

results of the next administrative review.

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

We are issuing and publishing these results and notice in accordance with sections 751(a)(1), 751(a)(2)(B), and 777(i) of the Act and 19 CFR 351.213 and 351.214.

Dated: November 26, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-877]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Lawn and Garden Steel Fence Posts From the People's Republic of China

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

EFFECTIVE DATE: December 4, 2002.

FOR FURTHER INFORMATION CONTACT: Salim Bhabhrawala or Christopher Smith at (202) 482-1784 or (202) 482-1442, respectively; AD/CVD Enforcement, Office 5, Group II, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

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 2002).

Preliminary Determination

We preliminarily determine that lawn and garden steel fence posts (fence posts) from the People's Republic of China (PRC) are being sold, 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 May 21, 2002.¹ See *Initiation of Antidumping Duty Investigation: Lawn and Garden Steel Fence Posts from the People's Republic of China*, 67 FR 37388 (May 29, 2002) (*Initiation Notice*). Since the initiation of this investigation, the following events have occurred.

On June 17, 2002, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of fence post imports from the PRC. See *Lawn and Garden Steel Fence Posts from the People's Republic of China*, 67 FR 42581 (June 24, 2002).

On July 29, 2002, the Department issued its antidumping questionnaire² to the PRC Bureau of Fair Trade for Imports and Exports (BOFT), through the Embassy of the PRC in Washington, D.C. The Department requested that BOFT send the questionnaire to the companies who manufacture and export fence posts to the United States, as well as manufacturers who produce fence posts for companies who were engaged in exporting subject merchandise to the United States during the period of investigation (POI). In addition, we sent the questionnaire to BaoSteel Group International Trade Corporation (BaoSteel), Hebei Metals and Minerals Import and Export Corporation (Hebei), and China Nanyang Import & Export Corporation (Nanyang), which had contacted us through counsel. Only BaoSteel, Hebei, and Nanyang responded to the Department's

questionnaire. The Department issued supplemental questionnaires to BaoSteel, Hebei, and Nanyang, where appropriate.

On August 26, 2002, the petitioner requested a postponement of the preliminary determination in this investigation. On September 10, 2002, the Department published a **Federal Register** notice postponing the deadline for the preliminary determination until November 27, 2002. See *Notice of Postponement of Preliminary Antidumping Duty Determination: Lawn and Garden Steel Fence Posts from the People's Republic of China*, 67 FR 57384 (September 10, 2002).

On August 27, 2002, we invited interested parties to provide comments on the surrogate country selection and publicly available information for valuing the factors of production. We received comments from BaoSteel on October 29, 2002, Hebei and Nanyang on September 18, 2002, and October 10, 2002, and from the petitioner on September 30, 2002, and October 23, 2002.

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for an extension of the provisional measures from a four-month period to not more than six months.

On November 1, 2002, BaoSteel requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until 135 days after the publication of the preliminary determination. On November 5, 2002, Hebei and Nanyang made the same request. All three respondents included a request to extend the provisional measures to not more than six months after the publication of the preliminary determination. In accordance with section 351.210(e) of the Department's regulations, because we have made an affirmative preliminary determination, the requesting parties account for a significant proportion of exports of the subject merchandise, and no compelling reasons exist to deny the request, we

¹ The petitioner in this investigation is the Steel City Corporation.

² Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under this investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in non-market economy (NME) cases). Section C requests a complete listing of U.S. sales. Section D requests information on the factors of production of the merchandise under investigation. Section E requests information on further manufacturing.

have postponed the final determination until not later than 135 days after the date of the publication of the preliminary determination, and are extending the provisional measures accordingly.

Period of Investigation

The POI is October 1, 2001, through March 31, 2002. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, May, 2002). See 19 CFR 351.204(b)(1).

Scope of Investigation

For purposes of this investigation, the products covered include all lawn and garden fence posts produced in the PRC, regardless of form, shape, or size. The fence posts included within the scope of this investigation weigh up to 1 pound per foot and are made of steel and/or any other metal. Imports of these products are classified under the following categories: fence posts, studded with corrugations, knobs, studs, notches or similar protrusions with or without anchor posts. These posts are normally "U" shaped or "hat" shaped or any other similar shape excluding round or square tubing or pipes.

