

**FOR FURTHER INFORMATION CONTACT:**

Ronald Gianella, Accountant, Office of the Deputy Chief Financial Officer, Policy and Internal Review Division, U.S. Department of Agriculture, STOP 33, P.O. Box 200011, St. Louis, MO 63120, Telephone: (314) 457-4298.

**SUPPLEMENTARY INFORMATION:**

*Title:* Form RD 1951-65, Customer Initiated Payments (CIP) Enrollment Form; Form RD 1951-66, FedWire Worksheet, and Form RD 3550-28, Authorization Agreement for Preauthorized Payments.

*OMB Number:* 0575-0184.

*Expiration Date of Approval:* June 30, 2008.

*Type of Request:* Revision of a currently approved information collection.

*Abstract:* Rural Development uses electronic methods (Customer Initiated Payments [CIP], FedWire, and Preauthorized Debits [PAD]) for receiving and processing loan payments and collections. These electronic collection methods provide a means for Rural Development borrowers to transmit loan payments from their financial institution (FI) accounts to Rural Development's Treasury Account and receive credit for their payments.

To administer these electronic loan collection methods, Rural Development collects the borrower's FI routing information (routing information includes the FI routing number and the borrower's account number). Rural Development uses Agency approved forms for collecting bank routing information for CIP, FedWire, and PAD.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average .5 hours per response. Each Rural Development borrower who elects to participate in electronic loan payments will only prepare one response for the life of their loan unless they change financial institutions or accounts.

*Respondents:* Business or other for-profit; Not-for-profit institutions; and State, local, or tribal Government.

*Estimated Number of Respondents:* 23,520.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Number of Responses:* 23,520.

*Estimated Total Annual Burden on Respondents:* 11,760 hours.

Copies of this information collection can be obtained from Cheryl Thompson, Regulations and Paperwork Management Branch, at (202) 692-0043.

*Comments are invited on:* (1) The need for the information including whether the information has practical

utility; (2) the accuracy of the reporting burden estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents.

Comments should be submitted to Cheryl Thompson, Regulations and Paperwork Management Branch, Support Services Division, Rural Development, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue, SW., Washington, DC 20250-0742. All responses to this notice will be summarized, included in the request for Office of Management and Budget (OMB) approval, and will become a matter of public record.

Dated: January 24, 2008.

**Russell T. Davis,**

*Administrator, Rural Housing Service.*

[FR Doc. E8-1577 Filed 1-29-08; 8:45 am]

**BILLING CODE 3410-XV-P**

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

**[A-570-914]**

**Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances, in Part: Light-Walled Rectangular Pipe and Tube from the People's Republic of China**

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

**SUMMARY:** The Department of Commerce (the Department) preliminarily determines that light-walled rectangular pipe and tube (LWR) from the People's Republic of China (PRC) is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated dumping margins are shown in the "Preliminary Determination" section of this notice.

**EFFECTIVE DATE:** January 30, 2008.

**FOR FURTHER INFORMATION CONTACT:** Jeff Pedersen or Drew Jackson, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-2769 or 482-4406, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On June 27, 2007, the Department received petitions concerning imports of LWR from the PRC, Mexico, Turkey, and the Republic of Korea (Korea) filed in proper form by Allied Tube and Conduit, Atlas Tube, Bull Moose Tube Company, California Steel and Tube, EXLTUBE, Hannibal Industries, Leavitt Tube Company, Maruichi American Corporation, Searing Industries, Southland Tube, Vest Inc., Welded Tube, and Western Tube and Conduit (collectively, the petitioners). The Department initiated antidumping duty investigations of LWR from the above-mentioned countries on July 17, 2007. *See Initiation of Antidumping Duty Investigations: Light-Walled Rectangular Pipe and Tube from Republic of Korea, Mexico, Turkey, and the People's Republic of China*, 72 FR 40274 (July 24, 2007) (*Initiation Notice*). On August 22, 2007, the International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of LWR from the PRC, Mexico, Turkey, and Korea. *See Light-Walled Rectangular Pipe and Tube From China, Korea, Mexico, and Turkey, Investigation Nos. 701-TA-449 and 731-TA-1118-1121 (Preliminary)*, 72 FR 49310 (August 28, 2007).

On July 18, 2007, the Department requested quantity and value (Q&V) information from the 53 companies that were identified in the petition as potential producers or exporters of LWR from the PRC. *See Exhibit 10, Volume I, of the June 27, 2007, Petition for the Imposition of Antidumping and Countervailing Duties (the petition)*. The Department received timely responses to its Q&V questionnaire from the following 10 companies (three of which were identified in the petition): Zhangjiagang Zhongyuan Pipe-Making Co., Ltd. (ZZPC), Suns International Trading Limited (Suns), Liaoning Cold Forming Sectional Company Limited (Liaoning), Kunshan Lets Win Steel Machinery Co., Ltd. (Lets Win), Wuxi Baishun Steel Pipe Co., Ltd. (Baishun), Guangdong Walsall Steel Pipe Industrial Co., Ltd. (Walsall), Wuxi Worldunion Trading Co., Ltd. (Worldunion), Weifang East Steel Pipe Co., Ltd. (Weifang), Jiangyin Jianye Metal Products Co., Ltd. (Jiangyin), and Dalian Brollo Steel Tubes Ltd. (Dalian).

