

Antidumping Duty Proceedings	Period to be Reviewed
United Power Packaging Limited. United Power Packaging Ltd. High Den Enterprises Ltd. Rally Plastics Co., Ltd. Sea Lake Polyethylene Enterprise Ltd. Shanghai Glopac, Inc. Shanghai New Ai Lian Import & Export Co., Ltd.	
<b>Countervailing Duty Proceedings.</b>	
CANADA: Alloy Magnesium. C-122-815 .....	1/1/04 - 12/31/04
Magnola Metallurgy Inc. Norsk Hydro Canada Inc.	
CANADA: Pure Magnesium. C-122-815 .....	1/1/04 - 12/31/04
Magnola Metallurgy Inc. Norsk Hydro Canada Inc.	
FRANCE: Corrosion-Resistant Carbon Steel Flat Products. C-427-810 .....	1/1/04 - 12/31/04
Duferco Coating SA. Sorrail SA.	
REPUBLIC OF KOREA: Corrosion-Resistant Carbon Steel Flat Products. C-580-818 .....	1/1/04 - 12/31/04
Dongbu Steel Co., Ltd. POSCO.	
REPUBLIC OF KOREA: Stainless Steel Sheet and Strip in Coils. C-580-835 .....	1/1/04 - 12/31/04
Dai Yang Metal Co., Ltd.	
REPUBLIC OF KOREA: Dynamic Random Access Memory Semiconductors. C-580-851 .....	1/1/04 - 12/31/04
Hynix Semiconductor Inc. (formerly Hyundai Electronics Industries Co., Ltd.).	
<b>Suspension Agreements.</b>	
None.	

<sup>1</sup> If one of the above named companies does not qualify for a separate rate, all other exporters of frozen fish fillets from the Socialist Republic of Vietnam who have not qualified for a separate rate are deemed to be covered by this review as part of the single Vietnam entity of which the named exporters are a part.

<sup>2</sup> If one of the above named companies does not qualify for a separate rate, all other exporters of floor-standing metal-top ironing tables from the People's Republic of China 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>3</sup> If one of the above named companies does not qualify for a separate rate, all other exporters of petroleum wax candles from the People's Republic of China 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 polyethylene retail carrier bags from the People's Republic of China 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.

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 section 351.211 or a determination under section 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 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.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305.

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

Dated: September 20, 2005.

**Holly A. Kuga,**

*Senior Office Director, AD/CVD Operations,  
Office 4, for Import Administration.*

[FR Doc. 05-19364 Filed 9-27-05; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-846]

#### Brake Rotors From the People's Republic of China: Preliminary Results of the Twelfth New Shipper Review

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

**SUMMARY:** The Department of Commerce ("the Department") is currently conducting the twelfth new shipper review of the antidumping duty order on brake rotors from the People's Republic of China ("PRC") covering the period April 1, 2004, through September 30, 2004. We preliminarily determine that no sales have been made below normal value ("NV") with respect to the exporters who participated fully and are entitled to a separate rate in this 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 assess antidumping duties on entries of subject merchandise during the period of review ("POR") for which the importer-specific assessment rates are above de minimis.

**EFFECTIVE DATE:** September 28, 2005.

**FOR FURTHER INFORMATION CONTACT:**

Nicole Bankhead (Dixon) or Kit Rudd (Wally) 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) 482-9068 or (202) 482-1385, respectively.

**SUPPLEMENTARY INFORMATION:**

**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) ("*Brake Rotors Order*").

On October 28, 2004, the Department received timely requests for new shipper reviews under the antidumping duty order on brake rotors from the PRC in accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act), and section 351.214(c) of the Department's regulations, from Laizhou Wally Automobile Co., Ltd. ("Wally") and Dixon Brake System (Longkou) Ltd. ("Dixon").

On November 24, 2004, the Department initiated these new shipper reviews for the period April 1, 2004, through September 30, 2004, for Wally and Dixon. See *Brake Rotors from the People's Republic of China: Initiation of the Twelfth New Shipper Antidumping Duty Review*, 69 FR 70632 (December 7, 2004).

