

Dated: June 30, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-868]

Folding Metal Tables and Chairs from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on folding metal tables and chairs ("FMTCs") from the People's Republic of China ("PRC") covering the period June 1, 2004, through May 31, 2005. We have preliminarily determined that sales have not been made below normal value ("NV") by Feili Furniture Development Limited Quanzhou City, Feili Furniture Development Co., Ltd., Feili Group (Fujian) Co., Ltd., Feili (Fujian) Co., Ltd. (collectively "Feili"), and New-Tec Integration (Xiamen) Co. Ltd. ("New-Tec"). Further, we have preliminarily determined to apply an adverse facts available ("AFA") rate to all sales and entries of the subject merchandise during the period of review ("POR") for Anji Jiu Zhou Machinery Co., Ltd. ("Anji Jiu"), Xiamen Zehui Industry Trade Co. ("Xiamen Zehui"), and Yixiang Blow Mold Yuyao Co., Ltd. ("Yixiang"). 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 all appropriate entries of subject merchandise during the POR.

Interested parties are invited to comment on these preliminary results. We intend to issue the final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act").

EFFECTIVE DATE: July 10, 2006.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Matthew Quigley, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230;

telephone: (202) 482-4243 or (202) 482-4551, respectively.

SUPPLEMENTARY INFORMATION: On June 27, 2002, the Department published the antidumping duty order on FMTCs from the PRC. *See Antidumping Duty Order: Folding Metal Tables and Chairs From the People's Republic of China*, 67 FR 43277 (June 27, 2002). On June 1, 2005, the Department published a notice of opportunity to request an administrative review of this order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 70 FR 31422 (June 1, 2005). In accordance with 19 CFR 351.213(b)(1), the following requests were made: (1) on June 27, 2005, Cosco Home and Office Products ("Cosco"), a U.S. importer of subject merchandise, requested that the Department conduct an administrative review of Feili and New-Tec; (2) on June 28, 2005, Mecor Corporation ("Mecor"), a domestic interested party, requested that the Department review Feili's and New-Tec's sales and entries during the POR; (3) on June 30, 2005, FDL, Inc. ("FDL"), a U.S. importer of the subject merchandise, requested that the Department review all sales and entries of Anji Jiu, Xiamen Zehui, and Yixiang.

On July 21, 2005, the Department initiated this administrative review with respect to Feili, New-Tec, Anji Jiu, Xiamen Zehui, and Yixiang. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 42028 (July 21, 2005). The Department issued antidumping duty questionnaires to all of the above-named respondents on August 16, 2005.

On September 13, 2005, Feili and New-Tec submitted their Section A questionnaire responses ("AQRs"). New-Tec submitted its Sections C and D questionnaire response ("CQR" and "DQR") on October 11, 2005, and Feili submitted its CQR, DQR, and its sales and cost reconciliation on October 13, 2005.

On November 8, 2005, the Department issued its first supplemental Section A questionnaire to New-Tec, and on November 29, 2005, the Department issued its first supplemental Sections A, C, D, and cost reconciliation questionnaire to Feili. New-Tec submitted its supplemental Section A questionnaire response on November 29, 2005, and Feili submitted its first supplemental questionnaire response ("SQR") on December 21, 2005. New-Tec submitted its sales and cost reconciliation on January 20, 2006. On February 7, 2006, the Department issued its second supplemental questionnaire

to Feili. Feili responded on February 23, 2006. The Department issued its second supplemental questionnaire to New-Tec on March 15, 2006, and its third supplemental questionnaire to Feili on March 22, 2006. On April 12, 2006, Feili submitted its third supplemental questionnaire response ("3rd SQR") and New-Tec submitted its second supplemental questionnaire response. On May 2, 2006, the Department issued its third supplemental questionnaire to New-Tec. New-Tec provided its 3rd SQR on May 18, 2006. The Department issued its fourth supplemental questionnaire to Feili on May 16, 2006. On May 30, 2006, Feili submitted its fourth supplemental questionnaire response. The Department issued its fifth supplemental questionnaire to Feili on June 7, 2006, and Feili responded on June 19, 2006. Anji Jiu, Xiamen Zehui, and Yixiang did not respond to the Department's questionnaire. *See "Adverse Facts Available" section, below.*

