

Washington, DC 20230, telephone: (202) 482-0192 or (202) 482-3674.

SUPPLEMENTARY INFORMATION:

Background

On November 25, 2008, the Department published in the **Federal Register** a notice of preliminary results of the full sunset review of the suspended antidumping duty investigation on CTL plate from Ukraine, pursuant to section 751(c) of the Act. *See Preliminary Results*, 73 FR 71603. In our *Preliminary Results*, we found that the termination of the suspended antidumping duty investigation on CTL plate from Ukraine would be likely to lead to a continuation or recurrence of dumping at the margins determined in the final determination of the original investigation. *Id.* We provided interested parties an opportunity to comment on our *Preliminary Results*. *Id.* We did not receive comments from either domestic or respondent interested parties.

Scope of Review

The products covered by the Agreement include hot-rolled iron and non-alloy steel universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm and of a thickness of not less than 4 mm, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain iron and non-alloy steel flat-rolled products not in coils, of rectangular shape, hot-rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 mm or more in thickness and of a width which exceeds 150 mm and measures at least twice the thickness. Included as subject merchandise in the Agreement are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been "worked after rolling") for example, products which have been beveled or rounded at the edges. This merchandise is currently classified in the Harmonized Tariff Schedule of the United States (HTS) under item numbers 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000,

7212.40.1000, 7212.40.5000, and 7212.50.0000. Although the HTS subheadings are provided for convenience and customs purposes, the written description of the scope of the Agreement is dispositive. Specifically excluded from subject merchandise within the scope of this Agreement is grade X-70 steel plate.

Final Results of Review

We have made no changes to our *Preliminary Results*, 73 FR 71603. We continue to find that termination of the suspended antidumping duty investigation on CTL plate from Ukraine would likely lead to a continuation or recurrence of dumping at the following percentage weighted-average margins:

Manufacturer/producer/ exporter	Weighted-average margin percentage
Azovstal	81.43
Ilyich	155.00
Ukraine-wide	237.91

In accordance with section 752(c)(3) of the Act, we will notify the International Trade Commission of the final results of this full sunset review.

This notice also serves as the only reminder to parties subject to administrative protective orders ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with section 351.305 of the Department's regulations. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Tariff Act.

Dated: March 13, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-846]

Brake Rotors From the People's Republic of China: Preliminary Results of the 2007 Administrative Review and Partial Rescission

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

SUMMARY: The Department of Commerce (the Department) is currently conducting the 2007 administrative review of the antidumping duty order on brake rotors from the People's Republic of China (PRC). We preliminarily determine that sales have not been made below normal value (NV) with respect to those exporters who participated fully and are entitled to a separate rate in the administrative review. If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection (CBP) to liquidate without regard to antidumping duties, entries of subject merchandise during the period of review (POR) from these exporters.

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.

EFFECTIVE DATE: March 20, 2009.

FOR FURTHER INFORMATION CONTACT:

Brian Smith or Terre Keaton Stefanova, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-1766 or (202) 482-1280, respectively.

Case History

On April 17, 1997, the Department published in the **Federal Register** the antidumping duty order on brake rotors from the PRC. *See Notice of Antidumping Duty Order: Brake Rotors from the People's Republic of China*, 62 FR 18740 (April 17, 1997) (*the Order*).

On April 1, 2008, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on brake rotors from the PRC. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 73 FR 17317 (April 1, 2008).

On April 23 and 30, 2008, the Department received timely requests for an administrative review of this antidumping duty order in accordance with 19 CFR 351.213 from the following companies: Longkou Orient Autoparts Co., Ltd. (Longkou Orient), Qingdao Meita Automotive Industry Co., Ltd. (Meita), Yantai Winhere Auto-Part Manufacturing Co., Ltd. (Winhere), Laizhou Auto Brake Equipment Factory (LABEC), Laizhou City Luqi Machinery Co., Ltd. (Luqi), Longkou Haimeng Machinery Co., Ltd. (Haimeng), Laizhou Hongda Auto Replacement Parts Co., Ltd. (Hongda), Dixon Brake System

(Longkou) Ltd. (Dixon), and Laizhou Wally Automobile Co., Ltd. (Wally). On April 30, 2008, the Department also received timely requests from the petitioner¹ for an administrative review of 12 companies (or producer/exporter combinations).²

On June 4, 2008, the Department published in the **Federal Register** a notice of initiation of the administrative review of the antidumping duty order on brake rotors from the PRC for 19 individually named firms covering the period April 1, 2007, through March 31, 2008. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 73 FR 31813 (June 4, 2008). On June 25, 2008, the Department published a notice of revocation of the antidumping duty order on brake rotors from the PRC (*see Brake Rotors From the People's Republic of China: Revocation of Antidumping Duty Order Pursuant to Second Five-Year (Sunset) Review*, 73 FR 36039 (June 25, 2008)). As a result of the revocation of the order, effective August 14, 2007, the period of this review was changed from April 1, 2007, through March 31, 2008, to April 1, 2007, through August 13, 2007 (*see* June 27, 2008, Memorandum to The File entitled "Change in the Period of Review").

