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

Analysis of Comments Received

All issues raised in the case brief submitted in this administrative review are addressed in the ''Issues and Decision Memorandum'' (Decision Memorandum) from Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration, dated July 5, 2005, which is hereby adopted by this notice. A list of the issues which SKBC has raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in room B–099 of the main Department of Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at *http://www.ia.ita.doc.gov.* The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made changes in the margin calculations. The changes are listed below:

- We have added billing adjustments to the Net U.S. Price.
- We have revised the model-match program to distinguish between fittings with fractional size and wall thickness measurements (*e.g.*, ½ inch or 1½ inches).
- We have revised the model-match program to ensure that U.S. sales are matched to the most contemporaneous home market sale.
- We have removed the deduction for home market inventory carrying costs from our calculation of U.S. price.

All programming changes are discussed in the relevant sections of the Decision Memorandum, accessible in B–099 of the main Department of Commerce building and on the Web at *http://www.ia.ita.doc.gov.*

Final Results of the Review

We determine the following percentage weighted-average margin exists for the period February 1, 2003 through June 30, 2004:

Manufacturer/exporter	Weighted average margin (percent)
SKBC	0.81

Liquidation

The Department shall determine, and U.S. Customs and Border Protection (Customs) shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated exporter/importer-specific assessment rates. To calculate these rates, we divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales for each importer. The Department will issue appropriate assessment instructions directly to Customs within 15 days of publication of these final results of review. We will direct Customs to assess the appropriate assessment rate against the entered Customs values for the subject merchandise on each of the importer's entries under the relevant order during the POR.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of stainless steel butt-weld pipe fittings from Korea entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Tariff Act of 1930 as amended (the Act): (1) The cash deposit rate for the reviewed company will be the rate shown above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 21.2 percent. This rate is the ''All Others'' rate from the amended final determination in the LTFV investigation. *See Stainless Steel Butt-Weld Pipe Fittings From Korea: Notice of Final Determination of Sales at Less Than Fair Value,* 58 FR 11029, (February 23, 1993).

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

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping or countervailing 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 or countervailing duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

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

Dated: July 5, 2005.

Barbara E. Tillman,

Acting Assistant Secretary for Import Administration.

Appendix

Comments and Responses

1. Addition of Billing Adjustments to U.S. Price.
2. Revisions to the Model Match Program, Use of the Concordance Submitted by SKBC.
3. Inventory Carrying Costs.

[FR Doc. E5–3655 Filed 7–8–05; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–601]

Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind in Part

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

SUMMARY: The Department of Commerce (''the Department'') is conducting the seventeenth administrative review of the antidumping duty order on tapered

roller bearings and parts thereof, finished or unfinished, (''TRBs'') from the People's Republic of China (''PRC'') covering the period June 1, 2003, through May 31, 2004. We have preliminarily determined that sales have been made below normal value. Further, we have preliminarily determined to apply an adverse facts available (''AFA'') rate to all sales and entries of the Yantai Timken Company's (''Yantai Timken's'') subject merchandise during the period of review (''POR''). If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on entries of subject merchandise during the POR, for which the importer-specific assessment rates are above *de minimis*.

Interested parties are invited to comment on these preliminary results. We will issue the final results no later than 120 days from the date of publication of this notice.

EFFECTIVE DATE: July 11, 2005.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Eugene Degnan, 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) 482–4243 and (202) 482–0414, respectively.

Background

On June 1, 2004, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on TRBs from the PRC for the period June 1, 2003, through May 31, 2004. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity to Request Administrative Review,* 69 FR 30873. On June 30, 2004, The Timken Company (''the Petitioner'') requested that the Department conduct an administrative review of the antidumping duty order covering TRBs from the PRC for entries of subject merchandise produced and exported by China National Machinery Import & Export Corporation (''CMC''), Chin Jun Industrial Ltd. (''Chin Jun''), Luoyang Bearing Corporation (Group) (''LYC''), Peer Bearing Company—Changshan (''CPZ''), Shanghai United Bearing Co., Ltd. (''Shanghai United''), Weihai Machinery Holding (Group) Company, Ltd. (''Weihai Machinery''), Zhejiang Changshan Bearing (Group) Co., Ltd. (''Changshan Bearing''), Zhejiang Changshan Change Bearing Co. (''ZCCBC''), and Zhejiang Machinery Import & Export Corp (''ZMC''). Also on June 30, 2004, Yantai Timken requested an administrative review of entries of subject merchandise produced by Yantai Timken. On July 28, 2004, the Department published in the **Federal Register** a notice of the initiation of the antidumping duty administrative review of TRBs from the PRC for the period June 1, 2003, through May 31, 2004. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 69 FR 45010 (*''Initiation Notice''*). On August 5, 2004, the Department issued antidumping duty questionnaires to all of the above respondents.

On September 8, 2004, CPZ submitted its Section A response. On September 28, 2004, CPZ submitted its Sections C and D responses. On October 22, 2004, the Petitioner withdrew its request for an administrative review of sales and entries of subject merchandise produced and exported by CPZ. On January 28, 2005, the Department published a notice of partial rescission, which rescinded the administrative review for CPZ. *See Tapered Roller Bearings and Parts Thereof, Finished or Unfinished from the People's Republic of China: Notification of Partial Rescission of the Antidumping Duty Administrative Review,* 70 FR 5966 (January 28, 2005). On February 4, 2005, the Department published a notice in the **Federal Register** extending the time limit for the preliminary results of review until May 1, 2005. *See Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review: Tapered Roller Bearings and Parts Thereof, Finished or Unfinished from the People's Republic of China,* 70 FR 5967 (February 4, 2005). Additionally, on April 5, 2005, the Department published a notice in the **Federal Register** further extending the time limit for the preliminary results of review until June 30, 2005. *See Extension of Time Limit for Preliminary Results of the Antidumping Duty Administrative Review: Tapered Roller Bearings and Parts Thereof, Finished or Unfinished from the People's Republic of China,* 70 FR 17233 (April 5, 2005).

Yantai Timken

On August 5, 2004, the Department issued its antidumping questionnaire to Yantai Timken. Yantai Timken submitted its Section A questionnaire response on August 26, 2004, and its Sections C and D responses on October 4, 2004. The Department issued a Section A–D supplemental questionnaire to Yantai Timken on December 22, 2004, to which Yantai Timken responded on January 12, 2005. The Department issued a second supplemental questionnaire to Yantai Timken on February 15, 2005, to which Yantai Timken responded on March 15, 2005. We issued a third supplemental questionnaire on April 6, 2005. Yantai Timken responded on April 13, 2005. On April 18, 2005, Yantai Timken provided revised proprietary versions of its August 26, 2004, October 4, 2004, January 12, 2005, March 1, 2005 and March 4, 2005 submissions in response to the Department's third supplemental questionnaire response. On April 15, 2005, the Department issued its fourth supplemental questionnaire. Yantai Timken provided its fourth supplemental questionnaire response on April 20, 2005. The Department issued its fifth supplemental questionnaire on April 21, 2005 concerning the quantity and value of sales during the past three years as a result of Yantai Timken's request for revocation. Yantai Timken responded on April 25, 2005. On April 21, 2005, the Department also issued its sixth supplemental questionnaire to Yantai Timken. Yantai Timken provided its sixth supplemental questionnaire response on May 5, 2005.

