

Antidumping duty proceedings	Period to be reviewed
Zhangzhou Xiangcheng Rainbow Greenland Food Co., Ltd. Zhengzhou Harmoni Spice Co., Ltd. Zhengzhou Yuanli Trading Co., Ltd.	11/1/08–10/31/09
The People's Republic of China: Lightweight Thermal Paper, <sup>5</sup> A–570–920 ..... Guangdong Guanhao High-Tech Co., Ltd. Shanghai Hanhong Paper Co., Ltd. and Hanhong International Limited	11/20/08–10/31/09
The People's Republic of China: Polyethylene Terephthalate Film, Sheet, and Strip, <sup>6</sup> A–570–924 ..... Fuwei Films (Shandong) Co., Ltd. Shaoxing Xiangyu Green Packing Co., Ltd. Tianjin Wanhua Co., Ltd. Sichuan Dongfang Insulating Material Co., Ltd. Shanghai Xishu Electric Material Co., Ltd. Shanghai Uchem Co., Ltd.	11/6/08–10/31/09
United Arab Emirates: Polyethylene Terephthalate Film, Sheet, and Strip, A–520–803 ..... Flex Middle East FZE JBF RAK LLC	11/6/08–10/31/09
<b>Countervailing Duty Proceedings</b>	
The People's Republic of China: Lightweight Thermal Paper, C–570–921 ..... Guangdong Guanhao High-Tech Co., Ltd.	11/20/08–12/31/08

### Suspension Agreements

None.

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine, consistent with *FAG Italia v. United States*, 291 F.3d 806 (Fed. Cir. 2002), as appropriate, whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an

<sup>3</sup> If the above-named company does not qualify for a separate rate, all other exporters of certain cut-to-length carbon steel plate from the People's Republic of China ("PRC") who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

<sup>4</sup> If one of the above-named companies does not qualify for a separate rate, all other exporters of fresh garlic from the PRC who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

<sup>5</sup> If one of the above-named companies does not qualify for a separate rate, all other exporters of lightweight thermal paper from the PRC who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

<sup>6</sup> If one of the above-named companies does not qualify for a separate rate, all other exporters of polyethylene terephthalate film, sheet, and strip from the PRC who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures "gap" period, of the order, if such a gap period is applicable to the POR.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (e.g., the filing of separate letters of appearance as discussed in 19 CFR 351.101(d)).

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)), and 19 CFR 351.221(c)(1)(i).

Dated: December 17, 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–570–945]

#### **Prestressed Concrete Steel Wire Strand From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value**

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

**DATES:** *Effective Date:* December 23, 2009.

**SUMMARY:** The Department of Commerce ("the Department") preliminarily determines that prestressed concrete steel wire strand ("PC strand") 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 ("Act"), for the period of investigation ("POI") October 1, 2008, through March 31, 2009. The estimated margins of sales at LTFV are shown in the "Preliminary Determination" section of this notice. Interested parties are invited to comment on this preliminary determination.

**FOR FURTHER INFORMATION CONTACT:** Alan Ray or Alexis Polovina, 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) 482–5403 or (202) 482–3927, respectively.

**SUPPLEMENTARY INFORMATION:**

## Initiation

On May 27, 2009, the Department received an antidumping duty ("AD") petition concerning imports of PC strand from the PRC filed in proper form by American Spring Wire Corp., Insteel Wire Products Company, and Sumiden Wire Products Corp., (collectively, "Petitioners"). See Petitions for the Imposition of Antidumping and Countervailing Duties: Prestressed Concrete Steel Wire Strand from the People's Republic of China, dated May 27, 2009 ("Petition"). The Department initiated this investigation on June 23, 2009. See *Prestressed Concrete Steel Wire Strand From the People's Republic of China: Initiation of Antidumping Duty Investigation*, 74 FR 29665 (June 23, 2009) ("Initiation Notice").

On July 17, 2009, the United States International Trade Commission ("ITC") issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from the PRC of PC strand. The ITC's determination was published in the **Federal Register** on July 17, 2009. See *Investigation Nos. 701-TA-464 and 731-TA-1160 (Preliminary) Prestressed Concrete Steel Wire From China*, 74 FR 34782 (July 17, 2009); see also *Prestressed Concrete Steel Wire From China: Investigation Nos. 701-TA-464 and 731-TA-1160 (Preliminary)*, USITC Publication 4086 (July 2009).

## Scope Comments

In accordance with the preamble to our regulations, we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*. See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997). See also *Initiation Notice*, 74 FR at 29665. We did not receive any scope comments.

## Period of Investigation

The POI is October 1, 2008, through March 31, 2009. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition (May 2009). See 19 CFR 351.204(b)(1).

## Respondent Selection

In the *Initiation Notice*, the Department stated that it intended to select respondents based on quantity and value ("Q&V") questionnaires. See *Initiation Notice*, 74 FR at 29668. On June 23, 2009, the Department requested Q&V information from the 22 companies

that Petitioners identified as potential exporters or producers of PC strand from the PRC. See Petition at Vol. 1., Exhibit General-4. Additionally, the Department also posted the Q&V questionnaire for this investigation on its Web site at <http://ia.ita.doc.gov/ia-highlights-and-news.html>.

The Department received timely Q&V responses from eight exporters/producers that shipped merchandise under investigation to the United States during the POI.