On July 1, 2008, the Department placed on the record a memorandum containing CBP data for U.S. imports of subject merchandise from the PRC made during the POR. The Department also stated in that memorandum that it intended to select respondents for individual review based on the CBP import data. The Department provided parties with an opportunity to comment on the CBP import data and respondent selection (*see* July 1, 2008, Memorandum to The File entitled "Release of POR Entry Data from U.S. Customs and Border Protection"). On July 11, 2008, eight respondent companies submitted comments to the

Department on the respondent selection process. Also, Dixon and Wally withdrew their requests for an administrative review.

On July 29, 2008, because it was not feasible to examine all 19 companies for which an administrative review was initiated, the Department selected the two largest companies based on CBP import data, Haimeng and Winhere, as mandatory respondents in accordance with section 777A(c)(2)(B) of the Tariff Act of 1930, as amended (the Act). The remaining 17 respondents were not selected for individual review. *See* Memorandum from Irene Darzenta Tzafolias to James P. Maeder, Jr., "2007 Antidumping Duty Administrative Review of Brake Rotors from the People's Republic of China: Selection of Respondents for Individual Review," dated July 29, 2008 (Respondent Selection Memo); and "Separate rates" section below.

On August 1, 2008, we issued Haimeng and Winhere the antidumping duty questionnaire.

On August 7, 2008, we requested that the Import Administration's Office of Policy (the Office of Policy) issue a surrogate-country memorandum for the selection of the appropriate surrogate countries for this review.³ On the same date, the Office of Policy provided us with a list of five countries at a level of economic development comparable to that of the PRC.⁴

Between August 11 and August 26, 2008, the Department issued letters to the respondents not selected for individual review requesting (1) a separate-rate certification or application or (2) a no-shipment statement if applicable. Also during this time period, the Department invited interested parties participating in this administrative review to submit comments on surrogate country selection and to submit publicly available information as surrogate values (SVs) for purposes of calculating NV.⁵ No parties submitted surrogate country comments or publicly available

SV information in this administrative review.

During July, August and September 2008, the Department received timely submissions from several companies for which the review was initiated: Three companies⁶ certified that they had no shipments of subject merchandise during the POR; seven companies withdrew their review requests, including Haimeng (*i.e.*, one of the selected mandatory respondents);⁷ eight companies⁸ submitted their separate-rate certifications in response to the Department's request; and Winhere submitted its responses to the antidumping duty questionnaire.

On September 9, 2008, the Department rescinded this review with respect to Dixon, Haimeng, Longkou Orient, Luqi, and Wally. *See Brake Rotors from the People's Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 53193 (September 15, 2008).

On October 10, 2008, we requested entry documentation from CBP for certain entries of brake rotors exported by CAIEC and/or Laizhou CAPCO during the POR.⁹

The Department issued a supplemental questionnaire to Winhere on November 14, 2008, and received Winhere's supplemental questionnaire response on November 28, 2008.

On December 5, 2008, the Department placed on the record copies of CBP documents pertaining to certain entries of brake rotors from the PRC exported by CAIEC and/or Laizhou CAPCO to the United States during the POR.¹⁰

On December 11, 2008, the Department postponed the preliminary results of this review until March 2, 2009. *See Brake Rotors From the People's Republic of China: Notice of Extension of Time Limit for Preliminary Results of the Antidumping Duty Administrative Review*, 73 FR 77004 (December 18, 2008).

On December 16, 2008, the Department placed on the record a

¹ The petitioner is the Coalition for the Preservation of American Brake Drum and Rotor Aftermarket Manufacturers.

² The names of these companies or producer/exporter combinations are as follows: (1) Meita; (2) Winhere; (3) Zibo Golden Harvest Machinery Limited Company (ZGOLD); (4) Longkou TLC Machinery Co., Ltd. (Longkou TLC); (5) Longkou Jinzheng Machinery Co. (Jinzheng); (6) Qingdao Gren Co. (Gren); (7) Xianghe Zichen Casting Company, Ltd. (Xianghe Zichen); (8) Laizhou Luda Sedan Fittings Company, Ltd. (Luda); (9) Zibo Botai Manufacturing Co., Ltd. (Zibo Botai); (10) Laizhou Sanli (Sanli); (11) China National Automotive Industry Import & Export Corporation (CAIEC) or National Automotive Industry Import & Export Corporation, excluding entries manufactured by Shandong Laizhou CAPCO Industry (Laizhou CAPCO); and (12) Laizhou CAPCO, excluding entries manufactured by Laizhou CAPCO.

³ *See* the Department's memorandum entitled, "Request for Surrogate Country Selection," dated August 7, 2008.

⁴ *See* the Department's memorandum entitled, "Administrative Review of the Antidumping Duty Order on Brake Rotors from the People's Republic of China (PRC): Request for a List of Surrogate Countries," dated August 7, 2008 (Policy Memorandum).

⁵ *See* the Department's letter entitled, "2007 Antidumping Duty Administrative Review of the Antidumping Duty Order on Brake Rotors from the People's Republic of China," requesting parties to provide comments on surrogate-country selection and provide surrogate factors of production values from the potential surrogate countries (*i.e.*, India, Indonesia, the Philippines, Colombia and Thailand).

⁶ These three companies are CAIEC, Laizhou CAPCO, and Longkou Orient.

⁷ These seven companies are CAIEC, Dixon, Haimeng, Laizhou CAPCO, Longkou Orient, Luqi, and Wally.

⁸ These eight companies are Gren, Longkou Jinzheng, LABEC, Laizhou Hongda, Longkou TLC, Meita, Xianghe Zichen, and Zibo Botai.

⁹ *See* the Department's memorandum entitled, "Request for U.S. Entry Documents—Brake Rotors from the People's Republic of China (A-570-846)," dated October 10, 2008.

¹⁰ *See* the Department's memorandum entitled, "2007 Administrative Review of the Antidumping Duty Order on Brake Rotors from the People's Republic of China, Results of Request for Assistance from U.S. Customs and Border Protection on U.S. Entry Documents," dated December 5, 2008.

memorandum regarding the three companies (*i.e.*, Luda, Sanli and ZGOLD) that did not submit a separate-rates application or certification in this administrative review. *See* Memorandum to the File entitled “Efforts to Provide Companies” with the Department’s August 26, 2008, Separate Rates Questionnaire, Separate Rates Certification Questionnaire, and No Shipments Instructions” (December 16, 2008 Memorandum to the File).

On March 2, 2009, the Department further postponed the preliminary results of this review until March 16, 2009. *See Brake Rotors From the People’s Republic of China: Extension of Time Limit for Preliminary Results of the Antidumping Duty Administrative Review*, 74 FR 9787 (March 6, 2009).

Period of Review

The POR is April 1, 2007, through August 13, 2007.

Scope of the Order

The products covered by this order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, ranging in diameter from 8 to 16 inches (20.32 to 40.64 centimeters) and in weight from 8 to 45 pounds (3.63 to 20.41 kilograms). The size parameters (weight and dimension) of the brake rotors limit their use to the following types of motor vehicles: Automobiles, all-terrain vehicles, vans and recreational vehicles under “one ton and a half,” and light trucks designated as “one ton and a half.”

Finished brake rotors are those that are ready for sale and installation without any further operations. Semifinished rotors are those on which the surface is not entirely smooth, and have undergone some drilling. Unfinished rotors are those which have undergone some grinding or turning.

These brake rotors are for motor vehicles, and do not contain in the casting a logo of an original equipment manufacturer (OEM) which produces vehicles sold in the United States, (*e.g.*, General Motors, Ford, Chrysler, Honda, Toyota, Volvo). Brake rotors covered in this order are not certified by OEM producers of vehicles sold in the United States. The scope also includes composite brake rotors that are made of gray cast iron, which contain a steel plate, but otherwise meet the above criteria. Excluded from the scope of this order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, with a diameter less than 8 inches or greater than 16 inches (less than 20.32 centimeters or greater than 40.64 centimeters) and a weight less than 8 pounds or greater than 45 pounds

(less than 3.63 kilograms or greater than 20.41 kilograms).

Brake rotors are currently classifiable under subheading 8708.39.5010 of the *Harmonized Tariff Schedule of the United States* (HTSUS).¹¹ Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this order 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 deposit rate. It is the Department’s policy to assign all exporters of subject merchandise subject to review in an NME country a single rate unless an exporter can demonstrate that it is sufficiently independent of government control to be entitled to a separate rate. *See, e.g., Honey from the People’s Republic of China: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 70 FR 74764, 74766 (December 16, 2005) (unchanged in the final results).

For the administrative review, in order to demonstrate separate-rate status eligibility, the Department normally requires entities, for which a review was requested, and which were assigned a separate-rate in a previous segment of this proceeding, to submit a separate-rate certification stating that they continue to meet the criteria for obtaining a separate rate. For entities that were not assigned a separate rate in the previous segment of a proceeding, to demonstrate eligibility for such, the Department requires a separate-rate application. In this administrative review, eight entities not selected for individual review (*i.e.*, separate-rate respondents) submitted separate-rate certifications. The mandatory respondent, Winhere, and the eight separate-rate respondents¹² provided company-specific information and each stated that it meets the criteria for the assignment of a separate rate.

We considered whether the mandatory and eight separate-rate respondents were eligible for a separate

rate. The Department’s separate-rate status test to determine whether the exporter is independent from government control does not consider, in general, macroeconomic/border-type controls (*e.g.*, export licenses, quotas, and minimum export prices), particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level.¹³

To establish whether an exporter is sufficiently independent of government control to be entitled to a separate rate, the Department analyzes the exporter in light of select criteria, discussed below. *See Final Determination of Sales at Less Than Fair Value: Sparklers from the People’s Republic of China*, 56 FR 20588, 20589 (May 6, 1991) (*Sparklers*), and *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People’s Republic of China*, 59 FR 22585, 22586, 22587 (May 2, 1994) (*Silicon Carbide*). Under this test, exporters in NME countries are entitled to separate, company-specific margins when they can demonstrate an absence of government control over exports, both in law (*de jure*) and in fact (*de facto*).