LYC

On August 5, 2004, the Department issued its antidumping questionnaire to LYC. LYC submitted its Section A questionnaire response on September 8, 2004, and its Sections C and D responses on October 4, 2004. The Department issued a Section A–D supplemental questionnaire to LYC on December 22, 2004, to which LYC responded on January 12, 2005. The Department issued a second supplemental questionnaire to LYC on February 7, 2005, to which LYC responded on March 7, 2005. On March 11, 2005, LYC submitted sales and factors of production (''FOP'') reconciliations. We issued a third supplemental questionnaire on May 4, 2005. LYC responded on May 16, 2005. On June 8, 2005, the Department issued its fourth supplemental questionnaire. LYC submitted its fourth supplemental questionnaire response on June 15, 2005. On June 15, 2005, we issued a fifth supplemental questionnaire to LYC. LYC provided its fifth supplemental questionnaire response on June 21, 2005.

CMC

On August 5, 2004, the Department issued its antidumping questionnaire to CMC. CMC submitted its Section A questionnaire response on September 1, 2004, and its Sections C and D responses on October 4, 2004. The Department issued a Section A supplemental questionnaire to CMC on

October 18, 2004, to which CMC responded on November 1, 2004. The Department issued a Section A through D supplemental questionnaire to CMC on December 17, 2004. CMC provided its response on January 10, 2005. We issued a second supplemental questionnaire on February 1, 2005. CMC responded on February 22, 2005. On May 24, 2005, the Department issued its third supplemental questionnaire. CMC provided its third supplemental questionnaire response on June 6, 2005.

Other Respondents

On August 5, 2004, the Department issued an antidumping duty questionnaire to Chin Jun, Shanghai United, Weihai Machinery, Changshan Bearing, ZCCBC, and ZMC. On September 9, 2004, ZMC submitted a letter stating that it had no U.S. sales of subject merchandise nor shipments of subject merchandise to the United States during the POR. On October 15, 2004, and December 3, 2004, respectively, Weihai Machinery and Chin Jun submitted letters stating that they had no U.S. sales of subject merchandise nor shipments of subject merchandise to the United States during the POR.

On September 24, 2004, we contacted counsel for ZCCBC to determine whether ZCCBC received Department's questionnaire. *See* memorandum to the file from Jim Nunno, Senior Analyst, *Telephone Conversation with Counsel for Respondent, Zhejiang Changshan Change Bearing Co., (''ZCCBC'') (''ZCCBC Memorandum''),* dated September 29, 2004. Counsel explained that it forwarded the Department's questionnaire to ZCCBC, but did not receive a confirmation that the company had received the questionnaire. *See ZCCBC Memorandum.* On October 5, 2004, the Department issued a second letter and questionnaire to the government of the PRC, requesting its assistance in transmitting our questionnaire to Chin Jun, Shanghai United, Weihai Machinery, Changshan Bearing, and ZCCBC. *See* letter to Mr. Liu Danyang, Director of the Bureau of Fair Trade for Imports and Exports, dated October 5, 2004. On October 6, 2004, in response to our question whether ZCCBC received our questionnaire, counsel for ZCCBC explained that it no longer represents ZCCBC in this administrative review, and did not confirm whether ZCCBC received the Department's questionnaire. *See Telephone Conversation with Counsel for Respondent, Zhejiang Changshan Change Bearing Co., (''ZCCBC'') (''Second ZCCBC Memorandum'').* On October 25, 2004, Federal Express reported that it was unable to deliver our October 5, 2004 questionnaire. See memorandum to the file from Katharine Huang, Case Analyst, *Package to the Chinese Ministry of Commerce Was Returned, Seventeenth Administrative Review of Tapered Roller Bearings From the People's Republic of China,* dated December 20, 2004. Thus, Shanghai United, Changshan Bearing, and ZCCBC did not respond to our August 5, 2004 questionnaire, October 5, 2004 follow-up questionnaire or our other attempts to determine whether they received the August 5, 2004 questionnaire.

Notice of Intent To Rescind Review in Part

Pursuant to 19 CFR 351.213(d)(3), the Department may rescind an administrative review, in whole or with respect to a particular exporter or producer, if the Secretary concludes that, during the period covered by the review, there were no entries, exports, or sales of the subject merchandise. The Department explains this practice in the preamble to the Department's regulations. *See Antidumping Duties; Countervailing Duties,* 62 FR 27296, 27317 (May 19, 1997) (''Preamble''); *see also Stainless Steel Plate in Coils From Taiwan: Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review,* 67 FR 5789, 5790 (February 7, 2002) and *Stainless Steel Plate in Coils from Taiwan: Final Rescission of Antidumping Duty Administrative Review,* 66 FR 18610 (April 10, 2001). To confirm ZMC's, Weihai Machinery's, and Chin Jun's respective claims that each had no U.S. sales of subject merchandise nor shipments of subject merchandise to the United States during the POR, the Department conducted a Customs inquiry. *See* memorandum to the file from Laurel LaCivita, *Tapered Roller Bearings and Parts, Thereof from the People's Republic of China, No Shipment Inquiry for Chin Jun Industrial Ltd., Weihai Machinery Holding (Group) Company, Ltd., and Zhejiang Machinery Import & Export Corporation,* dated June 29, 2005. We have received no evidence that Chin Jun, Weihai Machinery or ZMC had any shipments to the U.S. of subject merchandise during the period of review. Therefore, pursuant to 19 CFR 351.213(d)(3), the Department preliminarily intends to rescind this review as to ZMC, Weihai Machinery, and Chin Jun. The Department may take additional steps to confirm that these companies had no sales, shipments or entries of subject merchandise to the United States during the POR.

Therefore, for this administrative review, the Department will review only those sales of subject merchandise to the United States made by Yantai Timken, LYC, and CMC.

Period of Review

The POR is June 1, 2003 through May 31, 2004.

Scope of Order

Merchandise covered by this order is TRBs from the PRC; flange, take up cartridge, and hanger units incorporating tapered roller bearings; and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use. This merchandise is currently classifiable under the Harmonized Tariff Schedule of the United States (''HTSUS'') item numbers 8482.20.00, 8482.91.00.50, 8482.99.30, 8483.20.40, 8483.20.80, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.80, 8708.99.80.15, and 8708.99.80.80. Although the HTSUS item numbers are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Verification of Responses

As provided in section 782(i) of the Tariff Act of 1930, as amended (''the Act''), we verified information provided by Yantai Timken. We used standard verification procedures, including on-site inspection of the manufacturers' and exporters' facilities, and examination of relevant sales and financial records. The Department conducted the sales and FOP verification at Yantai Timken's facilities in Yantai, Shandong Province from April 25, 2005, to April 29, 2005. Our verification results are outlined in the verification report for Yantai Timken. For further details, *see Verification of Sales and Factors of Production Reported by the Yantai Timken Company in the Antidumping Duty Administrative Review of Tapered Roller Bearings and Parts, Thereof from the People's Republic of China,* dated June 30, 2005 (*''Yantai Timken Verification Report''*). In addition, the Department conducted a constructed export price (''CEP'') sales verification at the facilities of Yantai Timken's parent company, Timken, in Canton, Ohio from May 16, 2005 through May 19, 2005. *See Verification of the Constructed Export Sales Reported by The Timken Company in the Antidumping Duty Administrative Review of Tapered Roller Bearings and Parts, Thereof from the People's Republic of China,* dated

June 30, 2005 (*''Timken CEP Verification Report''*).

Surrogate Value Information

On November 17, 2004, the Petitioner submitted comments on the appropriate surrogate values (''SV'') to be applied to the FOPs in this review. On November 17, 2004, Yantai Timken also submitted surrogate value data and comments with respect to one of its proprietary inputs into the production process of TRBs. On December 8, 2004, the Department requested interested parties to submit comments on surrogate country selection or comments on significant production in potential surrogate countries. On December 29, 2004, Yantai Timken provided comments on the surrogate country selection.

On April 8, 2005, the Department issued a surrogate value questionnaire establishing April 15, 2005, as the final date by which parties may provide comments on surrogate values for consideration in the Department's preliminary results of review. Yantai Timken and Timken provided comments on April 15, 2005. No other party to the proceeding provided comments on surrogate values during the course of this review.