On December 3, 2004, the Department requested from the Office of Policy a memorandum listing surrogate countries.

On December 6, 2004, the Department issued its Section A, C, and D of the General Antidumping Duty Questionnaire to Wally and Dixon.

On December 7, 2004, the Department received from the Office of Policy a list of surrogate countries. On December 8, 2004, the Department provided all interested parties the opportunity to submit information pertinent to selecting a surrogate country and valuing factors of production in this review.

On December 20, 2004, the Department requested from CBP copies

of all customs documents pertaining to the entry of brake rotors from the PRC exported by Wally and Dixon during the period of April 1, 2004, through September 30, 2004. See *Memorandum from James C. Doyle, Office Director, to William R. Scopa of CBP*, dated December 20, 2004. The Department also issued Wally and Dixon sales and cost reconciliation questionnaires on December 20, 2004.

On January 21, 2005, Wally and Dixon submitted Sections A, C, D, and importer questionnaire responses along with their sales and cost reconciliations.

On January 24, 2005, Dixon submitted an invoice to replace an invoice it claimed it inadvertently submitted in its January 21, 2005, response.

On February 1, 2005, the Coalition for the Preservation of American Brake Drum and Rotor Aftermarket Manufacturers ("Petitioners") submitted comments regarding Wally and Dixon's questionnaire responses.

On February 2, 2005, the Department placed documentation provided by CBP on the record pertaining to specific entries of brake rotors and/or brake drums exported by Wally and Dixon during the POR.

On February 9, 2005, Wally and Dixon provided information for valuing factors of production in this review.

On March, 11, 2005, the Department sent Dixon a supplemental Sections A, C, and D questionnaire, as well as a supplemental importer questionnaire.

On March 14, 2005, the Department sent Wally a supplemental Sections A, C, D questionnaire, as well as a supplemental importer questionnaire.

On April 8, 2005, Wally and Dixon submitted their responses to the Department's supplemental questionnaires.

On April 25, 2005, the Department extended the time limit for the preliminary results of the instant review on brake rotors from the PRC. See *Brake Rotors from the People's Republic of China: Extension of the New Shipper Antidumping Duty Reviews*, 70 FR 22298 (April 29, 2005).

On June 22, 2005, the Department sent Wally and Dixon a second supplemental on Sections A, C, and D of the antidumping questionnaires and on the importer questionnaires. On July 14, 2005, Dixon submitted its second supplemental Sections A, C, and D of the antidumping questionnaire and on the importer questionnaire. On July 20, 2005, Wally submitted its response to the second supplemental Sections A, C, and D questionnaire as well as the second importer questionnaire.

On July 25, 2005, the Department issued Dixon a third supplemental sections A, C, and D of the antidumping questionnaire and the importer questionnaire. On July 29, 2005, the Department issued Dixon an additional questionnaire.

On August 4, 2005, Wally submitted its supplemental questionnaire response on August 4, 2005. On August 8, 2005, Dixon submitted its third and fourth supplemental questionnaire responses.

On August 10, 2005, Petitioners submitted verification comments for Wally.

On August 29, 2005, Wally and Dixon submitted their verification exhibits to the Department.

**Period of Review**

The POR covers April 1, 2004, through September 30, 2004.

**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. Semi-finished 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. (*i.e.*, 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"). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

#### Verification

On August 4, 2005, the Department issued verification outlines to Wally and Dixon. The Department conducted verification of the questionnaire responses of Wally during the period August 15 through 17, 2005, and Dixon from August 18 through August 20, 2005. On September 20, 2005, the Department issued the verification reports for Wally and Dixon.

We used standard verification procedures, including on-site inspection of the manufacturers' and exporters' facilities, and examination of relevant sales and financial records. Our verification results are outlined in the verification report for each company. For further discussion, see September 20, 2005, verification reports for Dixon and Wally ("Dixon Verification Report") and ("Wally Verification Report").