On July 28, 2009, the Department selected Tianjin Shengte and Silvery Dragon PC Steel Products Group Co., Ltd. ("Silvery Dragon Steel") as mandatory respondents in this investigation. See July 28, 2009, Memorandum to the File, from Alexis Polovina, Analyst, through Alex Villanueva, Program Manager, to James C. Doyle, Director, regarding the Antidumping Investigation of Prestressed Concrete Steel Wire Strand from the People's Republic of China: Respondent Selection ("Respondent Selection Memo"). The Department sent its antidumping duty questionnaire to Tianjin Shengte and Silvery Dragon Steel on July 31, 2009. On August 7, 2009, Silvery Dragon Steel filed a letter stating that it would not participate as a mandatory respondent in this investigation. See August 7, 2009, Letter to the Department from Silvery Dragon Steel. On August 10, 2009, the Department received a letter from Wuxi Jinyang Metal Products Co. ("WJMP") requesting to participate as a voluntary respondent in the investigation. On August 14, 2009, the Department selected Xinhua Metal Products Co., Ltd. ("Xinhua Metal") as an additional mandatory respondent, as Xinhua Metal was the next largest exporter in terms of volume. See August 14, 2009, Memorandum to the File, from Alan Ray, Analyst, through Alex Villanueva, Program Manager, regarding Replacement Respondent Selection ("Replacement Respondent Selection Memo"). On August 24, 2009, Tianjin Shengte did not comply with the Department's procedures in attempting to file a Section A questionnaire response. On August 27, 2009, the Department sent a letter to Tianjin Shengte that granted it a one week extension to properly resubmit their Section A questionnaire response. Tianjin Shengte failed to do so. On September 11, 2009, due to the time constraints of the investigation, the Department decided to select WJMP as the voluntary respondent, rather than select another mandatory respondent. See September 11, 2009, Memorandum to the File, from Alan Ray, Analyst,

through Alex Villanueva, Program Manager, regarding Replacement of Mandatory Respondent ("Replacement of Mandatory Respondent Selection Memo"). See the "Application of Adverse Facts Available" section below for a discussion on the application of adverse facts available for Tianjin Shengte and Silvery Dragon Steel.

## Separate Rates Applications

On August 24, 2009, we received timely filed separate-rate applications ("SRA") from two companies: Liaonin Tongda Building Material Industry Co., Ltd. ("Tongda") and Fasten Group Import & Export ("Fasten Group I&E"). On September 10, 2009, the Department issued Tongda a supplemental questionnaire requesting additional information. Tongda did not respond to the supplemental questionnaire, and as such, Tongda is not eligible for a separate rate. See the "Separate Rates" section below for further discussion on the eligibility for a separate rate. On September 30 and October 20, 2009, the Department issued Fasten Group I&E two supplemental questionnaires requesting additional information. Fasten Group I&E submitted timely responses to these questionnaires.

## Product Characteristics and Questionnaires

In the *Initiation Notice*, the Department asked all parties in this investigation for comments on the appropriate product characteristics for defining individual products. On July 29, 2009, and August 6, 2009, we received comments from Petitioners regarding product characteristics. On July 31, 2009 the Department issued its antidumping duty questionnaire to Tianjin Shengte and Silvery Dragon Steel, and on August 14, 2009, the Department issued its antidumping duty questionnaire to Xinhua Metal. WJMP and Xinhua Metal submitted responses to the Department's questionnaire. As stated above, Tianjin Shengte failed to properly submit questionnaire responses and Silvery Dragon Steel did not submit questionnaire responses.

## Surrogate Country Comments

On August 19, 2009, the Department determined that India, the Philippines, Indonesia, Colombia, Thailand, and Peru, are countries comparable to the PRC in terms of economic development. See August 19, 2009, Letter to All Interested Parties, regarding Antidumping Duty Investigation of prestressed concrete steel wire strand from the People's Republic of China: Surrogate Country List, attaching August 17, 2009, Memorandum to Alex

Villanueva, Program Manager, Office 9, AD/CVD Operations, from Kelly Parkhill, Acting Director, Office for Policy, regarding Request for List of Surrogate Countries for an Antidumping Duty Investigation of prestressed concrete steel wire strand from the People's Republic of China ("Surrogate Country List").

On August 19, 2009, the Department requested comments on surrogate country selection from the interested parties in this investigation. On September 2, 2009, Petitioners submitted surrogate country comments. No other interested parties commented on the selection of a surrogate country. For a detailed discussion of the selection of the surrogate country, see "Surrogate Country" section below.

#### Surrogate Value Comments

On September 14, 2009 and September 29, 2009, the Department extended the deadline for interested parties to submit surrogate information with which to value the factors of production in this proceeding. On October 13, 2009, Petitioners, WJMP, and Xinhua Metal submitted surrogate value comments. On October 23, 2009, Petitioners and WJMP submitted rebuttal comments on the surrogate values. All the surrogate values placed on the record were obtained from sources in India, with the exception of Petitioner's suggestions for international freight and marine insurance, which were based on U.S. sources.

