

m)), and one in Class D (over 70 ft (21.3 m)).

Persons with the earliest documented participation in the fishery on a Class A sized vessel will receive the highest priority for obtaining permits in any size class, followed by persons with the earliest documented participation in Classes B, C, and D, in that order. If there is a tie in priority, the person with the second earliest documented participation will be ranked higher in priority.

Complete applications must include the completed and signed application form, legible copies of documents supporting historical participation in the American Samoa pelagic longline fishery, and payment for the non-refundable application processing fee, in accordance with the regulations at 50 CFR 665.13. Applications must be received by NMFS (see **ADDRESSES**) by November 12, 2010 to be considered for a permit; applications will not be accepted if received after that date. Authoritative additional information on the American Samoa limited entry program may be found in 50 CFR part 665.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: July 9, 2010.

**Emily H. Menashes,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-806]

#### **Silicon Metal from the People's Republic of China: Preliminary Results and Preliminary Rescission, in Part, of Antidumping Duty Administrative Review**

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

**SUMMARY:** In response to requests from interested parties, the Department of Commerce ("Department") is conducting an administrative review of the antidumping duty order on silicon metal from the People's Republic of China ("PRC"). The period of review ("POR") is June 1, 2008, through May 31, 2009. This administrative review covers one mandatory respondent and two respondents that claim they did not ship or sell subject merchandise to the United States during the POR.

We found no margin for the U.S. sales subject to this administrative review. If

these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Patrol ("CBP") to liquidate the appropriate entries without regard to antidumping duties.

We invite interested parties to comment on these preliminary results. Parties who submit comments are requested to submit with each argument a statement of the issue and a brief summary of the argument. We intend to issue the final results of this review no later than 120 days from the date of publication of this notice.

**FOR FURTHER INFORMATION CONTACT:**

Melissa Blackledge or Howard Smith, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3518, and (202) 482-5193, respectively.

**SUPPLEMENTARY INFORMATION:** The Department received a timely request from Petitioner, Globe Metallurgical Inc. ("Petitioner"), in accordance with 19 CFR 351.213(b), for an administrative review of the antidumping duty order on silicon metal from the PRC of three companies: Datong Jinneng Industrial Silicon Co., Ltd. ("Datong Jinneng"),<sup>1</sup> Jiangxi Gangyuan Silicon Industry Co., Ltd. ("Jiangxi Gangyuan"),<sup>2</sup> and Shanghai Jinneng International Trade Co., Ltd. ("Shanghai Jinneng"). The Department also received a timely request from Shanghai Jinneng and Datong Jinneng (Shanghai Jinneng's affiliated supplier and producer of subject merchandise) for an administrative review of Shanghai Jinneng. On July 29, 2009, the Department published a notice of initiation of an antidumping duty administrative review on silicon metal from the PRC, in which it initiated a review of Datong Jinneng, Jiangxi Gangyuan, and Shanghai Jinneng. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Deferral of Administrative Review*, 74 FR 37690 (July 29, 2009) ("*Initiation Notice*").

On September 11, 2009, the Department issued the antidumping questionnaire to Shanghai Jinneng based on the results of a CBP import data query placed on the record on August 17, 2009, which indicated that only

<sup>1</sup> The abbreviation "Inc." incorrectly appeared after "Datong Jinneng Industrial Silicon Co." in the *Initiation Notice*. The abbreviation "Ltd." should have been used.

<sup>2</sup> We have used the abbreviation "Co." rather than "Company", which was used in the *Initiation Notice*, because "Co." is used in the Automated Customs System Module.

Shanghai Jinneng made sales of subject merchandise during the POR. Both Jiangxi Gangyuan, and Datong Jinneng reported that they had no entries of subject merchandise during the POR. Between October 2009 and May 2010, Shanghai Jinneng responded to the Department's questionnaire and supplemental questionnaires and Petitioner commented on Shanghai Jinneng's responses.

In response to the Department's December 9, 2009, letter providing parties with an opportunity to submit comments regarding surrogate country and surrogate value selection,<sup>3</sup> Shanghai Jinneng and Petitioner filed surrogate country and surrogate value comments from January 2010 through June 2010.

On March 4, 2010, the Department extended the deadline for the issuance of the preliminary results of the administrative review until July 7, 2010. See *Silicon Metal From the People's Republic of China: Extension of Time Limit for the Preliminary Results of Antidumping Duty Administrative Review*, 75 FR 9869 (March 4, 2010).