A. 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; or (3) any other formal measures by the government decentralizing control of companies. *See Sparklers*, 56 FR 20589. Winhere and the eight separate-rate respondents each placed on the administrative record documents to demonstrate an absence of *de jure* control (*e.g.*, the 1994 “Foreign Trade Law of the People’s Republic of China,” and the 1999 “Company Law of the People’s Republic of China”). As in prior cases, we analyzed the laws presented to us and found them to establish sufficiently an absence of *de jure* control. *See, e.g., Honey from the People’s Republic of China: Preliminary Results and Partial Rescission of Antidumping Duty Administrative*

¹¹ As of January 1, 2005, the HTSUS classification for brake rotors (discs) changed from 8708.39.5010 to 8708.39.5030. As of January 1, 2007, the HTSUS classification for brake rotors (discs) changed from 8708.39.5030 to 8708.30.5030. *See Harmonized Tariff Schedule of the United States (2007) (Rev. 2)*, available at <http://www.usitc.gov>.

¹² The non-mandatory respondents which submitted separate-rate certifications are as follows: Gren, Jinzheng, LABEC, Laizhou Hongda, Longkou TLC, Meita, Xianghe Zichen, and Zibo Botai.

¹³ *See Certain Cut-to-Length Carbon Steel Plate from Ukraine: Final Determination of Sales at Less Than Fair Value*, 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).

Review, 72 FR 102, 105 (January 3, 2007), and *Hand Trucks and Certain Parts Thereof from the People's Republic of China; Preliminary Results and Partial Rescission of Administrative Review and Preliminary Results of New Shipper Review*, 72 FR 937, 944 (January 9, 2007). We have no new information in this review which would cause us to reconsider this determination with regard to Winhere. Therefore, we believe that evidence on the record supports a preliminary finding of an absence of *de jure* government control with regard to Winhere.

The eight separate-rate respondents (Gren, Jinzheng, LABEC, Laizhou Hongda, Longkou TLC, Meita, Xianghe Zichen, and Zibo Botai) and Winhere each certified that as in the previous period where it was granted a separate rate, there is an absence of *de jure* government control. Each separate-rate respondent's certification stated, where applicable, that it had no relationship with any level of the PRC government with respect to ownership, internal management, and business operations. In this segment, we have no new information that would cause us to reconsider the previous period's *de jure* control determination with regard to these companies.

B. Absence of De Facto Control

As stated in previous cases, there is evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. *See Silicon Carbide*, 59 FR at 22586, 22587. Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether the respondents are, in fact, subject to a degree of government control which would preclude the Department from assigning separate rates.

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) Whether the export prices are set by, or subject to the approval of, a government authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses. *See Silicon Carbide*, 59 FR at 22586–87; *see also 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).

In this review, Gren, Jinzheng, LABEC, Laizhou Hongda, Longkou TLC, Meita, Xianghe Zichen, Zibo Botai, and Winhere each asserted the following: (1) It establishes its own export prices; (2) it negotiates contracts without guidance from any government entities or organizations; (3) it makes its own personnel decisions; and (4) it retains the proceeds of its export sales, uses profits according to its business needs, and has the authority to sell its assets and to obtain loans. Additionally, each of these companies' separate-rates certifications or questionnaire responses indicate that its pricing during the POR does not involve coordination among exporters.

Thus, we preliminarily determine that Gren, Jinzheng, LABEC, Laizhou Hongda, Longkou TLC, Meita, Xianghe Zichen, Zibo Botai, and Winhere have each met the criteria for the application of a separate rate based on the documentation each of these respondents has submitted on the record of this review.

PRC-Wide Entity

As discussed above, in this administrative review we limited the selection of respondents using CBP import data. *See* Respondent Selection Memo. In this case, we sent the separate-rates application and certification to the companies which were not selected as mandatory respondents. *See* August 26, 2008, letters to Luda, Sanli and ZGOLD. Luda, Sanli and ZGOLD did not apply for a separate rate or provide a separate-rate certification, as appropriate, nor did they indicate that they did not make shipments of the subject merchandise to the United States during the POR. *See* December 16, 2008, Memorandum to the File. Therefore, Luda, Sanli, and ZGOLD are considered to be a part of the PRC-wide entity. Because the Department determines preliminarily that there were exports of merchandise under review from PRC producers/exporters that did not demonstrate their eligibility for separate-rate status, the PRC-wide entity is now under review.

Preliminary Partial Rescission of 2007 Administrative Review

With respect to CAIEC and Laizhou CAPCO, each company informed the Department that it did not export the subject merchandise to the United States during the POR. Specifically, CAIEC stated that it did not export brake rotors to the United States that were manufactured by producers other than

Laizhou CAPCO and Laizhou CAPCO stated that it did not export brake rotors to the United States that were manufactured by producers other than Laizhou CAPCO. In order to corroborate their submissions, we reviewed PRC brake rotor shipment data maintained by CBP.¹⁴ In reviewing the CBP import data and entry documentation for certain brake rotor entries made by CAIEC and/or Laizhou CAPCO, we found no evidence contradicting CAIEC's and Laizhou CAPCO's claims of no shipments of subject merchandise to the United States during the POR.

Based on the record of this review, we conclude that CAIEC and Laizhou CAPCO did not export subject merchandise to the United States during the POR. Therefore, in accordance with 19 CFR 351.213(d)(3), we are preliminarily rescinding this administrative review for CAIEC and Laizhou CAPCO.

Non-Market Economy Country

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. 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. *See, e.g., Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results of Antidumping Duty Administrative Review*, 71 FR 7013 (February 10, 2006). None of the parties in this administrative review has contested such treatment. Accordingly, we calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

Surrogate Country

Section 773(c)(1) of the Act directs the Department to base NV on the NME producer's factors of production (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 FOPs, the Department shall use, to the extent possible, the prices or costs of the FOPs in one or more market-economy countries that are: (1) At a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise. The sources of the surrogate factor values are discussed under the "Normal Value" section below. *See also* the Department's

¹⁴ *See* December 5, 2008, Memorandum to the File entitled "Results of Request for Assistance from U.S. Customs and Border Protection on U.S. Entry Documents."

memorandum entitled, "Preliminary Results of the 2007 Administrative Review of the Antidumping Duty Order on Brake Rotors from the People's Republic of China: Surrogate Value Memorandum," dated March 16, 2009 (Surrogate Value Memorandum).

The Department determined that India, Indonesia, the Philippines, Colombia and Thailand are countries comparable to the PRC in terms of economic development. See Policy Memorandum. Customarily, we select an appropriate surrogate country from the policy memorandum based on the availability and reliability of data from the countries that are significant producers of comparable merchandise. In this case, we found that India is at a comparable level of economic development to the PRC; is a significant producer of the subject merchandise (i.e., brake rotors); and has publicly available and reliable data. See March 16, 2009, Memorandum to the File entitled, "2007 Antidumping Duty Administrative Review on Brake Rotors from the People's Republic of China: Selection of a Surrogate Country" (Surrogate Country Memorandum).

Accordingly, we selected India as the primary surrogate country for purposes of valuing the FOPs in the calculation of NV because it meets the Department's criteria for surrogate country selection. See Surrogate Country Memorandum. We obtained and relied upon publicly available information wherever possible.

In accordance with 19 CFR 351.301(c)(3)(ii), for the final results in antidumping administrative reviews, interested parties may submit publicly available information to value FOPs within 20 days after the date of publication of these preliminary results.

Fair Value Comparisons

To determine whether sales of the subject merchandise by Winhere to the United States were made at prices below NV, we compared Winhere's export prices (EPs) to NV, as described in the "Export Price" and "Normal Value" sections of this notice below, pursuant to section 773 of the Act.

Export Price

Because Winhere sold subject merchandise to an unaffiliated purchaser in the United States prior to importation into the United States and use of a constructed-export-price methodology was not otherwise indicated, we used EP in accordance with section 772(a) of the Act.

We calculated EP based on the reported method of delivery to the first unaffiliated purchaser in the United

States. Where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight and foreign brokerage and handling charges in the PRC pursuant to section 772(c)(2)(A) of the Act.¹⁵ Because foreign inland freight and foreign brokerage and handling fees were provided by PRC service providers or paid for in renminbi, we based those charges on surrogate rates from India. See "Factor Valuation" section below for further discussion of surrogate rates.

In determining the most appropriate SVs to use in a given case, the Department's stated practice is to use review period-wide price averages, prices specific to the input in question, prices that are net of taxes and import duties, prices that are contemporaneous with the POR, and publicly available data. See, e.g., *Certain Cased Pencils from the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 38366 (July 6, 2006), and accompanying *Issues and Decision Memorandum* at Comment 1. The data we used for brokerage and handling expenses fulfill all of the foregoing criteria except that they are not specific to the subject merchandise. There is no information of that type on the record of this review. The Department used three sources to calculate an SV for domestic brokerage expenses: (1) Data from Kejriwal Paper Ltd. (Kejriwal) for the period of investigation July 1, 2004, to June 30, 2005 (see *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances in Part: Certain Lined Paper Products From India*, 71 FR 19706 (April 17, 2006) (unchanged in final determination)); (2) data from Essar Steel Limited (Essar) for the period of investigation July 1, 2004, through June 30, 2005 (see *Certain Hot-Rolled Carbon Steel Flat Products from India: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 2018, 2021 (January 12, 2006) (unchanged in final results)); and (3) data from Agro Dutch Industries Ltd. for the POR February 1, 2004, through January 31, 2005 (see *Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Administrative Review*, 70 FR 37757 (June 30, 2005) (unchanged in final results)). Because

these values were not concurrent with the POR of this administrative review, we adjusted these rates for inflation using the Wholesale Price Index (WPI) for India as published in the International Monetary Fund's *International Financial Statistics*, available at <http://ifs.apdi.net/imf>, and then calculated a simple average of the three companies' brokerage expense data.

The Department valued inland truck freight expenses using a deflated per-unit average rate calculated from data on the following 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. Because this value is not contemporaneous with the POR, we deflated the rate using WPI data. See Surrogate Value Memorandum.