On August 16, 2007, the Department selected ZZPC and Lets Win as mandatory respondents. *See memorandum regarding "Selection of Respondents in the Antidumping*

Investigation of Light-Walled Rectangular Pipe and Tube from the People's Republic of China," dated August 16, 2007 (Respondent Selection Memorandum).

The Department received separate-rate applications from ZZPC, Lets Win, Baishun, Walsall, Worldunion, Weifang, Jiangyin, and Dalian. The Department did not receive separate-rate applications from Suns and Liaoning.

On August 17, 2007, the Department issued its antidumping questionnaire to the mandatory respondents. ZZPC and Lets Win submitted timely responses to the Department's questionnaire during September and October 2007. The Department issued supplemental questionnaires to, and received responses from, ZZPC and Lets Win in October, November, and December 2007 and January 2008. The petitioners submitted comments to the Department regarding ZZPC's and Lets Wins' questionnaire and supplemental questionnaire responses, and the separate rates response of Dalian in October and December 2007.

On September 21, 2007, the Department released to interested parties a memorandum which listed potential surrogate countries and invited interested parties to comment on surrogate country and factor value selection. No party responded to the Department's invitation to comment on surrogate country selection. However, in October, November, and December 2007 and January 2008, both the petitioners and the respondents submitted surrogate values, including surrogate financial statements, for use in this investigation. All of the submitted surrogate data are from India.

In August and September 2007, the petitioners and respondents submitted comments to the Department regarding the appropriate model matching criteria.

On November 1, 2007, the petitioners alleged targeted dumping by ZZPC and Lets Win. On December 10, 2007, the Department sent a letter to the petitioners requesting more information regarding both targeted dumping allegations. See Letter from Howard Smith, Program Manager, Office 4, to Petitioners, concerning, "Targeted Dumping Allegation," dated December 10, 2007. On December 17, 2007, the petitioners responded to the Department's December 10th request for additional information. See the "Targeted Dumping" section of this notice for additional information regarding these allegations.

On December 13, 2007, the petitioners requested that the Department make a finding that critical circumstances exist with respect to imports of LWR from the

PRC. The Department issued questionnaires regarding critical circumstances to Lets Win and ZZPC on December 18, 2007. Lets Win and ZZPC submitted their responses to those questionnaires on December 28, 2007, and January 2, 2008. See the "Critical Circumstances" section of this notice for additional information.

#### Period of Investigation

The period of investigation (POI) is October 1, 2006, through March 31, 2007. This period comprises the two most recently completed fiscal quarters as of the month preceding the month in which the petition was filed (*i.e.*, June 2007). See 19 CFR 351.204(b)(1).

#### Scope of the Investigation

The merchandise that is the subject of this investigation is certain welded carbon-quality light-walled steel pipe and tube, of rectangular (including square) cross section, having a wall thickness of less than 4 mm.

The term carbon-quality steel includes both carbon steel and alloy steel which contains only small amounts of alloying elements. Specifically, the term carbon-quality includes products in which none of the elements listed below exceeds the quantity by weight respectively indicated: 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.15 percent vanadium, or 0.15 percent of zirconium. The description of carbon-quality is intended to identify carbon-quality products within the scope. The welded carbon-quality rectangular pipe and tube subject to this investigation is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7306.61.50.00 and 7306.61.70.60. While HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of the investigation is dispositive.

#### Scope Comments

In accordance with the preamble to the Department's regulations, we set aside a period of time in our *Initiation Notice* for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of that notice. See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323, (May 19,

1997) and *Initiation Notice*. The Department received no comments concerning the scope of the LWR antidumping and countervailing duty investigations. Accordingly, we have not made changes to the scope of this investigation.

#### Critical Circumstances

The Department preliminarily finds that there is reason to believe or suspect that critical circumstances exist for imports of subject merchandise from the PRC-wide entity because, in accordance with section 733(e)(1)(A)(ii) of the Act, importers of LWR produced by the PRC-wide entity knew 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. See Memorandum from Abdelali Elouaradia, Director, Office 4, "Preliminary Affirmative Determination of Critical Circumstances, in Part," dated concurrently with this memorandum. In addition, the Department also preliminarily finds that imports from the PRC-wide entity satisfy section 733(e)(1)(B) of Act because these imports were massive during a relatively short period. See *id.*

However, with respect to Lets Win, ZZPC, and the separate-rate companies, the Department does not preliminarily find that there is reason to believe or suspect that critical circumstances exist for imports of subject merchandise from these companies because the record indicates that imports from these companies were not massive during a relatively short period. See section 733(e)(1)(B) of the Act; see also Memorandum from Abdelali Elouaradia, Director, Office 4, "Preliminary Affirmative Determination of Critical Circumstances, in Part," dated concurrently with this memorandum. Accordingly, for Lets Win, ZZPC, and the separate-rate companies, the statutory requirement imposed by section 733(e)(1)(B) of Act has not been satisfied and, therefore, we preliminarily determine that critical circumstances do not exist for these entities.