#### Postponement of Preliminary Determination

Pursuant to section 733(c) of the Act and 19 CFR 351.205(f)(1), the Department extended the preliminary determination by 30 days. The Department published a postponement of the preliminary determination on October 26, 2009. See *Prestressed Concrete Steel Wire Strand From the People's Republic of China: Postponement of Preliminary Determination of the Antidumping Duty Investigation*, 74 FR 54963 (October 26, 2009). On November 23, 2009, the Department published a second postponement of the preliminary determination, extending the preliminary determination by an additional 14 days. See *Prestressed Concrete Steel Wire Strand From the People's Republic of China: Postponement of Preliminary Determination of the Antidumping Duty Investigation*, 74 FR 61104 (November 23, 2009). On December 9, 2009, we

received pre-preliminary determination comments from Petitioners.<sup>1</sup>

#### Scope of Investigation

The scope of this investigation consists of PC strand, produced from wire of non-stainless, non-galvanized steel, which is suitable for use in prestressed concrete (both pretensioned and post-tensioned) applications. The product definition encompasses covered and uncovered strand and all types, grades, and diameters of PC strand. PC strand is normally sold in the United States in sizes ranging from 0.25 inches to 0.70 inches in diameter. PC strand made from galvanized wire is only excluded from the scope if the zinc and/or zinc oxide coating meets or exceeds the 0.40 oz./ft<sup>2</sup> standard set forth in ASTM-A-475. The PC strand subject to this investigation is currently classifiable under subheadings 7312.10.3010 and 7312.10.3012 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

#### Non-Market Economy Country

For purposes of initiation, Petitioners submitted LTFV analyses for the PRC as a non-market economy ("NME"). See *Initiation Notice*, 74 FR 29665 (June 23, 2009). The Department considers the PRC to be a NME country. See *Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 30758, 30760 (June 4, 2007), unchanged in *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 60632 (October 25, 2007) ("CFS Paper"). In accordance with 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. No party has challenged the designation of the PRC as an NME country in this investigation. Therefore, we continue to treat the PRC as an NME country for purposes of this preliminary determination and calculated normal value in accordance with Section 773(c) of the Act, which applies to all NME countries.

#### Surrogate Country

When the Department investigates imports from an NME country and

available information does not permit the Department to determine normal value ("NV") pursuant to section 773(a) of the Act, then, pursuant to section 773(c)(4) of the Act, the Department bases NV on an NME producer's factors of production ("FOPs"), to the extent possible, in one or more market-economy countries that (1) are at a level of economic development comparable to that of the NME country, and (2) are significant producers of comparable merchandise. The Department determined that India, the Philippines, Indonesia, Colombia, Thailand, and Peru, are countries comparable to the PRC in terms of economic development. See *Surrogate Country List*. The sources of the surrogate values we have used in this investigation are discussed under the "Normal Value" section below.

Based on publicly available information placed on the record, the Department determines India to be a reliable source for surrogate values because India is at a comparable level of economic development pursuant to section 773(c)(4) of the Act, is a significant producer of subject merchandise, and has publicly available and reliable data. Accordingly, the Department has selected India as the surrogate country for purposes of valuing the FOPs because it meets the Department's criteria for surrogate country selection.

#### Affiliations

Section 771(33) of the Act, provides that:

The following persons shall be considered to be 'affiliated' or 'affiliated persons':

(A) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

(B) Any officer or director of an organization and such organization.

(C) Partners.

(D) Employer and employee.

(E) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and such organization.

(F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.

(G) Any person who controls any other person and such other person.

Additionally, section 771(33) of the Act stipulates that: "For purposes of this paragraph, a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person."

<sup>1</sup> See Petitioner's December 9, 2009, Letter to the Department.

## WJMP

Based on WJMP's statement<sup>2</sup> that they are affiliated with Corus Americas, Inc., ("CAI") and based on the evidence presented in WJMP's questionnaire responses, we preliminarily find that WJMP is affiliated with CAI, which was involved in WJMP's sales process pursuant to sections 771(33)(E), (F) and (G) of the Act, based on ownership and common control.

## Separate Rates

In proceedings involving NME countries, there is a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. See *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 55039, 55040 (September 24, 2008) ("PET Film LTFV Final"). It is the Department's policy to assign all exporters of merchandise subject to investigation in 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. See *Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("Sparklers"); see also *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"), and section 351.107(d) of the Department's regulations.

In the *Initiation Notice*, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME investigations. See *Initiation Notice*, 74 FR at 29665. The process requires exporters and producers to submit a separate-rate status application. The Department's practice is discussed further in *Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries*, (April 5, 2005), ("Policy Bulletin 05.1"), available at <http://ia.ita.doc.gov/policy/bull05-1.pdf>.<sup>3</sup>

<sup>2</sup> See WJMP's August 21, 2009, Separate Rate Application at 4.

<sup>3</sup> The *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

We have considered whether each PRC company that submitted a complete application or complete Section A Response as a mandatory respondent, is eligible for a separate rate. 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 *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 61276, 61279 (November 17, 1997).

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 merchandise under investigation under a test arising from the *Sparklers*, as further developed in *Silicon Carbide*. In accordance with the separate rate criteria, the Department assigns separate rates in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

### 1. Absence of De Jure Control

The 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

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* at 6.

decentralizing control of companies. See *Sparklers*, 56 FR at 20589.

The evidence provided by WJMP supports a preliminary finding of *de jure* absence of governmental control based on the following: (1) An absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) the applicable legislative enactments decentralizing control of the companies; and (3) any other formal measures by the government decentralizing control of companies. See WJMP's August 21, 2009, Separate Rate Application at 4–8.

Petitioners questioned Xinhua Metal's eligibility for a separate rate. Petitioners argued that a business proprietary note in Xinhua Metal's financial statement indicated government control.<sup>4</sup> Additionally, Petitioners allege Xinhua Metal's parent company is state owned, based on a statement on the parent company's Web site.<sup>5</sup>

We have determined, however, that the evidence provided by Xinhua Metal supports a preliminary finding of *de jure* absence of governmental control based on the following: (1) An absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) the applicable legislative enactments decentralizing control of the companies; and (3) any other formal measures by the government decentralizing control of companies. See Xinhua Metal's August 24, 2009, Separate Rate Application ("SRA") at 6–10; October 23, 2009, 1st Supplemental A&C Questionnaire at 2–12; and November 23, 2009, 2nd Supplemental A Questionnaire at 1–8. This determination is consistent with recent prior Department analyses of *de jure* control. See *Notice of Preliminary Results of New Shipper Review: Cut-to-Length Carbon Steel Plate From the People's Republic of China*, 73 FR 67124 (November 13, 2008).

