

## DEPARTMENT OF COMMERCE

## International Trade Administration

[A-570-850]

**Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Collated Roofing Nails From the People's Republic of China**

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

EFFECTIVE DATE: May 12, 1997.

## FOR FURTHER INFORMATION CONTACT:

Everett Kelly or Ellen Grebasch, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-4194 or (202) 482-3773, respectively.

**The Applicable Statute**

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

**Preliminary Determination**

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

**Case History**

Since the initiation of this investigation (*Notice of Initiation of Antidumping Duty Investigations: Collated Roofing Nails from the People's Republic of China, the Republic of Korea, and Taiwan* (61 FR 67306, Dec. 20, 1996), the following events have occurred.

On January 17, 1997 the United States International Trade Commission ("ITC") issued an affirmative preliminary injury determination in this case (see ITC Investigation Nos. 731-TA-757-759). During November 1996 through February 1997, the Department obtained information from various sources regarding producers/exporters of the subject merchandise. (See Memorandum

to the File, dated May 5, 1997, for a detailed explanation of the Department's efforts to identify producers/exporters of the subject merchandise.) On January 23, 1997, the Department issued an antidumping questionnaire to the China Chamber of Commerce for Import & Export of Metals, Minerals & Chemicals and the Ministry of Foreign Trade and Economic Cooperation with instructions to forward the document to all producers/exporters of the subject merchandise and that these companies must respond by the due dates. We also sent courtesy copies of the antidumping duty questionnaire to the following companies identified as possible exporters/producers of the subject merchandise during the POI: China Wuxi Zhenfen Screw Factory ("Wuxi"), Zhejiang Material Industry (Group) General Company ("Zhejiang"), Shanghai Minmetals Pu Dong Corporation ("Pu Dong"), Honshu Changing Hardware Tools Factory ("Honshu"), Taiqian Construction Materials Plant ("Taiqian"), Tianjin Beiyang Standard Equipment Factory ("Tianjin"), Shenzhen Top United Steel Co., Ltd. ("Top United"), Suzhou Jun Hua Metal Products Co., Ltd. ("Junhua"), Qingdao Zong Xun Nail Products Co., Ltd. ("Zongxun"), Wuxi Jiangchao Metal Products Co. Ltd. ("Wuxi Jiangchao"), and JAACO Corporations Incorporated ("JAACO"). The questionnaire is divided into four sections: Section A requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the sales of the merchandise in all of its markets. Sections B and C request home market sales listings and U.S. sales listings, respectively (Section B does not normally apply in investigations involving the PRC). Section D requests information on the factors of production of the subject merchandise.

During February and March 1997, the Department received questionnaire responses from Top United, Zongxun, Junhua, Pu Dong and Wuxi. We issued supplemental requests for information in March 1997, and received supplemental responses to these requests in April 1997. The remaining companies never responded to the Department's antidumping questionnaire. (See the "Fair Value Comparisons" section, below, for further discussion.)

Despite numerous attempts by the Department to make the filing requirements perfectly clear, Wuxi failed to file its questionnaire responses with the Department in the proper

manner and to serve its responses on the other interested parties in this investigation (see letters from Erik Warga, Acting Program Manager, AD/CVD Enforcement, to Wuxi dated January 23, 1997, February 18, 1997, and March 24, 1997). In the Department's final letter notifying Wuxi of these errors, the due date to correct such matters was set at March 31, 1997. Wuxi has never filed a response with the Department in the proper manner nor served any submission on the other interested parties. Moreover, Wuxi's supplemental questionnaire response was due on April 11, 1997; however, the Department did not receive Wuxi's response until April 14, 1997, when it was faxed to (not filed with) the Department. (See the "Fair Value Comparisons" section, below, for further discussion.)

On March 24, 1997, the Department requested that interested parties provide publicly available information ("PAI") for valuing the factors of production and for surrogate country selection. We received comments from the interested parties in April 1997.

On April 17 and 25, 1997, petitioner filed comments on the Top United, PuDong, Junhua, and Zongxun questionnaire responses.

**Postponement of Final Determination**

On April 22, 1997, respondents requested that, pursuant to section 735(a)(2)(A) of the Act, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the publication of the affirmative preliminary determination in the **Federal Register**. In accordance with section 735(a)(2) of the Act and 19 CFR 353.20(b), and inasmuch as our preliminary determination is affirmative, the respondents account for a significant proportion of exports of the subject merchandise, and we are not aware of the existence of any compelling reasons for denying the request, we are granting the respondents' request and postponing the final determination. Suspension of liquidation will be extended accordingly. See *Preliminary Determination of Sales at Less Than Fair Value: Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, from Japan* (61 FR 8029, March 1, 1996).

**Scope of Investigation**

The product covered by this investigation is CR nails made of steel, having a length of  $1\frac{3}{16}$  inch to  $1\frac{13}{16}$  inches (or 20.64 to 46.04 millimeters), a

head diameter of 0.330 inch to 0.415 inch (or 8.38 to 10.54 millimeters), and a shank diameter of 0.100 inch to 0.125 inch (or 2.54 to 3.18 millimeters), whether or not galvanized, that are collated with two wires.

CR nails within the scope of this investigation are classifiable under the Harmonized Tariff Schedule of the United States ("HTSUS") subheading 7317.00.55.05. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

#### *Period of Investigation*

The period of this investigation ("POI") comprises each exporter's two most recent fiscal quarters prior to the filing of the petition.

#### *Nonmarket Economy Country Status*

The Department has treated the PRC as a nonmarket economy country ("NME") in all past antidumping investigations (see, e.g., *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") and *Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22545 (May 8, 1995) ("Furfuryl Alcohol"). Neither respondents nor petitioner have challenged such treatment. Therefore, in accordance with section 771(18)(C) of the Act, we will continue to treat the PRC as an NME in this investigation.

When the Department is investigating imports from an NME, section 773(c)(1) of the Act directs us to base normal value ("NV") on the NME producers' factors of production, valued, to the extent possible, in a comparable market economy that is a significant producer of comparable merchandise. The sources of individual factor prices are discussed in the NV section of this notice, below.

#### *Separate Rates*

Each of the respondents has requested a separate company-specific rate. Pu Dong was reported as being "owned by all the people." Top United is a joint venture between (a) Guangming Overseas Chinese Farm (company "owned by all the people"), (b) Padico Investment (China), Ltd. (company in Hong Kong), and (c) Topvan International (company in British Virgin Islands). Junhua is a joint venture between Taicang Metal Fusu Factory (collective-owned enterprise) and Hong Kong Zhanghua Company, Ltd. (a Hong Kong company). Zongxun is a joint

venture between Qingdao Jiaozhou City Hardware Factory (collective-owned enterprise) and Taiwan Fuxun Enterprise Company, Ltd. (a Taiwan company).

As stated in *Silicon Carbide* and *Furfuryl Alcohol*, ownership of the company by all the people does not require the application of a single rate. Accordingly, Pu Dong and Top United are eligible for consideration of a separate rate.

The business licenses' of the remaining two respondents, Junhua and Zongxun, note that these PRC companies are foreign trade joint ventures which own the production and export facilities used to manufacture and export the subject merchandise they sell to the United States. In other cases involving the PRC, joint ventures between "collective"-owned enterprises and foreign investors have not been precluded from consideration of a separate rate (see *Final Antidumping Duty 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 (Oct. 23, 1995) and *Preliminary Antidumping Duty 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 29571 (June 5, 1995)). Therefore, for purposes of the preliminary determination, the remaining respondents are eligible for consideration of a separate rate.

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) and amplified in *Silicon Carbide*. Under the separate rates criteria, the Department assigns separate rates in NME cases only if respondents can demonstrate the absence of both de jure and de facto governmental control over export activities.