#### Targeted Dumping

Pursuant to section 777A(d)(1) of the Act, in calculating dumping margins in investigations the Department normally will compare U.S. prices and normal values using a weighted average-to-average or transaction-to-transaction comparison methodology. However, section 777A(d)(1)(B) of the Act allows the Department to compare transaction-specific export or constructed export prices to weighted-average normal

values if there is a pattern of export or constructed export prices for comparable merchandise that differ significantly among purchasers, regions, or periods of time and the Department explains why such differences cannot be taken into account using the weighted average-to-average or transaction-to-transaction methods. See sections 777A(d)(1)(B)(i) and 777A(d)(1)(B)(ii) of the Act. Further, 19 CFR 351.414(f)(1)(i) requires that a determination of targeted dumping be made "through the use of, among other things, standard and appropriate statistical techniques." The regulations further elaborate that targeted dumping allegations "must include all supporting factual information, and an explanation as to why the average-to-average or transaction-to-transaction method could not take into account any alleged price differences." See 19 CFR 351.414(f)(3).

On November 1, 2007, the petitioners alleged that Lets Win and ZZPC targeted certain sales of LWR for dumping. Specifically, the petitioners alleged that targeted dumping occurred where the average net price of all of the subject merchandise sold to a particular customer, entered into a particular port, or sold during a specific month, differed by more than two percent from the overall average net price of all of the subject merchandise sold by the respondent during the POI. The petitioners believe the two-percent price difference supports a finding of targeted dumping because: (1) This approach is consistent with the methodology used in the antidumping duty investigation of coated free sheet (CFS) paper from the Republic of South Korea; and (2) LWR is a commodity product sold in a competitive market and, thus, any price difference is critical. See *Notice of Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the Republic of Korea*, 72 FR 60630 (October 25, 2007) (CFS from Korea) and accompanying Issues and Decision Memorandum at Comment 3; see also *Light-Walled Rectangular Pipe and Tube from China, Korea, Mexico, and Turkey*, Investigation Nos. 701-TA-449 and 731-TA-1118-1121 (Preliminary) USITC Pub. 3941 at 10 (August 2007) (noting that the parties generally agree that LWR is a commodity-like product). Based on the price comparisons described above, the petitioners argue that Lets Win engaged in targeted dumping during a certain time period whereas ZZPC engaged in targeted dumping with respect to certain customers, regions, and time periods.

After reviewing the petitioners' targeted dumping allegations, the Department determined that the

allegations lacked basic information and support, and informed the petitioners that they failed to: (1) Establish that the two-percent price variation is significant for the LWR market; (2) establish that the price differences are based on purchasers, regions, or time periods rather than other factors (e.g., general price fluctuations in the market, product differences, differences in channels of distribution or quantities purchased); and (3) explain why the average-to-average or transaction-to-transaction comparison methodology cannot take into account the observed price differences. See the Department's December 10, 2007, letter to the petitioners.

In response to the Department's December 10, 2007, letter, the petitioners asserted that the ITC has already analyzed the LWR market and found the subject merchandise to be a commodity product. See the petitioners' December 17, 2007, submission to the Department. The petitioners noted that the only stated reason for accepting a two-percent price variation as evidence of targeted dumping in the CFS paper investigation was the ITC's finding that CFS paper is a commodity product. According to the petitioners, additional market analysis related to targeted dumping (beyond the ITC's finding) was not engaged in by the petitioner in CFS paper, nor is such extensive market analysis required by the statute. Thus, the petitioners maintained that the ITC's findings are more than adequate support for their proposed two-percent benchmark. Moreover, the petitioners argued that price differences in commodity-like products sold to different purchasers or regions or in different time periods can only be captured through an average-to-transaction comparison. Specifically, the petitioners stated that if the Department were to average prices to targeted and non-targeted groups the lower prices in the targeted groups would be offset by the prices in the non-targeted groups.

We have determined that in this case using an average-to-transaction comparison methodology results in the same overall antidumping margin for each of the respondents as using an average-to-average comparison methodology. See memoranda to the File from Jeff Pedersen for each respondent regarding "Dumping Margins Based on an Average-to-Transaction Comparison Methodology." Thus, the petitioners' claim that the observed price differences can only be taken into account using an average-to-transaction comparison is not supported by the facts in this case. See *id.*

Therefore, the requirement of section 777A(d)(1)(B)(ii) of the Act that the average-to-average or transaction-to-transaction methodology cannot account for the price differences is not met. See also "Statement of Administrative Action," accompanying the Uruguay Round Agreements Act ("URAA"), H.R. Rep. No. 103-316, (1994) at 843 (SAA) ("[b]efore relying on {the average-to-transaction comparison} methodology, however, Commerce must establish and provide an explanation why it cannot account for such differences through the use of an average-to-average or transaction-to-transaction comparison.").