#### New Shipper Status - Wally and Dixon

Consistent with our practice, we investigated the *bona fide* nature of the sales made by Wally and Dixon for this new shipper review. We found no evidence that the sales in question were not *bona fide* sales. Based on our investigation into the *bona fide* nature of the sales, the questionnaire responses submitted by each company, and our verification thereof, we preliminarily determine that both respondents have met the requirements to qualify as a new shipper during the POR, and that neither was affiliated with any exporter or producer that had previously shipped subject merchandise to the United States. Therefore, for purposes of these preliminary results of the review, we are treating both respondents' sales of brake rotors to the United States as appropriate transactions for this new shipper review. See *Memorandum from Nicole Bankhead, Case Analyst, through Alex Villanueva, Program Manager, Office 9, to James C. Doyle, Office Director, Office 9, 12th New Shipper Review of Brake Rotors from the People's Republic of China* ("PRC"): *Bona Fide Nature of the Sale in the New Shipper Review of Dixon Brake System (Longkou) Ltd.*, dated September 20, 2005; see also *Memorandum from Nicole Bankhead, Case Analyst, through Alex Villanueva, Program Manager, Office 9, to James C. Doyle, Office*

*Director, Office 9, 12th New Shipper Review of Brake Rotors from the People's Republic of China* ("PRC"): *Bona Fide Nature of the Sale in the New Shipper Review of Laizhou Wally Automobile Co., Ltd.*, dated September 20, 2005.

#### Separate Rates

The Department has treated the PRC as a non-market economy ("NME") country in all previous antidumping cases. See, i.e., *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). 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. We have no evidence suggesting that this determination should be changed. Therefore, we treated the PRC as an NME country for purposes of this review and calculated NV by valuing the FOP in a surrogate country. It is the Department's policy to assign all exporters of the merchandise subject to review that are located in NME countries a single antidumping duty rate unless an exporter can demonstrate an absence of governmental control, both in law (*de jure*) and in fact (*de facto*), with respect to its export activities. To establish whether an exporter is sufficiently independent of governmental control to be entitled to a separate rate, the Department analyzes the exporter using the criteria established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("Sparklers"), as amplified in the *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"). Under the separate rates criteria established in these cases, the Department assigns separate rates to NME exporters only if they can demonstrate the absence of both *de jure* and *de facto* governmental control over their export activities.

#### Absence of De Jure Control

Evidence supporting, though not requiring, a finding of *de jure* absence of government control over export activities includes: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government

decentralizing control of companies. See *Sparklers* at 20589.

In the instant review, Wally and Dixon submitted complete responses to the separate rates section of the Department's questionnaire. The evidence submitted in the instant review by these Respondents includes government laws and regulations on corporate ownership, business licences, and narrative information regarding the companies' operations and selection of management. The evidence provided by Wally and Dixon supports a finding of a *de jure* absence of governmental control over their export activities because: (1) there are no controls on exports of subject merchandise, such as quotas applied to, or licenses required for, exports of the subject merchandise to the United States; and (2) the subject merchandise does not appear on any government list regarding export provisions or export licensing.

#### Absence of De Facto Control

The absence of *de facto* governmental control over exports is based on whether the Respondent: (1) sets its own export prices independent of the government and other exporters; (2) retains the proceeds from its export sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) has the authority to negotiate and sign contracts and other agreements; and (4) has autonomy from the government regarding the selection of management. See *Silicon Carbide* at 22587; *Sparklers* at 20589; 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).

In their questionnaire responses, Wally and Dixon submitted evidence indicating an absence of *de facto* governmental control over their export activities. Specifically, this evidence indicates that: (1) each company sets its own export prices independent of the government and without the approval of a government authority; (2) each company retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) each company has a general manager, branch manager or division manager with the authority to negotiate and bind the company in an agreement; (4) the general manager is selected by the board of directors or company employees, and the general manager appoints the deputy managers and the manager of each department; and (5) there is no restriction on either companies use of export revenues. Therefore, the Department has

preliminarily found that Wally and Dixon have established *prima facie* that they qualify for separate rates under the criteria established by *Silicon Carbide* and *Sparklers*.

