it on its website as a less expensive, energy efficient substitute for steel scrap, "alternative iron units," and "alternative ferrous charge materials," which are all materials generally used to make iron castings. In these comparisons to alternative iron units, the websites do not indicate that Sorelmetal® is used only for ductile iron applications. As discussed previously, iron castings are "made from mixing and melting different grades of pig iron; different grades of pig iron and foundry scrap; foundry scrap and steel scrap; different grades of pig iron, foundry scrap, steel scrap and ferroalloys or other metals." See 2nd PAI at Exhibit 3 at 1220. Record evidence indicates that ductile iron is specifically made from mixing molten pig iron with magnesium and/or cerium alloy. Id. at 1224 and 1228. Therefore, because Sorelmetal® is compared to steel scrap and other iron units, which record evidence indicates are not ingredients used to make ductile iron, we conclude that Sorelmetal® can be used for types of castings other than just ductile iron.

Moreover, we find that plaintiffs' focus on the intended use of Sorelmetal® does not address the Court's question of whether Sorelmetal® is "fundamentally different from the pig iron consumed by respondents and cannot be used in the production of subject merchandise."

Haimeng v. United States, Slip Op. 08-114 at 43. Therefore, plaintiffs' argument that the only intended use of Sorelmetal® is for ductile applications not only lacks support but does not address the Department's answer to the Court that Sorelmetal® is not fundamentally different than respondents' pig iron and can be used in the production of subject merchandise.

Accordingly, we find that plaintiffs have not provided the Department with evidence to cause us to change our determinations in the Draft Results. We maintain that record evidence indicates that Sorelmetal® is not fundamentally different than Haimeng's pig iron and that it can be used in the production of subject merchandise because: (1) Sorelmetal® is a type of pig iron; (2) producers of Sorelmetal® market it as a less expensive, energy efficient substitute for steel scrap, "alternative iron units," and "alternative ferrous charge materials" (see 2nd PAI at Exhibit 4 at "More Metal For Your Money" at 1-2); (3) it can be used for remelting into iron castings generally, not only ductile iron castings; and (4) the properties of Sorelmetal® are not so different from respondents pig iron (i.e., low concentrations of phosphorous and sulfur) as to preclude respondents from using it to produce subject merchandise.

Third, in response to plaintiffs' argument that Sorelmetal® is a higher value product with a premium price, we find that plaintiffs' assertion is not supported by record evidence. In fact, in the Final Results, and in our brief to the Court, we found that the AUVs for South African imports (the imports of Sorelmetal®) within the WTA data fell within the range of the other country-specific AUVs contained within the Indian HTS category 7201.1000. See Final Results at Comment 1; see also Draft Results at 4. Since we agree with plaintiffs' assertion that the Infodrive India data show that South African imports into India contained only imports of Sorelmetal®, we find that the AUV for South Africa is specific to Sorelmetal®. Thus, based on the record evidence contained within the WTA data, we find that Sorelmetal® does not command a "premium price." While we note that the Court stated that this argument did not address

whether pig iron imports into India under HTS 7201.1000 were consistent with the pig iron consumed by respondents, (see Haimeng v. United States, Slip Op. 08-114 at 42), as we stated in our Draft Results, the properties of Sorelmetal® are not fundamentally different than the pig iron consumed by respondents and we found that it can be used in the production of brake rotors. That the South African AUV in the Indian import statistics is within the range of the AUVs of the other countries further supports our conclusion that the energy, storage, and cost efficiencies received by users of Sorelmetal® are not translated into higher prices for the material.

We also disagree with plaintiffs' assertion that the "superior characteristics" of Sorelmetal® highlight the differences between this name brand product and what plaintiffs call "basic pig iron." We find that the comparisons between Sorelmetal® and other alternative iron units found on the website for Sorelmetal® underscore our findings that Sorelmetal® has the same applications as other ferrous charge materials, i.e. for use in iron castings. The websites on the record compare Sorelmetal® to steel scrap, "alternative ferrous charge materials" and "alternative iron units." The websites do not state or indicate that Sorelmetal® is a substitute for "basic pig iron," because Sorelmetal® is a pig iron. The energy and cost saving characteristics of Sorelmetal® do not change the fact that Sorelmetal® is a non-alloy pig iron, with similar properties as (i.e., low sulfur and phosphorous content) and similar applications to the pig iron consumed by respondents.