Finally, the Department notes that the petitioners failed to adequately respond to the Department's concerns regarding their targeted dumping allegations. Specifically, the petitioners failed to describe how the LWR market functions and did not adequately explain why a two-percent price difference should be considered to be significant for the "commodity-like product," LWR, given the characteristics of the LWR market.<sup>1</sup> As provided in the SAA "the Administration intends that in determining whether a pattern of significant price differences exist, Commerce will proceed on a case-by-case basis, because small differences may be significant for one industry or one type of product, but not for another." See SAA at 843. Moreover, the petitioners failed to address or take into consideration other possible reasons for the observed price differences (e.g., general price fluctuations in the market, product differences (the petitioners did not compare prices of identical merchandise in their analysis), differences in channels of distribution or quantities purchased, etc.). Thus, the petitioners did not adequately establish price patterns based on purchasers, regions, or periods of time. We note that in the CFS paper investigation, a number of these other possible reasons for the observed price differences were taken into account by comparing prices for identical merchandise sold at the same level of trade on a month-to-month basis.

Given the foregoing, we find that the petitioners' allegations do not contain sufficient information to conduct a targeted dumping analysis.

<sup>1</sup> Additionally, it is important to note that in the investigation of CFS paper from the Republic of Korea, rather than adopting a two-percent benchmark in analyzing targeted dumping the Department specifically noted that it "has not adopted any specific percentages suggested by both parties in their contentions regarding the definition of significance." See CFS from Korea and accompanying "Issues and Decision Memorandum" at Comment 3.

### Non-Market Economy Treatment

The Department considers the PRC to be a non-market economy (NME) country. In accordance with section 771(18)(c)(i) of the Act, any determination that a country is an NME country shall remain in effect until revoked by the administering authority. See *Tapered Roller Bearings and Parts Thereof (TRBs), Finished and Unfinished, From the People's Republic of China: Preliminary Results of 2001–2002 Administrative Review and Partial Rescission of Review*, 68 FR 7500 (February 14, 2003), unchanged in *TRBs, Finished and Unfinished, From the People's Republic of China: Final Results of 2001–2002 Administrative Review and Partial Rescission of Review*, 68 FR 70488 (December 18, 2003). Therefore, in this preliminary determination, we have treated the PRC as an NME country and applied our current NME methodology.

### Selection of a Surrogate Country

In antidumping proceedings involving NME countries, the Department, pursuant to section 773(c)(1) of the Act, will generally base normal value (NV) on the value of the NME producer's factors of production. In accordance with section 773(c)(4) of the Act, in valuing the factors of production, the Department shall utilize, to the extent possible, the prices or costs of factors of production in one or more market economy countries that are at a level of economic development comparable to that of the NME country and are significant producers of merchandise comparable to the subject merchandise.

The Department has determined that India, Indonesia, Sri Lanka, the Philippines, and Egypt are countries that are at a level of economic development comparable to that of the PRC. See memorandum regarding "Antidumping Duty Investigation of Light-Walled Rectangular Pipe and Tube (Pipe) from the People's Republic of China (PRC): Request for a List of Surrogate Countries," dated August 22, 2007 (Policy Memorandum). From among these economically comparable countries, the Department has preliminarily selected India as the surrogate country for this investigation because it determined that: (1) India is a significant producer of merchandise comparable to the subject merchandise and (2) reliable Indian data for valuing the factors of production are readily available. See memorandum regarding "Antidumping Duty Investigation of Light-Walled Rectangular Pipe and Tube from the People's Republic of China:

Selection of a Surrogate Country" dated November 13, 2007.

### Separate Rates

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. It is the Department's policy to assign all exporters of merchandise subject to investigation involving an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. ZZPC, Lets Win, Baishun, Walsall, Worldunion, Weifang, Jiangyin, and Dalian provided company-specific information to demonstrate that they operate independently of *de jure* and *de facto* government control, and therefore are entitled to a separate rate. Suns and Liaoning did not submit separate-rate applications. Accordingly, Suns and Liaoning have not provided company-specific information to demonstrate that they operate independently of *de jure* and *de facto* government control.

The Department's separate-rate 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. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 72255, 72256 (December 31, 1998). The test focuses, rather, on controls over the 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, 61758 (November 19, 1997), and *TRBs, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 61276, 61279 (November 17, 1997).

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising from the *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*), as further developed in *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585

(May 2, 1994) (*Silicon Carbide*). In accordance with the separate-rates criteria, the Department assigns separate rates in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

### Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies. See *Sparklers*, 56 FR at 20589. Information submitted by ZZPC, Lets Win, Baishun, Worldunion, Weifang, and Jiangyin indicates that there are no restrictive stipulations associated with their exporter and/or business licenses; and there are legislative enactments decentralizing control of the companies. Therefore, the Department has preliminarily found a *de jure* absence of government control over these companies' export activities.