#### Use of Partial Facts Available for Wally and Dixon

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 sections 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.

Furthermore, section 776(b) of the Act states that "if the administering authority finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the Commission, the administering authority or the Commission ..., in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available." See also Statement of Administrative Action ("SAA") accompanying the Uruguay Round Agreements Act ("URAA"), H.R. Rep. No. 103-316 at 870 (1994).

For the reasons explained below, and pursuant to section 776(a)(2)(D) of the Act, the Department has preliminarily determined that the use of a partial facts available is warranted for the selection of certain surrogate values. On January 21, 2005, Wally and Dixon each submitted the material inputs used in their production of subject merchandise during the POR. See Wally's January 21, 2005, Questionnaire Response ("Wally QR"); see also Dixon's January 21, 2005, Questionnaire Response ("Dixon QR"). On March 11, 2005, the Department sent Dixon a supplemental Sections A, C, and D questionnaire and on March 14, 2005, the Department sent Wally a supplemental Sections A, C, D questionnaire; the Department requested material specifications for certain material inputs Respondents reported using to produce subject merchandise during the POR. Wally and Dixon each provided the specifications of their material inputs as requested by the Department. See Wally's April 8, 2005 Supplemental Questionnaire Response at pages 21 - 23 ("Wally SQR"); see also

Dixon's April 8, 2005 Supplemental Questionnaire Response at pages 22 - 23 ("Dixon SQR"). Respondents' provided the specifications regarding the phosphorous content of the pig iron, the carbon and manganese contents of the ferromanganese, and the silicon content of the ferrosilicon they used to produce subject merchandise during the POR. *Id.* Additionally, Wally reported that the limestone it used in the production process was not limestone flux. See Wally SQR at 22.

The Department conducted verification of the questionnaire responses of Wally during the period August 15 through 17, 2005, and Dixon from August 18 through August 20, 2005. While at verification the Department was unable to verify the specifications reported by Respondents in their questionnaire responses for the following material inputs: pig iron, ferromanganese, and ferrosilicon. See Dixon Verification Report; see also Wally verification report. The Department was also unable to verify Wally's statement that it did not use limestone flux. *Id.* The Department was thus unable to verify certain information provided by the Respondents; therefore, the use of facts available pursuant to section 776(a)(2)(D) of the Act is appropriate.

The Department, however, finds that Respondents acted to the best of their ability, and we have not used an adverse inference, as provided under section 776(b) of the Act, to value their factors of production. Specifically, though the Respondents were unable to support their claims regarding the chemical content of certain inputs used, the Department found that the Respondents submitted the highest surrogate values as being representative of their actual factors of production for pig iron and ferrosilicon. See Respondents' February 9, 2005, Factor Value submission. Thus, for the preliminary results, the Department is applying the highest surrogate value to these inputs, which is the value that Respondents proposed the Department use to value these inputs, as facts available.

#### Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base normal value ("NV"), in most circumstances, on the NME producer's factors of production, valued in a surrogate market-economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the factors of production, the Department shall utilize, to the extent

possible, the prices or costs of factors of production in one or more market-economy countries that are at a level of economic development comparable to that of the NME country and are significant producers of comparable merchandise. The sources of the surrogate values we have used in this investigation are discussed under the "Normal Value" section below.

