

We determine that it is not practicable to complete the preliminary results of administrative review by the current deadline of July 2, 2009, for several reasons. Specifically, the Department has granted the respondent several extensions to respond to the original and supplemental questionnaires. Accordingly, the Department needs additional time to review and analyze the responses submitted by the respondent. Further, the Department requires additional time to analyze corrected data and verification findings. Therefore, in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2), we are extending the time period for issuing the preliminary results of this review for an additional 20 days until July 22, 2009.

This notice is published in accordance with sections 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: July 2, 2009.

**John M. Andersen,**

*Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-549-821]

#### **Polyethylene Retail Carrier Bags from Thailand: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review**

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

**EFFECTIVE DATE:** July 2, 2009

**FOR FURTHER INFORMATION CONTACT:** Kristin Case, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3174.

#### **Background**

At the request of interested parties, the Department of Commerce (the Department) initiated an administrative review of the antidumping duty order on polyethylene retail carrier bags from Thailand for the period August 1, 2007, through July 31, 2008. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 73 FR 56795, 56796 (September 30, 2008). On April 16, 2009, we extended the due date for

the completion of the preliminary results of review by 60 days. See *Polyethylene Retail Carrier Bags From Malaysia, Thailand, and the People's Republic of China: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Reviews*, 74 FR 17633 (April 16, 2009). Currently, the preliminary results of review are due no later than July 2, 2009.

#### **Extension of Time Limit for Preliminary Results**

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. If it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 365 days after the last day of the anniversary month.

We determine that it is not practicable to complete the preliminary results of administrative review by the current deadline of July 2, 2009, for several reasons. Specifically, the Department has granted a respondent several extensions to respond to the original and supplemental questionnaires. Accordingly, the Department needs additional time to review and analyze the responses submitted by the respondent. Further, the Department needs additional time to analyze minor corrections and verification findings. Therefore, in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2), we are extending the time period for issuing the preliminary results of this review for an additional 32 days until August 3, 2009.

This notice is published in accordance with sections 751(a)(3)(A) and 777 (i)(1) of the Act.

Dated: July 2, 2009.

**John M. Andersen,**

*Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

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**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-806]

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

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

**DATES:** *Effective Date:* July 9, 2009.

**SUMMARY:** The Department of Commerce ("Department") is currently conducting the 2007/2008 administrative review of the antidumping duty order on silicon metal from the People's Republic of China ("PRC"). The period of review ("POR") is June 1, 2007, through May 31, 2008. We have preliminarily determined that Shanghai Jinneng International Trade Co., Ltd. ("Shanghai Jinneng"), and Jiangxi Gangyuan Silicon Industry Company, Ltd. ("Jiangxi Gangyuan") made sales to the United States of the subject merchandise at prices below normal value. Furthermore, we are preliminarily rescinding the review with respect to Datong Jinneng Industrial Silicon Co., Inc. ("Datong Jinneng"); S. AU Trade Co., Ltd. ("AU Trade"), and Lao Silicon Co., Ltd. ("Lao Silicon"). If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on entries of subject merchandise from the POR.

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

**FOR FURTHER INFORMATION CONTACT:** Bobby Wong, Susan Pulongbarit, or Jerry Huang, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0409; (202) 482-4031 and (202) 482-4047, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The Department received a timely request from Petitioner, Globe Metallurgical Inc. ("Petitioner"), in accordance with 19 CFR 351.213(b), for an administrative review of the antidumping duty order on silicon metal from the PRC of five companies: AU Trade, Datong Jinneng, Jiangxi

Gangyuan, Lao Silicon, and Shanghai Jinneng (collectively, "Respondents"). On July 30, 2008, the Department published a notice of initiation of an antidumping duty administrative review on silicon metal from the PRC, in which it initiated a review of these Respondents. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews, Request for Revocation in Part, and Deferral of Administrative Review* ("Initiation Notice"), 73 FR 44220 (July 30, 2008).

