

**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-570-867]

**Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields From the People's Republic of China**

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

**EFFECTIVE DATE:** September 19, 2001.

**FOR FURTHER INFORMATION CONTACT:**

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**The Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2000).

**Preliminary Determination**

We preliminarily determine that certain automotive replacement glass ("ARG") windshields from the People's Republic of China ("PRC") are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

**Case History**

This investigation was initiated on March 20, 2001. See *Notice of Initiation of Antidumping Duty Investigation: Certain Automotive Replacement Glass Windshields from the People's Republic of China*, 66 FR 16651 (March 27, 2001) ("Notice of Initiation"). The Department set aside a period for all interested parties to raise issues regarding product coverage. See *Notice of Initiation* at 16651. We received comments regarding product coverage as follows; from Fuyao Glass Industry Group Co., Ltd. ("FYG"), Xinyi Automotive Glass (Shenzhen) Co. Ltd. ("Xinyi") and Shenzhen Benxun Auto-Glass Co., Ltd. ("Benxun") on April 9, 2001; and from TCG International Inc. ("TCGI", a Canadian

exporter of the merchandise under investigation) on August 27, 2001. With regard to the submission from TCGI, we note that TCGI requested clarification of the scope of this investigation concerning bus windshields and windshields for farm machinery. Specifically, TCGI takes the position that the language of the initiation notice and an application of the criteria established in *Diversified Products Corporation v. United States*, 572 F. Supp. 883 (Court of International Trade 1983), are such that bus windshields and farm and heavy machinery windshields are outside the scope of the merchandise under investigation. On August 28, 2001, the Department issued a letter seeking interested party comments on this issue. On September 5, 2001, we received comments from petitioners. However, because this submission was received within five days of the preliminary determination, we were not able to consider this issue for the purposes of this preliminary determination. We will address this issue in our final determination.

On April 3, 2001, the Department issued a letter to interested parties providing an opportunity to comment on the Department's proposed product-matching criteria and matching hierarchy. Comments were submitted on April 18, 2001 by PPG Industries, Inc., Safelite Glass Corporation, and Apogee Enterprises, Inc., and its manufacturing subsidiary Viracon/Curvlite, (collectively, "petitioners"), and respondent FYG. On May 1, 2001, petitioners submitted additional comments intended to refine their original April 18, 2001 comments on the Department's proposed product-matching criteria and matching hierarchy.

On April 17, 2001, the United States International Trade Commission ("ITC") issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of the subject merchandise from the PRC, which was published in the **Federal Register** on April 24, 2001. See *Automotive Replacement Glass Windshields from China*, 66 FR 20682 (April 24, 2001).

On April 24, 2001, the Department issued a questionnaire requesting volume and value of U.S. sales information to the Embassy of the PRC and to the Ministry of Foreign Trade and Economic Development, and sent courtesy copies to the following known producers/exporters of subject merchandise identified in the petition: FYG; Xinyi; Benxun; Dongguan Kongwan Automobile Glass; Wuhan

Yaohua Pilkington Safety Glass ("Wuhan"); Guilin Pilkington Safety Glass Co., Ltd. ("Guilin"); Changchun Pilkington Safety Glass Company Ltd. ("Changchun"); Guandong Lunjiao Autoglass Co.; Shanghai Fu Hua Glass Co., Ltd.; Tianjin Riban Glass Co., Ltd.; Jieyang Jiantong Automobile Glass Co., Ltd.; Shanghai Yanfeng Automotive Trim Co.; Luoyang Float Glass Group Import & Export Corp.; Hebei Tong Yong Glass Industry Limited Company; Yantai Yanhua Glass Products Co., Ltd.; and Hangzhou Safety Glass Co., Ltd. Additionally, we indicated to the Embassy of the PRC a large number of other potential producers/exporters identified in the petition (but for whom we did not have an address), and notified the PRC Government that it was responsible for ensuring that volume and value information for those companies be provided to the Department.

On May 4, 2001, FYG, Xinyi, Benxun, TCGI, and Pilkington North America ("PNA", an importer of the subject merchandise exported by the PRC companies, Changchun, Guilin, and Wuhan) submitted responses to the Department's questionnaire seeking volume and value of U.S. sales information. On May 7, 2001, the Department issued the respondent selection memorandum, selecting FYG and Xinyi to be investigated (see *Selection of Respondents* section below). The following companies were determined to be non-responsive for purposes of this investigation based on their failure to provide the requested information: Lung Ta Glass Industrial Company Ltd.; Shanghai Jamyf Decoration Materials Company Ltd.; Fujian Wan Da Automobile; Sino-Foreign Joint Venture; Liu Zhou Steel Glass Factory; Luoyang Glass Company Limited; Tianjin NSG Safety Glass Company Ltd.; Yangzhou Tang Cheng Safety Glass; Boading Sanyuan Safety Glass Company, Ltd.; Best Safety-Glass; Zhuhai Singyes Auto Safety Glass Factory; Qinhuangdao Haiyan Safety Glass Company Ltd.; Changzhou Industry Technical Glass Factory; Tianjin Sanlian Skilled Glass Works; Tianjin Riban Glass Co., Ltd.; Jieyang Jiantong Automobile Glass Co., Ltd.; Shanghai Yanfeng Automotive Trim Co.; Luoyang Float Glass Group Import & Export Corp.; Hebei Tong Yong Glass Industry Limited Company; Yantai Yanhua Glass Products Co., Ltd.; Hangzhou Safety Glass Co., Ltd.; Guandong Lunjiao Autoglass Co.; Shanghai Fu Hua Glass Co., Ltd.; and Dongguan Kongwan Automobile Glass.

On May 8, 2001, the Department issued its antidumping questionnaire to

FYG and Xinyi. On June 1, 2001, the Department amended the May 8, 2001 Sections C & D Questionnaire to include fields which account for bent float glass and for dimensions of the float glass.