The Department requested interested parties to submit surrogate value information on March 21, 2006, and to provide surrogate country selection comments on April 7, 2006. *See Memorandum to File from Cathy Feig, International Trade Compliance Analyst, through Charles Riggle, Program Manager, AD/CVD Operations, Office 8, "Surrogate Value Submission Deadline: Folding Metal Tables and Chairs from the Peoples Republic of China" (March 21, 2006); and Letter from Charles Riggle, Program Manager, AD/CVD Operations, Office 8, to Feili, New-Tec, Cosco, Mecor, and Resilient Furniture, "Re: Administrative Review of Folding Metal Tables and Chairs from the People's Republic of China," (April 7, 2006).* On April 21, 2006, Feili and Mecor provided comments on publicly available information to value the factors of production ("FOP"). None of the interested parties provided comments on the selection of a surrogate country.

On February 28, 2006, the Department published a notice in the **Federal Register** extending the time limit for the preliminary results of review until June 30, 2006. *See Folding Metal Tables and Chairs From the People's Republic of China: Notice of Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review*, 71 FR 10008, (February 28, 2006).

Period of Review

The POR is June 1, 2004, through May 31, 2005.

Scope of the Order

The products covered by this order consist of assembled and unassembled folding tables and folding chairs made primarily or exclusively from steel or other metal, as described below:

(1) Assembled and unassembled folding tables made primarily or exclusively from steel or other metal (folding metal tables). Folding metal tables include square, round, rectangular, and any other shapes with legs affixed with rivets, welds, or any other type of fastener, and which are made most commonly, but not exclusively, with a hardboard top covered with vinyl or fabric. Folding metal tables have legs that mechanically fold independently of one another, and not as a set. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of the order regarding folding metal tables are the following:

- a. Lawn furniture;
- b. Trays commonly referred to as "TV trays";
- c. Side tables;
- d. Child-sized tables;
- e. Portable counter sets consisting of rectangular tables 36" high and matching stools; and,
- f. Banquet tables. A banquet table is a rectangular table with a plastic or laminated wood table top approximately 28" to 36" wide by 48" to 96" long and with a set of folding legs at each end of the table. One set of legs is composed of two individual legs that are affixed together by one or more cross-braces using welds or fastening hardware. In contrast, folding metal tables have legs that mechanically fold independently of one another, and not as a set.

(2) Assembled and unassembled folding chairs made primarily or exclusively from steel or other metal (folding metal chairs). Folding metal chairs include chairs with one or more cross-braces, regardless of shape or size, affixed to the front and/or rear legs with rivets, welds or any other type of fastener. Folding metal chairs include: those that are made solely of steel or other metal; those that have a back pad, a seat pad, or both a back pad and a seat pad; and those that have seats or backs made of plastic or other materials. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of the order regarding folding metal chairs are the following:

- a. Folding metal chairs with a wooden back or seat, or both;
- b. Lawn furniture;
- c. Stools;
- d. Chairs with arms; and
- e. Child-sized chairs.

The subject merchandise is currently classifiable under subheadings 9401.71.0010, 9401.71.0030, 9401.79.0045, 9401.79.0050, 9403.20.0010, 9403.20.0030, 9403.70.8010, 9403.70.8020, and 9403.70.8030 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the merchandise is dispositive.

Non-Market Economy Country Status

Neither Feili nor New-Tec contested the Department's treatment of the PRC as a non-market economy ("NME"), and the Department has treated the PRC as an NME country in all past antidumping duty investigations and administrative reviews and continues to do so in this case. *See, e.g., Honey from the People's Republic of China: Final Results and Final Rescission, In Part, of Antidumping Duty Administrative Review*, 71 FR 34893 (June 16, 2006) ("Honey"); and *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 71 FR 29303 (May 22, 2006) ("Sawblades"). No interested party in this case has argued that we should do otherwise. Designation as an NME country remains in effect until it is revoked by the Department. *See* Section 771(18)(C)(i) of the Act.