The Department determined that India, Indonesia, Sri Lanka, the Philippines, and Egypt are countries comparable to the PRC in terms of economic development. See *Memorandum from Ron Lorentzen, Office of Policy, Acting Director, to Brian C. Smith, Program Manager: Antidumping Duty Administrative Review of Brake Rotors from the People's Republic of China (PRC): Request for a List of Surrogate Countries*, dated December 7, 2004. We select an appropriate surrogate country based on the availability and reliability of data from the countries. See *Department Policy Bulletin No. 04.1: Non-Market Economy Surrogate Country Selection Process ("Policy Bulletin")*, dated March 1, 2004. In this case, we have found that India is a significant producer of comparable merchandise, is at a similar level of economic development pursuant to 773(c)(4) of the Act, and has publicly available and reliable data. See *Memorandum from Nicole Bankhead, Case Analyst, through Alex Villanueva, Program Manager, Office 9 and James C. Doyle, Office Director, Office 9, to The File, 12th New Shipper Review of Brake Rotors from the People's Republic of China ("PRC"): Selection of a Surrogate Country*, dated September 20, 2005 ("Surrogate Country Memo").

#### U.S. Price

In accordance with section 772(a) of the Act, the Department calculated export prices ("EPs") for sales to the United States for Wally and Dixon because the first sale to an unaffiliated party was made before the date of importation and the use of constructed EP ("CEP") was not otherwise warranted. We calculated EP based on the price to unaffiliated purchasers in the United States. In accordance with section 772(c) of the Act, as appropriate, we deducted from the starting price to unaffiliated purchasers foreign inland freight, brokerage and handling, international freight, and marine insurance. For Wally, each of these services was either provided by a NME vendor or paid for using a NME currency. Thus, we based the deduction for these movement charges on surrogate values. For Dixon,

international freight was provided by a market economy provider and paid in U.S. dollars, and therefore we used the actual cost per kilogram of the freight. *See Memorandum from Nicole Bankhead, Case Analyst, through Alex Villanueva, Program Manager, Office 9 and James C. Doyle, Office Director, Office 9, to The File, 12th New Shipper Review of Brake Rotors from the People's Republic of China ("PRC"): Surrogate Values for the Preliminary Results*, dated September 20, 2005 ("Surrogate Values Memo") for details regarding the surrogate values for other movement expenses.

### Normal Value

In accordance with section 773(c) of the Act, we calculated NV based on factors of production ("FOP") reported by the Respondents for the POR. To calculate NV, we valued the reported FOP by multiplying the per-unit factor quantities by publicly available Indian surrogate values. In selecting surrogate values, we considered the quality, specificity, and contemporaneity of the available values. As appropriate, we adjusted the value of material inputs to account for delivery costs. Where appropriate, we increased Indian surrogate values by surrogate inland freight costs. We calculated these inland freight costs using the shorter of the reported distances from the PRC port to the PRC factory, or from the domestic supplier to the factory. This adjustment is in accordance with the United States Court of Appeals for the Federal Circuit's ("CAFC") decision in *Sigma Corp. v. United States*, 117 F. 3d 1401, 1407-1408 (Fed.Cir. 1997). For those values not contemporaneous with the POR, we adjusted for inflation or deflation using data published in the IMF's *International Financial Statistics*. We excluded from the surrogate country import data used in our calculations imports from Korea, Thailand, and Indonesia due to generally available export subsidies. *See China Nat'l Mach. Import & Export Corp. v. United States*, CIT 01-1114, 293 F. Supp. 2d 1334 (CIT 2003), *aff'd* 104 Fed. Appx. 183 (Fed. Cir. 2004) and *Certain Cut-to-Length Carbon Steel Plate from Romania: Notice of Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 70 FR 12651 (March 15, 2005) and accompanying Issues and Decision Memorandum at Comment 4. Furthermore, 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 or a country with general export subsidies. We converted the surrogate values to U.S. dollars as appropriate, using the official exchange rate recorded on the dates of sale of subject merchandise in this case, obtained from Import Administration's website at <http://www.ia.ita.doc.gov/exchange/index.html>. For further detail, see the *Surrogate Values Memo*.