On May 10, 2001, the Department received requests from PNA and Benxun to be treated as voluntary respondents in this investigation, or at a minimum, to be granted a separate rate. On May 29, 2001, the Department received a request from TCGI in which TCGI stated that it qualifies as a proper respondent in this investigation and that, as a cooperating respondent, the Department must calculate a separate rate for the company in accordance with Department precedent. On July 19, 2001, Benxun supplemented its request to be granted, at a minimum, a separate rate. On July 26, 2001, petitioners submitted comments on Benxun's request to be treated as a voluntary respondent and be given a separate dumping rate for purposes of this investigation.

On May 29, 2001, the Department received Section A responses from FYG, Xinyi, Benxun, TCGI and PNA (including information from Changchun, Guilin, and Wuhan). In its submission of May 29, 2001, FYG explained that one of its affiliated manufacturers, Fujian Wanda Automobile Industries Co., Ltd. ("Fujian Wanda"), was named as an uncooperative party by the Department in the Department's respondent selection memorandum of May 7, 2001. However, because we note that FYG's volume and value information submitted in a timely fashion included information from Fujian Wanda, the Department preliminarily determines that Fujian Wanda in fact is not considered an uncooperative party.

On June 14 and 15, 2001, the Department issued section A supplemental questionnaires to Xinyi and FYG respectively. The Department received responses to its Section A supplementals on June 28 and 29, 2001 for Xinyi and FYG respectively. The Department also issued a second Section A supplemental for Xinyi on July 12 and received a response on July 26, 2001.

On June 13 and 25, 2001, the Department received Sections C & D Questionnaire responses from PNA and FYG respectively. On June 15 and 28, the Department received Sections C & D Questionnaire responses from Benxun and Xinyi respectively. On July 12, 2001, the Department issued Sections C & D supplemental questionnaires to both FYG and Xinyi and received responses on July 26, 2001. On August 8, 2001, the Department issued a second

supplemental questionnaire for Sections C & D to FYG and Xinyi and received responses on August 15 and 22, 2001, respectively.

On June 22, 2001, the Department issued a request for parties to submit comments on surrogate market-economy country selection, and publicly available information for valuing the factors of production. Petitioners submitted comments to these requests on July 6, 2001 and July 23, 2001 respectively. On July 23, 2001, FYG and Xinyi submitted surrogate value data to the Department. On August 7, 2001, Xinyi submitted some additional publicly available published information on surrogate values. On August 9, 2001, petitioners submitted comments on FYG's July 23, 2001 surrogate value data submission. On August 10 and 17, 2001, FYG and Xinyi, respectively, submitted comments on petitioners' July 23, 2001 surrogate data submission. On August 15, 2001, petitioners submitted comments on FYG's August 10, 2001 submission. On August 21, 2001, petitioners submitted comments on Xinyi's August 7, 2001 and August 17, 2001 surrogate value submissions.

On July 30, 2001, petitioners alleged that critical circumstances exist with respect to this investigation. Consequently, on July 30, 2001, the Department requested that FYG and Xinyi submit sales data for the period 1999 through May 2001. We received this information on August 13, 2001 from FYG, and from Xinyi on August 20, 2001.

On August 9, 2001, the Department responded to PNA's May 10, 2001 request to be treated as a voluntary respondent in this investigation. The Department noted that, although PNA qualifies as an interested party in the proceeding, as an importer of the subject merchandise, PNA is not eligible for the assignment of an individual rate as it requested because, in accordance with our statute, the Department does not investigate importers of the merchandise under investigation in an antidumping duty investigation. The Department noted that, in order for the exporters identified in PNA's Section A response to be considered for a separate rate, the exporters must file the necessary information on their own behalf. *See Letter to Gregory Dorris from Rick Johnson*, August 9, 2001. On August 24, 2001, Changchun, Guilin, and Wuhan filed notices of appearance in this investigation and filed certificates of accuracy with respect to the May 29, 2001 separate rates information filed in PNA's Section A response. On August 31, 2001

Changchun, Guilin, and Wuhan submitted supplemental section A responses on their own behalf. On September 5, 2001, we requested Changchun, Guilin, and Wuhan to submit a certification of accuracy on the record that the information provided for these companies in PNA's June 12, 2001 section C and D response is accurate. On September 7, 2001, each company submitted the required certificate of accuracy.

On August 23, 2001, petitioners submitted comments regarding FYG's response of August 15, 2001. Also, on August 23, 2001, FYG submitted comments to petitioners' August 15, 2001 submission.

On July 17, 2001, the Department postponed the deadline for the preliminary determination to August 31, 2001, pursuant to section 733(c)(1)(B) of the Act. *See Automotive Replacement Glass Windshields from the People's Republic of China: Postponement of Preliminary Determination of Antidumping Duty Investigation*, 66 FR 38256 (July 23, 2001). On August 29, petitioners filed a letter requesting an additional ten-day postponement of the preliminary determination. Subsequently, on August 31, 2001, the Department further postponed the deadline for the preliminary determination to September 10, 2001, pursuant to section 733(c)(1)(A) of the Act. *See Automotive Replacement Glass Windshields from the People's Republic of China: Postponement of Preliminary Determination of Antidumping Duty Investigation*, 66 FR 46994 (September 10, 2001).

#### *Period of Investigation*

The POI is July 1, 2000 through December 31, 2000. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition (February 28, 2001). *See* 19 CFR 351.204(b)(1).

#### *Scope of Investigation*

The products covered by this investigation are ARG windshields, and parts thereof, whether clear or tinted, whether coated or not, and whether or not they include antennas, ceramics, mirror buttons or VIN notches, and whether or not they are encapsulated. ARG windshields are laminated safety glass (*i.e.*, two layers of (typically float) glass with a sheet of clear or tinted plastic in between (usually polyvinyl butyral)), which are produced and sold for use by automotive glass installation shops to replace windshields in automotive vehicles (*e.g.*, passenger cars, light trucks, vans, sport utility

vehicles, etc.) that are cracked, broken or otherwise damaged.

ARG windshields subject to this investigation are currently classifiable under subheading 7007.21.10.10 of the Harmonized Tariff Schedules of the United States (HTSUS). Specifically excluded from the scope of this investigation are laminated automotive windshields sold for use in original assembly of vehicles. While HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this investigation is dispositive.