Surrogate Country

Section 773(c)(1) of the Act directs the Department to base NV on the NME producer's FOPs, 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 and in the Memorandum from Laurel LaCivita and Matthew Quigley, International Trade Compliance Analysts, through Charles Riggle,

Program Manager, to Wendy Frankel, Director, AD/CVD Operations, Office 8, "Preliminary Results of the 2004–2005 Administrative Review of Folding Metal Tables and Chairs from the People's Republic of China: Surrogate Value Memorandum" (June 30, 2006) ("Surrogate Value Memorandum").

The Department has previously 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 to Wendy Frankel, Director, AD/CVD Enforcement, Office 8, "Administrative Review of Folding Metal Tables and Chairs ('Tables and Chairs') from the People's Republic of China ('PRC'): Request for a List of Surrogate Countries" (December 20, 2005) ("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 have found that India is a significant producer of comparable merchandise. *See* Memorandum from Laurel LaCivita and Matthew Quigley, International Trade Compliance Analysts, through Charles Riggle Program Manager, to Wendy Frankel, Director, AD/CVD Operations, Office 8, "Antidumping Administrative Review of Folding Metal Tables and Chairs: Selection of a Surrogate Country," (June 30, 2006) ("Surrogate Country Memorandum").

The Department used India as the primary surrogate country and, accordingly, has calculated NV using Indian prices to value the PRC producers' FOPs, when available and appropriate. *See* Surrogate Country Memorandum and Surrogate Value Memorandum. We have obtained and relied upon publicly available information wherever possible.

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

Separate Rates

In proceedings involving 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, 74765 (December 16, 2005) (unchanged in the final results); and *Sawblades*, 71 FR at 29307.

We have considered whether each reviewed company based in the PRC is eligible for a separate rate. The Department's separate-rate test to determine whether the exporters are 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. *See, e.g., Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of Antidumping Administrative Review*, 62 FR 61276, 61279 (November 17, 1997); and *Preliminary Determination of Sales at Less than Fair Value: Honey from the People's Republic of China*, 60 FR 14725, 14727–28 (March 20, 1995).

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 20585, 22587 (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 (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*”).

Feili and New-Tec each provided company-specific separate-rate information and stated that each met the standards for the assignment of separate rates. Anji Jiu, Xiamen Zehui, and Yixiang did not submit any information to establish their entitlement to a separate rate. Feili reported that it is wholly owned by market-economy entities. *See* Feili's AQR, at 2 and Exhibit A–3. Therefore, a separate rates analysis is not necessary to determine whether Feili's export activities are

independent from government control. *See e.g., Brake Rotors From the People's Republic of China: Preliminary Results of the Tenth New Shipper Review*, 69 FR 30875, 30876 (June 1, 2004) (unchanged in final results); *Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate From the People's Republic of China*, 64 FR 71104 (December 20, 1999); *Preliminary Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms From the People's Republic of China*, 65 FR 66703, 66705 (November 7, 2000) (unchanged in the final results of review); and *Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China*, 61 FR 19026, 19027 (April 30, 1996) (“*Bicycles*”). For New Tec, a separate rates analysis is necessary to determine whether its export activities are independent from government control.

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 20588.

New-Tec is a joint venture owned by New-Tec International Inc., a South Korean company, and Xiamen Integration Co., Ltd., a PRC company. New-Tec has placed documents on the record to demonstrate the absence of *de jure* control including its list of shareholders, business license, and the Company Law of the People's Republic of China, as revised October 27, 2005 (“*Company Law*”). Other than limiting New-Tec to activities referenced in the business license, we found no restrictive stipulations associated with the license. In addition, in previous cases the Department has analyzed the Company Law and found that it establishes an absence of *de jure* control. *See, e.g., Certain Non-Frozen Apple Juice Concentrate from the People's Republic of China: Final Results, Partial Rescission and Termination of a Partial Deferral of the 2002–2003 Administrative Review*, 69 FR 65148, 65150 (November 10, 2004). We have no information in this segment of the proceeding that would cause us to reconsider this determination. Therefore, based on the foregoing, we have preliminarily found an absence of *de jure* control for New-Tec.

B. Absence of De Facto Control

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 72255, 72257 (December 31, 1998). Therefore, the Department has preliminarily determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control that 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 exporter sets its own export prices independent of the government and without 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 its management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. *See, e.g., 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).