Walsall reported that it is wholly foreign-owned by China Pacific Limited (CPL), which is incorporated in the Cayman Islands. CPL is in turn wholly owned by a Hong Kong citizen. Since there is no PRC ownership of Walsall, and we have no evidence indicating that this company is under the control of the PRC, a separate rates analysis is not necessary to determine whether Walsall is independent from government control. See *Brake Rotors From the People's Republic of China: Preliminary Results and Partial Rescission of the Fourth New Shipper Review and Rescission of the Third Antidumping Duty Administrative Review*, 66 FR 1303, 1306 (January 8, 2001) (finding that no separate rates analysis for Hongfa was necessary because the company was wholly foreign owned), unchanged in the final determination; see also *Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate From the People's Republic of China*, 64 FR 71104 (December 20, 1999).

The Department determined that Dalian did not make a sale to the United States during the POI and thus should not be considered for a separate rate. See memorandum regarding "Dalian Brollo Steel Tubes Ltd.'s Eligibility for a Separate Rate" dated concurrently with this notice.

### *Absence of De Facto Control*

Typically the Department considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by, or are subject to the approval of, a governmental agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. See *Silicon Carbide*, 59 FR at 22586–87; see also *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995). The Department considers an analysis of *de facto* control to be critical in determining whether a respondent is, in fact, subject to a degree of governmental control that would preclude the Department from assigning the respondent a separate rate.

ZZPC, Lets Win, Baishun, Worldunion, Weifang, and Jiangyin have each provided information indicating that they: (1) Set export prices independent of the government and without the approval of a government authority; (2) have the authority to negotiate and sign contracts and other agreements; (3) have autonomy from the government regarding the selection of management; and (4) retain proceeds from sales and make independent decisions regarding the disposition of profits or financing of losses. Therefore, the Department has preliminarily found a *de facto* absence of government control over these companies' export activities.

Based on the foregoing, the Department has preliminarily granted ZZPC, Lets Win, Baishun, Walsall, Worldunion, Weifang, and Jiangyin, separate, company-specific dumping margins. The Department calculated company-specific dumping margins for ZZPC and Lets Win and assigned Baishun, Walsall, Worldunion, Weifang, and Jiangyin a dumping margin equal to the weighted-average of the dumping margins calculated for ZZPC and Lets Win. As noted above, Suns and Liaoning did not submit separate-rate applications. Accordingly, Suns and Liaoning have not provided company-specific information to demonstrate that they operate independently of *de jure* and *de facto* government control.

Therefore, the Department has not preliminarily granted Suns and Liaoning a separate rate.

### **The PRC-Wide Entity**

Although PRC exporters of subject merchandise to the United States were given an opportunity to provide Q&V information to the Department, not all exporters responded to the Department's request for Q&V information.<sup>2</sup> Based upon our knowledge of the volume of imports of subject merchandise from the PRC, we have concluded that the companies that responded to the Q&V questionnaire do not account for all U.S. imports of subject merchandise from the PRC made during the POI. We have treated the non-responsive PRC producers/exporters as part of the PRC-wide entity because they did not qualify for a separate rate.

Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information that has been requested by the Department, (B) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Act, (C) significantly impedes a proceeding under the antidumping statute, or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

As noted above, the PRC-wide entity withheld information requested by the Department. As a result, pursuant to section 776(a)(2)(A) of the Act, we find it appropriate to base the PRC-wide dumping margin on facts available. See *Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen Fish Fillets From the Socialist Republic of Vietnam*, 68 FR 4986 (January 31, 2003), unchanged in *Notice of Final Antidumping Duty Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 37116 (June 23, 2003).

Section 776(b) of the Act provides that, in selecting from among the facts otherwise available, the Department may employ an adverse inference if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information. See

*Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation*, 65 FR 5510, 5518 (February 4, 2000); see also SAA at 870. Because the PRC-wide entity did not respond to the Department's request for information, the Department has concluded that the PRC-wide entity has failed to cooperate to the best of its ability. Therefore, the Department preliminarily finds that, in selecting from among the facts available, an adverse inference is appropriate.

Section 776(b) of the Act authorizes the Department to use, as adverse facts available (AFA), information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record. In selecting a rate for AFA, the Department selects one that is sufficiently adverse "as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner." See *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan*, 63 FR 8909 (February 23, 1998). It is the Department's practice to select, as AFA, the higher of the (a) highest margin alleged in the petition, or (b) the highest calculated rate for any respondent in the investigation. See *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products From the People's Republic of China*, 65 FR 34660 (May 21, 2000) at the "Facts Available" section. Here, we assigned the PRC-wide entity the dumping margin calculated for ZZPC, which exceeds the highest margin alleged in the petition and is the highest rate calculated in this investigation. We do not need to corroborate this rate because it is based on information obtained during the course of this investigation rather than secondary information.<sup>3</sup> The PRC-wide dumping margin applies to all entries of the merchandise under investigation except for entries of subject merchandise from ZZPC, Lets Win, Baishun, Walsall, Worldunion, Weifang, and Jiangyin.