### Preliminary Results of Reviews

We preliminarily determine that the following margins exist during the period April 1, 2004, through September 30, 2004:

#### BRAKE ROTORS FROM THE PRC

Manufacturer/Exporter	Weighted-Average Margin (Percent)
Laizhou Wally Automobile Co., Ltd. ("Wally") .....	0.00
Dixion Brake System (Longkou) Ltd. ("Dixion") .....	6.61

### Public Comment

The Department will disclose to parties to this proceeding the calculations performed in reaching the preliminary results within ten days of the date of announcement of the preliminary results. An interested party may request a hearing within 30 days of publication of the preliminary results. *See* 19 CFR 351.310(c). Interested parties may submit written comments (case briefs) within 30 days of publication of the preliminary results and rebuttal comments (rebuttal briefs), which must be limited to issues raised in the case briefs, within five days after the time limit for filing case briefs. *See* 19 CFR 351.309(c)(1)(ii) and 19 CFR 351.309(d). Parties who submit arguments are requested to submit with the argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Further, the Department requests that parties submitting written comments provide the Department with a diskette containing the public version of those comments. Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, the Department will issue the final results of this new shipper review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days of publication of the preliminary results. The assessment of antidumping duties on entries of merchandise covered by this review and future deposits of estimated duties shall be based on the final results of this review.

### Assessment Rates

Upon issuing the final results of the review, the Department shall determine, and CBP shall assess and liquidate, antidumping duties on all appropriate entries. The Department will issue appropriate appraisal instructions for the companies subject to this review directly to CBP within 15 days of publication of the final results of this review. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific ad valorem duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above de minimis.

### Cash Deposit Requirements

Upon completion of this review, we will require cash deposits at the rate established in the final results as further described below.

Bonding will no longer be permitted to fulfill security requirements for shipments of brake rotors from the PRC produced and exported by Wally and Dixion that are entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of the new shipper reviews. The following cash deposit requirements will be effective upon publication of the final results of the new shipper reviews for all shipments of subject merchandise from Wally and Dixion entered, or withdrawn from warehouse, for consumption on or after the publication date: (1) for subject merchandise manufactured and exported by Wally and Dixion, the cash deposit rate will be the rate established in the final results of this review, except that no cash deposit will be required if the cash deposit rate calculated in the final results is zero or *de minimis*; and (2) for subject merchandise exported by Wally or Dixion but not manufactured by Wally or Dixion, respectively, the cash deposit rate will continue to be the PRC countrywide rate (*i.e.*, 43.32 percent); and (3) for subject merchandise produced by Wally or Dixion but not exported by the same company, the cash deposit rate will be the rate applicable to the exporter. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

## 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 new shipper review and notice are in accordance with sections 751(a)(1), 751(a)(2)(B), and 777(i) of the Act and 19 CFR 351.214.

Dated: September 20, 2005.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

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Billing Code: 3510-DS-S

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-831]

### Notice of Amended Final Results of Antidumping Duty Administrative Review: Garlic from the People's Republic of China

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

**SUMMARY:** On June 13, 2005, the Department of Commerce ("the Department") published the final results of its administrative review of the antidumping duty order on fresh garlic from the People's Republic of China ("PRC") for the period from November 1, 2002, through October 31, 2003, in the **Federal Register**. See *Final Results of Antidumping Duty Administrative Review: Fresh Garlic from the People's Republic of China*, 69 FR 34082, and accompanying "Issues and Decision Memorandum," dated June 6, 2005 ("Final Results"). We released the disclosure documents to the respondents on June 14, 2005, and to the petitioners<sup>1</sup> on June 16, 2005. On June 20, 2005, the following parties filed timely allegations that the Department made various ministerial errors in the *Final Results*: Jinan Yipin Corporation Ltd. ("Jinan Yipin"), Linshu Dading Private Agricultural Co., Ltd. ("Linshu Dading"), Sunny Import and Export Co.,