These posts are normally made in two different classes, light and heavy duty. Light duty lawn and garden fence posts are normally made of 14 gauge steel (0.068 inches–0.082 inches thick), 1.75 inches wide, in 3, 4, 5, or 6 foot lengths. These posts normally weigh approximately 0.45 pounds per foot and are packaged in mini-bundles of 10 posts and master bundles of 400 posts. Heavy duty lawn and garden steel fence posts are normally made of 13 gauge steel (0.082 inches–0.095 inches thick), 3 inches wide, in 5, 6, 7, and 8 foot lengths. Heavy duty posts normally weigh approximately 0.90 pounds per foot and are packaged in mini-bundles of 5 and master bundles of 200. Both light duty and heavy duty posts are included within the scope of the investigation.

Imports of these products are classified under the following Harmonized Tariff Schedules of the United States (HTSUS) subheading: 7326.90.85.35. Fence posts classified under subheading 7308.90 are also included within the scope of the investigation if the fence posts are made of steel and/or metal.

Specifically excluded from the scope are "tee" posts, farm posts, and sign posts, provided that the posts weigh over 1 pound per foot.³ Although the

HTSUS subheadings are provided for convenience and U.S. Customs Service (Customs) purposes, the written description of the merchandise under investigation is dispositive.

Non-Market Economy Country Status

The Department has treated the PRC as a non-market economy (NME) country in all its past antidumping investigations. See, *e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value: Certain Circular Welded Carbon-Quality Steel Pipe from the People's Republic of China*, 67 FR 36570, 36571 (May 24, 2002); and *Notice of Final Determination of Sales at Less Than Fair Value Certain: Folding Metal Tables and Chairs from the People's Republic of China*, 67 FR 20090 (April 24, 2002). In accordance with section 771(18)(C) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked. No party to this investigation has sought revocation of the NME status of the PRC. Therefore, pursuant to section 771(18)(C) of the Act, the Department will continue to treat the PRC as an NME country.

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs the Department to base 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.

Separate Rates

In an NME proceeding, the Department presumes that all companies within the country are subject to governmental control and should be assigned a single antidumping duty rate unless the respondent demonstrates the absence of both *de jure* and *de facto* governmental control over its export activities. See *Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China*, 61 FR 19026, 19027 (April 30, 1996). BaoSteel, Hebei, and Nanyang have provided the requested company-specific separate rates information and have indicated that there is no element of government ownership or control over their operations. We have considered whether BaoSteel, Hebei, and Nanyang are eligible for a separate rate as discussed below.

to help secure fencing to them and have primarily farm and industrial uses.

The Department's separate-rates test is not concerned, in general, with macroeconomic/border-type controls (*e.g.*, export licenses, quotas, and minimum export prices), particularly if these controls are imposed to prevent dumping. Rather, the test focuses on controls over the export-related investment, pricing, and output decision-making process at the individual firm level. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From Ukraine*, 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); and *Notice of Preliminary Determination of Sales at Less Than Fair Value: Honey From the People's Republic of China*, 60 FR 14725, 14726–27 (March 20, 1995).

To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991), as modified in the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585, 22587 (May 2, 1994) (*Silicon Carbide*). Under this test, the Department assigns separate rates in NME cases only if an exporter can demonstrate the absence of both *de jure* and *de facto* governmental control over its export activities. See *Silicon Carbide* and the *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).

A. Absence of De Jure Control

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

BaoSteel, Hebei, and Nanyang have placed on the record a number of documents to demonstrate the absence of *de jure* control, including their business licenses, and the "Company Law of the People's Republic of China" of December 29, 1993. Other than

³ Tee posts are made by rolling red hot steel into a "T" shape. These posts do not have tabs or holes

limiting BaoSteel's, Hebei's, and Nanyang's operations to the activities referenced in the license, we noted no restrictive stipulations associated with the license. In addition, in previous cases, the Department has analyzed the "Company Law of the People's Republic of China" and found that it establishes an absence of *de jure* control. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Certain Partial-Extension Steel Drawer Slides with Rollers from the People's Republic of China*, 60 FR 54472, 54474 (October 24, 1995). We have no information in this proceeding which would cause us to reconsider this determination. Therefore, based on the foregoing, we have preliminarily found an absence of *de jure* control.