Petitioners also questioned Fasten Group I&E's eligibility for a separate rate. Petitioners argued that, Fasten Group I&E is controlled by the parent company, Fasten Group Corporation, and in turn, the parent company is owned by the government, based on the business license and an annual report.<sup>6</sup>

Again, we have determined that the evidence provided by Fasten Group I&E supports a preliminary finding of *de jure* absence of government control based on the following: (1) An absence of restrictive stipulations associated

<sup>4</sup> See Petitioners' September 22, 2009, Letter to the Department; and Petitioners' December 9, 2009, Letter to the Department.

<sup>6</sup> See Petitioners' September 18, 2009, Letter to the Department.

with the individual exporter's business and export licenses; (2) the applicable legislative enactments decentralizing control of the companies; and (3) any other formal measures by the government decentralizing control of companies. See Fasten Group I&E's August 24, 2009, SRA at 7–10, and November 3, 2009, SRA Second Supplemental Response at 1–6.

## 2. 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 has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

We determine that, for WJMP, Xinhua Metal, and Fasten Group I&E, the evidence on the record supports a preliminary finding of *de facto* absence of governmental control based on record statements and supporting documentation showing the following: (1) Each exporter sets its own export prices independent of the government and without the approval of a government authority; (2) each exporter retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses; (3) each exporter has the authority to negotiate and sign contracts and other agreements; and (4) each exporter has autonomy from the government regarding the selection of management. See WJMP's August 21, 2009, SRA at 9–14; Xinhua Metal's October 23, 2009, 1st Supplemental A&C Questionnaire at 2–12, and November 23, 2009, 2nd Supplemental A Questionnaire at 1–8; and Fasten Group I&E's November 3, 2009, SRA

Second Supplemental at 1–6, and August 24, 2009, SRA at 10–17.

The evidence placed on the record of this investigation by WJMP, Xinhua Metal, and Fasten Group I&E, demonstrates an absence of *de jure* and *de facto* government control with respect to each of the exporter's exports of the merchandise under investigation, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. As a result, we have granted the separate company, Fasten Group I&E, a margin based on the experience of the mandatory respondent and excluding any *de minimis* or zero rates or rates based on total adverse facts available (“AFA”) for the purposes of this preliminary determination.

## Application of Adverse Facts Available, the PRC-Wide Entity and PRC-Wide Rate

The Department has data that indicate there were more exporters of PC strand from the PRC than those indicated in the response to our request for Q&V information during the POI. See *Respondent Selection Memorandum*. We issued our request for Q&V information to 22 potential Chinese exporters of the merchandise under investigation, in addition to posting the Q&V questionnaire on the Department's Web site. While information on the record of this investigation indicates that there are other exporters/producers of PC strand in the PRC, we received only eight timely filed Q&V responses. Although all exporters were given an opportunity to provide Q&V information, not all exporters provided a response to the Department's Q&V letter. Additionally, as discussed above, Silvery Dragon Steel filed a letter stating that it would not participate as a mandatory respondent, and Tianjin Shengte filed a deficient Section A questionnaire and failed to respond to the Department's request for more information. Therefore, the Department has preliminarily determined that there were exporters/producers of the merchandise under investigation during the POI from the PRC that did not respond to the Department's request for information. We have treated these PRC exporters/producers, as part of the PRC-wide entity because they did not qualify for a separate rate. See, e.g., *Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Preliminary Partial Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof From the People's Republic of China*, 70 FR 77121, 77128 (December 29, 2005), and unchanged in *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).

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.

Information on the record of this investigation indicates that the PRC-wide entity was non-responsive. Certain companies did not respond to our questionnaire requesting Q&V information or the Department's request for more information. As a result, pursuant to section 776(a)(2)(A) of the Act, we find that the use of facts available (“FA”) is appropriate to determine the PRC-wide rate. 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 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 *Statement of Administrative Action*, accompanying the Uruguay Round Agreements Act (“URAA”), H.R. Rep. No. 103–316, 870 (1994) (“SAA”); see also *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). We find that, because the PRC-wide entity did not respond to our requests for information, it 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.

When employing an adverse inference, section 776 indicates that the Department may rely upon 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 a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated. 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 of any respondent in the investigation. *See Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Quality Steel Products from the People's Republic of China*, 65 FR 34660 (May 21, 2000) and accompanying Issues and Decision Memorandum at Comment 1. As AFA, we have preliminarily assigned to the PRC-wide entity a rate of 193.55 percent, a rate calculated in the petition which is higher than the highest rate calculated for either of the cooperative respondents. The Department preliminarily determines that this information is the most appropriate from the available sources to effectuate the purposes of AFA.