As discussed in our notice of initiation, the scope of this investigation poses unique problems of administration. For the final determination, we continue to invite parties to provide information on physical characteristics which would allow U.S. Customs officials to distinguish between ARG windshields, and windshields for new automobiles. We also invite comments on procedures for administering any order which may result from this investigation on the basis of end use. Finally, information on the record shows that all windshields imported from the PRC during the POI were ARG windshields; consequently, we note that even if the scope of this order were to cover all windshields, the Department would have all the information necessary to make a final determination.

#### Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. However, section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of exporters/producers, to limit its examination to a reasonable number of such companies if it is not practicable to examine all companies. Where it is not practicable to examine all known producers/exporters of subject merchandise, this provision permits the Department to investigate either: (1) a sample of exporters, producers, or types of products that is statistically valid based on the information available to the Department at the time of selection; or (2) exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined. After consideration of the complexities expected to arise in this proceeding and the resources available to the Department, we determined that it was not practicable in this investigation to examine all known producers/exporters of subject merchandise. Instead, we limited our examination to the exporters

and producers accounting for the largest volume of the subject merchandise pursuant to section 777A(c)(2)(B) of the Act. FYG and Xinyi (collectively, "respondents") were the two largest cooperative exporters and accounted for the majority of all exports of the subject merchandise from the PRC during the POI, as reported by the two producers/exporters at the time we made our respondent selection, and we therefore selected them as mandatory respondents. See *Memorandum from Rick Johnson to Edward Yang: Selection of Respondents: Antidumping Duty Investigation of Automotive Replacement Glass ("ARG") Windshields from the People's Republic of China*, May 7, 2001.

#### Nonmarket Economy Country Status

The Department has treated the PRC as a non-market economy ("NME") country in all past antidumping investigations (see, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Bulk Aspirin From the People's Republic of China*, 65 FR 33805 (May 25, 2000); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Non-Frozen Apple Juice Concentrate from the People's Republic of China*, 65 FR 19873 (April 13, 2000) (*Apple Juice*)). A designation as an NME remains in effect until it is revoked by the Department (see section 771(18)(C) of the Act). No party to this investigation has requested a revocation of the PRC's NME status. We have, therefore, preliminarily determined to continue to treat the PRC as an NME country. When the Department is investigating imports from an NME, section 773(c)(1) of the Act directs us to base the normal value ("NV") on the NME producer's factors of production, valued in a comparable market economy that is a significant producer of comparable merchandise. The sources of individual factor prices are discussed under the "Normal Value" section, below.

Furthermore, no interested party has requested that the ARG windshield industry in the PRC be treated as a market-oriented industry and no information has been provided that would lead to such a determination. Therefore, we have not treated the ARG windshield industry in the PRC as a market-oriented industry in this investigation.

#### 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 assessed a single antidumping

duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to investigation in an NME country this single rate, unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. The two companies that the Department selected to investigate (i.e., FYG and Xinyi), and the PRC companies that were not selected as mandatory respondents by the Department for this investigation, but which have submitted separate rates responses (i.e., Benxun, Changchun, Guilin and Wuhan) have provided the requested separate rates information and have stated that, for each company, there is no element of government ownership or control. Additionally, with respect to TCGI, a Canadian reseller, no analysis of *de jure* or *de facto* control by the PRC is necessary, because it is a company operating in a market economy. Thus, the following discussion of separate rates does not include an analysis of TCGI. We have assigned a separate rate to TCGI because it has provided information indicating that its PRC supplier does not have knowledge that its sales to TCGI are destined for the United States.

We considered whether each PRC company 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, e.g., *Certain Cut-to-Length Carbon Steel Plate from Ukraine: Final Determination of Sales at Less than Fair Value*, 62 FR 61754, 61757 (November 19, 1997); *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).

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise 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) ("Sparklers"), as amplified 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*"). In accordance with the separate rates criteria, the Department assigns separate rates in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

#### 1. Absence of *De Jure* Control

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

All six PRC companies seeking separate rates reported that the subject merchandise was not subject to any government list regarding export provisions or export licensing, and was not subject to export quotas during the POI. Each company also submitted copies of its respective Certificate of Approval for the Establishment of Enterprises with Foreign Investment. We found no inconsistencies with the exporters' claims of the absence of restrictive stipulations associated with an individual exporter's business and export licenses. Our examination of the record indicates that each exporter submitted copies of the legislation of the People's Republic of China or documentation demonstrating the *de jure* absence of government control over the companies. Thus, we believe that the evidence on the record supports a preliminary finding of *de jure* absence of governmental control based on: (1) An absence of restrictive stipulations associated with the individual exporter's business and export licenses; and (2) the applicable legislative enactments decentralizing control of the companies.

#### 2. Absence of *De Facto* Control

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a governmental agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the

selection of management; 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 *Silicon Carbide*, 59 FR at 22586–87; see also *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995). As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. See *Silicon Carbide*, 56 FR at 22587. Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

Regarding whether each exporter sets its own export prices independently of the government and without the approval of a government authority, each exporter reported that it determines its prices for sales of the subject merchandise based on the cost of the merchandise, movement expenses, overhead, profit, and the market situation in the United States. Each exporter stated that it negotiates prices directly with its customers. Also, each exporter claimed that its prices are not subject to review or guidance from any governmental organization.

Regarding whether each exporter has authority to negotiate and sign contracts and other agreements, our examination of the record indicates that each exporter reported that it has authority to negotiate and sign contracts and other agreements. Also, each exporter claimed that its negotiations are not subject to review or guidance from any governmental organization. There is no evidence on the record to suggest that there is any governmental involvement in the negotiation of contracts.

Regarding whether each exporter has autonomy in making decisions regarding the selection of management our examination of the record indicates that each exporter reported that it has autonomy in making decisions regarding the selection of management. Also, each exporter claimed that its selection of management is not subject to review or guidance from any governmental organization. There is no evidence on the record to suggest that there is any governmental involvement in the selection of management by the exporters.