Nonmarket-Economy-Country Status

In every case conducted by the Department involving the PRC, the PRC has been treated as a non-market economy (''NME'') country. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Preliminary Results 2001–2002 Administrative Review and Partial Rescission of Review,* 68 FR 7500 (February 14, 2003). None of the parties to this proceeding has contested such treatment. Accordingly, we calculated normal value (''NV'') in accordance with section 773(c) of the Act, which applies to NME countries.

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV on the NME producer's FOPs, valued in a surrogate market-economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market-economy countries that are: (1) At a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise. The sources of the surrogate factor values are discussed under the *''Normal Value''* section below and in the memorandum to the file from Eugene Degnan, Case Analyst, through Wendy Frankel and Robert Bolling, *Preliminary Results of Review of Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Factors of Production Valuation Memorandum for the Preliminary Results of Review,* dated June 30, 2005 (*''Factor Valuation Memorandum''*).

The Department has determined that India, Indonesia, Sri Lanka, the Philippines, and Egypt are countries comparable to the PRC in terms of economic development. *See Memorandum from Ron Lorentzen to Laurie Parkhill: Administrative Review of Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, (''TRBs'') from the People's Republic of China (PRC): Request for a List of Surrogate Countries (''Policy Memo''),* dated November 22, 2004. Customarily, we select an appropriate surrogate country from the Policy Memo based on the availability and reliability of data from the countries that are significant producers of comparable merchandise. In this case, we have found that India is a significant producer of comparable merchandise. *See* Memorandum from Salim Bhabhrawala through Robert Bolling to Wendy Frankel: *Antidumping Administrative Review of Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Selection of a Surrogate Country,* dated March 29, 2005 (*''Surrogate Country Memorandum''*).

The Department used India as the primary surrogate country, and, accordingly, has calculated NV using Indian prices to value the PRC producers' factors of production, when available and appropriate. *See Surrogate Country Memorandum* and *Factor Valuation Memorandum.* We have obtained and relied upon publicly available information wherever possible.

In accordance with 19 CFR 351.301(c)(3)(ii), for the final results in an antidumping administrative review, interested parties may submit publicly available information to value factors of production within 20 days after the date of publication of the preliminary results of review.

Separate Rates

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

We have considered whether each reviewed company based in the PRC is eligible for a separate rate. The Department's separate-rate test to determine whether the exporters are independent from government 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 Tapered Roller Bearings and Parts 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), and *Preliminary Determination of Sales at Less than Fair Value: Honey from the People's Republic of China,* 60 FR 14725 (March 20, 1995).

To establish whether a firm is sufficiently independent from government-control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588, (May 6, 1991), as modified by *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''*). Under the separate rates criteria, the Department assigns separate rates in NME cases only if the respondent can demonstrate the absence of both *de jure* and *de facto* government control over export activities. *See Silicon Carbide* and *Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China,* 60 FR 22544 (May 8, 1995).

LYC and CMC each provided company-specific separate-rates information and stated that each met the standards for the assignment of separate

rates. ZMC, Weihai Machinery and Chin Jun did not submit any information to establish their entitlement to a separate rate. Consequently, the Department analyzed whether LYC and CMC should receive a separate rate.

However, for Yantai Timken, we have preliminarily determined to apply AFA, and thus find that Yantai Timken did not demonstrate its eligibility for a separate rate, and have preliminarily determined that it is part of the PRC-wide entity. As noted below, as AFA, and as the PRC-wide rate, the Department is assigning the rate of 60.95 percent, the highest rate determined in any previous segment of this proceeding.

A. 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; or (3) any other formal measures by the government decentralizing control of companies. *See Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China,* 56 FR 20588 (May 6, 1991).

B. Absence of De Facto Control

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 Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China,* 63 FR 72255 (December 31, 1998). Therefore, the Department has preliminarily determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude the Department from assigning separate rates. The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) Whether the exporter sets its own export prices independent of the government and without the approval of a government authority; (2) whether the respondent has 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 its management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. *See Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China,* 60 FR 22544 (May 8, 1995).

LYC

LYC placed on the record statements and documents to demonstrate absence of *de jure* control. In its questionnaire responses, LYC reported that it does not have any relationship with the central, provincial, or local governments with respect to ownership, internal management, and daily business operations. *See* LYC's September 8, 2004 Section A questionnaire response (''LY AQR'') at 2. LYC submitted a copy of its business license and stated it is renewed annually as long as the company submits its annual financial statements and profit/loss statements to the appropriate State Administration of Industry and Commerce office and no activities prohibited by Article 30 of the Administrative Regulations have occurred. LYC reported that the subject merchandise did not appear on any government list regarding export provisions or export licensing, and the subject merchandise is not subject to export quotas or export control licenses imposed by the PRC government. *See* LY AQR at 5. LYC reported that it may engage in business activities within the scope of its business license. LYC explained that the license imposes no other limitations on LYC, nor grants any entitlements to the company by its license. Furthermore, LYC stated that the China Chamber of Commerce of Machinery and Electronic Exporters (the ''Chamber''), a non-governmental association, does not interfere with LYC's export activities. *See* LY AQR at 6–7. LYC submitted a copy of the Trade Law of the People's Republic of China to demonstrate that there is no centralized control over its export activities. Through the questionnaire responses, we examined each of the related laws and LYC's business license and preliminarily determine that they demonstrate the absence of *de jure* control over the export activities and evidence in favor of the absence of government control associated with LYC's business license.

In support of an absence of *de facto* control, LYC reported the following: (1) During the POR, LYC explained that it sold the subject merchandise in the United States either directly to its unaffiliated U.S. customers or through its affiliated company, LYC America. The prices are not subject to review by, or guidance from, any other entity, including any governmental organization; (2) LYC explained that its sales transactions are not subject to the review or approval of any organization outside the company; (3) LYC explained that its Board of Directors appoints the general manager and deputy general managers. LYC reported that the general manager is responsible for selecting other management personnel, and that it is not required to notify any government authorities of the identities of its management personnel; and (4) LYC's profits can be used for any lawful purpose. *See* LY AQR at 8. LYC explained that its decisions regarding profit distribution are made by LYC's management. Additionally, LYC stated that it is not required to sell any of its foreign currency earnings to the government and is allowed to freely convert all foreign currency earnings on sales of the merchandise under review to the United States into renminbi for domestic use in China at the prevailing market rates of any bank. See LY AQR at 9.

The evidence placed on the record of this administrative review by LYC demonstrates an absence of government control, both in law and in fact, with respect to LYC's exports of the merchandise under review. As a result, for the purposes of these preliminary results, the Department is granting a separate, company-specific rate to LYC, the exporter which shipped the subject merchandise to the United States during the POR.

CMC

CMC placed on the record statements and documents to demonstrate absence of de jure control. In its questionnaire responses, CMC reported that it is not administratively subject to any national, provincial or local government agencies. *See* CMC's September 1, 2004 Section A response (''CMC AQR'') at A–2. CMC submitted a copy of its business license and stated it must be renewed annually with the Administration of Industry and Commerce. *See* CMC AQR at A–4 and exhibit A–3. CMC reported that the subject merchandise did not appear on any government list regarding export provisions or export licensing in effect during the POR. CMC reported that its business license provides for a broad range of business activities and does not constrain or limit its activities with respect to the sale of the subject merchandise. Furthermore, CMC stated that The China Chamber of Commerce of Machinery and Electronic Exporters does not coordinate or interfere with CMC's export activities. CMC submitted a copy of the Foreign Trade Law of the PRC and excerpts from the ''PRC

Regulations for Transformation of Operational Mechanism of State-Owned Industrial Enterprises (1992),'' to demonstrate that there is no centralized control over its export activities. *See* CMC AQR at A–2 and exhibit A–2. Through questionnaire responses, we examined each of the related laws and CMC's business license and preliminarily determine that they demonstrate the absence of de jure control over the export activities and evidence in favor of the absence of government control associated with CMC's business license.