#### **Scope of the Order**

The product covered by the order is silicon metal containing at least 96.00 but less than 99.99 percent of silicon by weight, and silicon metal with a higher aluminum content containing between 89 and 96 percent silicon by weight. The subject merchandise is currently classifiable under item numbers 2804.69.10 and 2804.69.50 of the *Harmonized Tariff Schedule of the United States* ("HTSUS") as a chemical product, but is commonly referred to as a metal. Semiconductor-grade silicon (silicon metal containing by weight not less than 99.99 percent of silicon and provided for in subheading 2804.61.00 of the HTSUS) is not subject to this order. This order is not limited to silicon metal used only as an alloy agent or in the chemical industry. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

#### **Intent To Rescind the Administrative Review, in Part**

As noted above, Jiangxi Gangyuan and Datong Jinneng reported that they did not have any entries of subject merchandise during the POR. To test these claims, the Department ran a CBP data query and issued a no-shipment inquiry to CBP asking it to provide any

<sup>3</sup> See Letter from Howard Smith, Program Manager, Office 4, to All Interested Parties, "Antidumping Duty Administrative Review of Silicon Metal from the People's Republic of China (PRC)," dated December 9, 2009.

information that contradicted the companies' claims. The Department has not obtained any evidence contradicting Jiangxi Gangyuan's and Datong Jinneng's claims and, thus, has preliminarily rescinded this administrative review with respect to these companies pursuant to 19 CFR 351.213(d)(3):

#### Non-Market 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 Tariff Act of 1930, as amended (the "Act"), any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. None of the parties to this proceeding have contested such treatment. Accordingly, the Department calculated normal value ("NV") in accordance with section 773(c) of the Act, which applies to NME countries.

#### Separate Rates

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assessed a single antidumping duty rate. It is the Department's policy to assign all exporters of merchandise subject 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. Exporters can demonstrate this independence through the absence of both *de jure* and *de facto* governmental control over export activities. The Department analyzes each entity exporting the subject merchandise under a test set out in the *Notice of 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 further developed in *Notice of 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*"). However, if the Department determines that a company is wholly foreign-owned or located in a market economy, then a separate rate analysis is not necessary to determine whether it is independent from government control. See *Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People's Republic of China*, 64 FR 71104, 71105 (December 20, 1999) (where the

respondent was wholly foreign-owned, and thus, qualified for a separate rate).

#### Wholly Chinese-Owned

Shanghai Jinneng stated that it is a wholly Chinese-owned company.<sup>4</sup> Therefore, the Department must analyze whether this respondent 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) other formal measures by the government decentralizing control of companies. See *Sparklers*, 56 FR at 20589.

The evidence provided by Shanghai Jinneng supports a preliminary finding of *de jure* absence of governmental control based on the following: (1) there is an absence of restrictive stipulations associated with the company's business and export licenses; (2) there are applicable legislative enactments decentralizing control of PRC companies; and (3) there are formal measures by the government decentralizing control of PRC companies.<sup>5</sup>

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

The Department 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). 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.

We determine that the evidence on the record supports a preliminary finding of *de facto* absence of governmental control with respect to Shanghai Jinneng based on record statements and supporting documentation showing that the company: 1) sets its own export prices independent of the government and without the approval of a government authority; 2) has the authority to negotiate and sign contracts and other agreements; 3) has autonomy from the government regarding the selection of management; and 4) retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses.<sup>6</sup>

The evidence placed on the record of this administrative review by Shanghai Jinneng demonstrates an absence of *de jure* and *de facto* government control with respect to the company's exports of the merchandise under review, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. Therefore, we have preliminarily granted Shanghai Jinneng separate rate status.

#### Selection of a Surrogate Country

When the Department conducts an antidumping duty administrative review of imports from a NME country, section 773(c)(1) of the Act directs the Department to base NV, in most cases, on the NME producer's factors of production ("FOP") valued in a surrogate market-economy country or countries considered appropriate by the Department. In accordance with section 773(c)(4) of the Act, the Department will value FOP using "to the extent possible, the prices or costs of factors of production in one or more market-economy countries that are - (A) at a level of economic development comparable to that of the NME country, and (B) significant producers of comparable merchandise." Further, pursuant to 19 CFR 351.408(c)(2), the Department will normally value FOP in a single country.