Regarding whether each exporter retains the proceeds from its sales and

makes independent decisions regarding disposition of profits or financing of losses, our examination of the record indicates that each exporter reported that it retains the proceeds of its export sales, using profits according to its business needs. Also, each exporter reported that the allocation of profits is determined by its top management. There is no evidence on the record to suggest that there is any governmental involvement in the decisions regarding disposition of profits or financing of losses.

Therefore, we determine that the evidence on the record supports a preliminary finding of *de facto* absence of governmental control based on record statements and supporting documentation showing that: (1) Each exporter sets its own export prices independent of the government and without the approval of a government authority; (2) each exporter retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses; (3) each exporter has the authority to negotiate and sign contracts and other agreements; and (4) each exporter has autonomy from the government regarding the selection of management.

The evidence placed on the record of this investigation by FYG, Xinyi, Benxun, Changchun, Guilin and Wuhan demonstrates an absence of government control, both in law and in fact, with respect to each of the exporter's exports of the merchandise under investigation, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. Therefore, for the purposes of this preliminary determination, we are granting separate rates to each of the six exporters which shipped ARG windshields to the United States during the POI and provided complete questionnaire responses. For a full discussion of this issue, see the memorandum from Laurel LaCivita to Edward Yang, *Separate Rates Analysis for the Preliminary Determination*, dated August 31, 2001 ("*Separate Rates Memo*").

#### Facts Available

Section 776(a) of the Act provides that, if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form or manner requested, significantly impedes a proceeding under the antidumping statute, or provides information which cannot be verified, the Department shall use, subject to sections 782(d) of the Act, facts otherwise available in reaching the

applicable determination. Pursuant to section 782(e) of the Act, the Department shall not decline to consider submitted information if that information is necessary to the determination but does not meet all of the requirements established by the Department provided that all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting Department requirements; and (5) the information can be used without undue difficulties.

Section 776(a)(2)(B) of the Act requires the Department to use facts available when a party does not provide the Department with information by the established deadline or in the form and manner requested by the Department. In addition, section 776(b) of the Act provides that, 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 that party as facts otherwise available.

#### PRC-Wide Rate

As discussed above (see "Separate Rates"), all PRC producers/exporters that do not qualify for a separate rate are treated as a single enterprise. As noted above in "Case History", all producers/exporters were given the opportunity to respond to the Department's questionnaire regarding volume and value of U.S. sales. As explained above, we received timely responses from FYG, Xinyi, Benxun, TCGI, Changchun, Guilin, and Wuhan. The Department did not receive responses from the following companies: Lung Ta Glass Industrial Company Ltd.; Shanghai Janyf Decoration Materials Company Ltd.; Sino-Foreign Joint Venture; Liu Zhou Steel Glass Factory; Luoyang Glass Company Limited; Tianjin NSG Safety Glass Company Ltd.; Yangzhou Tang Cheng Safety Glass; Boading Sanyuan Safety Glass Company, Ltd.; Best Safety-Glass; Zhuhai Singyes Auto Safety Glass Factory; Qinhuangdao Haiyan Safety Glass Company Ltd.; Changzhou Industry Technical Glass Factory; Tianjin Sanlian Skilled Glass Works; Tianjin Riban Glass Co., Ltd.; Jieyang Jiantong Automobile Glass Co., Ltd.; Shanghai Yanfeng Automotive Trim Co.; Luoyang Float Glass Group Import &

Export Corp.; Hebei Tong Yong Glass Industry Limited Company; Yantai Yanhua Glass Products Co., Ltd.; Hangzhou Safety Glass Co., Ltd.; Guangdong Lunjiao Autoglass Co.; Shanghai Fu Hua Glass Co., Ltd.; and Dongguan Kongwan Automobile Glass. As discussed in the Case History section, FYG explained that Fujian Wanda is an affiliated manufacturer of subject merchandise and Fujian Wanda's information is included in FYG's information. Therefore, we have preliminarily determined that Fujian Wanda is not an uncooperative party and we have removed Fujian Wanda from the list of uncooperative parties. The Department notes that import data from the United States International Trade Commission Dataweb shows imports of ARG windshields from the PRC during the POI are significantly higher than the imports submitted by FYG, Xinyi, Benxun, TCGI and Changchun, Guilin and Wuhan (see <http://www.usitc.gov>, and *Respondent Selection Memorandum from Rick Johnson to Edward Yang*, May 7, 2001). Therefore, the Department preliminarily determines that there were exports of the merchandise under investigation from the single PRC entity, and that the single entity failed to respond to the Department's request for information.

As set forth above, section 776(b) of the Act provides that, in selecting from among the facts available, the Department may employ adverse inferences against an interested party if that party failed to cooperate by not acting to the best of its ability to comply with requests for information. See also "Statement of Administrative Action" accompanying the URAA, H.R. Rep. No. 103-316, 870 (1994) ("SAA"). The Department finds that exporters (*i.e.*, the single PRC entity) who did not respond to our request for information have failed to cooperate to the best of their ability. Therefore, the Department preliminarily finds that, in selecting from among the facts available, an adverse inference is appropriate. Consistent with Department practice in cases where a respondent is considered uncooperative, as adverse facts available, we have applied 124.50 percent, the highest rate calculated in the initiation stage of the investigation from information provided in the petition (as adjusted by the Department). See, *e.g.*, *Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod From Germany*, 63 FR 10847 (March 5, 1998).

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 as facts available, it must, to the extent practicable, corroborate that information from independent sources reasonably at its disposal. Secondary information is described in the SAA as "information derived from the petition that gave rise to the investigation or review, the final determination concerning subject merchandise, or any previous review under section 751 concerning the subject merchandise." See SAA at 870. The SAA provides that to "corroborate" means simply that the Department will satisfy itself that the secondary information to be used has probative value. See *id.* The SAA also states that independent sources used to corroborate may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *Id.* As noted in *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 FR 57391, 57392 (November 6, 1996) ("TRBs"), to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.