<sup>3</sup> Section 776(c) of the Act requires the Department to corroborate secondary information which the SAA describes as "information derived from the petition that gave rise to the investigation or review, the final determination concerning subject merchandise, or any previous review under section 751 concerning the subject merchandise." See also SAA at 870.

<sup>2</sup> The Department received only 10 timely responses to the requests for Q&V information that it sent to the 53 potential exporters identified in the petition, and there is no indication that any of these Q&V questionnaires were rejected or undeliverable.

## Fair Value Comparisons

To determine whether ZZPC or Lets Win sold LWR to the United States at LTFV, we compared the weighted-average export price (EP) of the LWR to the NV of the LWR, as described in the "U.S. Price," and "NV" sections of this notice.

## U.S. Price

### EP

In accordance with section 772(a) of the Act, we based the U.S. price of sales on EP because the first sale to unaffiliated purchasers was made prior to importation and the use of constructed export price was not otherwise warranted. During the POI, Lets Win made certain sales of subject merchandise to the United States through an unaffiliated trading company located in the PRC. Lets Win claims that it established all of the essential terms of such U.S. sales through its negotiations with the first unaffiliated U.S. customers.<sup>4</sup> Based on Lets Win's claims, the Department has determined that Lets Win's reportable sales should include the PRC trading company's sales of subject merchandise that were arranged and negotiated by Lets Win (using the price charged to the U.S. customer as the starting gross price for calculating EP). *See Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 71 FR 29303 (May 22, 2006) (*Diamond Sawblades*), and accompanying Issues and Decision Memorandum at Comment 17 (the Department concluded that the seller was the party that negotiated and executed all of the essential terms of sale). ZZPC reported that it made sales of subject merchandise to an unaffiliated PRC trading company with knowledge that the merchandise was destined for the United States. However, unlike Lets Win, ZZPC reported that the unaffiliated trading company directly and independently negotiated the terms of the sales with U.S. customers.<sup>5</sup> In light of ZZPC's claims, and the fact that the Department ignores transactions between companies in an NME country, we have not considered these sales through the unaffiliated PRC trading company in our analysis because they are not ZZPC's reportable sales. This approach is consistent with that taken in the investigation of diamond

sawblades from the PRC. *See Diamond Saw Blades; see also Final Determination of Sales at Less Than Fair Value: Tetrahydrofurfuryl Alcohol From the People's Republic of China*, 69 FR 34130 (June 18, 2004) and accompanying Issues and Decision Memorandum at Comment 2 noting that " \* \* \* the knowledge test applies only to exporters that have dealings with entities outside of the NME country. In an NME situation, the Department ignores transactions between producers and exporters that are both in-country, since we will not base export price on internal transactions between two companies located in the NME country").

In accordance with section 772(c) of the Act, we calculated EP by deducting, where applicable, the following expenses from the starting price (gross unit price) charged to the first unaffiliated customer in the United States: foreign movement expenses, marine insurance, international freight, and foreign brokerage and handling expenses.

We based these movement expenses on surrogate values where a PRC company provided the service and was paid in Renminbi (RMB). If market economy service providers, who were paid in a market economy currency, provided movement services for over 33 percent of subject merchandise shipments, by volume, we based the movement expenses on the actual price charged by the service provider. If market economy service providers, who were paid in a market economy currency, provided movement services for less than 33 percent of subject merchandise shipments, by volume, we calculated the movement expenses by weight-averaging surrogate values with the actual price charged by the service provider. *See Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments*, 71 FR 61716 (October 19, 2006). For details regarding our EP calculation, see analysis memoranda for ZZPC and Lets Win dated concurrently with this notice.

### NV

In accordance with section 773(c) of the Act, we constructed NV from the factors of production employed by the respondents to manufacture subject merchandise during the POI. Specifically, we calculated NV by adding together the value of the factors of production, general expenses, profit, and packing costs. We valued the factors of production using prices and financial statements from the surrogate country,

India. In selecting surrogate values, we followed, to the extent practicable, the Department's practice of choosing values which are non-export average values, contemporaneous with, or closest in time to, the POI, product-specific, and tax-exclusive. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004). We also considered the quality of the source of surrogate information in selecting surrogate values.

We valued material inputs and packing by multiplying the amount of the factor consumed in producing subject merchandise by the average unit value of the factor. We derived the average unit value of the factor from Indian import statistics. In addition, we added freight costs to the surrogate costs that we calculated for material inputs. We calculated freight costs by multiplying surrogate freight rates by the shorter of the reported distance from the domestic supplier to the factory that produced the subject merchandise or the distance from the nearest seaport to the factory that produced the subject merchandise, as appropriate. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp. v. United States*, 117 F. 3d 1401, 1407 (Fed. Cir. 1997). Where we could only obtain surrogate values that were not contemporaneous with the POI, we inflated (or deflated) the surrogate values using the Indian Wholesale Price Index (WPI) as published in the International Financial Statistics of the International Monetary Fund.