### Corroboration

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation as facts available, it must, to the extent practicable, corroborate that information from independent sources reasonably at its disposal. The SAA provides guidance as to what constitutes secondary information. One of the suggested sources of secondary information is "information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise." *See SAA* at 870. The SAA further suggests that to "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value. *Id.* Independent sources used to corroborate may include, for example, published price lists, official import statistics, and CBP data, and information obtained from interested parties during the particular investigation. *Id.* To corroborate secondary information, the Department will, to the extent practicable, examine

the reliability and relevance of the information used.<sup>7</sup>

The AFA rate selected by the Department is a rate calculated in the petition. Based on our examination of information on the record, including examination of the petition export prices and normal values, we find that, for purposes of this investigation, there is not a sufficient basis to consider that certain petition margins have probative value. However, there is a sufficient basis to find that the petition margin selected does have probative value. In this case, we have selected a margin that is not so much greater than the highest transaction-specific margin calculated for the mandatory respondent that it can be considered not to have probative value. The Department's practice, when selecting an AFA rate from among the possible sources of information, has been to ensure that the margin is sufficiently adverse "as to effectuate the statutory purposes of the adverse 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 and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55796 (Aug. 30, 2002); *see also Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan*, 63 FR 8909, 8932 (Feb. 23, 1998). As guided by the SAA, the information used as AFA should ensure an uncooperative party does not benefit by failing to cooperate than if it had cooperated fully. *See SAA* at 870. We conclude that using Xinhua Metal's highest transaction specific margin as a limited reference point, the highest petition margin that can be corroborated within the meaning of the statute is 193.55 percent, which is sufficiently adverse so as to induce cooperation that the uncooperative companies do not benefit from their failure to cooperate. Accordingly, we preliminarily find that the rate of 193.55 percent is corroborated within the meaning of section 776(c) of the Act. This method

<sup>7</sup> *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).

of selecting an AFA dumping margin is consistent with the recent final determination involving kitchen appliance shelving and racks from the PRC. *See* July 20, 2009, Memorandum to the File, from Julia Hancock, Senior Analyst, regarding Corroboration of the PRC-Wide Entity Rate and the Wireking Total AFA Rate for the Final Determination in the Antidumping Duty Investigation of Certain Kitchen Appliance Shelving and Racks From the People's Republic of China. Accordingly, we determine that 193.55 percent is the most appropriate antidumping rate for the PRC-wide entity. The PRC-wide rate applies to all entries of the merchandise under investigation except for entries from WJMP, Xinhua Metal, and Fasten Group I&E.

### Margin for the Separate Rate Companies

The Department received a timely and complete separate rate application from the separate rate company, Fasten Group I&E, who is an exporter of PC strand from the PRC, and was not selected as a mandatory respondent in this investigation. Through the evidence in their application and supplemental questionnaire responses, this company has demonstrated its eligibility for a separate rate. *See* the "Separate Rates" section above. Consistent with the Department's practice, as the separate rate, we have established a margin for the separate rate company based on the rate we calculated for the mandatory respondent, Xinhua Metal, excluding any rates that are zero, *de minimis*, or based entirely on AFA.<sup>8</sup> The Department did not include WJMP in the calculation of the separate rate because as discussed above in the "Respondent Selection" section, WJMP is a voluntary respondent. Fasten Group I&E is the company receiving this rate and is listed in the "Suspension of Liquidation" section of this notice.

### Date of Sale

Section 351.401(i) of the Department's regulations state that, "{i}n identifying the date of sale of the merchandise under consideration or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in

<sup>8</sup> *See, e.g., Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 71 FR 77373, 77377 (December 26, 2006) ("PSF"), unchanged in *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 19690 (April 19, 2007).

the normal course of business.” In *Allied Tube*, the Court of International Trade (“CIT”) noted that a “party seeking to establish a date of sale other than invoice date bears the burden of producing sufficient evidence to ‘satisfy’ the Department that ‘a different date better reflects the date on which the exporter or producer establishes the material terms of sale.’” *Allied Tube & Conduit Corp. v. United States* 132 F. Supp. 2d at 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)) (“*Allied Tube*”). Additionally, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale. See 19 CFR 351.401(i); see also *Allied Tube*, 132 F. Supp. 2d at 1090–1092. The date of sale is generally the date on which the parties agree upon all substantive terms of the sale. This normally includes the price, quantity, delivery terms and payment terms. See *Carbon and Alloy Steel Wire Rod from Trinidad and Tobago: Final Results of Antidumping Duty Administrative Review*, 72 FR 62824 (November 7, 2007) and accompanying Issue and Decision Memorandum at Comment 1; *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products from Turkey*, 65 FR 15123 (March 21, 2000) and accompanying Issues and Decision Memorandum at Comment 1.

WJMP reported that the date of sale was determined by the invoice issued by the affiliated importer to the unaffiliated United States customer. In this case, as the Department found no evidence contrary to WJMP’s claims that invoice date was the appropriate date of sale, the Department used invoice date as the date of sale for this preliminary determination.

Xinhua Metal reported that the date of sale was determined by the invoice issued to the unaffiliated United States customer. In this case, as the Department found no evidence contrary to Xinhua Metal’s claims that invoice date was the appropriate date of sale, the Department used invoice date as the date of sale for this preliminary determination.

#### Fair Value Comparison

To determine whether sales of PC strand to the United States by WJMP and Xinhua Metal were made at LTFV, we compared constructed export price (“CEP”) and export price (“EP”) to NV, as described in the “U.S. Price” and “Normal Value” sections of this notice.

#### U.S. Price

In accordance with section 772(b) of the Act, we based the U.S. price for WJMP’s sales on CEP because these sales were made by WJMP’s U.S. affiliate, CAI, which purchased the merchandise under investigation produced by WJMP. In accordance with section 772(c)(2)(A) of the Act, we calculated CEP by deducting, where applicable, the following expenses from the gross unit price charged to the first unaffiliated customer in the United States: foreign movement expenses, and U.S. movement expenses, including U.S. duties, brokerage and handling, AMS charges, and inventory carrying costs. Further, in accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), where appropriate, we deducted from the starting price the following selling expenses associated with economic activities occurring in the United States: credit expenses and other indirect selling expenses. In addition, pursuant to section 772(d)(3) of the Act, we made an adjustment to the starting price for CEP profit. We based movement expenses on either surrogate values or actual expenses. For details regarding our CEP calculations, and for a complete discussion of the calculation of the U.S. price for WJMP, see December 17, 2009, Memorandum to the File, from Alan Ray, Case Analyst, through Alex Villanueva, Program Manager, regarding Analysis of the Preliminary Determination of the Antidumping Duty Investigation of Prestressed Concrete Steel Wire Strand from the PRC: WJMP (“WJMP Analysis Memo”).

In accordance with section 772(a) of the Act, the Department calculated the EP for Xinhua Metal’s sales to the United States because the first sale to an unaffiliated party was made before the date of importation and the use of CEP was not otherwise warranted. The Department calculated EP based on the price to unaffiliated purchasers in the United States. In accordance with section 772(c) of the Act, as appropriate, the Department deducted from the starting price to unaffiliated purchasers foreign inland freight, foreign inland insurance, and brokerage and handling. Each of these services was provided by an NME vendor. Thus, the Department based the deduction of these movement charges on surrogate values. For a complete discussion of the calculation of the U.S. price for Xinhua Metal, see December 17, 2009, Memorandum to the File, from Alexis Polovina, Case Analyst, through Alex Villanueva, Program Manager, regarding Analysis of the Preliminary Determination of the

Antidumping Duty Investigation of Prestressed Concrete Steel Wire Strand from the PRC: Xinhua Metal (“Xinhua Metal Analysis Memo”).

#### Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using a FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on the FOP because the presence of government controls on various aspects of non-market economies renders price comparisons and the calculation of production costs invalid under the Department’s normal methodologies. See, e.g., *Preliminary Determination of Sales at Less Than Fair Value, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products from the People’s Republic of China*, 71 FR 19695 (April 17, 2006) (“CLPP”) unchanged in *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People’s Republic of China*, 71 FR 53079 (September 8, 2006).

As the basis for NV, both WJMP and Xinhua Metal provided FOPs used in each stage for processing PC strand.

Consistent with section 773(c)(1) of the Act, it is the Department’s practice to value the FOPs that a respondent uses to produce the merchandise under consideration. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the People’s Republic of China*, 69 FR 70997 (December 8, 2004) and accompanying Issues and Decision Memorandum at Comment 9(E).

#### Factor Valuation Methodology

In accordance with section 773(c) of the Act, we calculated NV based on FOP data reported by WJMP and Xinhua Metal. To calculate NV, we multiplied the reported per-unit factor-consumption rates by publicly available surrogate values. In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. 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; and *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. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to Indian import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory where 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, 1407–08 (Fed. Cir. 1997). For a detailed description of all surrogate values used for WJMP and Xinhua Metal see December 17, 2009, Memorandum to the File, from Alexis Polovina, Case Analyst, through Alex Villanueva, Program Manager, Investigation of Prestressed Concrete Steel Wire Strand from the PRC: Surrogate Values for the Preliminary Determination (“Preliminary Surrogate Value Memorandum”).

For this preliminary determination, in accordance with the Department's practice, we used data from the Indian Import Statistics and other publicly available Indian sources in order to calculate surrogate values for WJMP and Xinhua Metal's raw materials, packing, by-products, and coal. In selecting the best available information for valuing FOPs in accordance with section 773(c)(1) of the Act, the Department's practice is to select, to the extent practicable, surrogate values which are non-export average values, most contemporaneous with 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). The record shows that data in the Indian Import Statistics, as well as those from the other Indian sources, are contemporaneous with the POI, product-specific, and tax-exclusive. See Preliminary Surrogate Value Memorandum. In those instances where

we could not obtain publicly available information contemporaneous to the POI with which to value factors, we adjusted the surrogate values using, where appropriate, the Indian Wholesale Price Index (“WPI”) as published in the International Financial Statistics of the International Monetary Fund. See, e.g., *PSF* 71 FR at 77380 and *CLPP* 71 FR at 19704.

Furthermore, with regard to the Indian import-based surrogate values, we have disregarded import prices that we have reason to believe or suspect may be subsidized. We have reason to believe or suspect that prices of inputs from Indonesia, South Korea, and Thailand may have been subsidized. We have found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies and, therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized. See *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 69 FR 20594 (April 16, 2004) and accompanying Issues and Decision Memorandum at Comment 7. Further, guided by the legislative history, it is the Department's practice not to conduct a formal investigation to ensure that such prices are not subsidized. See Omnibus Trade and Competitiveness Act of 1988, Conference Report to accompany H.R. Rep. 100–576 at 590 (1988), reprinted in 1988 U.S.C.C.A.N. 1547, 1623–24; see also *CFS Paper*. Rather, the Department bases its decision on information that is available to it at the time it makes its determination. See *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value*, 73 FR 24552, 24559 (May 5, 2008), unchanged in *PET Film LTFV Final*. Therefore, we have not used prices from these countries in calculating the Indian import-based surrogate values. Additionally, we disregarded prices from NME countries. Finally, imports that were labeled as originating from an “unspecified” country were excluded from the average value, because the Department could not be certain that they were not from either an NME country or a country with general export subsidies. See *id.*

For direct, indirect, and packing labor, consistent with 19 CFR 351.408(c)(3), we used the PRC regression-based wage rate as reported on Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in

October 2009. See *Expected Non-Market Economy Wages: Request for Comments on 2009 Calculation*, 74 FR 51555 (October 7, 2009), and <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 2005, ILO (Geneva: 2007), 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 the respondents.

We valued steam using the April 2007–March 2008 financial statement of Hindalco Industries Limited. Since the rates are not contemporaneous with the POI, we inflated the values using the WPI. See Preliminary Surrogate Value Memorandum.

We valued diesel using the June 2007 diesel prices across four Indian cities from the Indian Oil Corporation. Since the rates are not contemporaneous with the POI, we inflated the values using the WPI. See Preliminary Surrogate Value Memorandum.

We valued electricity using price data for small, medium, and large industries, as published by the Central Electricity Authority of the Government of India in its publication titled “Electricity Tariff & Duty and Average Rates of Electricity Supply in India,” dated March 2008. These electricity rates represent actual country-wide, publicly available information on tax-exclusive electricity rates charged to industries in India. As the rates listed in this source became effective on a variety of different dates, we are not adjusting the average value for inflation.

Because water is essential to the production process of the merchandise under consideration, the Department considers water to be a direct material input, not overhead, and valued water with a surrogate value according to our practice. See *Final Determination of Sales at Less Than Fair Value and Critical Circumstances: Certain Malleable Iron Pipe Fittings from the People's Republic of China*, 68 FR 61395 (October 23, 2003) and accompanying Issues and Decision Memorandum at Comment 11. The Department valued water using data from the Maharashtra Industrial Development Corporation (<http://www.midcindia.org>) since it includes a wide range of industrial water tariffs. This source provides 386 industrial water rates within the Maharashtra province from June 2003, of which 193 were for the “inside industrial areas” usage category and the other 193 were for the “outside industrial areas” usage category.



Because the value was not contemporaneous with the POI, we used WPI data to deflate the rate to be contemporaneous to the POI.

We are including dies, drawbench, and lime among the factors of production for this preliminary determination, as they appear to be actual factors used in the production of PC strand and not overhead.<sup>9</sup> We will continue to consider whether they should be included among the factors of production for the final determination.

We valued truck freight expenses using a per-unit average rate calculated from data on the infobanc Web site: <http://www.infobanc.com/logistics/logtruck.htm>. The logistics section of this Web site contains inland freight truck rates between many large Indian cities. Since this value is not contemporaneous with the POI, we inflated the rate using WPI.

We valued rail freight expenses using the 2006–2007 freight rail rate published by Indian Railways. Since this value is not contemporaneous with the POI, we inflated the rate using WPI.

We valued inland shipping expenses using price data for barge freight reported in a March 19, 2007, article published in *The Hindu Business Line*. Since this value is not contemporaneous with the POI, we inflated the rate using WPI.

We valued inland insurance using the public insurance expenses in the

submission from Agro Dutch in the sixth administrative review of certain preserved mushrooms from India.<sup>10</sup> Since this value is not contemporaneous with the POI, we inflated the rate using WPI.

We continued our recent practice to value brokerage and handling using a simple average of the brokerage and handling costs that were reported in public submissions that were filed in three antidumping duty cases. Specifically, we averaged the public brokerage and handling expenses reported by Navneet Publications (India) Ltd. in the 2007–2008 administrative review of certain lined paper products from India, Essar Steel Limited in the 2006–2007 antidumping duty administrative review of hot-rolled carbon steel flat products from India, and Himalya International Ltd. in the 2005–2006 administrative review of certain preserved mushrooms from India.<sup>11</sup> Since the resulting value is not contemporaneous with the POI, we inflated the rate using the WPI.

To value factory overhead, selling, general, and administrative (“SG&A”) expenses, and profit, the Department used the audited financial statements of Rajratan Global Wire Ltd.

Both WJMP and Xinhua Metal have claimed by-product offsets to normal value for by-products produced during the production of PC strand and then

sold. We are preliminarily granting a by-product offset to WJMP for steel wire rod scrap, semi-finished scrap, and PC strand scrap. We are also preliminarily granting a by-product offset to Xinhua Metal for scrap PC strand, scrap wire, scrap wire rod, and scrap short wire.

### 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 calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. See *Initiation Notice*, 74 FR at 29668. This practice is described in *Policy Bulletin 05.1*, available at <http://ia.ita.doc.gov/>.

### Preliminary Determination

Preliminary weighted-average dumping margins are as follows:

Exporter	Producer	Weighted-average margin
WJMP .....	WJMP .....	37.72
Xinhua Metal .....	Xinhua Metal .....	151.44
Fasten Group I&E .....	Jiangyin Fasten Steel Products Co., Ltd., Jiangyin Walsin Steel Cable Co., Ltd., Jiangyin Hongyu Metal Products Co., Ltd. ....	151.44
PRC-wide Entity* .....	.....	193.55

\* This rate also applies to Tianjin Shengte, Silvery Dragon Steel, and Tongda.

### 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

In accordance with section 733(d) of the Act, we will instruct CBP to suspend liquidation of all entries of subject PC strand from the PRC as described in the “Scope of Investigation” section, entered, or withdrawn from warehouse,

for consumption from WJMP, Xinhua Metal, Fasten Group I&E, and the PRC-wide entity on or after the date of publication of this notice in the **Federal Register**.

On November 2, 2009, the Department published the preliminary affirmative countervailing duty determination with respect to PC Strand from the PRC. See *Pre-Stressed Concrete Steel Wire Strand from the People's Republic of China: Notice of Preliminary Affirmative Countervailing Duty Determination*, 74 FR 56576 (November 2, 2009) (“PC

*Strand CVD Preliminary Determination*”). In *PC Strand CVD Preliminary Determination*, the Department found that Xinhua Metal’s merchandise benefited from export subsidies. Therefore, we will instruct CBP to require a cash deposit or posting of a bond equal to the weighted-average amount by which normal value exceeds U.S. price for Xinhua Metal, as indicated above, minus the amount determined to constitute an export subsidy. See, e.g., *Notice of Final Determination of Sales at Less Than*

<sup>9</sup> See WJMP’s October 28, 2009 Supplemental C&D Questionnaire Response; and Xinhua Metal’s December 2, 2009, 2nd Supplemental A&C Questionnaire Response.

<sup>10</sup> See *Certain Preserved Mushrooms from India: Final Results of Antidumping Duty Administrative*

*Review*, 71 FR 10646 (March 2, 2006) (“Mushrooms from India”).

<sup>11</sup> See *Certain Lined Paper Products from India: Final Results of Antidumping Duty Administrative Review*, 74 FR 17149 (April 14, 2009); *Certain Hot-Rolled Carbon Steel Flat Products from India: Final*

*Results of Antidumping Duty Review*, 73 FR 31961 (June 5, 2008); and *Certain Preserved Mushrooms from India: Final Results of Antidumping Duty Administrative Review*, 72 FR 5268 (February 5, 2007).

*Fair Value: Carbazole Pigment 23 from India*, 69 FR 67306, 67307 (November 17, 2007).

With respect to WJMP, the voluntary respondent in this proceeding, the Department did not individually examine its exports of merchandise under investigation in the *PC Strand CVD Preliminary Determination*. As a result, WJMP is captured under the "All Others" rate, which is an average of the companies examined in *PC Strand CVD Preliminary Determination*. Therefore, we will instruct CBP to require a cash deposit or posting of a bond equal to the weighted-average amount by which normal value exceeds U.S. price for WJMP, indicated above, minus the amount determined to constitute an export subsidy in the "All Others" rate.

With respect to Fasten Group I&E, the separate rate company, we note that the rate applied in this proceeding as a separate rate is derived from the calculated rate received by Xinhua Metal. Therefore, because Xinhua Metal received export subsidies in *PC Strand CVD Preliminary Determination*, we will instruct CBP to require a cash deposit or posting of a bond equal to the weighted-average amount by which normal value exceeds U.S. price for Xinhua Metal, as indicated above, minus the amount determined to constitute an export subsidy.

#### 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 less than fair value. 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 PC strand, or sales (or the likelihood of sales) for importation, of the merchandise under investigation 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 business days after the date on which the final verification report is issued in this proceeding and rebuttal briefs limited to issues raised in case briefs and must be received no later than five business days after the deadline date for case briefs. See 19 CFR 351.309(c)(i) and (d). 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, and if requested, we will hold a public hearing, 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 shortly 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.

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

Dated: December 17, 2009.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. E9-30536 Filed 12-22-09; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-570-955]

#### Certain Magnesia Carbon Bricks From the People's Republic of China: Preliminary Negative Countervailing Duty Determination

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

**SUMMARY:** The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are not being provided to producers and exporters of Certain Magnesia Carbon Bricks (Bricks) from the People's Republic of China (PRC).

**DATES:** *Effective Date:* December 23, 2009.

**FOR FURTHER INFORMATION CONTACT:** Toni Page and Summer Avery, AD/CVD Operations, Office 6, Operations, Import Administration, U.S. Department of Commerce, Room 7867, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482-1398 and (202) 482-4052, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Case History

On July 29, 2009, the Department received a countervailing duty (CVD) petition concerning Bricks from the People's Republic of China filed in proper form by Resco Products, Inc. (Petitioner). This investigation was initiated on August 18, 2009. See *Certain Magnesia Carbon Bricks from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 74 FR 42858 (August 25, 2009) (*Initiation Notice*), and accompanying Initiation Checklist.<sup>1</sup> On September 15, 2009, the Department selected Liaoning Mayerton Refractories Co., Ltd. (LMR) and RHI Refractories Liaoning Co., Ltd. (RHIL) as mandatory respondents in this investigation. See Memorandum from the Team through Barbara Tillman, Director, Office 6, Operations, to John M. Andersen, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, Re: Respondent Selection (September 15, 2009).

On September 15, 2009, we issued the initial CVD questionnaire to the Government of the People's Republic of China (GOC), LMR, and RHIL.

On October 2, 2009, pursuant to section 703(c)(1)(A) of the Tariff Act of 1930 as amended (the Act) and 19 CFR 351.205(e), the Department postponed the deadline for the preliminary determination by 55 days to no later than December 16, 2009. See *Certain Magnesia Carbon Bricks from the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 74 FR 51558 (October 7, 2009).

On November 5, 2009, the GOC submitted a response to the initial CVD questionnaire (GOC Questionnaire Response). Also on November 5, 2009, LMR submitted a response for itself and for its affiliate Dalian Mayerton Refractories Co. Ltd. (DMR) (collectively, the Mayerton Companies) (Mayerton Questionnaire Response);

<sup>1</sup> A public version of this document and all public Departmental memoranda are on file in the Central Records Unit (CRU), room 1117 in the main building of the Department.