Ltd. ("Sunny"), Taian Fook Huat Tong Kee Foodstuffs Co., Ltd. ("FHTK"), Taiyang Ziyang Food Co., Ltd. ("Ziyang"), and Zhengzhou Harmoni Spice Co., Ltd. ("Harmoni"). On June 23, 2005, the petitioners submitted rebuttal comments to one of the ministerial error allegations filed collectively by Jinan Yipin, Linshu Dading, Sunny, and Harmoni. In addition, when examining the ministerial error allegations raised by FHTK and Ziyang, the Department found other ministerial errors. Ziyang and FHTK filed complaints with the Court of International Trade ("CIT"), challenging the final results of review on June 14, and June 15, 2005, respectively. On July 26, 2005, Harmoni, Jinan Yipin, Linshu Dading, and Sunny filed similar complaints with the CIT, challenging the final results of review. On August 9 and August 10, 2005, Jinxiang Dongyun Freezing Storage Co. Ltd. and the petitioners, respectively, also filed complaints with the CIT, challenging the final results of review. When the interested parties noted above filed their complaints with the CIT the Department no longer had jurisdiction to correct the ministerial errors. Therefore, the Department requested leave from the CIT to correct these errors. On September 15, 2005, the CIT granted the Department leave to correct the errors.

We are amending our Final Results to correct ministerial errors for respondents Jinan Yipin, Linshu Dading, FHTK, Ziyang, and Harmoni pursuant to section 751(h) of the Tariff Act of 1930, as amended ("the Act").

**EFFECTIVE DATE:** September 28, 2005.

**FOR FURTHER INFORMATION CONTACT:** Sochieta Moth, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-0168.

### SUPPLEMENTARY INFORMATION:

#### Scope of the Order

The products covered by this antidumping duty order are all grades of garlic, whole or separated into constituent cloves, whether or not peeled, fresh, chilled, frozen, provisionally preserved, or packed in water or other neutral substance, but not prepared or preserved by the addition of other ingredients or heat processing. The differences between grades are based on color, size, sheathing, and level of decay.

The scope of this order does not include the following: (a) garlic that has been mechanically harvested and that is

primarily, but not exclusively, destined for non-fresh use; or (b) garlic that has been specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed.

The subject merchandise is used principally as a food product and for seasoning. The subject garlic is currently classifiable under subheadings 0703.20.0010, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, and 2005.90.9700 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive. In order to be excluded from the antidumping duty order, garlic entered under the HTSUS subheadings listed above that is (1) mechanically harvested and primarily, but not exclusively, destined for non-fresh use or (2) specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed must be accompanied by declarations to the U.S. Customs and Border Protection ("CBP") to that effect.

### Amendment to Final Determination

In accordance with sections 751(a) and 777(i)(1) of the Act, on June 13, 2005, the Department published the *Final Results*. On June 20, 2005, the following parties filed timely allegations that the Department made various ministerial errors in the *Final Determination*: Jinan Yipin, Linshu Dading, Sunny Import and Export Co., Ltd. ("Sunny"), FHTK, Ziyang, and Harmoni. On June 23, 2005, the petitioners submitted rebuttal comments to one of the ministerial error allegations filed by Jinan Yipin, Linshu Dading, Sunny, and Harmoni.

After analyzing all interested parties' comments and rebuttal comments, we have determined, in accordance with section 751(h) of the Act and 19 CFR 351.224(e), that the Department has made ministerial errors in the final determination calculations for Harmoni, Jinan Yipin, Linshu Dading, FHTK, and Ziyang. In addition, when examining FHTK's and Ziyang's ministerial error allegations, the Department found additional ministerial errors that affected our margin calculations in the *Final Results*. For a detailed discussion of these ministerial errors, and our analysis, see Memorandum from Barbara E. Tillman to Joseph A. Spetrini re: Issues and Decision Memorandum for the Amended Final Determination in the Administrative Review on Fresh Garlic from the People's Republic of China, dated September 22, 2005.

<sup>1</sup> The Fresh Garlic Producers Association and its individual members (Christopher Ranch L.L.C., The Garlic Company, Valley Garlic, and Vessey and Company, Inc).