Further, in calculating surrogate values from Indian imports, we disregarded imports from Indonesia, South Korea, and Thailand because in other proceedings the Department found that these countries maintain broadly available, non-industry-specific export subsidies. Therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized. *See Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields from the People's Republic of China*, 67 FR 11670 (March 15, 2002); *see also Notice of Final Determination of Sales at Less Than Fair Value and*

<sup>4</sup> See Lets Win's November 6, 2007, supplemental response at C-1 through C-8 and SA-8.

<sup>5</sup> See ZZPC's December 17, 2007, supplemental response at 5 through 8.



*Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 69 FR 20594 (April 16, 2004).<sup>6</sup> Thus, we have not used prices from these countries in calculating the Indian import-based surrogate values.

We valued raw materials and packing materials using Indian import statistics, except as noted below.

We valued electricity using rates from *Key World Energy Statistics 2003*, published by the International Energy Agency. Because these data were not contemporaneous with the POI, we inflated the values using the WPI. See the memoranda regarding "Investigation of Light-Walled Rectangular Pipe and Tube from the People's Republic of China: Surrogate Values Selected" for ZZPC and Lets Win dated concurrently with this notice (Factor Value Memoranda).

Consistent with 19 CFR 351.408(c)(3), we valued direct, indirect, and packing labor, using the most recently calculated regression-based wage rate, which relies on 2004 data. This wage rate can currently be found on the Department's Web site on Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in January 2007, <http://ia.ita.doc.gov/wages/index.html>. The source of these wage-rate data on the Import Administration's Web site is the Yearbook of Labour Statistics 2002, ILO (Geneva: 2002), Chapter 5B: Wages in Manufacturing. Because this regression-based wage rate does not separate the labor rates into different skill levels or types of labor, we have applied the same wage rate to all skill levels and types of labor reported by ZZPC and Lets Win. See Factor Value Memoranda.

We valued water using data from the Maharashtra Industrial Development Corporation (<http://www.midcindia.org>) because it includes a wide range of industrial water tariffs. This source provides 386 industrial water rates within the Maharashtra province from June 2003: 193 for the "inside industrial areas" usage category and 193 for the "outside industrial areas" usage category. Because the value was not contemporaneous with the POI, we inflated the rate using the WPI. See Factor Value Memoranda.

We valued truck freight expenses using a per-unit average rate from data obtained from the Web site of an Indian

transportation company, InFreight Technologies India Limited. See <http://www.infreight.com/>. This average rate was used by the Department in the antidumping duty administrative review of *Saccharin from the People's Republic of China: Preliminary Results of the 2005–2006 Antidumping Duty Administrative Review*, 72 FR 25247 (May 4, 2007). Because this value is not contemporaneous with the POI, we inflated the rate using the WPI. See Factor Value Memoranda.

We valued brokerage and handling using a simple average of the brokerage and handling costs that were reported in public submissions that were filed in two antidumping duty cases. Specifically, we averaged the public brokerage and handling expenses reported by Agro Dutch Industries Ltd. in the antidumping duty administrative review of certain preserved mushrooms from India and those reported by Kejirwal Paper Ltd. in the LTFV investigation of certain lined paper products from India. See *Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Administrative Review*, 71 FR 10646 (March 2, 2006); see also *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances in Part: Certain Lined Paper Products From India*, 71 FR 19706 (April 17, 2006), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India*, 71 FR 45012 (August 8, 2006).

Because the resulting value is not contemporaneous with the POI, we inflated the rate using the WPI. See Factor Value Memoranda.

ZZPC reported that all of its U.S. sales had international freight arranged by an NME freight forwarder. We valued international freight expenses using U.S. dollar freight quotes that the Department obtained from Maersk Sealand (Maersk), a market-economy shipper. We obtained quotes from Maersk for shipments from the PRC port of export and the U.S. port of import reported by ZZPC for its U.S. sales. Because these data were not contemporaneous to the POI, we adjusted them for inflation using the U.S. WPI. See Factor Value Memoranda.

We valued factory overhead, selling, general, and administrative (SG&A) expenses, and profit, using the 2006–2007 audited financial statements of Zenith Birla (India) Limited and Bihar Tubes Limited. Record evidence

indicates that these are Indian companies that produce subject merchandise. We did not rely upon a third company's financial statement that was placed on the record, namely the financial statement of Bhawani Industries Limited (Bhawani), because Bhawani's financial statement lists a "DEPB Premium" in "Other Income." India's DEPB Scheme has been found by the Department to provide a countervailable subsidy. See, e.g., *Certain Iron-Metal Castings From India: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review*, 64 FR 61592 (November 12, 1999) (unchanged in final results); see also <http://ia.ita.doc.gov/esel/eselframes.html>. In *Crawfish from the PRC*, the Department noted that where it has reason to believe or suspect that a company may have received subsidies, financial ratios derived from that company's financial statements do not constitute the best available information with which to value financial ratios. See *Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results And Rescission, In Part, of 2004/2005 Antidumping Duty Administrative and New Shipper Reviews*, 72 FR 19174 (April 17, 2007) and accompanying Issues and Decision Memorandum at Comment 1. Given the record information regarding Bhawani's use of the DEPB program, and the fact that we have other acceptable financial statements to use as surrogates, consistent with the Department's decision in *Crawfish from the PRC*, we have not used Bhawani's financial data in our surrogate ratio calculations. See Factor Value Memoranda.

In accordance with 19 CFR 351.301(c)(3)(i), interested parties may submit publicly available information with which to value factors of production in the final determination within 40 days after the date of publication of the preliminary determination.

#### Currency Conversion

We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

#### Verification

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

#### Combination Rates

In the *Initiation Notice*, the Department stated that it would

<sup>6</sup> In addition, we note that legislative history explains that the Department is not required to conduct a formal investigation to ensure that such prices are not subsidized. See H.R. Rep. 100–576 at 590 (1988). As such, it is the Department's practice to base its decision on information that is available to it at the time it makes its determination.

calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. See *Initiation Notice*. This change in practice is described in *Policy Bulletin 05.1*, available at <http://ia.ita.doc.gov/>. *Policy Bulletin 05.1*, states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.

See *Policy Bulletin 05.1*, "Separate Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries."

#### Preliminary Determination

The weighted-average dumping margins are as follows:

| Exporter & producer                                | Weighted-average Margin (percent) |
|--|-----------------------------------|
| Zhangjiagang Zhongyuan Pipe-Making Co., Ltd..      | 264.64                            |
| Kunshan Lets Win Steel Machinery Co., Ltd..        | 223.52                            |
| Wuxi Baishun Steel Pipe Co., Ltd..                 | 247.75                            |
| Guangdong Walsall Steel Pipe Industrial Co., Ltd.. | 247.75                            |
| Wuxi Worldunion Trading Co., Ltd..                 | 247.75                            |
| Weifang East Steel Pipe Co., Ltd..                 | 247.75                            |
| Jiangyin Jianye Metal Products Co., Ltd..          | 247.75                            |
| PRC-Wide Rate .....                                | 264.64                            |

#### Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

#### Suspension of Liquidation

As noted above, the Department has found that critical circumstances exist with respect to imports of subject merchandise from the PRC-Wide entity.

Therefore, in accordance with section 733(d) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of LWR from the PRC-Wide entity as described in the "Scope of the Investigation" section of this notice, entered, or withdrawn from warehouse, for consumption on or after 90 days prior to the date of publication of this notice in the **Federal Register**. For the mandatory respondents, Lets Win and ZZPC, and the separate rate applicants, Wuxi Baishun Steel Pipe Co., Ltd., Guangdong Walsall Steel Pipe Industrial Co., Ltd., Wuxi Worldunion Trading Co., Ltd., Weifang East Steel Pipe Co., Ltd., Jiangyin Jianye Metal Products Co., Ltd., we will instruct CBP to suspend liquidation of all entries of LWR from these companies as described in the "Scope of the Investigation" section of this notice, entered, or withdrawn from warehouse, for consumption upon the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds U.S. price, as indicated above. The suspension of liquidation will remain in effect until further notice.

#### International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary affirmative determination of sales at LTFV. Section 735(b)(2) of the Act requires the ITC to make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of LWR, or sales (or the likelihood of sales) for importation, of the subject merchandise within 45 days of our final determination.

#### Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than seven days after the date the final verification report is issued in this proceeding and rebuttal briefs, limited to issues raised in case briefs, no later than five days after the deadline for submitting case briefs. See 19 CFR 351.309(c)(1)(i) and 19 CFR 351.309(d)(1). A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes.

In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an

opportunity to comment on arguments raised in case or rebuttal briefs. If a request for a hearing is made, we intend to hold the hearing three days after the deadline of submission of rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Ave, NW., Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days after the date of publication of this notice. See 19 CFR 351.310(c). Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief and may make rebuttal presentations only on arguments included in that party's rebuttal brief.

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

Pursuant to section 735(a)(2) of the Act, on November 27, 2007, and December 10, 2007, Lets Win and ZZPC, respectively, requested that in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days. At the same time, Lets Win and ZZPC requested that the Department extend the application of the provisional measures prescribed under 19 CFR 351.210(e)(2) from a 4-month period to a 6-month period. In accordance with section 733(d) of the Act and 19 CFR 351.210(b), because (1) our preliminary determination is affirmative, (2) the requesting exporters account for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

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

Dated: January 23, 2008.

**David M. Spooner,**  
Assistant Secretary for Import Administration.

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