With regard to *de facto* control, New-Tec reported that: (1) it independently set prices to the United States through negotiations with customers and these prices are not subject to review by any government organization; (2) it did not coordinate with other exporters or producers to set the price or to determine to which market the companies will sell subject merchandise; (3) the PRC Chamber of Commerce does not coordinate the export activities of New-Tec; (4) its general manager has the authority to contractually bind it to sell subject merchandise; (5) its board of directors appoint its general manager; (6) there is no restriction on its use of export revenues; (7) its shareholders ultimately determine the disposition of respective profits, and New-Tec has not had a loss in the last two years; and (8) none of New-Tec's board members or managers is a government official. Additionally, New-Tec's questionnaire responses did not suggest that pricing is coordinated among exporters. Furthermore, our

analysis New-Tec's questionnaire responses reveals no other information indicating government control of its export activities. Therefore, based on the information on the record, we preliminarily determine that there is an absence of *de facto* government control with respect to New-Tec's export functions and that New-Tec has met the criteria for the application of a separate rate.

Adverse Facts Available

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply "facts otherwise available" if, *inter alia*, necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits and subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department "shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all applicable requirements established by the administering authority" if the information is timely, can be verified, is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information if it can do so without undue difficulties.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) of the Act also authorizes the Department to use as AFA information derived from the petition, the final

determination, a previous administrative review, or other information placed on the record.

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as "[i]nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise." *See Statement of Administrative Action* ("SAA") accompanying the Uruguay Round Agreements Act, H. Doc. No. 316, 103d Cong., 2d Session at 870 (1994). Corroborate means that the Department will satisfy itself that the secondary information to be used has probative value. *See SAA* at 870. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information. *See SAA* at 869.

For the reasons discussed below, we determine that, in accordance with sections 776(a)(2) and 776(b) of the Act, the use of AFA is appropriate for the preliminary results for the PRC-wide entity, including Anji Jiu, Xiamen Zehui, and Yixiang.

Anji Jiu, Xiamen Zehui, and Yixiang

Anji Jiu, Xiamen Zehui, and Yixiang did not respond to our August 16, 2005, questionnaire. In the *Initiation Notice*, the Department stated that if one of the companies on which we initiated a review does not qualify for a separate rate, all other exporters of FMTCs from the PRC who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC-wide entity of which the named exporter is a part. *See Initiation Notice* at n.1. Because Anji Jiu, Xiamen Zehui, and Yixiang did not submit any information to establish their eligibility for a separate rate, we find they are deemed to be part of the PRC-wide entity. *See Separate Rates* section above.

The PRC-Wide Rate and Use of AFA

In addition, because we have determined that Anji Jiu, Xiamen Zehui, and Yixiang are not entitled to separate rates and are now part of the PRC-wide entity, the PRC-wide entity is now under review. We further find that

because the PRC-wide entity (including Anji Jiu, Xiamen Zehui, and Yixiang) failed to provide the requested information in the administrative review, the Department, pursuant to section 776(a) of the Act, has applied a dumping margin for the PRC-wide entity using the facts otherwise available on the record. Furthermore, because we have determined that the PRC-wide entity (including Anji Jiu, Xiamen Zehui, and Yixiang) has failed to cooperate to the best of its ability, the Department has used an adverse inference in making its determination, pursuant to section 776(b) of the Act.

Selection of the Adverse Facts Available Rate

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from (1) the petition, (2) a final determination in the investigation, (3) any previous review or determination, or (4) any information placed on the record. It is the Department's practice to select, as AFA, the highest calculated rate in any segment of the proceeding. *See, e.g., Certain Cased Pencils from the People's Republic of China; Notice of Preliminary Results of Antidumping Duty Administrative Review and Intent to Rescind in Part*, 70 FR 76755, 76761 (December 28, 2005).