On September 23, 2008, in accordance with section 777A(c)(2) of the Tariff Act of 1930, as amended ("Act"), the Department selected Jiangxi Gangyuan and Shanghai Jinneng for individual examination in this review since they were the two largest exporters by volume during the POR based on CBP data of U.S. imports. *See Memorandum to James C. Doyle, Director, Office 9, from Susan Pulongbarit, International Trade Analyst, "Selection of Respondents for 2007–2008 Antidumping Duty Administrative Review of Silicon Metal from the People's Republic of China,"* dated September 23, 2008.

Between October 24, 2008, and April 22, 2009, Jiangxi Gangyuan, Shanghai Jinneng, and Shanghai Jinneng's affiliated producer, Datong Jinneng, responded to the Department's original and supplemental questionnaires. Pursuant to 19 CFR 351.307(b)(iv), the Department conducted verification of Shanghai Jinneng and its affiliated producer, Datong Jinneng, from May 4–8, 2009, and Jiangxi Gangyuan from May 11–14, 2009. *See Memo to the File through Scot Fullerton, Program Manager, Office 9, Paul Walker, Senior International Trade Analyst and Jerry Huang, International Trade Analyst, "2007–2008 Administrative Review of Silicon Metal from the People's Republic of China: Verification of Datong Jinneng Industrial Silicon Co., Inc." ("Datong Jinneng Verification Report"),* dated June 29, 2009; *Memo to the File through Scot Fullerton, Program Manager, Office 9, from Paul Walker, Senior International Trade Analyst and Jerry Huang, International Trade Analyst, "2007–2008 Administrative Review of Silicon Metal from the People's Republic of China: Verification of Shanghai Jinneng International Trade Co., Ltd." ("Shanghai Jinneng Verification Report"),* dated June 29, 2009; and *Memo to the File through Scot Fullerton, Program Manager, Office 9, from Susan Pulongbarit, International Trade Analyst, "2007–2008 Administrative Review of Silicon Metal from the People's Republic of China: Verification of Jiangxi Gangyuan Silicon*

*Industry Company, Ltd." ("Jiangxi Gangyuan Verification Report"),* dated June 29, 2009.

On June 8, 2009, Petitioner submitted comments containing recommendations regarding the preliminary results. *See June 8, 2009 letter from Petitioner to Secretary of Commerce, Regarding: Silicon Metal From the People's Republic of China; 2007–08 Administrative Review; Preliminary Results Comments ("Jiangxi Gangyuan and Shanghai Jinneng Preliminary Results Comments").* On June 11, 2009, Jiangxi Gangyuan and Shanghai Jinneng submitted comments containing recommendations regarding the preliminary results. *See June 11, 2009 letter from Respondents, to Secretary of Commerce, Regarding: Silicon Metal from the People's Republic of China.*

#### Scope of the Order

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

#### Separate Rates

In proceedings involving non-market economy ("NME") countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to its export activities. *See 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") and accompanying Issues and Decisions Memorandum at Comment 1. In this review, we received an untimely filing of AU Trade's Separate Rate Application on December 2, 2008, after the

September 28, 2008 deadline. Consequently, we preliminarily determine that AU Trade will remain part of the PRC-wide entity for the purposes of this review, as the Department did not conduct a review of its separate rate eligibility.

#### Preliminary Partial Rescission of 2007/2008 Administrative Review

Pursuant to 19 CFR 351.213(d)(3), we have preliminarily determined that Lao Silicon and Datong Jinneng made no shipments of subject merchandise during the POR of this administrative review. In making this determination, the Department examined PRC silicon metal shipment data maintained by CBP. *See Letter from the Department of Commerce, "2007–2008 Administrative Review of the Antidumping Duty Order of Silicon Metal from the People's Republic of China: CBP Data for Respondent Selection,"* dated August 4, 2008. Based on the information obtained from CBP, we found no entries of subject merchandise during the POR exported by Lao Silicon or Datong Jinneng to the United States. The Department also issued no-shipment inquiries to CBP in June 2009 asking CBP to provide any information contrary to our findings of no entries of subject merchandise for merchandise manufactured and shipped by Lao Silicon and Datong Jinneng during the POR. We did not receive any response from CBP, thus indicating that there were no entries of subject merchandise into the United States exported by these companies. *See Memorandum to The File, from Susan Pulongbarit, International Trade Analyst, AD/CVD Operations, Office 9, regarding 2007–2008 Administrative Review of Silicon Metal from the People's Republic of China: CBP No Shipment Email Inquiries* (June 9, 2009). Consequently, as neither company made exports of subject merchandise during the POR, we are preliminarily rescinding the review, in part, with respect to Datong Jinneng and Lao Silicon.<sup>1</sup>