Additionally, we find plaintiffs' argument that using a surrogate value based on Sorelmetal® would result in a double-counting of the FOPs, is not supported by record evidence. As we stated above, the producers of Sorelmetal® market it as a less expensive, energy efficient substitute for steel scrap, not pig iron. Thus, any efficiency gained in normal value would occur when Sorelmetal®, a non-alloy pig iron, is substituted for steel scrap, not respondents' non-alloy pig iron. Moreover, because we find that the AUV of South African imports into India falls

within the range of imports into India from the other countries contained in the WTA data, we determine that South African imports of Sorelmetal® pig iron did not vary materially in price from the pig iron imported from the other six countries. Thus we find that the use of Indian WTA data as a surrogate value does not distort normal value when applied to respondents' consumption of pig iron.

Fourth, plaintiffs argue that the Department changed its surrogate value standard. However, our analysis in the Draft Results was not a departure from the Department's practice of selecting surrogate values. Rather, it was a direct response to the Court's question of whether Sorelmetal® is fundamentally different from respondents' pig iron and cannot be used to make subject merchandise. Contrary to plaintiffs' assertion that we have changed our surrogate value standard, consistent with our practice, the Department has selected a surrogate value for pig iron based on the Department's criteria that the surrogate value be: (1) an average non-export value; (2) representative of a range of prices within the POR, or most contemporaneous within the POR; (3) product-specific; and (4) tax-exclusive. See, e.g., Glycine From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 73 FR 55814 (September 26, 2008), and accompanying Issues and Decision Memorandum at Comment 2.

We find that we followed the Department's criteria for selecting surrogate values because, when using the India import data in the instant case, we examined the Indian HTS description of the input provided by the respondent and found that HTS category 7201.1000 was most specific to the input consumed by the respondent. In the Draft Results, the Department recognized that while Haimeng did not actually use Sorelmetal® pig iron, a trademarked item only produced in Canada and South Africa, we determined that the WTA Indian import data for HTS category 7201.1000 was the best available information because HTS category 7201.1000 was specific to the respondent's description of the non-alloy pig iron they used to produce

subject merchandise (i.e. non-alloy pig iron containing less than or equal to 0.5 percent phosphorus). See Haimeng's 1st Supplemental at Exhibit 10.

Additionally, we do not find that plaintiffs' proposed alternative to use the sales value from the financial statements of an Indian steel producer (i.e., Steel Authority of India Limited ("SAIL")) is more specific to the pig iron consumed by respondents (see Final Results at Comment 1) because the financial statements do not specify the type of pig iron the steel producer sold. See 1st publicly available information for surrogate values submission for Haimeng, Meita, Winhere, LABEC, Hongdu, and Luqi, dated September 14, 2006, at Exhibit 4. As we stated above, pig iron falls within four distinct HTS categories: 1) 7201.10.00 –non-alloy pig iron containing by weight 0.5 percent or less of phosphorous; 2) 7201.20.00 – non-alloy pig iron containing by weight more than 0.5 percent of phosphorous; 3) 7201.50.30 alloy pig iron; and 4) 7201.50.60 spiegeleisen. We are unable to determine the specificity of the pig iron sales in SAIL's financial statement because there is no indication as to the phosphorous content of the pig iron or whether the "pig iron" is alloy or non-alloy. See id.

As such, the Department determines that HTS 7201.1000 represents the best available information with which to value the pig iron consumed by respondents in the production of their subject merchandise because: (1) Sorelmetal® is a non-alloy pig iron, not a ductile iron; (2) the properties of Sorelmetal® are not so fundamentally different (i.e. low concentrations of phosphorous and sulfur) to preclude respondents from using it to produce subject merchandise; (3) Sorelmetal® is properly classified under HTS 7201.1000 as a non-alloy pig iron based on the definition of HTS category for pig iron; and (4) the sales value from the financial statements of the Indian steel producer does not contain the requisite detail to determine whether the sales value is derived from sales of the type of pig iron used by Haimeng.

**CONCLUSION**

The Department has analyzed interested party comments, and we conclude that the pig iron trademarked as Sorelmetal® is not fundamentally different from the non-alloy pig iron consumed by Haimeng, and that it can be used in the production of subject brake rotors. Accordingly, because the surrogate value for pig iron did not change in the final redetermination pursuant to court remand, Haimeng's final margin and the final margins of Laizhou Auto Brake Equipment Company, Laizhou Hongda Auto Replacement Parts Co., Ltd., Laizhou Luqi Machinery Co., Ltd., and Qingdao Gren (Group) Co. remain the same as the margin published in the Final Results.

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Ronald K. Lorentzen
Acting Assistant Secretary
for Import Administration

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Date