In support of an absence of de facto control, CMC reported the following: (1) CMC sets the prices of the subject merchandise exported to the United States by direct arm's-length negotiations with its customers, and the prices are not subject to review by or guidance from any governmental organization; (2) CMC's sales transactions are not subject to the review or approval of any organization outside the company; (3) CMC is not required to notify any government authorities of its management selection; and (4) CMC is free to spend its export revenues and its profit can be used for any lawful purpose. *See* CMC AQR at A–7.

The evidence placed on the record of this administrative review by CMC demonstrates an absence of government control, both in law and in fact, with respect to CMC's exports of the merchandise under review. As a result, for the purposes of these preliminary results, the Department is granting a separate, company-specific rate to CMC, the exporter which shipped the subject merchandise to the United States during the POR.

Adverse Facts Available

Section 776(a)(1) and (2) of the Act provides that the Department shall apply ''facts otherwise available'' if, *inter alia,* necessary information is not on the record or an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

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 will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits and subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. 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 applicable requirements established by the administering authority'' if the information is timely, can be verified, is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information if it can do so without undue difficulties.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) of the Act also authorizes the Department to use as AFA, information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

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* Statement of Administrative Action (''SAA'') accompanying the URAA, H. Doc. No. 316, 103d Cong., 2d Session 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, however, that the Department need not prove that the selected facts available are the best alternative information. *See* SAA at 869.

Yantai Timken

The Department finds that the information necessary to calculate an accurate and otherwise reliable margin is not available on the record with respect to Yantai Timken. As the Department finds that Yantai Timken withheld information, failed to provide information requested by the Department in a timely manner and in the form required, significantly impeded the proceeding, and provided unverifiable information, pursuant to sections 776(a)(2)(A), (B), (C) and (D) of the Act, the Department is resorting to the facts otherwise available.

During the CEP verification, Timken failed to substantiate the preponderance of its reported adjustments to U.S. price. Specifically, Timken did not provide sub-ledgers and other source documents to tie reported expenses such as marine insurance, warehousing expenses, commissions, rebates or SG&A expenses to its audited financial statements. *See Timken CEP Verification Report* at 6, 7, 14, 16, 18, 20, and 22. Further, Timken could not demonstrate at verification that the expenses it reported in its Section C response for warehousing, SG&A, marine insurance, international freight commissions and certain rebates represent the total value of these expenses applicable to the subject merchandise during the POR. *See Timken CEP Verification Report* at 2, 14, 25, 20, and 22. In addition, Timken, despite providing six supplemental questionnaire responses during the course of this proceeding, further stated at verification that it based its distributor warehousing expenses, U.S. inland freight, commissions and certain rebates reported in the Section C response on either preliminary or hypothetical data. *See Timken CEP Verification Report* at 2, 3, 20, and 21. For example, at verification, Timken claimed that it reported certain rebates based on the maximum amount that a customer could earn, rather than on the actual rebated earned, and then could not substantiate the an actual rebate amount at verification. At no time prior to verification, did Timken identify the preliminary or hypothetical nature of this data. *See Timken CEP Verification Report* at 17, 18, and 20.

Additionally, at the FOP verification in China we determined that Yantai Timken misreported its factor consumption rates for electricity and gas, provided erroneous translations of its primary source documents for those items, and failed to provide the distance from the supplier to the factory for its packing materials. *See Yantai Timken*

Verification Report at 2, 17–10 and 20–22.

The Department, in accordance with its standard practice, provided its verification outlines to Yantai Timken and to Timken seven days prior to the commencement of each verification. *See* the verification outlines of April 18, 2005 and May 6, 2005. In addition, at the beginning of the Yantai Timken verification on April 25, 2005, we informed Yantai Timken that we would trace the same pre-selected and surprise sales at the CEP verification. *See* the *Timken CEP Verification Report* at 1. Thus, Timken had 20 days advance notice concerning the specific sales to be examined at verification. Consequently, Yantai Timken and Timken each had sufficient time to prepare their documents for a complete verification by the Department.

The purpose of providing a verification outline to respondents is to give them sufficient notice about the types of source documents that the Department seeks to examine during verification, and to afford them sufficient time to compile source documents and prepare them as verification exhibits. At no time prior to verification did Timken or Yantai Timken contact the Department with questions concerning verification procedures, documents required for verification, or the verification outline. Further, they did not indicate at any time prior to verification that they were experiencing difficulties in supplying information requested in the verification outline. Thus, subsections 782(c)(1) and (2) of the Act do not apply in this instance.

Section 782(d) stipulates that if the Department determines that a response to a request for information does not comply with that request, it ''shall promptly inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person with an opportunity to remedy or explain the deficiency in light of the time limits established for the completion of investigations or reviews under this title.'' Because Timken did not advise the Department of the preliminary nature of the information with respect to commissions, rebates, distributor warehousing and U.S. inland freight provided in its questionnaire response and six supplemental questionnaire responses, the Department did not have sufficient information to determine that a deficiency existed before verification. As such, section 782(d) is not applicable in this instance. Moreover, by providing preliminary rather then actual data, Timken did not provide essential information within the established deadlines or in a manner requested by the Department. This, in turn, inhibited the Department from asking meaningful questions concerning the information, significantly impeding the proceeding.

In addition, as stated above, Timken failed to provide sub-ledgers or other supporting documents to substantiate its reported values for ocean freight, marine insurance, warehousing expenses, commissions, rebates and SG&A expenses, despite clear statements in each of the verification outlines that such documents were required. Due to Timken's failure to provide the requisite requested documents that would tie Yantai Timken's reported data to its audited financial statements, the Department was not able to verify the accuracy of the information submitted in Yantai Timken's questionnaire responses or rely on the reported information to calculate accurate margins.

Further, Timken could not demonstrate the completeness and accuracy of its reported indirect selling expenses and U.S. warehousing expenses. It failed to demonstrate that the reported marine insurance and ocean freight expenses represent the total value of expenses applicable to the subject merchandise during the POR and could not trace commissions and rebates to the audited financial statements. Further, the documents presented during the FOP verification contradicted the information on the record concerning Yantai Timken's reported electricity and gas consumption. Therefore, the Department was unable to verify a significant portion of the selling expenses reported in the United States and some of the FOPs reported in China against Timken's and Yantai Timken's normal books and records.

As a result, of the items discussed above, we preliminarily determine that Timken withheld information requested by the Department, failed to provide such information by the deadlines for submission and in a form or manner requested by the Department significantly impeded the proceeding, and provided information that could not be verified. Thus, we preliminarily determine that the use of facts otherwise available is warranted pursuant to sections 776(a)(2)(A), (B), (C) and (D) of the Act.

The Department also finds that Yantai Timken failed to act to the best of its ability in supplying the Department with the requested information. As the United States Court of Appeals for the Federal Circuit (''Federal Circuit'') has stated,

> while the standard does not require perfection and recognizes that mistakes sometimes occur, it does not condone inattentiveness, carelessness, or inadequate record keeping. It assumes that importers are familiar with the rules and regulations that apply to the import activities undertaken and requires the importers, to avoid a risk of an adverse inference determination in responding to Commerce's inquiries: (a) Take reasonable steps to keep and maintain full and complete records documenting the information that a reasonable importer should anticipate being called upon to produce; (b) have familiarity with all of the records it maintains in its possession, custody, or control; and (c) conduct prompt, careful, and comprehensive investigations of all relevant records that refer or relate to the imports in question to the full extent of the importers' ability to do so.