In order to determine the probative value of the initiation margin for use as facts otherwise available for the purposes of this determination, we examined evidence supporting the initiation calculations. We successfully corroborated the information in the initiation regarding price to price comparisons. See *Memorandum from Edward Yang to Joseph Spetrini: Preliminary Determination in the Antidumping Investigation of Automotive Replacement Glass Windshields from the People's Republic of China: Total Facts Available Corroboration Memorandum for All Others Rate*, dated September 10, 2001.

Consequently, we are applying a single antidumping rate—the PRC-wide rate—to all other exporters in the PRC based on our presumption that those respondents who failed to demonstrate entitlement to a separate rate constitute a single enterprise under common control by the Chinese government. See, *e.g.*, *Final Determination of Sales at Less Than Fair Value: Synthetic Indigo from the People's Republic of China*, 65 FR 25706, 25707 (May 3, 2000) ("Synthetic Indigo"). The PRC-wide rate applies to all entries of the merchandise under

investigation except for entries from FYG, Xinyi, Benxun, TCGI, Changchun, Guilin, and Wuhan.

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

#### Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production, 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, the Department, in valuing the factors of production, shall utilize, to the extent possible, the prices or costs of factors of production in one or more market economy countries that: (1) Are at a level of economic development comparable to that of the NME country; and (2) are significant producers of comparable merchandise. The sources of the surrogate factor values are discussed under the NV section below.

The Department has determined that India, Pakistan, Indonesia, Sri Lanka and the Philippines are countries comparable to the PRC in terms of economic development. See *Memorandum from Jeffrey May to Rick Johnson: Antidumping Duty Investigation on Automotive Replacement Glass Windshields from the People's Republic of China*, dated June 12, 2001. Customarily, we select an appropriate surrogate country based on the availability and reliability of data from the countries. For PRC cases, the primary surrogate country has often been India if it is a significant producer of comparable merchandise. In this case, we have found that India is a significant producer of comparable merchandise. See *Surrogate Country Selection Memorandum to The File from Laurel LaCivita*, dated September 10, 2001, ("Surrogate Country Memorandum").

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

*File from Case Analysts*, dated September 10, 2001 ("Factor Valuation Memorandum").

In accordance with section 351.301(c)(3)(i) of the Department's regulations, for the final determination in an antidumping investigation, interested parties may submit publicly available information to value factors of production within 40 days after the date of publication of this preliminary determination.

#### Critical Circumstances

On July 30, 2001, petitioners submitted a critical circumstances allegation, stating there is a reasonable basis to believe or suspect that critical circumstances exist in the antidumping investigation concerning ARG windshields from the PRC. In accordance with 19 CFR 351.206(c)(1)(2)(i), because petitioners submitted a critical circumstances allegation 20 days or more before the scheduled date of the preliminary determination, the Department is issuing a preliminary critical circumstances determination no later than the date of the preliminary determination. Section 733(e) of the Act provides that, in a preliminary determination, the Department may determine, in the event that petitioners allege critical circumstances, whether: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there would be material injury by reason of such sales; and (B) there have been massive imports of the subject merchandise over a relatively short period.

#### 1. History or Knowledge of Dumping and Material Injury

In determining whether there is a reasonable basis to believe or suspect that there is a history of dumping and material injury by reason of dumped imports, the Department considers evidence of an existing antidumping order on ARG windshields from PRC in the United States or elsewhere to be sufficient. In this case, petitioners state that to their knowledge that no antidumping duty orders that cover ARG windshields are currently in effect in other countries. Because we have not found a history of dumping causing material injury with respect to ARG windshields from the PRC, we have therefore examined whether there exists

a reasonable basis to believe or suspect that an importer knew or should have known that the foreign producer/exporter was selling the subject merchandise at less than fair value.

The Department's normal practice in determining importer knowledge is to consider margins of 25 percent or more for export price ("EP") sales and 15 percent or more for constructed export price ("CEP") sales sufficient to impute such knowledge to the importer. See *Preliminary Critical Circumstances Determination: Honey from the People's Republic of China*, 60 FR 29824 (June 6, 1995); *Preliminary Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China*, 62 FR 31972, 31978 (June 11, 1997); *Notice of Preliminary Determination of Sales at Less than Fair Value and Postponement of Final Determination: Stainless Steel Butt-Weld Pipe Fittings From Italy*, 65 FR 47388, 47391 (August 2, 2000). We note that the preliminary margins we have found in this case do not exceed 25 percent for Xinyi, Benxun, TCGI, Changchun, Guilin, Wuhan, EP sales made by FYG; therefore, these companies do not meet the threshold for EP sales above which the Department will impute importer knowledge of dumping. For FYG's CEP sales, the preliminary margin falls below the 15 percent threshold for CEP sales above which the Department will impute importer knowledge of dumping. With regard to the aforementioned companies, therefore, the Department preliminarily finds a lack of importer knowledge. The preliminary margins exceed the 25 percent threshold with regard to the PRC-wide entity and, therefore, we have imputed knowledge of dumping with respect to the PRC-wide entity.

Additionally, the Department will also consider if the "[International Trade Commission] finds a reasonable indication of present material injury to the relevant U.S. industry" in determining whether there is reason to believe or suspect that importers knew or should have known that there was likely to be material injury by reason of dumped imports. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Honey from the People's Republic of China*, 66 FR 24101, 24107 (May 11, 2001). If the ITC finds a reasonable indication of present material injury to the relevant U.S. industry, the Department will determine that a reasonable basis exists to impute importer knowledge that there was likely to be material injury by reason of dumped imports. In this case, the ITC has found that a reasonable indication



of present material injury due to dumping exists for subject imports of ARG windshields from the PRC. *See Automotive Replacement Glass Windshields from China, Inv. No. 731-TA-922 (Preliminary) USITC Public. 3413, 66 FR 20682 (April 24, 2001).* As a result, the Department preliminarily determines that there is a reasonable basis to believe or suspect that importers of ARG windshields from the PRC-wide entity knew or should have known that there was likely to be material injury by reason of dumped imports of the subject merchandise from the PRC.