B. 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 subject to, the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of its management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.

With regard to the issue of *de facto* control, BaoSteel, Hebei, and Nanyang have reported the following: (1) There is no government participation in setting export prices; (2) their managers have authority to bind sales contracts; (3) they do not have to notify any government authorities of their management selection, and (4) there are no restrictions on the use of their export revenue and they are responsible for financing their own losses. Additionally, BaoSteel's, Hebei's, and Nanyang's questionnaire responses do not suggest that pricing is coordinated among exporters. Furthermore, our analysis of BaoSteel's, Hebei's, and Nanyang's questionnaire responses reveals no other information indicating governmental control of export activities. Therefore, based on the information provided, we preliminarily determine that there is an absence of *de facto* government control over BaoSteel's, Hebei's, and Nanyang's export functions. Consequently, we preliminarily determine that BaoSteel, Hebei, and Nanyang have met the criteria for the application of separate

rates. Since BaoSteel, Hebei, and Nanyang are the only responding producers/exporters, we preliminarily determine, as facts available, that all other non-responsive producers/exporters have not met the criteria for application of separate rates.

The PRC-Wide Rate

In all NME cases, the Department makes a rebuttable presumption that all exporters located in the NME country comprise a single exporter under common government control, the "NME entity." Although the Department provided all PRC exporters of the subject merchandise, including BaoSteel, Hebei, Nanyang, and BOFT, through the Embassy of the PRC in Washington, D.C., with the opportunity to respond to its questionnaire, only BaoSteel, Hebei, and Nanyang submitted responses thereto. However, our review of U.S. import statistics reveals that there are other PRC companies, in addition to BaoSteel, Hebei, and Nanyang, that exported fence posts to the United States during the POI. Because these exporters did not submit a response to the Department's questionnaire, and thus did not demonstrate their entitlement to a separate rate, we have implemented the Department's rebuttable presumption that these exporters constitute a single enterprise under common control by the PRC government, and we are applying adverse facts available to determine the single antidumping duty rate, the PRC-wide rate, applicable to all other PRC exporters comprising this single enterprise. 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).

Use of Facts Otherwise Available

Section 776(a)(2) 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) and (e) of the Act, facts otherwise available in reaching the applicable determination. As explained above, some exporters of the subject merchandise failed to respond to the Department's request for information. The failure of these exporters to respond significantly impedes this proceeding. Thus, pursuant to section 776(a) of the Act, in reaching our preliminary

determination, we have based the PRC-wide rate on total facts available.

In applying facts otherwise available, 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. Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." See *Statement of Administrative Action (SAA) accompanying the URAA*, H.R. Doc. No. 316, 103d Cong., 2d Session at 870 (1994). Furthermore, "affirmative evidence of bad faith on the part of the respondent is not required before the Department may make an adverse inference." See *Antidumping Countervailing Duties; Final Rule*, 62 FR 27296, 27340 (May 19, 1997). In this case, the complete failure of these exporters to respond to the Department's requests for information constitutes a failure to cooperate to the best of their ability.

An adverse inference may include reliance on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record. See section 776(b) of the Act. However, section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, the Department shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Independent sources may include published price lists, official import statistics and Customs data, and information obtained from interested parties during the particular investigation or review. See SAA at 870 and 19 CFR 351.308(d). "Corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value. *Id.* To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used. See *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).

For our preliminary determination, as adverse facts available, we have used as the PRC-wide rate, the highest recalculated dumping margin from the petition (see below). In the petition, the petitioner based export price (EP) on the actual prices of fence posts, which were produced in the PRC, offered by a U.S. importer.⁴ For the NV calculation, the petitioner based the factors of production, as defined by section 773(c)(3) of the Act (raw materials, labor, energy, and representative capital costs) on the quantities of inputs used by the petitioner.

With regard to the EP calculation in the petition, the petitioner obtained price quotes offered by a U.S. importer who sold subject merchandise. We corroborated the petitioners' price quotations with data submitted by BaoSteel, Hebei, and Nanyang in its questionnaire responses. The price quotations fell within the range of export prices reported by the respondents in this proceeding and are therefore reliable and relevant. Therefore, we find that the U.S. price used in the petition margin calculation is sufficiently corroborated.