#### Normal Value Comparisons

To determine whether the respondents' sales of the subject merchandise to the United States were made at prices below normal value, we compared their U.S. sales prices to normal values, as described in the "U.S. Price" and "Normal Value" sections of this notice.

<sup>1</sup> Although we have preliminarily determined to rescind the review with respect to Datong Jinneng, we will continue to review factors of production ("FOP") data submitted by the mandatory respondent Shanghai Jinneng, which is Datong Jinneng's affiliated exporter.

## U.S. Price

### Export Price

For Jiangxi Gangyuan and Shanghai Jinneng, we based U.S. price on export price ("EP") in accordance with section 772(a) of the Act, because the first sale to an unaffiliated purchaser was made prior to importation, and reliance upon constructed export price ("CEP") was not otherwise warranted by the facts on the record. We calculated EP based on the packed price from the exporter to the first unaffiliated customer in the United States.

### Export Tax and Value-Added Tax ("VAT")

Pursuant to Section 772(c)(2)(B) of the Act, the Department shall reduce the U.S. price by "the amount, if included in such price, of any export tax, duty, or other charge imposed by the exporting country on the exportation of the subject merchandise to the United States \* \* \*." As record evidence clearly indicates that both companies reported U.S. sales prices are inclusive of an export tax, we are making deductions to both companies' U.S. sales prices to account for the export tax. See Memorandum to the File through Scot T. Fullerton, Program Manager, AD/CVD Operations, Office 9, from Jerry Huang, International Trade Analyst, AD/CVD Operations, Office 9, regarding "Antidumping Duty Administrative Review of Silicon Metal from the People's Republic of China: Shanghai Jinneng International Trade Co., Ltd. Program Analysis for the Preliminary Determination," dated June 29, 2009, and Memorandum to the File through Scot T. Fullerton, Program Manager, AD/CVD Operations, Office 9, from Susan Pulongbarit, International Trade Analyst, AD/CVD Operations, Office 9, regarding "Antidumping Duty Administrative Review of Silicon Metal from the People's Republic of China: Jiangxi Gangyuan Silicon Industry Company, Ltd. Program Analysis for the Preliminary Determination," dated June 29, 2009.

Although Petitioner has submitted comments suggesting that the Department adjust U.S. price to account for VAT on export sales of silicon metal to the United States during the POR, we have not determined whether such an adjustment is appropriate within the context of the Act. Therefore, for the preliminary results, the Department has not adjusted U.S. price to account for VAT imposed on export sales. However, subsequent to the issuance of these preliminary results, the Department intends to place laws with respect to the PRC'S VAT system on the record and

will invite additional factual information submissions with respect to this issue, in order for interested parties to provide comment in case briefs on the appropriate treatment of VAT for purposes of the final results.

## Normal Value

### Non-Market-Economy Status

Pursuant to section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. In every case conducted by the Department involving the PRC, the PRC has been treated as a NME country. See, e.g., *Tapered Roller Bearings and Parts Thereof, 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 *Tapered Roller Bearings and Parts Thereof, 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). None of the parties to these reviews has contested such treatment. Accordingly, we calculated normal value in accordance with section 773(c) of the Act, which applies to NME countries.

## Surrogate Country

When the Department is investigating imports from an NME, section 773(c)(1) of the Act directs it to base normal value ("NV"), in most circumstances, on the NME producer's FOP valued in a surrogate market-economy country or countries considered to be appropriate by the Department. 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 comparable merchandise. The sources of the surrogate values we have used in this investigation are discussed under the "Normal Value" section below.