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

The respondents have placed on the record a number of documents to demonstrate absence of de jure control, including laws, regulations, and provisions enacted by the State Council of the central government of the PRC. They have also submitted documents which establish that collated roofing nails are not included on the list of products that may be subject to central government export constraints. In

addition, respondents submitted the "Law of the People's Republic of China on Chinese-Foreign Contractual Joint Ventures" (April 13, 1988). The articles of this law authorize joint venture companies to make their own operational and management decisions. Further, Junhua and Zongxun submitted the "Regulations Governing Rural Collective Owned Enterprises of the PRC" (July 1, 1990). The articles of this law authorize collective-owned enterprises to make their own operational and management decisions.

In prior cases, the Department has analyzed the very laws which the respondents have submitted in this investigation and found that they establish an absence of de jure control. (See *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 (Oct. 24, 1995); see also *Furfuryl Alcohol*.) We have no new information in these proceedings which would cause us to reconsider this determination.

However, as in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. (See *Silicon Carbide* and *Furfuryl Alcohol*.) Therefore, the Department has determined that an analysis of de facto control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

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

The Department typically considers four factors in evaluating whether each respondent is subject to de facto governmental control of its export functions: (1) Whether the export prices are set by, or 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 (see *Silicon Carbide* and *Furfuryl Alcohol*).

Pu Dong, Zongxun, Junhua, and Top United each asserted the following: (1) They establish their own export prices; (2) they negotiate contracts without guidance from any governmental entities or organizations; (3) they make

their own personnel decisions; and (4) they retain the proceeds of their export sales, use profits according to their business needs, and have the authority to sell their assets and to obtain loans. Additionally, respondents' questionnaire responses indicate that company-specific pricing during the POI does not suggest coordination among exporters. This information supports a preliminary finding that there is de facto absence of governmental control of the export functions of these companies.

Consequently, we determine preliminarily that these exporters have met the criteria for the application of separate rates. We will examine this matter further at verification.

#### Facts Available

##### A. Non-Responding Exporters

Because some companies did not respond to the questionnaire, we are applying a single antidumping deposit rate—the PRC-wide rate—to all exporters in the PRC (except the four fully participating exporters) based on our presumption that the export activities of the companies that failed to respond are controlled by the PRC government. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Bicycles from the People's Republic of China* (61 FR 19026, Apr. 30, 1996).

This PRC-wide antidumping rate is based on adverse facts available. Section 776(a)(2) of the Act provides that "if an interested party or any other person—(A) Withholds information that has been requested by the administering authority, (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782, (C) significantly impedes a proceeding under this title, or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority \* \* \* shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title."

Section 776(b) of the Act provides that adverse inferences may be used against a party that has failed to cooperate by not acting to the best of its ability to comply with a request for information. The exporters that decided not to respond in any form to the Department's questionnaire demonstrate that these companies have failed to act to the best of their ability in this investigation. Further, absent a response, we must presume government

control of these and all other PRC companies for which we cannot make a separate rates determination. Thus, the Department has determined that, in selecting from among the facts otherwise available, an adverse inference is warranted. As adverse facts available, we are assigning the higher of the petition margin or margin calculated for any participating respondent in this investigation. Because the margins in the petition (as recalculated by the Department at initiation) were higher than any of the calculated margins, we used the highest margin stated in the *Notice of Initiation*, 118.41%, as total adverse facts available for the PRC-wide rate.

Section 776(c) of the Act provides that where the Department selects from among the facts otherwise available and relies on "secondary information," such as the petition, the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2d Sess. (1994) (hereinafter, the "SAA"), states that "corroborate" means to determine that the information used has probative value. See SAA at 870.

In the petition, the petitioner based its allegation of export price on price quotations from two manufacturer/exporters of CRN in the PRC. These price quotations were adjusted for movement expenses using customs data and IM-145 Import Statistics. See *Notice of Initiation*, 61 FR at 67307-08. As we stated in *Final Determination of Sales at Less Than Fair Value: Certain Pasta From Turkey*, 61 FR 30309 (June 14, 1996), we consider price quotations as information from independent sources. The export price calculations were based upon independent sources and Import Statistics, both sources which we consider to require no further corroboration by the Department. Therefore, we determined at initiation, and continue to find, that the calculations set forth in the petition have probative value.