To corroborate the petitioners' NV calculations, we compared the petitioner's factor consumption data to that data on the record of this investigation. As discussed in a separate memorandum to the file, we found that the factors' consumption data in the petition were corroborated. See the Memorandum to the File Regarding Corroboration of the Petition Data for the PRC-Wide Entity (Corroboration Memo), dated November 27, 2002.

The surrogate values for the factors of production in the petition were based on publicly available information for comparable inputs in India. Where significant differences exist between surrogate values used in the petition and those used in deriving the calculated margins in this preliminary determination, we replaced the values used in the petition and revised the NV calculation accordingly. Therefore, we find that the surrogate values used to calculate the PRC-wide rate are sufficiently corroborated.

Because all elements of NV have been corroborated, we consider this revised NV to be reasonable and of probative value. As a result of this recalculation, the PRC-wide rate is, for the preliminary determination, 32.73 percent. See Corroboration Memo; see also the May

14, 2002, and May 21, 2002, supplements to the petition. For the final determination, the Department will consider all information on the record at the time of the final determination for the purpose of determining the most appropriate final PRC-wide margin.

Fair Value Comparisons

To determine whether BaoSteel's, Hebei's, and Nanyang's sales of fence posts to customers in the United States were made at LTFV, we compared EP to NV, calculated using our NME methodology, as described in the "Export Price" and "Normal Value" sections of this notice below. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs.

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(a) of the Act, we used EP for BaoSteel, Hebei, and Nanyang because the subject merchandise was sold directly to unaffiliated customers in the United States prior to importation and because CEP was not otherwise indicated.

BaoSteel

We calculated EP for BaoSteel based on packed F.O.B. 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 domestic inland freight and brokerage and handling charges. Because transportation for all sales was provided by a NME company, we based movement expenses associated with these sales on surrogate values. See the Factors of Production Valuation Memorandum dated November 27, 2002 (FOP Memo), on file in the Central Records Unit (CRU) located in B-099 of the main Department of Commerce building.

Hebei

We calculated EP from Hebei based on packed F.O.B. 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 domestic inland freight and brokerage

and handling charges for all sales. For certain sales, international freight and marine insurance expenses have also been deducted. Because transportation for all sales was provided by a NME company, we based movement expenses associated with these sales on surrogate values. See the FOP Memo.

Nanyang

We calculated EP for Nanyang based on packed F.O.B. 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 domestic inland freight and brokerage and handling charges. Because transportation for all sales was provided by a NME company, we based movement expenses associated with these sales on surrogate values. See the FOP Memo.

Normal Value

1. Surrogate Country

Section 773(c)(4) of the Act requires that the Department value the NME producer's factors of production, to the extent possible, on the prices or costs of factors of production in one or more market economy countries that are: (1) At a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise. The Department's Office of Policy initially identified five countries that are at a level of economic development comparable to the PRC in terms of per capita GNP and the national distribution of labor. Those countries are India, Pakistan, Indonesia, Sri Lanka and the Philippines (see the memorandum from Jeffrey May to Gary Taverman dated August 15, 2002, on file in the CRU). According to the available information based on the *United Nations Trade Statistics*, of the five economically comparable countries, we have found that India was the only significant producer of comparable merchandise during the POI, including merchandise under HTSUS subheadings 7308.90 and 7326.90, which include steel pipes, tubes, plates, rods, pillars, and columns. In addition, for most factors of production, India has quantifiable, contemporaneous, and publicly available data. Therefore, for purposes of the preliminary determination, we have selected India as the surrogate country. We have preliminarily calculated NV by applying Indian values to BaoSteel's, Hebei's, and Nanyang's factors of production.

⁴In calculating export price, the petitioner adjusted for importer/distributor mark-up, unloading & handling fees, foreign brokerage & handling, foreign inland freight, repacking costs, U.S. inland freight, ocean freight, and U.S. Customs duties & fees.

2. Factors of Production

In their questionnaire responses, BaoSteel, Hebei, and Nanyang reported factors of production for the manufacturers of the subject merchandise during the POI. The 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. See section 773(c)(3) of the Act. To calculate NV, we multiplied the reported quantities by publicly available surrogate per-unit values from India.

In accordance with 19 CFR 351.408(c)(1) of the Department's regulations, we 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 normally will use the actual price paid for the input in the market economy to calculate the factors-based NV. See *Shakeproof Assembly Components Division of Illinois Tool Works v. United States*, 268 F. 3d 1376, 1381–83 (Fed. Cir. 2001). Respondent BaoSteel reported that some of its inputs were sourced from market economies and paid for in a market-economy currency. See the FOP Memo for a listing of these inputs.

In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. For those values not contemporaneous with the POI, we adjusted the values to account for inflation using wholesale price indices published in the International Monetary Fund's *International Financial Statistics*. As appropriate, we included freight costs in input prices to make them delivered prices. Specifically, we added to the surrogate values a surrogate freight cost calculated using the shorter of the reported distance from the domestic input supplier to the factory processing subject merchandise or the distance from the nearest seaport to the relevant 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, 1407–1408 (Fed. Cir. 1997).

We valued material inputs and packing materials (including steel coil, steel anchors, hot-rolled steel strip, pre-treated chemicals, acid washes, powder coating, wood pallets, steel screws, steel banding, rivets, blocks, plastic strips, plastic sheets, cardboard/corrugated paper, labels, plastic ties, and plastic twine) using publicly available 2001

Indian import statistics from the appropriate Indian Trade Classification categories, based on the Harmonized Commodity Description and Coding System (HS), published by the *Monthly Statistics of the Foreign Trade of India. Volume II: Imports (Indian Import Statistics)*.

For energy, we valued coal using *Indian Import Statistics*. We calculated our surrogate value for electricity based on electricity rate data from the *Energy Data Directory and Yearbook (2000/2001)* published by Tata Energy Research Institute. We calculated a simple average of the rates for the "industrial" category listed for 18 Indian states or electricity boards. This method was used in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of 2000–2001 Administrative Review, Partial Rescission of Review, and Determination to Revoke Order, in Part*, 67 FR 68990 (November 14, 2002).

We valued labor using the latest regression-based wage rate for China found on Import Administration's Web page (<http://ia.ita.doc.gov/wages/>) as described in 19 CFR 351.408(c)(3).

As noted above, respondent BaoSteel sourced certain raw material inputs from market-economy suppliers and paid for them in market-economy currencies. Specifically, BaoSteel sourced hot-rolled steel strip and powder coating 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). 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).

To value foreign inland truck freight costs, we relied upon per-kilometer price quotes used by the Department in the *Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate From the People's Republic of China*, 67 FR 10892 (March 11, 2002), multiplied by an inflator to make the value contemporaneous with the POI. We valued brokerage and handling using the rates in effect in India, for these expenses, which were reported in the public version of the questionnaire response placed on the record in *Certain Stainless Steel Wire Rod From India: Final Results of Administrative and New Shipper Review*, 64 FR 856 (January 6, 1999), multiplied by an inflator to make the values contemporaneous with the POI.

To value factory overhead, selling, general and administrative expenses (SG&A) and profit, we used the audited financial statements for the year ended March 31, 2001, from an Indian producer of circular welded steel pipe, Surya Roshni (Surya). See FOP Memo for the calculation of these ratios from Surya's financial statements. As noted above, section 773(c)(4) of the Act requires that the Department value the NME producer's factors of production, to the extent possible, based on the prices or costs of factors of production in one or more market economy countries that are significant producers of comparable merchandise. The Department was unable to locate publicly available financial statements for an Indian fence post producer, and therefore, we looked for a producer of comparable merchandise. The production of fence posts and circular welded steel pipe have similar production processes and material inputs, in that the production of these products use steel sheets or strips in coil form as the major input, and the respective products ineptively use the process of roll forming to create the desired shape of the steel. See the *U.S. International Trade Commission Preliminary Determination of Lawn and Garden Steel Fence Posts from China at I–7* (June 2002, Publication 3521) and the *U.S. International Trade Commission Final Determination of Circular Welded Non-Alloy Steel Pipe from China at I–5* (July 2002, Publication 3523).

The petitioner argued that the Department should use the "1999–2000 combined income, value of production, expenditure and appropriation account" for a sample of 1,914 public limited companies in India that were reported in the June 2001 *Reserve Bank of India Bulletin*, as previously used in *Potassium Permanganate from the PRC: Preliminary Results of Antidumping New Shipper Review*, 67 FR 303 (January 3, 2001). While we recognize that the Department has used the *Reserve Bank of India Bulletin* in past cases, in the current case, we have access to the publicly available financial statements of a producer of comparable merchandise. Therefore, we find it is more appropriate to use the financial statements of Surya, which are the best information for a producer of comparable merchandise, rather than the *Reserve Bank of India Bulletin*, which calculates factory overhead, SG&A, and profit from an index that does not reflect the experience of a comparable industry.

For a complete analysis of surrogate values used in the preliminary determination, *see* the FOP Memo.

Verification

In accordance with section 782(i) of the Act, we intend to verify all information relied upon in making our final determination.

Suspension of Liquidation

We are directing Customs to suspend liquidation of all entries of fence posts from the PRC, with the exception of merchandise produced by Hangzhou Hongyuan Sporting Goods Company, Ltd. and exported by Shanghai BaoSteel Group International Trade Corporation, that are entered that are entered, or withdrawn from warehouse, for consumption on or after the date on which this notice is published in the **Federal Register**. In addition, we are instructing Customs to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated in the chart below. These instructions suspending liquidation will remain in effect until further notice.

We determine that the following percentage weighted-average margins exist for the POI:

Manufacturer/exporter	Weighted-average margin (percent)
Shanghai BaoSteel Group International Trade Corporation	0.00
Hebei Metals and Minerals Imports and Export Corporation	16.53
China Nanyang Import & Export Corporation	14.69
PRC-Wide Rate	32.73

The PRC-wide rate applies to all entries of the subject merchandise except for entries from BaoSteel, Hebei, and Nanyang.

Disclosure

In accordance with 19 CFR 351.224(b), the Department will disclose the calculations performed in the preliminary determination to interested parties within five days of the date of publication of this notice.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of the Department's preliminary affirmative determination. If the final determination in this proceeding is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of fence

posts from the PRC are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

In accordance with 19 CFR 351.301(c)(3)(i), interested parties may submit publicly available information to value the factors of production for purposes of the final determination within 40 days after the date of publication of this preliminary determination. Case briefs or other written comments must be submitted to the Assistant Secretary for Import Administration no later than one week after issuance of the verification reports. Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days after the deadline for the submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette.

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. If a request for a hearing is made, we will tentatively hold the hearing two days after the deadline for submission of rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled date.

Interested parties who wish to request a hearing, or to participate in a hearing 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. 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, oral presentations will be limited to issues raised in the briefs. *See* 19 CFR 351.310(c). The Department will make its final determination no later than 135 days after the date of publication of this preliminary determination.

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

Dated: November 27, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02-30770 Filed 12-3-02; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-847]

Persulfates from the People's Republic of China: Extension of Time Limit for Final Results in Antidumping Duty Administrative Review

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

ACTION: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review.

EFFECTIVE DATE: December 4, 2002.

FOR FURTHER INFORMATION CONTACT:

Michael Strollo at (202) 482-0629, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230.

SUPPLEMENTARY INFORMATION: On August 20, 2001, the Department published a notice of initiation of administrative review of the antidumping duty order on persulfates from the People's Republic of China. On August 6, 2002, the Department published a notice of preliminary results of antidumping duty administrative review and notice of partial rescission. The period of review is July 1, 2000 through June 30, 2001. The review covers one exporter of the subject merchandise to the United States.

In accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), the Department shall make a final determination in an administrative review of an antidumping duty order within 120 days after the day on which the preliminary results are published. However, if it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the final determination of an administrative review to 180 days. Due to the complexity of the surrogate value issues raised in the case briefs, it is not practicable to complete this review within the time limit mandated by section 751(a)(3)(A) of the Act. Therefore, in accordance with section 751(a)(3)(A) of the Act, we have fully