The Department's practice with respect to determining economic comparability is explained in *Policy Bulletin 04.1*,<sup>2</sup> which states that the

Department's "OP {Office of Policy} determines per capita economic comparability on the basis of per capita gross national income, as reported in the most current annual issue of the *World Development Report* (The World Bank)." The Department considers the five countries identified in its Surrogate Country List as "equally comparable in terms of economic development." See *Policy Bulletin 04.1* at 2. Thus, we find that India, Indonesia, the Philippines, Colombia, and Thailand are all at an economic level of development equally comparable to that of the PRC.

Second, *Policy Bulletin 04.1* provides some guidance on identifying comparable merchandise and selecting a producer of comparable merchandise. As stated in the *Policy Bulletin*, "comparable merchandise" is not defined in the statute or the regulations, since it is best determined on a case-by-case basis. See *id.* As further stated in *Policy Bulletin 04.1*, in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise. *Id.* Based on the data provided by parties, we find that India is a producer of comparable merchandise, as both parties have provided financial statements of multiple Indian producers of silicon metal. See April 3, 2009 Letter From Martin Schaeffermeier of DLA Piper to Secretary of Commerce, Regarding Submission of Surrogate Value Data; see also April 3, 2009 Letter From Sydney Mintzer of Mayer Brown to Secretary of Commerce, Regarding Silicon Metal from the People's Republic of China.

The *Policy Bulletin* also provides some guidance in identifying significant producers of comparable merchandise and selecting a producer of comparable merchandise. The *Policy Bulletin* notes that any determination of what constitutes "significant production" should be made consistent with the characteristics of world production of, and trade in, comparable merchandise (subject to the availability of data on these characteristics). See *Policy Bulletin 04.1* at 3. Since these characteristics are specific to the merchandise in question, the standard for "significant producer" will be determined by the Department on a case-by-case basis, and fixed standards for making this determination have not been adopted. *Id.*

With respect to data considerations in selecting a surrogate country, it is the Department's practice that, "\* \* \* if more than one country has survived the selection process to this point, the

<sup>2</sup> See *Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process*, (March 1, 2004), ("Policy Bulletin 04.1") from the October 20, 2008 Letter from the Department, To All Interested Parties, Regarding *Antidumping Duty Order on Silicon Metal From the People's Republic of China*

at Attachment II, also available at <http://ia.ita.doc.gov/policy/bull04-1.html>.

country with the best factors data is selected as the primary surrogate country.” See *id.* at 4. Currently, the record contains surrogate value information, including possible surrogate financial statements, only from India.

Thus, the Department is preliminarily selecting India as the surrogate country on the basis that: (1) It is at a comparable level of economic development to the PRC, pursuant to section 773(c)(4) of the Act; (2) it is a significant producer of comparable merchandise; and (3) we have reliable data from India that we can use to value the factors of production. Therefore, we have calculated normal value using Indian prices, when available and appropriate, to value Shanghai Jinneng and Jiangxi Gangyuan’s factors of production. See Memorandum to the File through Scot T. Fullerton, Program Manager, AD/CVD Operations, Office 9, from Bobby Wong, Senior International Trade Analyst, and Jerry Huang, International Trade Analyst, AD/CVD Operations, Office 9, regarding “Antidumping Duty Administrative Review of Silicon Metal from the People’s Republic of China: Selection of Factor Values,” dated June 29, 2009 (“Surrogate Value Memorandum”).

In accordance with 19 CFR 351.301(c)(3)(ii), for the final determination in an antidumping administrative review, interested parties may submit publicly available information to value the factors of production within 20 days after the date of publication of the preliminary determination.<sup>3</sup>

### Factors of Production

In accordance with section 773(c) of the Act, we calculated NV based on the FOP data reported by Shanghai Jinneng and Jiangxi Gangyuan for the POR. To calculate NV, we multiplied the reported-per-unit factor consumption rates by publicly available Indian values.

<sup>3</sup> In accordance with 19 CFR 351.301(c)(1), for the final determination of this administrative review, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information recently placed on the record. The Department generally will not accept the submission of additional, previously absent-from-the-record alternative surrogate value information pursuant to 19 CFR 351.301(c)(1). See *Glycine From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part*, 72 FR 58809 (October 17, 2007) and accompanying Issues and Decision Memorandum at Comment 2.

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

In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data, in accordance with our practice. See, *e.g.*, *Fresh Garlic From the People’s Republic of China: Final Results of Antidumping Duty New Shipper Review*, 67 FR 72139 (December 4, 2002) and accompanying Issues and Decision Memorandum at Comment 6; *Final Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms From the People’s Republic of China*, 66 FR 31204 (June 11, 2001) and accompanying Issues and Decision Memorandum at Comment 5. When we used publicly available import data from the Ministry of Commerce of India (Indian Import Statistics) for June 2007 through May 2008 to value inputs sourced domestically by PRC suppliers, we added to the Indian surrogate values a surrogate freight cost calculated using the shorter of the reported distance from the domestic supplier to the factory or the distance from the closest seaport to the factory. This adjustment is in accordance with the CAFC’s decision in *Sigma Corp. v. United States*, 117 F.3d 1401, 1408 (Fed. Cir. 1997). When we used FOPs sourced domestically by PRC suppliers, we based freight for inputs on the actual distance from the input supplier to the site at which the input was used. In instances where we relied on Indian import data to value inputs,

in accordance with the Department’s practice, we excluded imports from both NME countries and countries deemed to maintain broadly available, non-industry-specific subsidies which may benefit all exporters to all export markets (*i.e.*, Indonesia, South Korea, and Thailand) from our surrogate value calculations. See, *e.g.*, *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People’s Republic of China: Final Results of 1999–2000 Administrative Review, Partial Rescission of Review, and Determination Not to Revoke Order in Part*, 66 FR 57420 (November 15, 2001) and accompanying Issues and Decision Memorandum at Comment 1. See “Memorandum to the File: Factors of Production Valuation Memorandum for the Preliminary Results of Antidumping Duty Administrative Review of Floor-standing, Metal-top Ironing Tables and Certain Parts Thereof (Ironing Tables) from the People’s Republic of China (PRC),” dated August 31, 2006 (Factor Valuation Memo), for a complete discussion of the import data that we excluded from our calculation of surrogate values. This memorandum is on file in the Central Records Unit (“CRU”).

Where we could not obtain publicly available information contemporaneous with the POR to value factors, we adjusted the surrogate values using the Indian Wholesale Price Index (“WPI”) as published in the International Financial Statistics of the International Monetary Fund, for those surrogate values in Indian rupees. We made currency conversions, where necessary, pursuant to 19 CFR 351.415, to U.S. dollars using the daily exchange rate corresponding to the reported date of each sale. We relied on the daily exchange rates posted on the Import Administration Web site (<http://www.trade.gov/ia/>). See Surrogate Value Memorandum. We valued the FOPs as follows:

The Department used Indian Import Statistics to value the raw material and packing material inputs that Shanghai Jinneng and Jiangxi Gangyuan used to produce the merchandise under review during the POR, except where listed below. For a detailed description of all surrogate values used for respondents, see Surrogate Value Memorandum.

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

We find that Grade A coal is most closely matched to the coal specifications submitted by Respondents in this instant review. We valued coal using Grade A coal values obtained from the IBM Yearbook. We inflated the value for coal using the POR average WPI rate. *Id.* We continued to value charcoal using Indian Import Statistics. *Id.* To value polyethylene/polypropylene ("PE/PP") bags, we used Indian Import Statics. *Id.*

We valued electricity using data published in *Electricity Tariff & Duty and Average rates of Electricity Supply in India*, dated 2006, by the Central Electricity Authority of the Government of India. We inflated the value using the POR average WPI rate. *Id.*