## 2. Massive Imports

In order to determine whether imports of the merchandise have been massive over a relatively short period pursuant to section 733(e)(1)(B) of the Act and in accordance with 19 CFR 351.206(h), we consider: (1) Volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by the imports.

When examining volume and value data, the Department normally compares the export volume for equal periods immediately preceding and following the filing of the petition. Consistent with 19 CFR 351.206(h), unless imports in the comparison period have increased by at least 15 percent over the imports during the base period, we normally will not consider the imports to have been "massive." In addition, pursuant to 19 CFR 351.206(i), the Department may use an alternative period if we find that importers, exporters, or producers had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely. In this case, no party argued that prior to the filing of the petition, importers, exporters, or producers of ARG windshields had reason to believe that an antidumping proceeding was likely. Therefore, to determine whether imports of subject merchandise have been massive over a relatively short period, we considered import volumes from the base period as compared to the comparison period. Imports normally will be considered massive when imports have increased by 15 percent or more during this "relatively short period."

With respect to the PRC-wide entity, U.S. Customs data do not permit the Department to analyze imports from the PRC-entity of the product at issue, because it is not possible to link (and therefore subtract out) individual exporters reported shipment data with U.S. Customs import data (e.g., due to time differentials between export from

the PRC and import into the United States, the involvement of resellers, and split shipments). Because the U.S. Customs data include imports from companies who have cooperated in this investigation, we are therefore unable to analyze whether there have been massive imports from the single PRC-wide entity using information specific to the PRC-wide entity. In addition, we found no other independent sources of information covering all exports from the PRC-wide entity. Because we have no independent means by which to determine import levels for the PRC-wide entity, we have determined, as adverse facts available, that because this entity did not provide an adequate response to our questionnaire, there were massive imports of subject merchandise. This is consistent with past Department practice. *See Notice of Final Determination of Sales at Less Than Fair Value; Certain Preserved Mushrooms from the People's Republic of China, 63 FR 72255, 72263 (December 31, 1998).* We further note that in the instant case, aggregate imports of ARG windshields from the PRC during the comparison period increased by 37.98 percent by quantity and 29.80 percent by value. *See Attachment 1 of the Memorandum from Edward C. Yang to Joseph A. Spetrini: Antidumping Duty Investigation of Automotive Replacement Glass Windshields from the People's Republic of China: Preliminary Determination of Critical Circumstances ("Preliminary Critical Circumstances Memorandum")*, September 10, 2001. Pursuant to section 733(e) of the Act and § 351.206(h) of the Department's regulations, we determine that massive imports of subject merchandise over a relatively short period exist for the PRC-wide entity.

Concerning seasonal trends, we have no reason to believe that seasonal trends affected the import levels in this case, nor have any interested parties made such an argument. Therefore, in determining whether imports were massive over the "relatively short period," we did not analyze the affects of seasonal trends.

Based on our determination that there is knowledge of dumping and material injury by reason of dumped imports of the subject merchandise from the PRC-wide entity, and that there have been massive imports of ARG windshields from the PRC-wide entity over a relatively short period, we preliminarily determine that critical circumstances exist for imports of ARG windshields from the PRC manufactured and/or exported by the PRC-wide entity. We preliminarily find that critical circumstances do not exist for FYG,

Xinyi, Benxun, TCGI, Changchun, Guilin, and Wuhan based on lack of importer knowledge.

## Fair Value Comparisons

To determine whether sales of ARG windshields to the United States by FYG and Xinyi were made at less than fair value, we compared export price ("EP") or constructed export price ("CEP"), as appropriate, to NV, as described in the "Export Price and Constructed Export Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs or CEPs.

## Export Price and Constructed Export Price

In accordance with section 772(a) of the Act, export price 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 subsection (c). In accordance with section 772(b) of the Act, constructed export price 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 subsections (c) and (d).

In accordance with section 772(a) of the Act, we used EP for Xinyi because the subject merchandise was sold directly to unaffiliated customers in the United States prior to importation and because CEP was not otherwise indicated. As explained below, for FYG we used CEP and EP. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average EPs or CEPs to the NVs.

## FYG

We calculated EP for FYG based on delivered prices to unaffiliated purchasers in the United States. We made deductions 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, inland insurance, brokerage and handling, marine insurance, ocean freight, U.S. customs duty and U.S. inland freight. FYG reported all movement expenses

paid in market-economy currency to market economy carriers in a single field. The charges in this single field include brokerage and handling, foreign inland freight, ocean freight, and U.S. inland freight. Because FYG used market-economy carriers for a portion of its U.S. sales, FYG reported and we have used its reported market-economy prices paid to market-economy carriers for deliveries to the same or similar destinations as the basis for the adjustment for freight expenses paid to non-market-economy carriers, consistent with Department practice. See *Issues and Decision Memorandum for the Investigation of Sales at Less Than Fair Value of Synthetic Indigo from the People's Republic of China*, where the Department stated: "To value the marine insurance expense Jiangsu Taifeng incurred on certain sales, we applied the insurance premium rate Jiangsu Taifeng's affiliate Wonderful paid to a market-economy insurer". *Synthetic Indigo from the People's Republic of China; Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 25706 (May 3, 2000) and accompanying Issues and Decision Memorandum (Changes from the Preliminary Determination). We also made adjustments to starting price for freight revenue, molding, quantity discounts, and breakage discounts, where appropriate.

We calculated weighted-average CEP for FYG's U.S. sales made in the United States through its U.S. affiliate Greenville Glass Industries, Inc. ("GGI"). We based CEP on packed prices to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight from the plant to the port of exportation, inland insurance, brokerage and handling, marine insurance, ocean freight, U.S. customs duty and U.S. inland freight. As described above, FYG reported a single field for brokerage and handling, foreign inland freight, ocean freight and U.S. inland freight. Because transportation for certain sales were provided by NME companies, we based expenses associated with these sales on expenses paid to market-economy carriers as described above (*i.e.*, we have used FYG's reported expenses paid to market-economy carriers to value expenses paid to non-market-economy carriers). In accordance with section 772(d)(1) of the Act, we deducted from CEP direct selling expenses (*i.e.*, credit and warranty expenses) and indirect selling expenses that were associated with

FYG's affiliate GGI's economic activities occurring in the United States. For credit expenses, for those sales where no payment date was reported, we set the payment date equal to the date of these preliminary results (*i.e.*, September 10, 2001). Finally, we also made an adjustment for profit in accordance with section 772(d)(3) of the Act. See *FYG Analysis Memorandum*. We also made an adjustment for molding.