Nippon Steel Corp. v. *United States,* 337 F.3d 1373, 1382 (Fed. Cir. 2003). This is the third time that the Department has reviewed Yantai Timken's sales of subject merchandise in the United States, and the second time that it verified Yantai Timken's FOPs in the PRC and its U.S. sales at Timken's U.S. offices. Therefore, Timken is fully aware of the rules and regulations that apply to the import activities it has undertaken.

Yantai Timken failed to cooperate by not acting to the best of its ability to comply with a request for information by submitting its questionnaire response and six supplemental questionnaire responses based on preliminary data for distributor warehousing expenses, U.S. inland freight to the customer, and potential commissions and rebate amounts. Timken, throughout the proceeding, did not examine thoroughly investigate its own records to ensure that it was providing the Department with complete and accurate data. Additionally, Timken failed to cooperate to the best of its ability when it failed to provide documentation at verification such as, subsidiary ledgers for sales, accounts receivable, accounts payable or any other documentation that would substantiate its reported expenses such as ocean freight, marine insurance, warehousing expenses, commissions, rebates or SG&A expenses and tie these figures to its audited financial statements. Timken did not take steps to keep and maintain adequate books and records documenting information that a reasonable respondent should anticipate being called upon to produce. Therefore, based on Timken's and Yantai Timken's lack of cooperation in the preparation of their questionnaire responses and verification documents, we preliminarily determine that Yantai Timken and Timken failed to cooperate

to the best of their ability with the Department's request for information.

As a result of Timken's failure to substantiate the preponderance of its reported adjustments to U.S. price, and to tie its reported expenses to the audited financial statements, the unverified information remains so inaccurate and so pervasive that we are not able to use Yantai Timken's questionnaire responses to calculate an accurate antidumping duty margin in this review. Therefore, we preliminarily determine that the application of total AFA is warranted for Yantai Timken, pursuant to Section 776(a) and (b) of the Act.

Shanghai United, Changshan Bearing, and ZCCBC

Shanghai United, Changshan Bearing, and ZCCBC did not respond to our August 5, 2004, questionnaire. In addition, Shanghai United, Changshan Bearing, and ZCCBC did not respond to the Department's October 5, 2004 follow-up questionnaire, nor did they respond to any of our other attempts to determine whether they received the questionnaire through their attorneys. *See ZCCBC Memorandum* and *Second ZCCBC Memorandum*. In the Initiation Notice, the Department stated that if one of the companies that we initiated a review for does not qualify for a separate rate, all other exporters of tapered roller bearings from the PRC who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporter is a part. *See Initiation Notice*, at fn. 3. Shanghai United, Changshan Bearing, and ZCCBC did not submit any information to establish their eligibility for a separate rate, *See Separate Rates* section above, we find they are deemed to be part of the PRC-Wide entity. Therefore, we determine that it is necessary to review the single PRC entity, including Shanghai United, Changshan Bearing, and ZCCBC, in this proceeding.

PRC-Wide Entity

The PRC entity did not fully comply with the Department's request for information. Pursuant to section 776(a)(1) of the Act, as necessary information is not available on the record of this proceeding, the Department must resort to the facts otherwise available.

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* SAA at 870. 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 stated above, the PRC-wide entity did not respond to our requests for information, therefore, 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. Therefore, we will, in selecting from among the facts otherwise available, use adverse inferences.

Selection of the Adverse Facts Available Rate

In deciding which facts to use as AFA section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from (1) the petition, (2) a final determination in the investigation, (3) any previous review or determination, or (4) any information placed on the record. It is the Department's practice to select, as AFA, the higher of (a) the highest margin alleged in the petition, or (b) the highest calculated rate of any respondent in the investigation. *See Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate From Belgium,* 58 FR 37083 (July 9, 1992).

The Court of International Trade (''CIT'') and the Federal Circuit have consistently upheld the Department's practice. *See Rhone Poulenc, Inc.* v. *United States*, 899 F.2d 1185, 1190 (Fed. Circ. 1990) (''Rhone Poulenc''); *NSK Ltd.* v. *United States,* 346 F. Supp. 2d 1312, 1335 (Ct. Int'l Trade 2004)(upholding a 73.55% total AFA rate, the highest available dumping margin from a different respondent in an LTFV investigation); *See also Kompass Food Trading Int'l* v. *United States*, 24 CIT 678, 689 (2000) (upholding a 51.16% total AFA rate, the highest available dumping margin from a different, fully cooperative respondent); and *Shanghai Taoen International Trading Co., Ltd.* v. *United States*, 2005 Ct. Int'l. Trade 23 *23; Slip Op. 05–22 (February 17, 2005) (upholding a 223.01% total AFA rate, the highest available dumping margin from a different respondent in a previous administrative review).

The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse ''as to effectuate the purpose of the facts available role to induce respondents to provide the Department with complete and accurate information in a timely manner.'' *See Static Random Access Memory Semiconductors from Taiwan; Final Determination of Sales at Less than Fair Value,* 63 FR 8909, 8932 (February 23, 1998). The Department's practice also ensures ''that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See SAA* at 890. *See also Final Determination of Sales at Less than Fair Value: Certain Frozen and Canned Warmwater Shrimp from Brazil,* 69 FR 76910 (December 23, 2004); *See also D&L Supply Co.* v. *United States*, 113 F. 3d 1220, 1223 (Fed. Cir. 1997). In choosing the appropriate balance between providing respondents with an incentive to respond accurately and imposing a rate that is reasonably related to the respondent's prior commercial activity, selecting the highest prior margin ''reflects a common sense inference that the highest prior margin is the most probative evidence of current margins, because, if it were not so, the importer, knowing of the rule, would have produced current information showing the margin to be less.'' *Rhone Poulenc*, 899 F. 2d at 1190.

Consistent with the Department's practice and the purposes of section 776(b) of the Act, as AFA, we are assigning to exports of the subject merchandise produced by Yantai Timken the PRC-wide entity the rate of 60.95% which is the highest rate calculated in any segment of the proceeding. This rate was calculated for Premier Bearing and Equipment Ltd. (''Premier'') in the final results of redetermination on remand from the CIT for the seventh administrative review of TRBs covering the POR of June 1, 1993, to May 31, 1994. *Peer Bearing Co.* v. *United States,* Slip op. 02–53 (CIT 2002); as upheld by the Federal Circuit in 78 Fed. Appx. 718 (Fed. Cir. 2003); *See also Tapered Roller Bearings and Parts Thereof, Finished and Unfinished from the PRC: Amended Final Results of Antidumping Duty Administrative Review,* 67 Fed. Reg. 79902, (Dec. 31, 2002) (''*TRBs Amended Final*''), and *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the PRC: Amended Final Results of Antidumping Duty Administrative Review,* 69 FR 10423

(March 5, 2004) (''*TRBs Amended Final 2*''). The Department preliminarily determines that this information is the most appropriate, from the available sources, to effectuate the purposes of AFA. The Department's reliance on secondary information to determine an AFA rate is subject to the requirement to corroborate. *See* section 776(c) of the Act and the ''*Corroboration of Secondary Information*'' section below.

Corroboration of Secondary Information

Section 776(c) of the Act provides that, where the Department selects from among the facts otherwise available and relies on ''secondary information,'' the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. Secondary information is described in the SAA 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* SAA at 870. The SAA states that ''corroborate'' means to determine that the information used has probative value. The Department has determined that to have probative value information must be reliable and relevant. *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished from Japan, and Tapered Roller Bearings Four Inches or Less in Outside Diameter, and Components Thereof, from Japan: Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews,* 61 Fed. Reg. 57391, 57392 (Nov. 6, 1996). The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *See Preliminary Determination of Sales at Less Than Fair Value: High and Ultra-High Voltage Ceramic Station Post Insulators from Japan,* 68 FR 35627 (June 16, 2003); and, *Final Determination of Sales at Less Than Fair Value: Live Swine From Canada*, 70 FR 12181 (March 11, 2005).

The reliability of the AFA rate was determined by the calculation of the margin for Premier, pursuant the final results of redetermination on remand from the CIT, for the seventh administrative review of TRBs (covering the period June 1, 1993 to May 31, 1994). *See TRBs Amended Final* and *TRBs Amended Final 2*. The Department has received no information to date that warrants revisiting the issue of the reliability of the rate calculation itself. *See e.g.*, *Certain Preserved Mushrooms from the People's Republic of China: Final Results and Partial Rescission of the New Shipper Review and Final Results and Partial Rescission of the Third Antidumping Duty Administrative Review,* 68 FR 41304, 41307–41308 (July 11, 2003). No information has been presented in the current review that calls into question the reliability of this information. Thus, the Department finds that the information contained in the 1993–1994 review is 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. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers from Mexico: Final Results of Antidumping Administrative Review,* 61 FR 6812 (February 22, 1996), the Department disregarded the highest margin in that case as adverse best information available (the predecessor to facts available) because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin. Similarly, the Department does not apply a margin that has been discredited. *See D&L Supply Co.* v. *United States*, 113 F.3d 1220, 1221 (Fed. Cir. 1997) which ruled that the Department will not use a margin that has been judicially invalidated.

To assess the relevancy of the rate used, the Department compared the margin calculations of LYC and CMC in this administrative review with Premier's margins from the 1993–1994 review. The Department found that the margin of 60.95 percent was within the range of the highest margins calculated on the record of this administrative review. *See* memorandum to the file from Laurel LaCivita, Senior Case Analyst, through Robert Bolling, Program Manager and Wendy Frankel, Office Director, AD/CVD Enforcement NME/Office 8, *17th Antidumping Duty Administrative Review of Tapered Roller Bearings and Parts Thereof, Finished or Unfinished (''TRBs'') from the People's Republic of China (''PRC''): Corroboration of the PRC-Wide Adverse Facts-Available Rate,* dated June 30, 2005. Because the record of this administrative review contains margins within the range of 60.95 percent, we determine that the rate from the 1993–1994 review continues to be relevant for use in this administrative review.

As the 1993–1994 margin is both reliable and relevant, we determine that it has probative value. As a result, the Department determines that the 1993–1994 margin is corroborated for the purposes of this administrative review and may reasonably be applied to the PRC-wide entity including Shanghai United, Changshan Bearing, Yantai Timken, and ZCCBC, as AFA. Accordingly, we determine that the highest rate from any segment of this administrative proceeding, 60.95 percent, meets the corroboration criteria established in section 776(c) that secondary information have probative value.

Because this is a preliminary results of review, the Department will consider all margins on the record at the time of the final results of review for the purpose of determining the most appropriate final margin for the PRC-wide entity. *See Preliminary Determination of Sales at Less Than Fair Value: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation,* 65 FR 1139 (January 7, 2000).

Partial Adverse Facts Available

We have preliminarily determined that the use of a partial facts available with adverse inferences is warranted for LYC's steel consumption rate for certain control numbers for the purpose of determining normal value. LYC did not report factor values for steel consumption for certain control numbers produced in China and sold to the United States during the POR, despite the Department's repeated requests for this information in its February 7, 2005 second supplemental questionnaire and its May 4, 2005 third supplemental questionnaire. Because LYC did not submit the required factor values for its steel consumption rate on the record, pursuant to section 776(a)(1) of the Act, we must resort to the facts otherwise available to determine the value of the steel inputs for these sales. The Department also finds that, pursuant to section 776(b) of the Act, LYC did not act to the best of its ability when it did not provide any information for the consumption rate of the steel inputs used to produce these control numbers, thus, an adverse inference is warranted. As AFA for these control numbers, we applied the highest factor usage rate for steel inputs for similar subject merchandise reported by LYC in its FOP database. *See* the proprietary discussion of this issue in the memorandum from Eugene Degnan, Case Analyst, through Robert Bolling, Program Manager, to the file, *Preliminary Results of Review of*

Tapered Roller Bearings and Parts Thereof from the People's Republic of China: Program Analysis for the Preliminary Results of Review: LYC Bearing Corporation (Group) (''LYC''), dated June 30, 2005, (''*LYC Prelim Analysis Memorandum*'').

Additionally, we have determined to apply partial AFA with regard to LYC's inventory carrying costs in the United States. Because LYC failed to report the actual time in inventory for certain CEP sales, we calculated LYC's inventory carrying costs using the time between the first day of the POR and the date of sale as the time in inventory. *See LYC Prelim Analysis Memorandum.*

Date of Sale

19 CFR 351.401 (i) states that ''in identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the normal course of business. However, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.'' 19 CFR 351.401 (i); *See also Allied Tube and Conduit Corp.* v. *United States,* 132 F. Supp. 2d 1087, 1090–1093 (CIT 2001).

CMC

After examining the questionnaire responses and the sales documentation that CMC placed on the record, we preliminarily determine that invoice date is the most appropriate date of sale for CMC. We made this determination based on record evidence which demonstrates that CMC's invoices establish the material terms of sale to the extent required by our regulations. Thus, the record evidence does not rebut the presumption that invoice date is the proper date of sale. *See Preliminary Determination of Sales at Less Than Fair Value: Saccharin From the People's Republic of China,* 67 FR 79054 (December 27, 2002).

LYC

After examining the sales documentation placed on the record by LYC, we preliminarily determine that shipment date is the most appropriate date of sale for LYC's export price (''EP'') sales. We made this determination based on statements on the record that LYC's shipment date, which is subsequent to the invoice date, establishes the material terms of sale to the extent required by our regulations. For LYC's CEP sales, LYC established that the terms of sale do not change after the issuance of the invoice. Thus, we preliminarily determine that invoice date is the most appropriate date of sale. *See Preliminary Determination of Sales at Less Than Fair Value: Saccharin From the People's Republic of China,* 67 FR 79054 (December 27, 2002).

Normal Value Comparisons

To determine whether sales of TRBs to the United States by LYC and CMC were made at less than NV, we compared EP or CEP to NV, as described in the ''Export Price,'' ''*Constructed Export Price*'' and ''*Normal Value*'' sections of this notice.

Export Price

In accordance with section 772(a) of the Act, EP is the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under section 772(c) of the Act. In accordance with section 772(a) of the Act, we used EP for certain of LYC's and CMC's U.S. sales because the subject merchandise was sold directly to the unaffiliated customers in the United States prior to importation and because CEP was not otherwise indicated.

Constructed Export Price

In accordance with section 772(b) of the Act, CEP is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under sections 772(c) and (d). In accordance with section 772(b) of the Act, we used CEP for certain of LYC's and CMC's sales because they sold subject merchandise to their affiliated company in the United States, which in turn sold subject merchandise to unaffiliated U.S. customers.

We compared NV to individual EP and CEP transactions, in accordance with section 777A(d)(2) of the Act.

LYC

For LYC's EP sales, we based the EP on delivered prices to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, we made deductions from the starting price for movement expenses. Movement expenses included expenses for foreign inland freight from the plant to the port of exportation, domestic brokerage and handling, international freight and marine insurance. *See LYC Prelim Analysis Memorandum.*

For LYC's CEP sales, we based the CEP on delivered prices to unaffiliated purchasers in the United States. In accordance with section 772(d)(1) of the Act, we made deductions from the starting price for movement expenses. Movement expenses included expenses for foreign inland freight from the plant to the port of exportation, domestic brokerage and handling, international freight, marine insurance, U.S. brokerage and handling, U.S. duty, and inland freight from the warehouse to the unaffiliated U.S. customer. In accordance with section 772(d)(1) of the Act, the Department additionally deducted credit expenses, inventory carrying costs and indirect selling expenses from the U.S. price, all of which relate to commercial activity in the United States. In accordance with section 773(a) of the Act, we calculated LYC's credit expenses and inventory carrying costs based on the Federal Reserve short-term rate. Finally, we deducted CEP profit in accordance with sections 772(d)(3) and 772(f) of the Act. *See LYC Prelim Analysis Memorandum.*

CMC

We calculated EP for CMC based on delivered prices to unaffiliated purchasers in the United States. We made deductions from the U.S. sale price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These included foreign inland freight from the plant to the port of exportation, and where applicable ocean freight and marine insurance. No other adjustments to EP were reported or claimed.

We calculated CEP for CMC based on delivered prices to unaffiliated purchasers in the United States. We made deductions from the U.S. sale price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These included foreign inland freight from the plant to the port of exportation, ocean freight, marine insurance, U.S. Customs duty, where applicable U.S. inland freight from port to the warehouse and U.S. inland freight from the warehouse to the customer. In accordance with section 772(d)(1) of the Act, the Department deducted credit expenses, inventory carrying costs and indirect selling expenses from the U.S. price, all of which relate to commercial activity in the United States. In accordance with section 773(a) of the Act, we calculated CMC's credit expenses and inventory carrying costs based on the Federal Reserve short-term

rate. Finally, we deducted CEP profit, in accordance with sections 772(d)(3) and 772(f) of the Act. *See* memorandum from Hua Lu, Case Analyst, through Robert Bolling, Program Manager, to the file, *Preliminary Results of Review of the Order on Tapered Roller Bearings and Parts Thereof from the People's Republic of China: Program Analysis for the Preliminary Results of Review,* dated June 30, 2005.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using an FOP methodology if: (1) The merchandise is exported from a non-market economy country; and (2) the 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. The Department will base NV on FOPs because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our normal methodologies.

FOPs include: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. We used the FOPs reported by respondents for materials, energy, labor, by-products, and packing.

In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to value FOPs, but when a producer sources an input from a market economy and pays for it in market-economy currency, the Department will normally value the factor using the actual price paid for the input. *See* 19 CFR 351.408(c)(1); *See also Lasko Metal Products* v. *United States,* 43 F. 3d 1442, 1445–1446 (Fed. Cir. 1994). LYC and CMC each reported that a significant portion of at least one of their raw material inputs were sourced from market-economy countries and paid for in market-economy currencies. *See* LYC's October 4, 2004 Section D response at page D–35 and CMC's October 4, 2004 Section D response at page D–5. *See Factor Valuation Memorandum* for a listing of these raw material inputs. Pursuant to 19 CFR 351.408(c)(1), we used the actual price paid by respondents for inputs purchased from a market-economy supplier and paid for in a market-economy currency, except when prices may have been distorted by subsidies.

With regard to both the Indian import-based surrogate values and the market-economy input values, we have disregarded prices that we have reason to believe or suspect may be subsidized. We have reason to believe or suspect that prices of inputs from India, Indonesia, South Korea, and Thailand may have been subsidized. We have found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies and, therefore, it is reasonable to infer that all exports to all markets from these countries are subsidized. *See Certain Helical Spring Lock Washers from the People's Republic of China; Final Results of Administrative Review,* 61 FR 66255 (December 17, 1996), at Comment 1; *Automotive Replacement Glass Windshields From the People's Republic of China: Final Results of Administrative Review,* 69 FR 61790 (October 21, 2004); and, *China National Machinery Import & Export Corporation* v. *United States,* 293 F. Supp. 2d 1334 (CIT 2003), as affirmed by the Federal Circuit, 104 Fed. Appx. 183 (Fed. Cir. 2004). We are also guided by the legislative history not to conduct a formal investigation to ensure that such prices are not subsidized. *See* H.R. Rep. 100–576 at 590 (1988). Rather, the Department was instructed by Congress to base its decision on information that is available to it at the time it is making its determination. Therefore, we have not used prices from these countries either in calculating the Indian import-based surrogate values or in calculating market-economy input values. In instances where a market-economy input was obtained solely from suppliers located in these countries, we used Indian import-based surrogate values to value the input.

Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on FOPs reported by respondents for the POR. To calculate NV, the reported per-unit factor quantities were multiplied by publicly available Indian surrogate values (except as noted below). In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to Indian import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory where appropriate (*i.e.*, where the sales terms for the market-economy inputs were not delivered to the factory). This adjustment is in accordance with the decision of the Federal Circuit in *Sigma Corp.* v. *United States,* 117 F. 3d 1401 (Fed. Cir. 1997). For a detailed description of all surrogate values used for respondents, *See Factor Valuation Memorandum.*

Except as noted below, we valued raw material inputs using the weighted-average unit import values derived from the World Trade Atlas® online (''Indian Import Statistics''), which were published by the Directorate General of Commercial Intelligence and Statistics (''DGCI&S''), Ministry of Commerce of India, which were reported in rupees and are contemporaneous with the POR. *See Factor Valuation Memorandum.* Where we could not obtain publicly available information contemporaneous with the POR with which to value factors, we adjusted the surrogate values using the Indian Wholesale Price Index (''WPI'') as published in the *International Financial Statistics* of the International Monetary Fund.

To value electricity, we used values from the International Energy Agency (''IEA'') to calculate a surrogate value in India for 2000, adjusted for inflation. The Petitioner was the only interested party to submit information or comments regarding surrogate values for electricity on the record. However, the submitted value was less contemporaneous than the 2000 value reported by the IEA, which has been used in previous cases. *See Automotive Replacement Glass Windshields From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review,* 70 FR 24373, 24381 (May 9, 2005); and, *Amended Final Determination of Sales at Less Than Fair Value: Magnesium Metal from the People's Republic of China,* 70 FR 15838 (March 29, 2005). Further, the Department was unable to find a more contemporaneous surrogate value than the 2000 value reported by the IEA. Therefore, we used the International Energy Agency 2000 Indian price for electricity to the POR, as adjusted for inflation.

For direct labor, indirect labor, SG&A labor, crate building labor and packing labor, consistent with 19 CFR 351.408(c)(3), we used the PRC regression-based wage rate as reported on Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in November 2004, *http://ia.ita.doc.gov/wages/02wages/02wages.html.* The source of these wage rate data on the Import Administration's Web site is the Yearbook of Labour Statistics 2002, ILO, (Geneva: 2002), Chapter 5B: Wages in Manufacturing. The years of the reported wage rates range from 1996 to 2002. Because this regression-based

wage rate does not separate the labor rates into different skill levels or types of labor, we have applied the same wage rate to all skill levels and types of labor reported by each respondent.

To value factory overhead, depreciation, SG&A, interest expenses and profit, we used the 2003 audited financial statements for two Indian producers of tapered roller bearings, SKF Bearings India Ltd., and Timken India Limited. *See Factor Valuation Memorandum* for a full discussion of the calculation of these ratios from the Indian Companies' financial statements.

LYC

In order to demonstrate that prices paid to market-economy sellers for some portion of a given input are representative of prices paid overall for that input, the amounts purchased from the market-economy supplier must be meaningful. *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27366 (May 19, 1997). Where the quantity of the input purchased from market-economy suppliers is insignificant, the Department will not rely on the price paid by an NME producer to a market-economy supplier because it cannot have confidence that a company could fulfill all its needs at that price. LYC's reported information demonstrates that the quantity of steel purchased from a market economy source used to produce cups and cones is significant. *See* LYC's October 4, 2004 Section D response at page D–9. Therefore, we used the actual price LYC paid for this steel in our calculations.

LYC reported that it sourced the steel that it used to produce cages from recovered scrap generated in the production of non-subject merchandise. Therefore, we used Indian Import Statistics for the POR to value this input. LYC reported that it also recovered scrap steel from the production of cups, cones, rollers and cages for resale. We offset LYC's cost of production by the amount of scrap that LYC reported that it sold. We were unable to find a surrogate value for steel scrap for cups, cones and rollers contemporaneous with the POR. Therefore, we used the Indian Import Statistics for scrap from a previous period to the POR for our calculations, adjusted for inflation, and converted it to U.S. dollars on the date of the U.S. sale. *See Factor Valuation Memorandum* for a complete discussion of scrap valuation.

To value water, we used the Revised Maharashtra Industrial Development Corporation (''MIDC.'') water rates for June 1, 2003, available at *http://www.midcindia.com/water_supply. See Factor Valuation Memorandum.*

For the input that LYC described as phosphate acid, we used the Indian Import Statistics for phosphoric acid, since LYC did not provide any chemical specifications for this input, and phosphate acid does not correspond to a known chemical. We were unable to find a contemporaneous surrogate value for this input. Therefore, we adjusted the Indian Import Statistics adjusted for inflation and converted it to U.S. dollars. *See Factor Valuation Memorandum.*

For nylon cages, rubber seals and purchased distance rings, we used Indian Import Statistics contemporaneous with the POR for other ball bearing/roller bearing parts as the best information available because we were unable to find more accurate sources of public information concerning these inputs and none of the interested parties to the proceeding placed any surrogate value information for these inputs on the record of this review. *See Factor Valuation Memorandum.*

Finally, we used Indian Import Statistics to value material inputs for packing which, for LYC, are inner cartons, outer cartons, wooden pallets and steel strips. We used Indian Import Statistics data for the POR for wooden pallets and steel strips. *See Factor Valuation Memorandum.* We valued inner cartons and outer cartons using the Indian Import Statistics for corrugated paper during the POR as provided by the Petitioner in this review, because LYC did not provide any technical specifications for these inputs. *See Factor Valuation Memorandum.*

CMC

In order to demonstrate that prices paid to market-economy sellers for some portion of a given input are representative of prices paid overall for that input, the amounts purchased from the market-economy supplier must be meaningful. *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27366 (May 19, 1997). Where the quantity of the input purchased from market-economy suppliers is insignificant, the Department will not rely on the price paid by an NME producer to a market-economy supplier because it cannot have confidence that a company could fulfill all its needs at that price. CMC's reported information demonstrates that the quantity of steel purchased from market economy suppliers and used to produce cups and cones is significant. *See* CMC's October 4, 2004 Section D response at page D–9. Therefore, we used the actual price paid that CMC paid for the steel used to produce cups and cones in our calculations.

CMC reported that it sourced the steel that it used to produce cages and rollers within the PRC. Therefore, we used Indian Import Statistics to value each of these inputs. CMC reported that it recovered scrap steel from the production of cups, cones, rollers and cages for resale. We offset CMC's normal value by the amount of scrap that CMC reported that sold. We were unable to find a surrogate value for steel scrap for cups, cones and rollers contemporaneous with the POR. Therefore, we used the Indian Import Statistics for scrap from a previous period adjusted for inflation in our calculations. *See Factor Valuation Memorandum* for a complete discussion of scrap valuation.

Finally, we used Indian Import Statistics to value material inputs for packing which, for CMC, are plastic film, plastic bags, plastic sleeves, large plastic bags, cardboard box, paper pallets, and steel strips. We used Indian Import Statistics data for the POR for packing materials. *See Factor Valuation Memorandum.* The surrogate values for labor, electricity, water, overhead, SG&A, and profit were applied in the same manner as explained above for LYC.

Currency Conversion

We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Weighted-Average Dumping Margins

The weighted-average dumping margins are as follows:

TRBs From the PRC

Manufacturer/exporter	Weighted-average margin
LYC	0.20
CMC	1.42
The PRC-wide Entity**	60.95

**Including Shanghai United, Changshan Bearing, Yantai Timken, and ZCCBC.

Disclosure

The Department will disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of publication of these preliminary results.

See 19 CFR 351.310(c). Any hearing, if requested, will be held 37 days after the date of publication of this notice. *See* 19 CFR 351.310(d). Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. *See* 19 CFR 351.309(c)(ii). Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 35 days after the date of publication. *See* 19 CFR 351.309(d). The Department requests that parties submitting written comments also provide the Department with an additional copy of those comments on diskette. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate assessment instructions directly to CBP upon completion of this review. If these preliminary results are adopted in our final results of review, we will direct CBP to assess the resulting rate against the entered customs value for the subject merchandise on each importer's/customer's entries during the POR. Additionally, the Department will instruct CBP to assess antidumping duties for these rescinded companies (*i.e.*, ZMC, Weihai Machinery, and Chin Jun) at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i).

Cash-Deposit Requirements

The following cash-deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for each of the reviewed companies will be the rate listed in the final results of review (except where the rate for a particular company is *de minimis*, *i.e.*, less than 0.5 percent, no cash deposit will be required for that company); (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less than fair value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be the ''PRC-wide'' rate of 60.95 percent.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) 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 these preliminary results of review in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act, and 19 CFR 351.221(b).

Dated: June 30, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 05–13503 Filed 7–8–05; 8:45 am]

BILLING CODE 3510–DS–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Designation under the Textile and Apparel Commercial Availability Provisions of the United States Caribbean Basin Trade Partnership Act (CBTPA)

July 5, 2005.

AGENCY: The Committee for the Implementation of Textile Agreements (CITA)

ACTION: Designation.

EFFECTIVE DATE: July 11, 2005.

SUMMARY: The Committee for the Implementation of Textile Agreements (CITA) has determined that certain 100 percent cotton, 4-thread twill weave and herringbone twill weave, flannel fabrics, of yarn-dyed, ring spun, and plied yarns, of the specifications detailed below, classified in subheadings 5209.43.0050 and 5209.49.0090 of the Harmonized Tariff Schedule of the United States (HTSUS), for use in men's and boys' woven cotton shirts, cannot be supplied by the domestic industry in commercial quantities in a timely manner. The CITA hereby designates men's and boys' woven cotton shirts, that are both cut and sewn or otherwise assembled in one or more eligible CBTPA beneficiary countries from such fabrics, as eligible for quota-free and duty-free treatment under the textile and apparel commercial availability provisions of the CBTPA and eligible under HTSUS subheadings 9820.11.27, to enter free of quota and duties, provided that all other fabrics in the referenced apparel articles are wholly formed in the United States from yarns wholly formed in the United States.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482 3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 213(b)(2)(A)(v)(II) of the Caribbean Basin Economic Recovery Act (CBERA), as added by Section 211(a) of the CBTPA; Presidential Proclamation 7351 of October 2, 2000; Section 6 of Executive Order No. 13191 of January 17, 2001.

BACKGROUND:

The commercial availability provision of the CBTPA provides for duty-free and quota-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more beneficiary CBTPA country from fabric or yarn that is not formed in the United States if it has been determined that such yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner and certain procedural requirements have been met. In Presidential Proclamation 7351, the President proclaimed that this treatment would apply to apparel articles from fabrics or yarn designated by the appropriate U.S. government authority in the Federal Register. In Executive Order 13191, the President authorized CITA to determine whether yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner.

On March 9, 2005, the Chairman of CITA received a petition from Sandler, Travis, and Rosenberg, P.A., on behalf of B*W*A, alleging that certain 100 percent cotton, 4-thread twill weave and herringbone twill weave, flannel fabrics, of yarn-dyed, ring spun, and plied yarns, of the specifications detailed below, classified in HTSUS subheadings 5209.43.0050 and 5209.49.0090, for use in men's and boys' woven cotton shirts, cannot be supplied by the domestic industry in commercial quantities in a