Winhere reported that its U.S. customers purchased ball bearing cup and lug nuts from PRC producers that were delivered to Winhere in specific quantities free-of-charge, and that the components were then incorporated into certain brake rotor models shipped to U.S. customers during the POR. Section 773(c)(3) of the Act states that "factors of production utilized in producing merchandise include, but are not limited to the quantities of raw materials employed." See, e.g., *Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the 2004/2005 Administrative Review and Notice of Rescission of 2004/2005 New Shipper Review*, 71 FR 66304, 66305 (November 14, 2006), and accompanying *Issues and Decisions Memorandum* at Comment 9; see also *Certain Preserved Mushrooms From the People's Republic of China: Final Results and Final Rescission, in Part, of Antidumping Duty Administrative Review*, 70 FR 54361 (September 14, 2005), and accompanying *Issues and Decisions Memorandum* at Comment 13. Therefore, to reflect the U.S. customers' expenditures for these items, we added the Indian SV for each component (i.e., the ball bearing cups and lug nuts) used to the U.S. price of the applicable brake rotor models. For further information, see Winhere Calculation Memo.

Normal Value

Section 773(c)(1) of the Act provides that, in the case of an NME, the Department shall determine NV using an 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

¹⁵ See the Department's memorandum entitled, "2007 Administrative Review of the Antidumping Duty Order on Brake Rotors from the People's Republic of China: Analysis of the Preliminary Results Margin Calculation for Yantai Winhere Auto-Part Manufacturing Co., Ltd.," dated March 16, 2009 (*Winhere Calculation Memo*).

constructed value under section 773(a) of the Act. The Department will base NV on FOP because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under our normal methodologies. Therefore, we calculated NV based on FOP in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c).

For purposes of calculating NV, we valued the PRC FOPs in accordance with section 773(c)(1) of the Act. The FOPs include: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. We used the FOPs reported by Winhere for materials, energy, labor, and packing. *See* section 773(c)(3) of the Act.

In examining SVs, we selected, where possible, the publicly available value, which was an average non-export value, representative of a range of prices within the POR or most contemporaneous with the POR, product-specific, and tax-exclusive. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates from the People's Republic of China*, 69 FR 75294, 75300 (December 16, 2004) (*Chlorinated Isocyanurates*) (unchanged in final determination). For a detailed explanation of the methodology used to calculate SVs, *see* Surrogate Value Memorandum.

Regarding the components supplied free of charge to Winhere noted above, section 773(c)(3) of the Act states that the "factors of production include but are not limited to the quantities of raw materials employed." Therefore, consistent with the corresponding adjustment to U.S. price discussed above, we valued the ball bearing cups and lug nuts usage amounts reported by Winhere for specific brake rotor models by using an Indian SV for each input. *See* Winhere Calculation Memo and Surrogate Value Memorandum.

Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on the FOPs reported by Winhere for the POR. We relied on the factor-specific data submitted by Winhere for the above-mentioned inputs in its questionnaire and supplemental questionnaire responses, where applicable, for purposes of selecting SVs.

To calculate NV, we multiplied the reported per-unit factor consumption rates by publicly available Indian SVs.

In selecting the SVs, we considered the quality, specificity, and contemporaneity of the data. *See, e.g., Folding Metal Tables and Chairs from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 71 FR 71509 (December 11, 2006), and accompanying Issues and Decision Memorandum at Comment 9. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to Indian import SVs 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 decision of the U.S. Court of Appeals for the Federal Circuit (Federal Circuit). *See Sigma Corp. v. United States*, 117 F. 3d 1401, 1408 (Fed. Cir. 1997). Where necessary, we adjusted the SVs for inflation/deflation using the WPI as published in the International Monetary Fund's *International Financial Statistics*, available at <http://ifs.apdi.net/imf>.

We valued the raw materials (including ball bearing cups and lug nuts), packing materials, coke input and firewood input using April 2007 through July 2007,¹⁶ weighted-average unit import values derived from the *Monthly Statistics of the Foreign Trade of India (MSFTI)*, as published by the Directorate General of Commercial Intelligence and Statistics of the Ministry of Commerce and Industry, Government of India and compiled by the World Trade Atlas (WTA), available at <http://www.gtis.com/wta.htm>. The Indian WTA import data is reported in rupees and is contemporaneous with the POR.¹⁷ Indian SVs denominated in Indian rupees were converted to U.S. dollars using the applicable daily exchange rate for India for the POR. *See* <http://www.ia.ita.doc.gov/exchange/index.html>. Where appropriate, we converted the units of measure to kilograms. *See* Surrogate Value Memorandum.

Furthermore, with regard to the WTA Indian import-based SVs, we have disregarded prices from NME countries¹⁸ and those we have reason to believe or suspect may be subsidized,

because we have found in other proceedings that these exporting countries maintain broadly available, non-industry-specific export subsidies and, therefore, there is reason to believe or suspect that all exports to all markets from such countries may be subsidized.¹⁹ We are also guided by the statute's legislative history that explains that it is not necessary to conduct a formal investigation to ensure that such prices are not subsidized. *See* H.R. Rep. No. 576 100th Cong., 2. Sess. 590–91 (1988). Rather, the Department was instructed by Congress to base its decision on information that is available to it at the time it is making its determination. Therefore, we excluded export prices from Indonesia, South Korea, Thailand, and India when calculating the Indian import-based SVs. *See* Surrogate Value Memorandum. Finally, we excluded imports that were labeled as originating from an "unspecified" country from the average value, because we could not be certain that they were not from either an NME or a country with general export subsidies.

As discussed above, the Department valued surrogate freight cost by using a deflated per-unit average rate calculated from data on the following Web site: <http://www.infobanc.com/logistics/logtruck.htm>. *See Polyethylene Retail Carrier Bags from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 73 FR 52282, 52286 (September 9, 2008) (unchanged in *Polyethylene Retail Carrier Bags from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 6857 (February 11, 2009); and Surrogate Value Memorandum at Attachment 8.

To value electricity, the Department used July 2006 electricity price rates from *Electricity Tariff & Duty and Average Rates of Electricity Supply in India*, published by the Central Electricity Authority of the Government of India. Because this data was not

¹⁶ Because the POR ends on the 13th day of August 2007, we obtained the monthly totals for April 2007 through July 2007 for all WTA data (including the packing materials and energy inputs as discussed below).

¹⁷ *See* Surrogate Value Memorandum at Attachment 1.

¹⁸ The NME countries are Armenia, Azerbaijan, Belarus, Georgia, Kyrgyz Republic, Moldova, PRC, Tajikistan, Turkmenistan, Uzbekistan, and Vietnam.

¹⁹ *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China; Final Results of the 1998–1999 Administrative Review, Partial Rescission of Review, and Determination Not to Revoke Order in Part*, 66 FR 1953 (January 10, 2001), and accompanying Issues and Decision Memorandum at Comment 1; *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; and *China National Machinery Imp. & Exp. Corp. v. United States*, 293 F. Supp. 2d 1334, 1339 (CIT 2003), as affirmed by the Federal Circuit, 104 Fed. Appx. 183 (Fed. Cir. 2004).

contemporaneous with the POR, we adjusted the average value for inflation using WPI. *See* Surrogate Value Memorandum at Attachment 5.

For direct labor, indirect labor and packing labor, consistent with 19 CFR 351.408(c)(3), we used the PRC regression-based wage rates reflective of the observed relationship between wages and national income in market-economy countries as reported on Import Administration's Web site. *See* "Expected Wages of Selected NME Countries" (revised January 2007) (available at <http://www.trade.gov/ia/>). For further details on the labor calculation, *see* Surrogate Value Memorandum at Attachment 7. Because the regression-based wage rates do not separate the labor rates into different skill levels or types of labor, we applied the same wage rate to all skill levels and types of labor reported by Winhere.

Winhere reported that during the manufacturing process, its subject merchandise was transported from its

casting facility to its finishing workshop. Using Winhere's reported distance and the reported cast weight of its rotors, we valued the other PRC distance (*i.e.*, domestic inland freight cost of transporting unfinished castings from the casting facility to Winhere's finishing workshop facility) with the surrogate truck rate discussed above. This additional freight value was added to the cost of manufacture (COM). *See* Winhere Calculation Memorandum.

For factory overhead, selling, general, and administrative expenses (SG&A), and profit values, consistent with 19 CFR 351.408(c)(4), we used the public information from the 2007 annual report of Bosch Chassis Systems India Ltd. (Bosch) and 2007–2008 annual report of Rico Auto Industries Limited (Rico).²⁰ From this information, we were able to determine factory overhead as a percentage of the total raw materials, labor, and energy (ML&E) costs; SG&A as a percentage of ML&E plus overhead (*i.e.*, COM); and the profit rate as a

percentage of the COM plus SG&A. Where appropriate, we did not include in the surrogate overhead and SG&A calculations the excise duty amount listed in the financial reports. For a full discussion of the calculation of these ratios, *see* Surrogate Value Memorandum and its accompanying calculation worksheets at Attachment 6.

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. *See* <http://www.ia.ita.doc.gov/exchange/index.html>.

Preliminary Results of Reviews

As a result of our review, we preliminarily determine that the following margins exist for the period April 1, 2007, through August 13, 2007:

BRAKE ROTORS FROM THE PRC

Individually reviewed exporter 2007 administrative review	Weighted-average percent margin (percent)
Yantai Winhere Auto-Part Manufacturing Co., Ltd	0.04 (<i>de minimis</i>).
Separate-rate applicant exporters 2007 administrative review	Weighted-average percent margin (percent)
Laizhou Auto Brake Equipment Co., Ltd	0.04 (<i>de minimis</i>).
Laizhou Hongda Auto Replacement Parts Co., Ltd	0.04 (<i>de minimis</i>).
Longkou Jinzheng Machinery Co., Ltd	0.04 (<i>de minimis</i>).
Longkou TLC Machinery Co., Ltd	0.04 (<i>de minimis</i>).
Qingdao Gren (Group) Co	0.04 (<i>de minimis</i>).
Qingdao Meita Automotive Industry Co., Ltd	0.04 (<i>de minimis</i>).
Xianghe Zichen Casting Company, Ltd	0.04 (<i>de minimis</i>).
Zibo Botai Manufacturing Co., Ltd	0.04 (<i>de minimis</i>).
PRC-Wide Rate	Margin (percent)
PRC-wide rate (including Laizhou Luda Sedan Fittings Company, Ltd., Laizhou Sanli and Zibo Golden Harvest Machinery Limited Company).	43.32

Rate for Non-Selected Respondents

The statute and the Department's regulations do not address the establishment of a rate to be applied to individual companies not selected for examination where the Department limited its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally we have looked to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when

calculating the rate for respondents we did not examine in an administrative review. Section 735(c)(5)(A) of the Act instructs that we are not to calculate an all-others rate using any zero or *de minimis* margins or any margins based entirely on facts available. Accordingly, the Department's practice in this regard, in reviews involving limited selection based on exporters accounting for the largest volumes of trade, has been to average the rates for the selected companies excluding zero and *de minimis* rates and rates based entirely on facts available. Section 735(c)(5)(B) of the Act also provides that, where all margins are zero, *de minimis*, or based entirely on facts available, we may use "any reasonable method" for assigning the rate to non-selected respondents,

including "averaging the estimated weighted average dumping margins determined for the exporters and producers individually investigated."

The Department has available in administrative reviews information that would not be available in an investigation, namely rates from prior administrative and new shipper reviews. Accordingly, since the final results of the last review, the Department has determined that in cases where we have found dumping margins in previous segments of a proceeding, a reasonable method for determining the rate for non-selected companies is to use the most recent rate calculated for the non-selected company in question, unless we calculated in a more recent review a rate for any

²⁰ *See Brake Rotors From the People's Republic of China: Final Results of Antidumping Duty Administrative and New Shipper Reviews and Partial Rescission of the 2005–2006 Administrative Review*, 72 FR 42386, 42389 (August 22, 2007), and accompanying Issues and Decision Memorandum at Comment 2 (2005–2006 Brake Rotors).

company that was not zero, *de minimis* or based entirely on facts available. See *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 52273, 52275 (September 9, 2008), and accompanying Issues and Decision Memorandum at Comment 6; *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Review in Part*, 73 FR 52823, 52824 (September 11, 2008), and accompanying Issues and Decision Memorandum at Comment 16; see also *Certain Fish Fillets from the Socialist Republic of Vietnam: Notice of Preliminary Results of the New Shipper Review and Fourth Antidumping Duty Administrative Review and Partial Rescission of the Fourth Administrative Review*, 73 FR 52015 (Sept. 8, 2008) (changed in final results as final calculated rate for mandatory respondent was above *de minimis*).

While we intend to continue to apply the policy articulated in the above-cited cases in future reviews, where appropriate, we do not believe that any change in this late stage of the brake rotors proceeding is warranted.²¹ For purposes of consistency and equity to the parties, the Department does not believe that it is appropriate to reexamine the issue in this final segment of the brake rotors proceeding, in light of more recent decisions in other administrative reviews. Thus, we are assigning the non-selected separate rate companies the *de minimis* rate calculated for the sole mandatory respondent. With respect to the PRC-wide entity (including Luda, Sanli and ZGOLD), we have assigned the entity's current rate and only rate ever determined for the entity in this proceeding.

Disclosure

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the date of publication of this notice. See 19 CFR 351.224(b).

Interested parties are invited to comment on the preliminary results and may submit case briefs and/or written comments within 30 days of the date of publication of this notice. See 19 CFR 351.309(c)(ii). 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 requested to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Additionally, parties are requested to provide their case brief and rebuttal briefs in electronic format (e.g., Microsoft Word, pdf, etc.). 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. 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

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. In accordance with 19 CFR 351.212(b)(1), for Winhere, we calculated an importer (or customer)-specific assessment rate for the merchandise subject to this review. Because we do not have entered values on the record for Winhere's sales, we calculated a per-unit assessment rate by aggregating the antidumping duties due for all U.S. sales to each importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer). See 19 CFR 351.212(b)(1). To determine whether the duty assessment rates are *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer (or customer)-specific *ad valorem* ratios based on the estimated entered value. Where an importer (or customer)-specific *ad valorem* rate is zero or *de minimis*, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties. See 19 CFR 351.106(c)(2).

For the companies receiving a separate-rate that were not selected for individual review (i.e., Gren, Jinzheng, LABEC, Laizhou Hongda, Longkou TLC,

Meita, Xianghe Zichen, and Zibo Botai), we will calculate an assessment rate based on the weighted-average margins calculated for the companies selected for individual review pursuant to section 735(c)(5)(B) of the Act. As Winhere is the only mandatory respondent in this review and its margin is *de minimis*, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties with respect to the eight separate-rate respondents. See 19 CFR 351.106(c)(2).

With respect to the PRC-wide entity (including Luda, Sanli and ZGOLD), we will instruct CBP to liquidate appropriate entries at the PRC-wide rate of 43.32 percent.

Cash Deposit Requirements

The antidumping duty order on brake rotors from the PRC was revoked effective August 14, 2007 (see *Brake Rotors From the People's Republic of China: Revocation of Antidumping Duty Order Pursuant to Second Five-Year (Sunset) Review*, 73 FR 36039 (June 25, 2008)). As a result, we instructed CBP to terminate the suspension of liquidation of entries of the subject merchandise. Therefore, the collection of cash deposits of antidumping duties on entries of the subject merchandise is no longer required.

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), 751(a)(2)(B), and 777(i) of the Act and 19 CFR 351.221.

Dated: March 16, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

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²¹ Because the brake rotors order was revoked effective August 14, 2007, this is the last administrative review that the Department will conduct.