#### Xinyi

We calculated EP for Xinyi based on prices to unaffiliated purchasers in the United States. We adjusted for inland freight as reported by Xinyi. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. These included, where appropriate, domestic inland freight, brokerage and handling, ocean freight, port terminal handling charges in Hong Kong, marine insurance and U.S. Customs duty. Xinyi reported that it used both market and non-market economy carriers for foreign inland freight. Because foreign inland freight for certain sales was provided by NME companies, we based these expenses for these sales on Xinyi's reported foreign inland freight expenses paid to market-economy carriers, consistent with our treatment of movement expenses for FYG's international freight expenses. See *Factor Valuation Memorandum*, and FYG's U.S. price discussion, above. In addition, we made deductions from the starting price, where appropriate, for other discounts, rebates and billing adjustments. See *Xinyi Analysis Memorandum*.

#### Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using a factors-of-production methodology if: (1) The merchandise is exported from an NME 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.

Factors of production 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 factors of production, 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 factors of production. However, the Department's regulations also provide that where a

producer sources an input from a market economy and pays for it in market economy currency, the Department employs the actual price paid for the input to calculate the factors-based NV. *Id.*; see also *Lasko Metal Products v. United States*, 43 F. 3d 1442, 1445–1446 (Fed. Cir. 1994) ("*Lasko*"). Respondents FYG and Xinyi reported that some of their inputs were sourced from market economies and paid for in a market economy currency. See *Factor Valuation Memorandum*, dated September 10, 2001 for a listing of these inputs.

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by respondents for the POI. 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. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision 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 *Monthly Trade Statistics of Foreign Trade of India—Volume II—Imports ("Indian Import Statistics")* for the time period corresponding to the POI. Where POI-specific Indian Import Statistics data were not available, we used *Indian Import Statistics* data from an earlier period (*i.e.*, April 1, 1999 through March 31, 2000; April 1, 2000 through September 30, 2000; and April 1, 2000 through December 31, 2000). As appropriate, we adjusted rupee-denominated values for inflation using wholesale price indices published in the International Monetary Fund's *International Financial Statistics* and excluded taxes. We valued certain of Xinyi's material inputs using contemporaneous data from the Indian publication *Chemical Weekly*. See *Factor Valuation Memorandum*.

As noted above, respondents Xinyi and FYG sourced certain raw material inputs from market economy suppliers



and paid for them in market economy currencies. Specifically, FYG sourced float glass, PVB, ceramic ink, silver paste, molding, antenna/connector, antenna copper wire, mirror button PVB, and mirror button from market economy suppliers. Xinyi reported that it sourced certain green glass, PVB both clear and shade band types, glass enamel black ink, black ink dilute medium, silver paint paste, and silicon powder from market economy suppliers. For this preliminary determination, the Department has used the market economy prices for the inputs listed above, in accordance with 19 CFR 351.408(c)(1), with one exception. Specifically, based on the fact that the Department has reason to believe or suspect that market economy prices from one country are subsidized, we have disallowed the use of the companies' reported actual prices for float glass. Because information regarding the identity of the source country is proprietary, see the business proprietary version of the *Factor Valuation Memo* for a full discussion of this issue. We added to the weighted-average price for each input the Indian surrogate value for transporting the input to the factory, where appropriate (*i.e.*, where the sales terms for the market economy inputs were not delivered to the factory).

As explained in the preamble to 19 CFR 351.408(c)(1), where the quantity of the input purchase was insignificant, we do not rely on the price paid by an NME producer to a market economy supplier. See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27366 (May 19, 1997). Xinyi's reported information demonstrates that the quantity of one of its inputs which it sourced from market economy suppliers was so small as to be insignificant when compared to the quantity of the same input it sourced from PRC suppliers. See *Factor Valuation Memorandum* for Xinyi's reported percentage from market economy suppliers. Therefore, as the amount of this reported market economy input is insignificant, we did not use the price paid by Xinyi for this input and instead used *Indian Import Statistics* data, as adjusted for inflation.

We used Indian transport information to value transport for raw materials. For all instances in which respondents reported delivery by truck to calculate domestic inland freight (truck), we used an average of multiple price quotes from an Indian trucking company for transporting materials between Mumbai and various Indian cities, which was provided in Exhibit 24 to FYG's July 23, 2001 surrogate value submission. We converted the Indian rupee value to U.S.

dollars and adjusted for inflation through the POI.

Respondents identified a number of by-products which they claimed are recovered in the production process and/or sold. FYG's by-products include scrap PVB, scrap glass pieces, shattered scrap glass, other scrap glass, iron scrap, scrap wood pallets, scrap plastic film, scrap aluminum foil, scrap plastic tube and scrap polythene pallets. Xinyi's by-products are scrap glass and scrap PVB. The Department has offset the respondents' cost of production by the amount of a reported by-product (or a portion thereof) where respondents indicated that the by-product was sold and/or where the record evidence clearly demonstrates that the by-product was re-entered into the production process. See *Factor Valuation Memorandum* for a complete discussion of by-product credits given and the surrogate values used. To value the by-product cullet, we used a surrogate value from India Infoline, because the surrogate value for cullet (scrap glass) included in the Indian import statistics appears aberrational when compared with the values submitted by petitioner from multiple sources, including Recycling Manager, House of Glass, and India Infoline (including the companies Triveni Glass Ltd. and Excel Glasses Ltd.). We took a simple average of the prices provided for the most contemporaneous period for the companies Triveni Glass Ltd. and Excel Glasses Ltd. See *Factor Valuation Memorandum* for a full discussion.