The petitioner based its allegation of NV on the factors of production. See *Notice of Initiation*, 61 FR at 67308. To calculate the factors of production, the petitioner used manufacturing costs based on its own production experience, its 1995 audited financial statements, and publicly available industry data. *Id.* The factor of production amounts for the most significant raw material input (i.e., steel wire) in the petition are consistent with the factor of production amounts reported by the respondents on the record of this investigation. As such,

we determine that the NV calculations have probative value. (See memorandum to the file dated May 5, 1997.)

Based on our pre-initiation analysis and reexamination of the price information supporting the petition, we determine that the highest margin stated in the *Notice of Initiation* is corroborated within the meaning of section 776(c) of the Act.

##### B. Wuxi

As stated above, Wuxi failed to file their questionnaire responses with the Department in the proper manner and to serve their responses on the other interested parties in this investigation. In addition, Wuxi's submissions did not provide adequate information for determining that Wuxi is sufficiently independent from government control to be entitled to a separate rate. As such, we determine that Wuxi is not entitled to a separate rate. We, therefore, have included Wuxi in the "PRC-wide" rate.

#### Fair Value Comparisons

To determine whether sales of the subject merchandise by Top United, Zongxun, Junhua, and Pu Dong to the United States were made at less than fair value, we compared the export price ("EP") or constructed export price ("CEP") to the NV, as described in the "Export Price and Constructed Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average EPs or CEPs to weighted-average NVs.

#### Export Price/Constructed Export Price

##### Top United

We used CEP in accordance with section 772(b) of the Act, because the sales to unaffiliated purchasers were made after importation. We calculated CEP based on packed prices, FOB U.S. affiliate's warehouse to the first unaffiliated purchaser in the United States. We made the following deductions from the starting price ("gross unit price"): discounts, inland freight from the plant/warehouse to port of exit, PRC brokerage and handling, international freight, U.S. inland freight from port to warehouse, and U.S. customs duties, where appropriate. Because domestic brokerage and handling and inland freight were provided by a NME carrier, we based those charges on surrogate rates from Indonesia. We made additional deductions, in accordance with section 772(d)(1) of the Act, for credit expenses, indirect selling expenses, and inventory carrying costs. Pursuant to section

772(d)(3) of the Act, the price was further reduced by an amount for profit, to arrive at the CEP. The amount of profit deducted was calculated in accordance with section 772(f) of the Act. Because Top United is located in an NME country, we did not include any home market expenses, either actual or surrogate, in the CEP profit calculation. (See *Notice of Final Determination of Sales at Less than Fair Value: Certain Bicycles from the People's Republic of China* 61 FR 19026, 19032, Apr. 30, 1996.) Because the PRC is an NME we are using a surrogate profit rate based on total expenses and total actual profit reflective of the industry experience in our CEP profit calculations.

#### Zongxun

We used EP in accordance with section 772(a) of the Act, because the subject merchandise was sold to unaffiliated customers before importation and the CEP methodology was not indicated by the facts of record. We calculated EP based on packed prices, FOB to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for inland freight from the plant/warehouse to port of exit, and brokerage and handling in the PRC. Because domestic brokerage and handling and inland freight were provided by a NME carrier, we based those charges on surrogate rates from Indonesia.

#### Junhua

We used EP in accordance with section 772(a) of the Act, because the subject merchandise was sold to unaffiliated customers before importation and the CEP methodology was not indicated by the facts of record. We calculated EP based on packed prices, FOB to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for inland freight from the plant/warehouse to port of exit, and brokerage and handling in the PRC. Because domestic brokerage and handling and inland freight were provided by a NME carrier, we based those charges on surrogate rates from Indonesia.

#### Pu Dong

We used EP in accordance with section 772(a) of the Act, because the subject merchandise was sold to unaffiliated customers before importation and the CEP methodology was not indicated by the facts of record. We calculated EP based on packed prices, FOB to the first unaffiliated

purchaser in the United States. Where appropriate, we made deductions from the starting price (i.e., gross unit price) for inland freight from the plant/warehouse to port of exit, and brokerage and handling in the PRC. Because domestic brokerage and handling and inland freight were provided by a NME carrier, we based those charges on surrogate rates from Indonesia.

#### Normal Value

##### A. Surrogate Country

Section 773(c)(4) of the Act requires the Department to value the NME producer's factors of production, to the extent possible, in one or more market economy countries that: (1) Are at a level of economic development comparable to that of the NME, and (2) are significant producers of comparable merchandise. The Department has determined that India, Pakistan, Sri Lanka, Egypt, and Indonesia are countries comparable to the PRC in terms of overall economic development (see Memorandum dated March 24, 1997). According to the available information on the record, we have determined that Indonesia is a significant producer of merchandise that is comparable to CRN. Accordingly, we have calculated NV using Indonesian import prices—except, as noted below, in the "Normal Value" section of this notice, in certain instances where an input was sourced from a market economy—for the PRC producer's factors of production. We have obtained and relied upon PAI wherever possible.

##### B. Factors of Production

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by the companies in the PRC which produced CR nails for the exporters which sold CR nails to the United States during the POI. To calculate NV, the reported unit factor quantities were multiplied by publicly available Indonesian values, where possible.

For those inputs (i.e., steel wire) that were sourced (either partially or totally) from a market economy and paid for in market economy currency, we used the actual price paid for the input to calculate the factors-based NV in accordance with our practice. (See *Lasko Metal Products v. United States*, 437 F. 3d 1442, 1443 (Fed. Cir. 1994).) We valued the remaining factors using PAI from Indonesia.

The selection of the surrogate values applied in this determination was based on the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices to

make them delivered prices. For those values not contemporaneous with the POI and quoted in a foreign currency, we adjusted for inflation using wholesale price indices or, in the case of labor rates, consumer price indices, published in the International Monetary Fund's *International Financial Statistics*. For a complete analysis of surrogate values, see the Preliminary Determination Calculation Memorandum from the team to the File ("Preliminary Determination Calculation Memorandum"), dated May 5, 1997.

Except where noted below, we valued the following reported direct raw material inputs and packing materials using 1996 *Foreign Trade Statistics* ("FTS") data from Indonesia: welding wire, hydrochloric acid, zinc, zinc powder, barium carbonate, potassium chloride, zinc chloride, boracic acid, nitric acid, potassium chromate, sulfuric acid, caustic soda, ammonia chloride, and sodium hydrosulfite. Reported packing materials include: paper carton, rubber bands, adhesive strips, nylon strips, staples, wood, nails, steel strips, and plastic sheets. Absent accurate FTS data, we used 1995 *United Nations Trade Statistics* from Indonesia to value the following inputs: welding wire and rubber bands. One of the reported material inputs, water, was determined not to be a direct material input in the production of subject merchandise and, therefore, has been treated as part of the factory overhead cost. (For further discussion, see *Preliminary Determination Calculation Memorandum*.)

To value direct skilled, direct unskilled, indirect labor and packing labor, we used the 1994 wage rate—the latest available information—for the manufacturing sector of fabricated metal products, machinery, and equipment in Indonesia published in the 1994 *Statistical Yearbook of Indonesia*. Because we cannot determine whether the labor values from this source were for skilled or unskilled workers, in accordance with the Department's practice in past NME cases, we applied a single earnings rate to all reported labor factors (see *Preliminary Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from the PRC*, 60 FR 52647 (Oct. 10, 1995) and *Preliminary Determination of Sales at Less Than Fair Value: Steel Pipe from Romania*, 60 FR 61532 (Nov. 30, 1995)).

To value electricity, we used the 1995 electricity rate reported in *A Brief Guide for Investors*, published by the Republic of Indonesia's Investment Coordinating Board. We based the value of diesel oil on 1996 FTS data for Indonesia.

We based our calculation of factory overhead, SG&A expenses, and profit on financial information for nail, screw, and bolt industries' experience in Indonesia, as reported in *Biro Pusat Statistik* 1995, Volume II, Indonesian Large and Medium Manufacturing Statistics.

To value truck freight rates, we used information in a September 1991, cable from the U.S Embassy in Jakarta, Indonesia.

To value foreign brokerage and handling, we relied on information reported in the antidumping investigation of stainless steel bar from India (see *Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from India*, 59 FR 66915, Dec. 28, 1994).

#### Critical Circumstances

The petition contained a timely allegation that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of subject merchandise. Section 733(e)(1) of the Act provides that the Department will determine that there is a reasonable basis to believe or suspect that critical circumstances exist if: (A)(i) There is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knows or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period.

To determine that there is a history of dumping of the subject merchandise, the Department normally considers evidence of an existing antidumping duty order on CRN in the United States or elsewhere to be sufficient. See e.g., *Preliminary Determinations of Critical Circumstances: Brake Drums and Rotors from the People's Republic of China*, 61 FR 55269 (Oct. 25, 1996); *Notice of Final Determinations of Sales at Less Than Fair Value: Brake Drums and Rotors from the People's Republic of China*, 62 FR 9160 (Feb. 28, 1997). Currently, no countries have outstanding antidumping duty orders on CRN from the PRC. The petitioner alleged a history of dumping based upon antidumping orders on steel wire nails from Korea and the People's Republic of China, both of which covered CRN. See *Certain Steel Wire Nails From Korea; Final Results of Changed Circumstances Administrative*

*Review and Revocation of Antidumping Duty Order*, 50 FR 40045 (Oct. 1, 1985); *Final Results of Changed Circumstances Administrative Review and Revocation of Antidumping Duty Order; Certain Steel Wire Nails from The People's Republic of China*, 52 FR 33463 (Sept. 3, 1987). We preliminarily determine that these antidumping orders are not a sufficient basis to find a history of dumping because both orders were revoked several years ago. However, we will consider this issue further for the final determination and we invite interested parties to comment on the issue.

In determining whether an importer knew or should have known that the exporter was selling subject merchandise at less than fair value and thereby causing material injury, the Department normally considers margins over 15% for EP sales and 25% for CEP sales to impute knowledge of dumping and of resultant material injury. *Brake Drums and Rotors*, 62 FR at 9164-65. In this investigation, none of the participating exporters/manufacturers has a margin over 15% for EP sales or 25% for CEP sales. Based on these facts, we determine that the first criterion for ascertaining whether or not critical circumstances exist is not satisfied. Therefore, we have not analyzed the shipment data for any of these companies to examine whether imports of CRN have been massive over a relatively short period. Thus, because neither alternative of the first criterion has been met, we preliminarily determine that there is no reasonable basis to believe or suspect that critical circumstances exist with respect to exports of CRN from the PRC by Top United, Junhua, Pu Dong, and Zongxun.

Regarding firms covered by the "PRC-wide" rate, we have used the "facts available" as the basis for determining whether critical circumstances exist for non-respondent exporters. The "facts available" margin exceeds the threshold for imputing knowledge of dumping to the importers of the merchandise. In addition, we have adversely assumed, as the "facts available", a massive increase in imports from these non-respondent exporters. We, therefore, determine that critical circumstances exist for non-responding exporters.

We will make a final determination concerning critical circumstances when we make our final determination of sales at less than fair value in this investigation.

#### Verification

As provided in section 782(i) of the Act, we will verify all information

determined to be acceptable for use in making our final determination.

#### Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise—except those exported by Top United, Zongxun, Junhua, or Pu Dong—that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP or CEP, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice.

Exporter/manufacture	Weighted-average margin percentage
Top United .....	0
Zongxun .....	0
Junhua .....	1
Pu Dong .....	0
PRC-wide Rate .....	118.41

<sup>1</sup> De Minimis.

The PRC-wide rate applies to all entries of subject merchandise except for entries from exporters/factories that are identified individually above.

#### ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

#### Public Comment

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than July 28, 1997, and rebuttal briefs, no later than August 4, 1997. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on August 5, 1997, at 9:00 a.m. in Room 1412 at the U.S.

Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within ten days of the 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. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by 135 days after the publication of this notice in the **Federal Register**.

This determination is published pursuant to section 733(d) of the Act.

Dated: May 5, 1997.

**Robert S. LaRussa,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-583-826]

#### Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Collated Roofing Nails From Taiwan

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

**EFFECTIVE DATE:** May 12, 1997.

**FOR FURTHER INFORMATION CONTACT:** Everett Kelly or Ellen Grebasch, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-4194 or (202) 482-3773, respectively.

#### The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the

**Federal Register** on May 11, 1995 (60 FR 25130).

#### Preliminary Determination

We preliminarily determine that collated roofing nails ("CRN") from Taiwan are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

#### Case History

Since the initiation of this investigation (Notice of Initiation of Antidumping Duty Investigations: Collated Roofing Nails from the People's Republic of China, the Republic of Korea, and Taiwan (61 FR 67306, December 20, 1996), the following events have occurred:

On January 17, 1997, the United States International Trade Commission ("ITC") issued an affirmative preliminary injury determination in this case (see ITC Investigation Nos. 731-TA-757-759).

During November 1996 through January 1997, the Department obtained information from various sources identifying producers/exporters of the subject merchandise. (See Memorandum to the File, dated May 5, 1997, for a detailed explanation of the Department's search for producers/exporters of the subject merchandise.) During January and February, based on this information, the Department issued antidumping questionnaires to Unicatch Industrial Co. Ltd. ("Unicatch"), K. Ticho Industries Co., Ltd. ("K. Ticho"), Hao Chun B&M Corporation ("Hao Chun"), Lei Chu Enterprise Co., Ltd. ("Lei Chu"), Forrader Union Company ("Forrader"), Double Dragon Ent. Co. Ltd. ("Dragon"), S&J Wire Products Company, Ltd. ("S&J"), Certified Products Inc. ("Certified"), Sun Jade Handicraft Ltd. ("Sun Jade"), Master United Corporation ("United"), Trim International Incorporated ("Trim"), and Romp Coil Nail Industries ("Romp"). The questionnaire is divided into four sections: Section A requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the sales of the merchandise in all of its markets. Sections B and C request home market sales listings and U.S. sales listings, respectively. Section D requests information on the cost of production ("COP") of the foreign like product and constructed value ("CV") of the subject merchandise.

The Department received responses to Section A of the questionnaire during February and March, 1997. K. Ticho did not respond to the Department's questionnaire. (See the "Fair Value Comparisons" section below, for further discussion).

On March 13, 1997, pursuant to section 777A(c) of the Act, the Department determined that, due to the large number of exporters/producers of the subject merchandise, it would limit the number of mandatory respondents in this investigation. The Department determined that the resources available to it for this investigation and the two companion investigations limited our ability to analyze any more than the responses of the four largest exporters/producers of the subject merchandise in this investigation. Based on Section A questionnaire responses, the Department determined that the four largest companies, and therefore the mandatory respondents in this proceeding, were: Unicatch, Lei Chu, Romp, and S&J. (For detailed information regarding this issue, see memorandum to Lou Apple from the CRN team, dated March 13, 1997.)

Unicatch, Lei Chu, Romp, and S&J submitted questionnaire responses in February and March 1997. We issued supplemental requests for information in March and April 1997, and received supplemental responses to these requests in April 1997.

On April 14, 16, 23, and 25, 1997, the Paslode Division of Illinois Tool Works Inc. ("Petitioner") filed comments on the Unicatch, Lei Chu, Romp, and S&J questionnaire responses.

#### Postponement of Final Determination and Extension of Provisional Measures

On April 22, 1997, Respondents Unicatch and Lei Chu requested that, pursuant to section 735(a)(2)(A) of the Act, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the date of publication of the affirmative preliminary determination in the **Federal Register**. In accordance with section 735(a)(2)(A) of the Act and 19 CFR 353.20(b), inasmuch as our preliminary determination is affirmative, Unicatch and Lei Chu account for a significant proportion of exports of the subject merchandise under investigation, and we are not aware of the existence of any compelling reasons for denying the request, we are granting the respondents' request and postponing the final determination. Suspension of liquidation will be extended