In the instant review, the Department identified India, Indonesia, the Philippines, Colombia, Thailand, and Peru as a non-exhaustive list of countries that are at a level of economic development comparable to the PRC and for which good quality data is most

<sup>4</sup> See Shanghai Jinneng's Section A Response ("SAR"), at 2.

<sup>5</sup> See Shanghai Jinneng's SAR, at 4-9.

<sup>6</sup> See Shanghai Jinneng's SAR, at 10-13.

likely available.<sup>7</sup> On January 13, 2010, the Petitioner and Shanghai Jinneng proposed selecting India as the surrogate country because it is at a level of economic development comparable to the PRC and the U.S. Geological Survey, Minerals Yearbook (“USGS”) and Metal Bulletin, Inc. indicate that India is a significant producer of comparable merchandise.<sup>8</sup> With respect to data considerations, in selecting a surrogate country, it is the Department’s practice that, “. . . if more than one country has survived the selection process to this point, the country with the best factors data is selected as the primary surrogate country.” See *Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process*, (March 1, 2004) (“*Policy Bulletin 04.1*”) available at <http://ia.ita.doc.gov>. Currently, the record contains surrogate value information, including possible surrogate financial statements, only from India. Thus, the Department is preliminarily selecting India as the surrogate country on the basis that: (1) it is at a comparable level of economic development to the PRC, pursuant to 773(c)(4) of the Act; (2) it is a significant producer of comparable merchandise; and (3) we have reliable data from India that we can use to value the FOP. Therefore, we have calculated NV using Indian prices, when available and appropriate, to value Shanghai Jinneng’s FOP. See Memorandum to the File through Howard Smith, Program Manager, AD/CVD Operations, Office 4, from Melissa Blackledge, Senior International Trade Analyst, regarding “Antidumping Duty Administrative Review of Silicon Metal from the People’s Republic of China: Selection of Factor Values,” dated July 7, 2010 (“Surrogate Value Memorandum”). In accordance with 19 CFR 351.301(c)(3)(ii), interested parties may submit publicly-available information to value FOP until 20 days after the date of publication of the preliminary results.<sup>9</sup>

<sup>7</sup> See memorandum entitled, “Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Silicon Metal (“Silicon Metal”) from the People’s Republic of China (“PRC”),” dated October 28, 2009.

<sup>8</sup> See Shanghai Jinneng’s January 13, 2010, and Respondent’s January 13, 2010 submissions at 6 and 2, respectively.

<sup>9</sup> In accordance with 19 CFR 351.301(c)(1), for the final results of this administrative review, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information placed on the record. The Department generally will not accept

### Fair Value Comparisons

In accordance with section 777A(d)(2) of the Act, to determine whether Shanghai Jinneng sold silicon metal to the United States at less than NV, we compared the weighted-average export of the silicon metal to the NV of the silicon metal, as described in the “U.S. Price,” and “Normal Value” sections of this notice.

### Export Price

The Department considered the U.S. prices of sales by Shanghai Jinneng to be export prices (“EPs”) in accordance with section 772(a) of the Act, because these were the prices at which the subject merchandise was first sold before the date of importation by the producer/exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States. We calculated EPs based on prices to unaffiliated purchaser(s) in the United States.

Shanghai Jinneng reported that it incurred value added tax (“VAT”) and an export tax on subject merchandise. Petitioner argues that the Department should deduct the export tax from U.S. price, which, according to petitioner, is in accordance with the statute and the Department’s practice of calculating a tax-neutral dumping margin. Shanghai Jinneng contends that in the 2007–2008 administrative review, the Department concluded that its practice, which had been upheld by the Court of International Trade (“CIT”) and Court of Appeals for the Federal Circuit, is not to reduce U.S. price for tax payments by NME respondents to NME governments. Shanghai Jinneng claims that the facts related to export taxes in this administrative review are the same as in the 2007–2008 administrative review. In the 2007–2008 administrative review, the Department determined not to reduce U.S. price by the amount of Chinese export tax and VAT on silicon metal exports. In this instant review, consistent with *Magnesium Corp.* and the 2007–2008 administrative review, the Department is not reducing U.S. price for export taxes or VAT in China. See *Silicon Metal from the People’s Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 75 FR 1592 (Jan. 12, 2010), and accompanying Issues and Decision Memorandum at Comment 1;

the submission of additional, previously absent-from-the-record alternative surrogate value information pursuant to 19 CFR 351.301(c)(1). See *Glycine from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part*, 72 FR 58809 (October 17, 2007), and accompanying Issues and Decision Memorandum at Comment 2.

*Magnesium Corp. of America, et. al. v. United States, et. al.*, 166 F.3d 1364, 1370–71 (Fed. Cir.1999) (“*Magnesium Corp.*”).

### Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using an FOP methodology if the merchandise is exported from an NME country and the available information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. When determining NV in an NME context, the Department uses an FOP methodology because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under its normal methodologies. See *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*, 70 FR 39744, 39754 (July 11, 2005), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People’s Republic of China: Final Results of 2003–2004 Administrative Review and Partial Rescission of Review*, 71 FR 2517, 2521 (January 17, 2006). Under section 773(c)(3) of the Act, FOP include, but are not limited to: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. The Department based NV on FOP reported by the respondent for materials, energy, labor and packing.

Thus, in accordance with section 773(c) of the Act, we calculated NV by adding together the values of the FOPs, general expenses, profit, and packing costs.<sup>10</sup> We calculated FOP values by multiplying the reported per-unit factor—consumption rates by publicly available surrogate values (except as discussed below). Specifically, we valued material, labor, energy, and packing by multiplying the amount of the factor consumed in producing subject merchandise by the average unit surrogate value of the factor. In addition, we added freight costs to the surrogate costs that we calculated for material inputs. We calculated freight costs by multiplying surrogate freight rates by the shorter of the reported distance from the domestic supplier to the factory that produced the subject

<sup>10</sup> We based the values of the FOPs on surrogate values (see “Selected Surrogate Values” section below).

merchandise or the distance from the nearest seaport to the factory that produced the subject merchandise, as appropriate. This adjustment is in accordance with the U.S. Court of Appeals for the Federal Circuit's decision in *Sigma Corp. v. United States*, 117 F.3d 1401, 1407–08 (Fed. Cir. 1997). We increased the calculated costs of the FOPs for surrogate general expenses and profit. See Analysis Memorandum at 4.

With respect to the application of the by-product offset to NV, consistent with the Department's determination in the antidumping duty investigation of diamond sawblades from the PRC, because our surrogate financial statements contain no references to the treatment of by-products and because Shanghai Jinneng reported that it sold silica fume, a by-product, we will deduct the surrogate value of silica fume from NV. This is consistent with accounting principles based on a reasonable assumption that if a company sells a by-product, the by-product necessarily incurs expenses for overhead, selling, general & administrative expenses ("SG&A"), and profit. See, e.g., *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 71 FR 29303 (May 22, 2006), and accompanying Issues and Decisions Memorandum at Comment 9, unchanged in *Notice of Amended Final Determination of Sales at Less Than Fair Value: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 71 FR 35864 (June 22, 2006).

#### Selected Surrogate Values

In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data.

In selecting the best available information for valuing FOPs in accordance with section 773(c)(1) of the Act, the Department's practice is to select, to the extent practicable, surrogate values which are non-export average values, most contemporaneous with the POR, product-specific, and tax-exclusive. See, e.g., *Pure Magnesium from the People's Republic of China: Preliminary Results of 2007–2008 Antidumping Duty Administrative Review*, 74 FR 27090 (June 8, 2009), unchanged in *Pure Magnesium from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 66089 (December 14, 2009). The record shows that the Indian import statistics represent import data that are

contemporaneous with the POR, product-specific, and tax-exclusive. Thus, for these preliminary results, in accordance with the Department's practice, the Department used data from Indian Import Statistics in the Global Trade Atlas ("GTA") and other publicly available Indian sources in order to calculate surrogate values for Shanghai Jinneng's FOPs (i.e., packing and raw material inputs) except where listed below.

In past cases, it has been the Department's practice to value various factors of production ("FOPs") using import statistics of the primary selected surrogate country from World Trade Atlas ("WTA"), as published by Global Trade Information Services ("GTIS"). See *Certain Preserved Mushrooms from the People's Republic of China: Preliminary Results of Antidumping Duty New Shipper Review*, 74 FR 50946, 50950 (October 2, 2009), unchanged in *Certain Preserved Mushrooms from the People's Republic of China: Final Results of Antidumping Duty New Shipper Review*, 74 FR 65520 (Dec. 10, 2009).

However, in October 2009, the Department learned that Indian import data obtained from the WTA, as published by GTIS, began identifying the original reporting currency for India as the U.S. Dollar. The Department then contacted GTIS about the change in the original reporting currency for India from the Indian Rupee to the U.S. Dollar. Officials at GTIS explained that while GTIS obtains data on imports into India directly from the Ministry of Commerce, Government of India, as denominated and published in Indian Rupees, the WTA software is limited with regard to the number of significant digits it can manage. Therefore, GTIS made a decision to change the original reporting currency for Indian data from the Indian Rupee to the U.S. Dollar in order to reduce the loss of significant digits when obtaining data through the WTA software. GTIS explained that it converts the Indian Rupee to the U.S. Dollar using the monthly Federal Reserve exchange rate applicable to the relevant month of the data being downloaded and converted. See *Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances, and Final Determination of Targeted Dumping*, 75 FR 20335 (April 19, 2010), and accompanying Issues and Decision Memorandum at Comment 4.

However, the data reported in the Global Trade Atlas ("GTA") software,

published by GTIS, reports import statistics, such as from India, in the original reporting currency and thus these data correspond to the original currency value reported by each country. Additionally, the data reported in the GTA software are reported to the nearest digit and thus there is not a loss of data by rounding, as there is with the data reported by the WTA software. Consequently, the Department will now obtain import statistics from GTA for valuing various FOPs because the GTA import statistics are in the original reporting currency of the country from which the data are obtained and have the same level of accuracy as the original data released.

In accordance with the *OTCA 1988* legislative history, the Department continues to apply its long-standing practice of disregarding surrogate values if it has a reason to believe or suspect the source data may be subsidized.<sup>11</sup> In this regard, the Department has previously found that it is appropriate to disregard such prices from India, Indonesia, South Korea and Thailand because we have determined that these countries maintain broadly available, non-industry specific export subsidies.<sup>12</sup> Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POR, the Department finds that it is reasonable to infer that all exporters from India, Indonesia, South Korea and Thailand may have benefitted from these subsidies. Additionally, we excluded from our calculations imports that were labeled as originating from an unspecified country because we could not determine whether they were from an NME country. Where we could only obtain surrogate values that were not contemporaneous with the POR, we inflated (or deflated) the surrogate values using the Indian Wholesale Price

<sup>11</sup> Omnibus Trade and Competitiveness Act of 1988, Conf. Report to Accompany H.R. 3, H.R. Rep. No. 576, 100th Cong., 2nd Sess. (1988) ("*OTCA 1988*") at 590.

<sup>12</sup> See e.g., *Expedited Sunset Review of the Countervailing Duty Order on Carbazole Violet Pigment 23 from India*, 75 FR 13257 (March 19, 2010) and accompanying Issues and Decision Memorandum at pages 4–5; *Expedited Sunset Review of the Countervailing Duty Order on Certain Cut-to-Length Carbon Quality Steel Plate from Indonesia*, 70 FR 45692 (August 8, 2005) and accompanying Issues and Decision Memorandum at page 4; See *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*, 74 FR 2512 (January 15, 2009) and accompanying Issues and Decision Memorandum at pages 17, 19–20; See *Certain Hot-Rolled Carbon Steel Flat Products from Thailand: Final Results of Countervailing Duty Determination*, 66 FR 50410 (October 3, 2001) and accompanying Issues and Decision Memorandum at page 23.

Index (“WPI”) as published in the International Financial Statistics of the International Monetary Fund.

We used the following surrogate values in our preliminary results of review (see Surrogate Value Memorandum for details). We valued charcoal, petroleum coke, wood, carbon electrodes, aluminum scrap, and polyethylene/polypropylene bags using June 2008 through May 2009 weighted-average Indian import values derived from the “GTA.” See <http://www.gtis.com/gta.htm>. The Indian import statistics that we obtained from the GTA were published by the Directorate General of Commercial Intelligence and Statistics of the Ministry of Commerce and Industry, Government of India, and are contemporaneous with the POR. See Surrogate Value Memorandum at 1.

We valued quartz using the price of Grade I quartz with a silicon dioxide content of 98 percent or higher from the Indian Bureau of Mines’ publication: 2007 edition of the *Indian Minerals Yearbook* (“*IBM Yearbook*”). We inflated the value for quartz using the POR average WPI rate. *Id.* at 3.

We valued coal using Grade A coal prices obtained from the *IBM Yearbook*. We inflated the value for coal using the POR average WPI rate. *Id.*

We valued electricity using rates for large industries at 33KV, as published by the Central Electricity Authority of the Government of India in “Electricity Tariff & Duty and Average Rates of Electricity Supply in India”, dated March 2008. These electricity rates represent actual country-wide, publicly available information on tax-exclusive electricity rates charged to industries in India. As the rates listed in this source became effective on a variety of different dates, we are not adjusting the average value for inflation. For additional details, see *id.*

We valued truck freight using a per-unit average rate calculated from POR data on the following web site: <http://www.infobanc.com/logistics/logtruck.htm>. The logistics section of this website contains inland freight truck rates between many large Indian cities. *Id.* at 8.

We valued rail freight using a per-unit average rate from <http://www.indianrailways.gov.in>, the Indian Ministry of Railways website. *Id.* We inflated the value for rail freight using the POR average WPI rate. *Id.*

Shanghai Jinneng claimed silica fume as a by-product offset since it produced silica fume and sold a portion of this production during the POR. We valued silica fume using GTA data for entries under HTS 2811.22 (silicon dioxide)

from countries identified as silicon metal or ferrosilicon producers by the USGS for ferroalloys published by the U.S. Department of the Interior, dated September 2009. For a more detailed discussion, see *id.* at 4.

For direct labor, indirect labor, and packing labor, pursuant to a recent decision by the Court of Appeals for the Federal Circuit, we have calculated an hourly wage rate to value the reported labor input by averaging earnings and/or wages in countries that are economically comparable to the PRC and that are significant producers of comparable merchandise. For a more detailed discussion, see *id.*

Lastly, we valued selling, general and administrative expenses, factory overhead costs, and profit using the contemporaneous 2008–2009 financial statements of FACOR Alloys Ltd., VBC Ferro Alloys Ltd., Sova Ispat Alloys (Mega Projects) Ltd., and Saturn Ferro Alloys Private Ltd., Indian producers of merchandise that is comparable to subject merchandise. *Id.* at 9. We did not use the 2008–2009 financial statement of Centom Steels and Ferro Alloys Ltd. placed on the record by Shanghai Jinneng, because it contained evidence of subsidies.

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

#### 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.

#### Preliminary Results of Review

We preliminarily determine that no dumping margin exists for Shanghai Jinneng for the period June 1, 2008 through July 31, 2009.

#### Disclosure

The Department will disclose calculations performed for these preliminary results to the parties within 10 days of the date of the public announcement of the results of this review in accordance with 19 CFR 351.224(b).

#### Comments

Interested parties may submit written comments no later than 30 days after the date of publication of these preliminary results of review. See 19 CFR 351.309(c)(1)(ii). Rebuttal comments

must be limited to the issues raised in the written comments and may be filed no later than five days after the time limit for filing the case briefs. See 19 CFR 351.309(d). Parties submitting written comments or rebuttal comments are requested to provide the Department with an additional copy of those comments on diskette. 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, ordinarily will be held two days after the scheduled date for submission of rebuttal briefs. See 19 CFR 351.310(d). Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

The Department will issue the final results of the administrative review, which will include the results of its analysis of issues raised in the briefs, within 120 days of publication of these preliminary results, in accordance with section 751(a)(3)(A) of the Act, unless the time limit is extended.

#### Assessment Rates

Pursuant to 19 CFR 351.212, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. For assessment purposes, the Department calculated exporter/importer- (or customer)-specific assessment rates for merchandise subject to this review. Where appropriate, the Department calculated an *ad valorem* rate for each importer (or customer) by dividing the total dumping margins for reviewed sales to that party by the total entered values associated with those transactions. For duty-assessment rates calculated on this basis, the Department will direct CBP to assess the resulting *ad valorem* rate against the entered customs values for the subject merchandise. Where appropriate, the Department calculated a per-unit rate for each importer (or customer) by dividing the total dumping margins for reviewed sales to that party by the total sales quantity associated with those transactions. For duty-assessment rates calculated on this basis, the Department will direct CBP to assess the resulting per-unit rate against the entered quantity of the subject merchandise. Where an importer- (or customer)-specific assessment rate is *de minimis* (i.e., less than 0.50 percent), the Department will instruct CBP to assess that importer (or customer's) entries of subject merchandise without regard to antidumping duties. The Department intends to instruct CBP to liquidate

entries containing subject merchandise exported by the PRC-wide entity at the PRC-wide rate in the final results of this review. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this review.

### Cash Deposit Requirements

The following cash deposit requirements will be effective for shipments of subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of the review, as provided by sections 751(a)(1) and (a)(2)(C) of the Act: (1) for all respondents receiving a separate rate, the cash deposit rate will be that established in the final results of the review; (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 139.49 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

### 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.

The Department is issuing and publishing these preliminary results of administrative review in accordance with section 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: July 7, 2010.

**Ronald K. Lorentzen,**

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010-17299 Filed 7-14-10; 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 the 2008-2009 Administrative Review of the Antidumping Duty Order

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

**SUMMARY:** In response to requests from interested parties, the Department of Commerce ("Department") is currently conducting the 2008-2009 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, 2008, through May 31, 2009. We have preliminarily determined that sales have been made below normal value ("NV") by certain companies subject to this review. 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 period of review ("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 final results no later than 120 days from the date of publication of this notice.

**DATES:** *Effective Date:* July 15, 2010.

**FOR FURTHER INFORMATION CONTACT:** Brendan Quinn or Trisha Tran, 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) 482-5848 or (202) 482-4852, respectively.

### Background

On June 15, 1987, the Department published in the **Federal Register** the antidumping duty order on TRBs from the PRC.<sup>1</sup> On June 1, 2009, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on TRBs from the PRC.<sup>2</sup> On June 30,

2009, the sole respondent in the prior review, the majority Spungen family-owned joint-venture Peer Bearing Company Ltd.—Changshan ("PBCD/CPZ") and its wholly Spungen-family-owned U.S. sales affiliate, Peer Bearing Company ("PBCD/Peer") (collectively "PBCD"), requested that the Department conduct an administrative review of its sales of subject merchandise prior to the acquisition of both companies by AB SKF during the POR. On June 30, 2009, the wholly AB SKF-owned Changshan Peer Bearing Company, Ltd. ("SKF/CPZ") and its wholly AB SKF-owned U.S. sales affiliate, Peer Bearing Company ("SKF/Peer") (collectively "SKF"), requested that the Department conduct an administrative review of its sales of subject merchandise subsequent to the acquisition of the PBCD companies during the POR.<sup>3</sup> On June 30, 2009, the Timken Company, of Canton, Ohio ("Petitioner") requested that the Department conduct an administrative review of all entries of subject merchandise produced and/or exported by CPZ, regardless of its ownership during the POR.

On June 30, 2009, Hubei New Torch Science & Technology Company Co., Ltd. ("New Torch"), a producer and exporter of subject merchandise, also requested that the Department conduct an administrative review of its sales of subject merchandise. On July 29, 2009, the Department initiated the administrative review of the antidumping duty order on TRBs from the PRC for the period June 1, 2008, through May 31, 2009.<sup>4</sup>

On August 26, 2009, the Department issued its antidumping duty questionnaire to PBCD, SKF, and New Torch. Between October 14, 2009, and June 18, 2010, PBCD, SKF, and New Torch responded to the Department's original and supplemental questionnaires. On October 1, 2009, we invited all interested parties to submit publicly available information to value factors of production ("FOPs") for consideration in the Department's preliminary results of review. On December 7, 2009, SKF submitted publicly available information to value FOPs for the preliminary results. On December 17, 2009, and June 16, 2010, PBCD submitted surrogate value

*To Request Administrative Review*, 74 FR 26202 (June 1, 2009).

<sup>3</sup> Without consideration of ownership, the Changshan-based TRB production facility is referred to as "CPZ" and the Illinois-based U.S. sales affiliate is referred to as "Peer."

<sup>4</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Deferral of Administrative Review*, 74 FR 37690 (July 29, 2009).

<sup>1</sup> See *Notice of Antidumping Duty Order: Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the People's Republic of China*, 52 FR 22667 (June 15, 1987).

<sup>2</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity*