

treatment as business proprietary information. Petitioner's sources and methodology are discussed in greater detail in the business proprietary version of the Petition and in our *Initiation Checklist*. We corrected certain information contained in the Petition's margin calculations; these corrections are set forth in detail in the *Initiation Checklist*. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determinations, we may re-examine this information and revise the margin calculations, if appropriate.

Periods of Investigation

The anticipated period of investigation ("POI") for Australia, Greece, Ireland, Japan and South Africa will be July 1, 2002 through June 30, 2003. The anticipated POI for the PRC will be January 1, 2003 through June 30, 2003. See 19 CFR 351.204(b).

Export Price for All Countries

In calculating the U.S. price, Petitioner has relied exclusively on average unit value ("AUV") data with respect to the HTSUS number 2820.10.0000. This HTS number is a "basket category" as it includes both subject and non-subject merchandise. This HTS number includes the subject merchandise, EMD, as well as non-subject merchandise, CMD, and possibly NMD¹. Historically, the Department has not accepted basket category AUV's as the basis for U.S. price unless petitioners can provide evidence that the imports classified under the basket category overwhelmingly consist of subject merchandise. In this case, Petitioner has provided information on the record that supports its position that the overwhelming percentage of the imports from the subject countries are, in fact, within the scope of the investigation.

Petitioner used PIERS data to corroborate its contention that the imports under HTSUS number 2820.10.0000 are in fact overwhelmingly subject merchandise because PIERS provides greater product identification information than official U.S. Census data as reported on the International Trade Commission's Dataweb import statistics ("Dataweb").

Petitioner points out that for the subject countries, in many instances, PIERS data clearly identifies EMD for individual shipments. For other shipments, PIERS often identifies them as simply "Manganese Dioxide." These shipments could very well be of subject merchandise but PIERS' lack of specificity prevents a clear identification as such. Given the reluctance of the Department to rely on basket category AUV's for U.S. price, we requested that Petitioner demonstrate that the PIERS data captures the universe of subject merchandise sales during the POI. Additionally, for subject countries where a portion of total POI imports cannot be clearly identified as EMD, we requested that Petitioner demonstrate through other means that all (or at least an overwhelming majority) of the imports were in fact EMD. In order to show the completeness of the PIERS data, Petitioner provided a ratio of total imports according to the PIERS data, as divided by total imports as reported by Dataweb for each of the six countries in the petition. A review of the concordance between PIERS and Dataweb show that for five of the six countries, a substantial majority of the imports are EMD. See Supplemental Response at Exhibit A.

In the case of Ireland, the PIERS import volume is significantly less than the Dataweb volume. Petitioner suggests that the discrepancy between PIERS and Dataweb is due to systematic under-reporting of Irish EMD imports in PIERS. According to Petitioner, EMD imports from Ireland as shown in PIERS are likely mis-labeled as imports from the UK, because there is no EMD production in England, Scotland, or Wales. In addition, Petitioner believes that some imports from Ireland are entering the United States via Canada, and PIERS may have excluded such entries entirely as PIERS does not report on truck, plane, or railway entries. See Supplemental Response at pages 22–24. We found this explanation reasonable because we found no evidence to contradict these statements after conducting a review of the data submitted by Petitioner. See *Initiation Checklist*. Therefore, we find that there is a sufficient basis to accept the Irish AUV data as a basis for U.S. price.

As the second step in its analysis, Petitioner examined each PIERS import entry and compared those which specifically identified the imported product as EMD to those identifying another product, which was usually simply "manganese dioxide," thereby

generating another set of ratios.² For five countries (Australia, Greece, Ireland, Japan, and South Africa), the PIERS-based EMD-to-total-imports ratios show that at least approximately eight-seven percent of the entries in the basket HTS category were EMD, while two of the countries (South Africa and Greece) were one-hundred percent.

Extrapolating the PIERS-based results to the Dataweb figures, the Department is able to adequately conclude that the overwhelming portion of imports reflected in the Dataweb figures are EMD, and are therefore adequate figures upon which to base export price for Australia, Greece, Ireland, Japan, and South Africa.

Finally, we note that the PIERS EMD-to-total imports ratio does not demonstrate that all imports from the PRC are EMD and that there is evidence on the record that the PRC does produce CMD and NMD. As a result, Petitioner provided further information to corroborate its argument that the Chinese imports to the United States were EMD. Specifically, Petitioner provided Dataweb statistics that showed that there were entries of Chinese merchandise in only three months of the POI to two different ports. Petitioner provided an affidavit to attest to the fact that the material was significantly EMD. See Petition at Exhibit 5. The volumes indicated in the affidavit match two of the three entries listed in the Dataweb statistics, and represent approximately eighty-nine percent of the volume entered into the United States under the relevant HTS number. Petitioner did not have any information regarding the third and final month's entry volume. However, the average unit value of the third month's entries is significantly higher than the others. Therefore, Petitioner notes that the inclusion of this data point is conservative since it lowers the overall margin. See *Initiation Checklist*. Therefore, we find that there is a sufficient basis to accept the Chinese AUV data as a basis for U.S. price.

Australia

Export Price

For a description of export price for Australia, see *Export Price for All*

² Note that these ratios only counted those PIERS entries which could be positively identified as EMD in the numerator. However, the remaining entries may include EMD, so the actual EMD-to-total imports ratios may in fact be higher. Moreover, Petitioner also provided additional evidence that it is likely that only EMD is being imported under this HTS category. Petitioner provided information that CMD is produced only in Belgium and the PRC, while NMD is predominantly produced in Gabon, Ghana, Brazil, the PRC, Mexico, and India. See Petition at Exhibit 9 and 13.

¹ Note that Petitioner indicated at footnote 11 on page 6 of its July 31, 2003, petition, that NMD would be in the basket category HTS number 2820.10.0000. However, it would appear that NMD is properly classified under HTS 2602.00.0000, with 10-digit designations varying according to manganese weight. As a result, NMD should not be included in the basket category.