To value the surrogate value ratios for factory overhead, SG&A, and profit, the Department used publicly available information to review the financial statements of five Indian companies, placed on the record by interested parties. We find that Balasore Alloys Limited, Rohit Ferro Tech Ltd., and Maharashtra Elektrosnelt Limited received countervailable subsidies. Therefore, we have valued SG&A using the 2007–2008 annual reports and accounts from the remaining two companies, Sharp Ferro Alloys Limited ("Sharp Alloys") and Sova Ispat Alloys (Mega Projects) Limited ("Sova Ispat Alloys"), both of which were included in Shanghai Jinneng and Jiangxi Gangyuan's submission on April 3, 2009, at Exhibit 26. The annual reports cover the period April 1, 2007, through March 31, 2008, encompassing 10 months of the POR. We determine that the financial statements of Sharp Alloys and Sova Ispat Alloys are appropriate for use in calculating surrogate value ratios for SG&A because both companies are producers of comparable merchandise. *See* Surrogate Value Memorandum.

Because of the variability of wage rates in countries with similar levels of per capita gross domestic product, 19 CFR 351.408(c)(3) requires the use of a regression-based wage rate. Therefore, to value the labor input, we used the PRC's regression-based wage rate published by Import Administration on its Web site, <http://www.trade.gov/ia/>. *See* Surrogate Value Memorandum.

To value truck freight, we calculated a per-unit average rate from data based on publicly available information from <http://www.infobanc.com/logistics/logtruck.htm>, an international trade resource Web site. *See* Surrogate Value Memorandum.

To value rail freight, we calculated a per-unit average rate from data based on publicly available information from

<http://www.indianrailways.gov.in>, the Indian Ministry of Railways Web site. *See* Surrogate Value Memorandum.

Shanghai Jinneng and Jiangxi Gangyuan both claimed silica fume as by-product offsets as each produced silica fume and sold a portion of this production during the POR. To value silica fume, the Department has calculated the surrogate value using data obtained from WTA Indian import statistics only for countries that have significant quantities and demonstrable imports of silica fume/microsilica based on information contained in Infodrive India data, provided by Petitioner in its April 3, 2009, submission. For a more detailed discussion, *see* Surrogate Value Memorandum.

Further, we are preliminarily granting a by-product offset to Shanghai Jinneng and Jiangxi Gangyuan for silica fume based on production volumes, as opposed to POR sales, of silica fume. Shanghai Jinneng and Jiangxi Gangyuan stated that when silica fume is produced it enters a finished goods inventory account and a value is assigned to that inventory in their books. Moreover, each claims that there is no question that all of the silica fume produced during POR has been or will be sold. *See* Jiangxi Gangyuan and Shanghai Jinneng Preliminary Comments at 12–13. In other words, there is no indication that any of the silica fume produced is not ultimately sold. Under such a circumstance, the practice of using the "lower of" the quantity of by-product produced or sold in each POR may lead to an inconsistent result over multiple review periods. The Department notes that granting the by-product offset based on total production volume during the POR is a change from past NME practice, *i.e.*, in which by-product offsets were based on its total POR sales of the by-product that were also produced during the POR. *See 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) and accompanying Issues and Decisions Memorandum at Comment 12. However, this change brings our NME practice into line with normal accounting principles which recognizes and records the economic value of a by-product when it is produced. We are hereby notifying parties of this change in practice for NME cases and we invite interested parties to provide comments in their case briefs.

Jiangxi Gangyuan also claimed slag as a by-product offset. However, Jiangxi Gangyuan stated that it does not

maintain an inventory of slag in its books because, due to the lack of demand for slag, it sells it when it can. Furthermore Jiangxi Gangyuan was unable to provide source documentation for payment of slag sales during verification. Therefore, we have not granted a by-product offset for slag generated by Jiangxi Gangyuan in the course of its production of silicon metal.

#### Preliminary Results of Review

We preliminarily determine that the following dumping margins exist for the period June 1, 2007, through May 31, 2008:

#### SILICON METAL FROM THE PRC

|                                                      | Percent |
|------------------------------------------------------|---------|
| Shanghai Jinneng International Trade Co., Ltd .....  | 41.81   |
| Jiangxi Gangyuan Silicon Industry Company, Ltd ..... | 55.25   |

The Department will disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). In accordance with 19 CFR 351.301(c)(3)(ii), for the final results of this administrative review, interested parties may submit publicly available information to value the factors of production within 20 days after the date of publication of these preliminary results. Interested parties must provide the Department with supporting documentation for the publicly available information to value each FOP. Additionally, in accordance with 19 CFR 351.301(c)(1), for the final results of this administrative review, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information recently placed on the record. The Department generally cannot accept the submission of additional, previously absent-from-the-record alternative surrogate value information pursuant to 19 CFR 351.301(c)(1). *See Glycine From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part*, 72 FR 58809 (October 17, 2007) and accompanying Issues and Decision Memorandum at Comment 2.

Any interested party may request a hearing within 30 days of publication of this notice. 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 within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. *See* 19 CFR 351.310(c).

Issues raised in the hearing will be limited to those raised in case and rebuttal briefs. Case briefs from interested parties may be submitted not later than 30 days of the date of publication of this notice, pursuant to 19 CFR 351.309(c). Rebuttal briefs, limited to issues raised in the case briefs, will be due five days later, pursuant to 19 CFR 351.309(d). Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

The Department will issue the final results of this review, including the results of its analysis of issues raised in any such written briefs or at the hearing, if held, not later than 120 days after the date of publication of this notice.

#### Assessment Rates

Pursuant to 19 CFR 351.212(b), the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after the date of publication of the final results of this review. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any assessment rate calculated in the final results of this review is above *de minimis*. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

#### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(c) of the Act: (1) For Shanghai

Jinneng and Jiangxi Gangyuan, the cash deposit rate will be established in the final results of this review; (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 139.49 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.213.

Dated: June 29, 2009.

**John M. Andersen,**

*Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. E9-16281 Filed 7-8-09; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Application(s) for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, as amended by Pub. L. 106-36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States. Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and

be postmarked on or before July 29, 2009. Address written comments to Statutory Import Programs Staff, Room 3720, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. at the U.S. Department of Commerce in Room 3720.

Docket Number: 09-038. Applicant: University of Texas at Austin, 10100 Burnet Rd., Bldg. 131, Austin, TX 78758. Instrument: Electron Microscope. Manufacturer: FEI Company, Czech Republic. Intended Use: The instrument will be used for high resolution cathodoluminescence imaging of quartz and carbonate cements in sandstones and carbonate rocks. The instrument will allow the highest spatial imaging resolutions with X-ray spectroscopy and CL. Justification for Duty-Free Entry: No instruments of same general category are manufactured in the United States. Application accepted by Commissioner of Customs: June 17, 2009.

Docket Number: 09-039. Applicant: National Institutes of Health, 903 S. 4<sup>th</sup> St., Hamilton, MT 59840. Instrument: Electron Microscope. Manufacturer: FEI Company, Czech Republic. Intended Use: The instrument will be used to study protein complexes on viral surfaces, internal core structures, viral docking sites on host cells or tissues, 3-dimensional structures of intact viruses and high-containment bacteria, intracellular relationships between viruses and bacteria as they enter, replicate and exit cells. Justification for Duty-Free Entry: No instruments of same general category are manufactured in the United States. Application accepted by Commissioner of Customs: June 17, 2009.

Docket Number: 09-040. Applicant: Stanford University, 450 Serra mall, Stanford, CA 94305. Instrument: Electron Microscope. Manufacturer: FEI Company, the Netherlands. Intended Use: The instrument will be used to study the nanostructure of materials. Justification for Duty-Free Entry: No instruments of same general category are manufactured in the United States. Application accepted by Commissioner of Customs: June 18, 2009.

Dated: July 1, 2009.

**Christopher Cassel,**

*Acting Director, IA Subsidies Enforcement Office.*

[FR Doc. E9-16286 Filed 7-8-09; 8:45 am]

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