For energy, to value electricity, we used 1997 data reported as the average Indian domestic prices within the category "Electricity for Industry," published in the International Energy Agency's publication, *Energy Prices and Taxes*, Second Quarter 2000, as adjusted for inflation. We valued water using the Asian Development Bank's *Second Water Utilities Data Book: Asian and Pacific Region (1997)*. We valued coal using data from Indian Import Statistics.

For direct, indirect, and packing labor, consistent with section 351.408(c)(3) of the Department's regulations, we used the PRC regression-based wage rate at Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in May 2000 (see <http://ia.ita.doc.gov/wages>). The source of the wage rate data on the Import Administration's Web site is the *1999 Year Book of Labour Statistics*, International Labor Office (Geneva: 1999), Chapter 5B: Wages in Manufacturing.

To value factory overhead, and selling, general and administrative

expenses ("SG&A"), we used the audited financial statements for the period April 2000—December 2000 from an Indian producer of laminated and tempered automotive safety glass, Saint-Gobain Sekurit India Limited ("St.-Gobain"). See *Factor Valuation Memorandum* for a full discussion of the calculation of these ratios from St.-Gobain's financial statements.

To value profit, we used the profit experience of Asahi India Safety Glass Limited ("Asahi") for the period April 1999—March 2000, because St.-Gobain experienced a loss for the period April 2000—December 2000, and because no other financial statements provided on the record of this proceeding showed a profit. We note that the decision to use Asahi's profit experience only (*i.e.*, as opposed to using an average of all profit figures from the financial statements on the record) is in accordance with Department practice. See *Notice of Final Determination of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars from the People's Republic of China*, 66 FR 33522 (June 22, 2001) and accompanying Issues and Decision Memorandum at Comment 8, where the Department disregarded the use of SAIL's financial statements in order to derive "an element of profit as intended by the Statement of Administrative Action (SAA) accompanying the Uruguay Agreements Act."). For a further discussion of the surrogate value for profit, see *Factor Valuation Memorandum*.

Finally, we used *Indian Import Statistics* to value material inputs for packing. We used *Indian Import Statistics* data for the period April 1, 2000 through December 31, 2000 and April 1, 2000 through December 31, 2000. See *Factor Valuation Memorandum*.

#### Verification

As provided in section 782(i)(1) of the Act, we intend to verify all company information relied upon in making our final determination.

#### Rate for Producers/Exporters That Responded Only to Separate Rates Questionnaire

For those PRC producers and exporters of ARG windshields that provided separate rates information, we have calculated a weighted-average margin based on the rates calculated for those producers/exporters that were selected to respond. See, *e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value: Freshwater Crawfish Tail Meat From the People's Republic of China*, 62 FR 41347, 41350 (August 1, 1997).

### *Final Critical Circumstances Determination*

We will make a final determination concerning critical circumstances for the PRC when we make our final determination regarding sales at LTFV in this investigation, which will be no later than 135 days after the publication of this notice in the **Federal Register**.

### *Suspension of Liquidation*

In accordance with section 733(e)(2) of the Act, for the PRC-wide entity, we are directing the U.S. Customs Service to suspend liquidation of all imports of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date 90 days prior to the date of publication of this notice in the **Federal Register**. For FYG, Benxun, Changchun, Guilin, Wuhan, and TCGI, in accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all imports of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the U.S. Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP or CEP, as indicated below. These suspension-of-liquidation instructions will remain in effect until further notice. Because we have determined that ARG windshields produced by Xinyi are not being sold at LTFV, we are not directing the U.S. Customs Service to suspend liquidation of this merchandise. The weighted-average dumping margins are as follows:

#### WEIGHTED-AVERAGE PERCENT

Exporter/manufacturer	Margin
FYG .....	9.79
Xinyi .....	10.05
Benxun .....	29.79
Changchun .....	29.79
Guilin .....	29.79
Wuhan .....	29.79
TCGI .....	29.79
China-Wide .....	124.50

<sup>1</sup> De minimis.

<sup>2</sup> The rate for these companies is analogous to the Department's calculation of the All Others rate (see section 735(c)5 of the Act). It is equal to an average of all calculated margins other than any zero or de minimis margins, or any margins determined entirely under section 776 of the Act.

### *International Trade Commission Notification*

In accordance with section 733(f) of the Act, we have notified the ITC of our determination of sales at LTFV. If our

final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation, of the subject merchandise.

### **Public Comment**

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than fifty days after the date of publication of this notice, and rebuttal briefs, limited to issues raised in case briefs, no later than fifty-five days after the date of publication of this preliminary determination. See 19 CFR 351.309(c)(1)(i); 19 CFR 351.309(d)(1). A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, any hearing will be held fifty-seven days after publication of this notice at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this notice. See 19 CFR 351.310(c). Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief, and may make rebuttal presentations only on arguments included in that party's rebuttal brief. See 19 CFR 351.310(c).

If this investigation proceeds normally, we will make our final determination no later than 75 days after the date of the preliminary determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: September 10, 2001.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

[FR Doc. 01-23328 Filed 9-18-01; 8:45 am]

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## **DEPARTMENT OF COMMERCE**

### **International Trade Administration**

[A-357-814, A-791-809]

### **Notice of Antidumping Duty Orders: Certain Hot-Rolled Carbon Steel Flat Products From Argentina and the Republic of South Africa**

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

**EFFECTIVE DATE:** September 19, 2001.

**FOR FURTHER INFORMATION CONTACT:** David Bede or Charles Riggall, AD/CVD, Enforcement Group II, Office 5 at (202) 482-3693 and (202) 482-0650 respectively for Argentina; and Maureen Flannery or Doug Campau, AD/CVD, Enforcement, Group III, Office 7 at (202) 482-3020 and (202) 482-1395 respectively for South Africa, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

### **The Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (the Department) regulations refer to the regulations codified at 19 CFR part 351 (April 2001).

### *Scope of Antidumping Duty Orders*

#### *Hot-Rolled Carbon Steel Flat Products From Argentina and the Republic of South Africa*

For purposes of these orders, the products covered are certain hot-rolled carbon steel flat products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight length, of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill