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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-803]

Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review of the Order on Bars and Wedges

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

ACTION: Preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by the respondent, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on bars/wedges from the People's Republic of China (PRC). We preliminarily determine that Shandong Huarong Machinery Company (Huarong) sold bars/wedges in the United States at prices below normal value (NV) during the period of review (POR).

If these preliminary results are adopted in our final results of review, we will instruct the U.S. Customs Service (Customs) to assess antidumping duties on all appropriate entries. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: March 6, 2003.

FOR FURTHER INFORMATION CONTACT:

Mark Manning or Tom Martin, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-5253, (202) 482-3936, respectively.

SUPPLEMENTARY INFORMATION:

Period of Review

The POR is February 1, 2001, through January 31, 2002.

Background

On February 19, 1991, the Department published in the **Federal Register** (56 FR 6622) four antidumping duty orders on heavy forged hand tools (HFHTs) from the PRC. Imports covered by these orders comprise the following classes or kinds of merchandise: (1) Hammers and sledges with heads over 1.5 kg (3.33 pounds) (hammers/sledges); (2) bars over 18 inches in length, track tools and wedges (bars/wedges); (3) picks/mattocks; and (4) axes/adzes. On February 1, 2002, the Department

published a notice of opportunity to request administrative reviews of the antidumping duty orders on HFHTs from the PRC covering the period February 1, 2001, through January 31, 2002 (67 FR 4945). On February 28, 2002, Tianjin Machinery Import & Export Corporation (TMC), Shandong Machinery Import & Export Corporation (SMC), Liaoning Machinery Import & Export Corporation (LMC), and Huarong requested administrative reviews in the above-referenced proceedings. Specifically, TMC requested reviews of the hammers/sledges, bars/wedges, picks/mattocks and axes/adzes orders, SMC requested reviews of the hammers/sledges, bars/wedges, and picks/mattocks orders, LMC requested a review of the bars/wedges order, and Huarong requested a review of the bars/wedges order. Based on these requests, the Department initiated the current administrative reviews of TMC, SMC, LMC, and Huarong under the requested orders on March 20, 2002. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocations in Part*, 67 FR 14696 (March 27, 2002).

On May 3, 2002, LMC withdrew its request for review of the bars/wedges order. On May 10, 2002, TMC withdrew its requests for review of the hammers/sledges and picks/mattocks orders. On June 7, 2002, SMC withdrew its request for review under the picks/mattocks order. Additionally, on September 26, 2002, TMC withdrew its requests for review of the axes/adzes order and bars/wedges order, and SMC withdrew its requests for review of the bars/wedges and hammers/sledges orders. The Department rescinded these reviews on January 3, 2003. *See Notice of Rescission of Antidumping Duty Administrative Review: Heavy Forged Hand Tools from the People's Republic of China: Partial Rescission of Antidumping Duty Administrative Review*, 68 FR 352 (January 3, 2003). The remaining review covers bars/wedges sold by Huarong.

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), the Department may extend the deadline for completion of the preliminary results of an administrative review if it determines that it is not practicable to complete these preliminary results within the statutory time limit of 245 days. On October 22, 2002, in accordance with the Act, the Department published its extension of the time limit for completing the preliminary results of this review. *See Heavy Forged Hand Tools from the People's Republic of China: Extension of Time Limit for Preliminary Results of*

Antidumping Duty Administrative Review, 67 FR 64869 (October 22, 2002).

The Department is conducting this administrative review in accordance with section 751 of the Act.

Scope of Review

The products covered by this review are bars over 18 inches in length, track tools and wedges (bars/wedges), which may or may not be painted, may or may not be finished; assorted bar products and track tools including wrecking bars, digging bars and tampers; and steel wood splitting wedges. The subject merchandise is manufactured through a hot forge operation in which steel is sheared to required length, heated to forging temperature, and formed to final shape on forging equipment using dies specific to the desired product shape and size. Depending on the product, finishing operations may include shot blasting, grinding, polishing and painting. Bars and wedges are currently provided for under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 8205.59.30. Specifically excluded from this review are bars 18 inches in length and under. The HTSUS subheading is provided for convenience and Customs purposes. The written description remains dispositive.

Separate Rates Determination

To establish whether a company operating in a non-market economy (NME) is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in 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*), and the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*). Under this test, NME firms are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in law and in fact, with respect to their export activities. Evidence supporting, though not requiring, a finding of *de jure* absence of government control over export activities includes: (1) An absence of restrictive stipulations associated with the 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. *De facto* absence of government control over exports is based on four factors: (1) Whether each

exporter sets its own export prices independent of the government and without the approval of a government authority; (2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) whether each exporter has the authority to negotiate and sign contracts and other agreements; and (4) whether each exporter has autonomy from the government regarding the selection of management. *See Silicon Carbide*, 59 FR at 22587 and *Sparklers*, 56 FR at 20589.

In the final results of the 2000–2001 administrative reviews of HFHTs from the PRC, the Department granted a separate rate to Huarong. *See Heavy Forged Hand Tools from the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review and Determination Not To Revoke in Part*, 67 FR 57789 (September 12, 2002). It is the Department's policy to evaluate separate rates questionnaire responses each time a respondent makes a separate rates claim, regardless of any separate rate the respondent received in the past. *See Manganese Metal From the People's Republic of China, Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 63 FR 12441 (March 13, 1998).

In the instant review, Huarong submitted a complete response to the separate rates section of the Department's questionnaire. The evidence submitted by Huarong includes government laws and regulations on corporate ownership, its business licence, and narrative information regarding its operations and selection of management. This evidence supports a finding of a *de jure* absence of government control over export activities: (1) There are no controls on exports of subject merchandise, such as export quotas applied to the subject merchandise and no export license is required for exports of the subject merchandise to the United States; and (2) the subject merchandise does not appear on any government list regarding export provisions or exporting licensing. Huarong has also shown *de facto* absence of government control over exports in its questionnaire response: (1) Huarong sets its own export prices independently of the government and without requiring the approval of a government authority; (2) Huarong retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) Huarong has a general manager and three vice general managers with the authority to negotiate and bind the company in an agreement;

(4) the general manager is selected by company employees, and the general manager appoints the manager of each department and (5) foreign currency is not required to be sold to the government. The Department preliminarily determines that Huarong has established that it qualifies for separate rates under the criteria established by *Silicon Carbide and Sparklers*.

Fair Value Comparisons

To determine whether Huarong's sales of bars/wedges were made at prices less than normal value (NV), we compared the export price (EP) to NV, as described in the *Export Price* and *Normal Value* sections of this notice, below.

In its February 4, 2003, supplemental questionnaire response, Huarong stated that it reported identical merchandise under multiple CONNUMs in both its U.S. sales and factors of production databases. To correct this error, we created new CONNUMs and assigned a single CONNUM to identical merchandise originally reported under multiple CONNUMs. See Memorandum from Thomas E. Martin, International Trade Compliance Specialist, to the File, "Calculation Memorandum for the Preliminary Results of the Eleventh Administrative Reviews of Certain Heavy Forged Hand Tools (Bars/Wedges) From the People's Republic of China—February 1, 2001, through January 31, 2002," dated February 28, 2003 (Calculation Memorandum).

Export Price

In accordance with section 772(a) of the Act, the Department calculated an EP for Huarong's sales to the United States because the first sale to an unaffiliated party was made before the date of importation and the use of constructed export price (CEP) was not otherwise warranted. When appropriate, we made deductions from the selling price to unaffiliated parties for foreign inland freight, brokerage and handling, port charges, ocean freight, and marine insurance. Each of these services was either provided by a NME vendor or paid for using a NME currency. Thus, we based the deduction for these movement charges on surrogate values.

We valued foreign inland freight using a truck rate obtained from *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) (*Bulk Aspirin*). See Memorandum from Thomas E. Martin, International Trade Compliance Specialist, to the File, "Surrogate Values Used for the Preliminary Results of the Eleventh Administrative Reviews of

Certain Heavy Forged Hand Tools (Bars/Wedges) From the People's Republic of China—February 1, 2001, through January 31, 2002," dated February 28, 2003 (Surrogate Value Memorandum). Since Huarong ships subject merchandise to the United States using NME carriers, we valued ocean freight using a rate calculated in *Certain Stainless Steel Wire Rod from India; Final Results of Antidumping Duty Administrative and New Shipper Reviews*, 64 FR 856 (January 6, 1999) (*India Wire Rod*).

We valued foreign brokerage and handling using a rate also reported in the questionnaire response in *India Wire Rod*. See Surrogate Value Memorandum. We valued port charges using the charges for services rendered to containers and containerized cargo set by the Board of Trustees of Jawaharlal Nehru Port, effective March 17, 1997. We valued marine insurance using the rate that was reported in the public version of the questionnaire response placed on the record in *India Wire Rod*. See Surrogate Value Memorandum.

We adjusted all surrogate values, as appropriate, to account for inflation between the effective period of the surrogate value information and the POR. We calculated the inflation adjustments for the factor values, using the wholesale price index (WPI) for India obtained from *International Financial Statistics*, which is a publication of the International Monetary Fund (IMF). See Surrogate Value Memorandum.

Normal Value

For exports from NMEs, section 773(c)(1) of the Act provides that the Department shall determine NV using a factors of production (FOP) methodology if (1) the subject merchandise is exported from a NME country, and (2) available information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value. Section 351.408 of the Department's regulations (2001) sets forth the Department's methodology for calculating the NV of merchandise from NME countries. In every case conducted by the Department involving the PRC, the PRC has been treated as a NME. Since none of the parties to this proceeding has contested such treatment in this review, we calculated NV in accordance with section 773(c) of the Act and section 351.408 of the Department's regulations.

In accordance with section 773(c)(3) of the Act, the FOP utilized in producing bars and wedges include, but are not limited to: (A) Hours of labor required; (B) quantities of raw materials

employed; (C) amounts of energy and other utilities consumed; and (D) representative capital costs, including depreciation. In accordance with section 773(c)(4) of the Act, the Department valued the FOPs, to the extent possible, using the costs of the FOP in a market economy that is at a level of economic development comparable to the PRC and a significant producer of comparable merchandise. We preliminarily determine that India is comparable to the PRC in terms of per-capita gross national product, the growth rate in per-capita income, and the national distribution of labor. Furthermore, India is a significant producer of comparable merchandise. Consequently, we preliminarily determine that India is the country most comparable to the PRC among the significant exporting countries of comparable merchandise. See Memorandum from Jeffrey May, Director of the Office of Policy, to Thomas Martin, International Trade Compliance Specialist, "Antidumping Administrative Review of Heavy Forged Hand Tools (Bars/Wedges) from the People's Republic of China (PRC): Request for a List of Surrogate Countries," dated January 17, 2003.

In accordance with section 773(c)(1) of the Act, for purposes of calculating NV, we attempted to value FOP using Indian surrogate values that were in effect during the POR. Where contemporaneous data was not available to the Department, the most recent data was used, and adjusted to account for inflation between the effective period and the POR. As discussed in detail in the Surrogate Value Memorandum, we valued the FOP as follows:

(1) We valued direct materials used to produce bars and wedges, packing materials, and coal used for energy using, where available, the rupee-per-kilogram value of imports that entered India during February 2000 through January 2001, as published in *Monthly Statistics of the Foreign Trade of India*, Volume II—Imports (*Indian Import Statistics*).

(2) We valued labor using a regression-based wage rate, in accordance with 19 CFR 351.408(c)(3). This rate is identified on the Import Administration's Web site. See <http://ia.ita.doc.gov/wages/corrected00wages/corrected00wages.htm>.

(3) We derived ratios for selling, general and administrative (SG&A) expenses, factory overhead, and profit using information reported for 2000–2001, for 1,927 Public Limited Companies, in the *Reserve Bank of India Bulletin* for September 2002 (*RBI Bulletin*). From this information, we

were able to calculate factory overhead as a percentage of direct materials, labor, and energy expenses; SG&A expenses as a percentage of the total cost of manufacturing (TOTCOM); and profit as a percentage of the sum of the TOTCOM and SG&A expenses. See Surrogate Value Memorandum.

Whenever possible, the Department has used producer-specific data to calculate financial ratios. Unlike industry-specific data, which tends to be broader in terms of merchandise included, product-specific data obtained from producer-specific information pertains directly to the subject merchandise. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Pure Magnesium in Granular Form from The People's Republic of China*, 66 FR 49345 (September 27, 2001), and accompanying Issues and Decision Memorandum at Comment 3. However, when the Department and the parties are unable to obtain surrogate information for valuing overhead, SG&A, and profit that pertains to manufacturers of identical or comparable merchandise, the Department must rely upon surrogate information derived from broader industry groupings. See *Notice of Final Results of New Shipper Review: Petroleum Wax Candles from the People's Republic of China*, 67 FR 41395 (June 18, 2002), and accompanying Issues and Decision Memorandum, at Comment 6.

In the present review, neither the petitioner nor the respondent have placed any financial statements on the record. Moreover, the Department has been unable to locate financial statements specific to hand tools producers in India. Therefore, the Department is using broader financial data from the *RBI Bulletin*. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China*, 68 FR 7765 (February 18, 2003) and the accompanying Issues and Decision Memorandum at Comment 4; *Final Results of Antidumping New Shipper Review: Potassium Permanganate from the People's Republic of China*, 66 FR 46775 (September 7, 2001), and the accompanying Issues and Decision Memorandum, at Comment 20; *Final Results and Partial Rescission of Antidumping Duty Administrative Review and Determination Not To Revoke in Part: Heavy Forged Hand*

Tools from the People's Republic of China, 66 FR 48026 (September 17, 2001), and the accompanying Issues and Decision Memorandum at Comment 18; *Notice of Initiation of Antidumping Duty Investigation: Lawn and Garden Steel Fence Posts From the People's Republic of China*, 67 FR 37388, 37391 (May 29, 2002), and the accompanying Issues and Decision Memorandum, at Comment 6.

(4) We valued electricity using 2000–2001 data from the *Annual Report on The Working of State Electricity Boards & Electricity Departments*, published in May, 2002, by the Power & Energy Division of the Planning Commission of the Government of India. We applied the average tariff rate for all industries, as in prior reviews.

(5) We valued truck transportation expenses for direct materials, packing materials, and coal from the suppliers of the inputs to the factory producing subject merchandise utilizing the rate used by the Department in *Bulk Aspirin*. Huarong reported production “caps” for use in determining certain factor input amounts. A production “cap” is an estimate of the amount of factor input the company used to make the product in question. Huarong reported “caps” for steel billets, the steel scrap offset, unskilled labor, skilled labor, and unskilled packing labor.

The Department has accepted “caps” in the past only when the “caps” were found to reasonably reflect actual consumption, and has rejected them when found to be otherwise. See *Natural Bristle Paintbrushes and Brush Heads from the People's Republic of China; Final Review Results of Antidumping Review*, 64 FR 27506 (May 20, 1999) (*Natural Bristle Paintbrushes*). In *Natural Bristle Paintbrushes*, at verification, the respondent attempted to duplicate reported “cap” figures, but did not succeed. The respondent asserted that the figures were derived from a standard cost system, but this system was not explained to the verifiers, and the Department finally rejected the “caps.” See *Natural Bristle Paintbrushes*, 64 FR at 27514. Similarly, while the Department has found reported “caps” reasonable in past segments of this proceeding, the Department also found that there were discrepancies between the reported “cap” amounts and the figures presented at verification of the information submitted during the 1997–1998 administrative review. Because the Department could not deduce how the

information in the questionnaire response was derived, the Department did not consider the information verified. See *Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, from the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Reviews*, 64 FR 43659, 43665–43666 (August 11, 1999).

For these preliminary review results the Department has accepted Huarong's reported “caps” for the purpose of calculating any dumping margins, except for the “cap” regarding scrap steel offset. The Department allows scrap offsets, but only for the amount of the scrap actually sold or reused. See *Bulk Aspirin* and accompanying Issues and Decision Memorandum at Comment 13. It is also the Department's practice to grant offsets for recoveries/by-products which are re-entered into the production process. See *Notice of Final Determination of Sales at Less Than Fair Value: Antidumping Duty Investigation of Steel Concrete Reinforcing Bars from The People's Republic of China*, 66 FR 33522 (June 22, 2001) and the accompanying Issues and Decision Memorandum at Comment 5.

In the January 22, 2003 supplemental questionnaire, the Department requested Huarong to calculate the scrap offset by dividing the actual amount of scrap sold during the POR by the total POR production of subject merchandise. Huarong, in its February 4, 2003 response, stated that while it did have sales of steel scrap during the POR, it did not record sales of scrap according to subject and non-subject merchandise. In addition, Huarong stated that it did not reintroduce any internally-generated scrap steel into the production of subject merchandise. See Huarong's October 23, 2002, section D supplemental questionnaire response at 3. Since Huarong did not report the scrap offset using its actual sales of scrap, nor attempt to do so through allocating such sales to subject merchandise or by using any other reasonable methodology, we have preliminarily determined to not grant this offset to Huarong.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following weighted-average margin exists for the period February 1, 2001, through January 31, 2002:

Manufacturer/exporter	Time period	Margin (percent)
Shandong Huarong Machinery Company Bars/Wedges	2/1/01–1/31/02	34.56

The Department will disclose to parties to this proceeding the calculations performed in reaching these preliminary results within 10 days of the date of announcement of these preliminary review results. An interested party may request a hearing within 30 days of publication of the preliminary results. *See* 19 CFR 351.310(c). Interested parties may submit written comments (case briefs), in accordance with 19 CFR 351.310(c)(1)(ii), and rebuttal comments (rebuttal briefs), which must be limited to issues raised in the case briefs in accordance with 19 CFR 351.309(d). Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. Further, the Department requests that parties submitting written comments provide the Department with a diskette containing the public version of those comments. We will issue subsequently a memorandum identifying the date of a hearing, if one is requested, and the deadlines for submitting case and rebuttal briefs.

The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by these reviews and for future deposits of estimated duties.

Duty Assessment Rates

Upon completion of this administrative review, the Department will determine, and the U.S. Customs Service (Customs) shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we will calculate importer-specific per-unit duty assessment rates based on the ratio of the total amount of the dumping duties calculated for the examined sales to the total quantity of those same sales. These importer-specific rates will be assessed uniformly on all entries of each importer that were made during the POR. In accordance with 19 CFR 351.106 (c)(2), we will instruct Customs to liquidate without regard to antidumping duties any entries for which the importer-specific assessment rate is *de minimis*, i.e., less than 0.5 percent *ad valorem*. For all shipments of bars/wedges from the PRC exported by Huarong and imported by entities not identified by Huarong in its

questionnaire response, we will instruct customs to assess antidumping duties at the cash deposit rate in effect on the date of the entry. The Department will issue appraisal instructions directly to Customs upon the completion of the final results of this administrative review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of bars and wedges from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rate for bars and wedges exported by Huarong will be the rate established in the final results of this administrative review; (2) for companies previously found to be entitled to a company-specific rate, the cash deposit rate for bars/wedges will continue to be the company-specific rate published for the most recent period reviewed; (3) for all other PRC exporters of bars/wedges from the PRC, the cash deposit rate will be the following PRC country-wide rate: 47.88 percent; and (4) the cash deposit rate for non-PRC exporters of bars/wedges from the PRC who do not have their own rate will be the rate applicable to the PRC supplier of the exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Interested Parties

This notice serves as a preliminary reminder to importers of their responsibility under § 351.402(f)(2) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

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

Dated: February 28, 2003.

Faryar Shirzad,
Assistant Secretary for Import
Administration.

[FR Doc. 03–5299 Filed 3–5–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–851]

Certain Preserved Mushrooms from the People's Republic of China: Preliminary Results and Partial Rescission of Fourth New Shipper Review and Preliminary Results of Third Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results and partial rescission of fourth new shipper review and preliminary results of third antidumping duty administrative review.

SUMMARY: The Department of Commerce is concurrently conducting the fourth new shipper review and third administrative review of the antidumping duty order on certain preserved mushrooms from the People's Republic of China covering the period February 1, 2001, through January 31, 2002. The new shipper review covers three exporters. We have preliminarily determined that one of those exporters has not made sales at less than normal value. For the other two exporters, we have preliminarily determined that one of them failed to demonstrate that its reported sale was a *bona fide* sale, while the other failed to demonstrate its entitlement to a new shipper review. Thus, we are preliminarily rescinding the review with respect to them. The administrative review covers four exporters. We have preliminarily determined that sales have been made below normal value with respect to all of these exporters. If these preliminary results are adopted in our final results of this review, we will instruct the U.S. Customs Service to assess antidumping duties on all appropriate entries.

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