The Court of International Trade ("CIT") and the Court of Appeals for the Federal Circuit ("Fed. Cir.") have consistently upheld the Department's practice. *See Rhone Poulenc, Inc. v. United States*, 899 F. 2d 1185, 1190 (Fed. Cir. 1990) (upholding the Department's presumption that the highest margin was the best information of current margins) ("Rhone Poulenc"); *NSK Ltd. v. United States*, 346 F. Supp. 2d 1312, 1335 (CIT 2004) (upholding a 73.55 percent total AFA rate, the highest available dumping margin from a different respondent in a less-than-fair-value ("LTFV") investigation); *Kompass Food Trading International v. United States*, 24 CIT 678, 683 (2000) (upholding a 51.16 percent total AFA rate, the highest available dumping margin from a different, fully cooperative respondent); and *Shanghai Taoen International Trading Co., Ltd. v. United States*, 360 F. Supp. 2d 1339, 1348 (CIT 2005) (upholding a 223.01 percent total AFA rate, the highest available dumping margin from a different respondent in a previous administrative review).

The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently

adverse “as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.” See *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan*, 63 FR 8909, 8932 (February 23, 1998). The Department’s practice also ensures “that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.” See SAA at 870. See also, *Brake Rotors From the People’s Republic of China: Final Results and Partial Rescission of the Seventh Administrative Review; Final Results of the Eleventh New Shipper Review*, 70 FR 69937, 69939 (November 18, 2005). In choosing the appropriate balance between providing respondents with an incentive to respond accurately and imposing a rate that is reasonably related to the respondents’ prior commercial activity, selecting the highest prior margin “reflects a common sense inference that the highest prior margin is the most probative evidence of current margins, because, if it were not so, the importer, knowing of the rule, would have produced current information showing the margin to be less.” See *Rhone Poulenc*, 899 F. 2d at 1190.

Due to Anji Jiu’s, Xiamen Zehui’s, and Yixiang’s failure to cooperate in this administrative review, we have preliminarily assigned the PRC-wide entity, of which they are deemed to be a part, an AFA rate of 70.71 percent, which is the PRC-wide rate determined in the investigation and the rate currently applicable to the PRC-wide entity. See *Notice of Amended Final Determination of Sales at Less Than Fair Value: Folding Metal Tables and Chairs From the People’s Republic of China*, 67 FR 34898, (May 16, 2002) (“*FMTC Amended Final Determination*”).

The Department preliminarily determines that this information is the most appropriate from the available sources to effectuate the purposes of AFA. The Department’s reliance on the PRC-wide rate from the original investigation to determine an AFA rate is subject to the requirement to corroborate secondary information. See Section 776(c) of the Act and the “Corroboration of Secondary Information” section below.

Corroboration of Secondary Information

Section 776(c) of the Act provides that, where the Department selects from among the facts otherwise available and relies on “secondary information,” the

Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department’s disposal. Secondary information is described in the SAA as “information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.” See SAA at 870. The SAA states that “corroborate” means to determine that the information used has probative value. The Department has determined that to have probative value information must be reliable and relevant. See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996). The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. See SAA at 870. See also, *Notice of Preliminary Determination of Sales at Less Than Fair Value: High and Ultra-High Voltage Ceramic Station Post Insulators from Japan*, 68 FR 35627, 35629 (June 16, 2003); and *Notice of Final Determination of Sales at Less Than Fair Value: Live Swine From Canada*, 70 FR 12181, 12183 (March 11, 2005) (“*Live Swine from Canada*”).

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin and determine an appropriate margin. For example, the Department disregarded the highest margin as adverse best information available (the predecessor to facts available) because it was based on another company’s uncharacteristic business expense that resulted in an unusually high margin. See *Fresh Cut Flowers From Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (February 22, 1996) (“*Fresh Cut Flowers from Mexico*”). Similarly, the Department does not apply a margin that has been discredited. See *D&L Supply Co. v. United States*, 113 F. 3d

1220, 1223–4 (Fed. Cir. 1997) (finding that the Department will not use a margin that has been judicially invalidated).

With regard to the relevance of the rate used, the Department notes that the rate used is the rate currently applicable to the PRC-wide entity and there is no information that indicates this rate is no longer relevant to the PRC-wide entity. In addition, we compared the margin calculations of Feili and New-Tec in this administrative review with the PRC-wide entity margin from the LTFV investigation and used in the first and second administrative reviews of this case. The Department found that the margin of 70.71 percent was within the range of the highest margins calculated for the respondents on the record of this administrative review. See Memorandum to the File from Laurel LaCivita and Matthew Quigley, International Trade Compliance Analysts, through Charles Riggle, Program Manager, AD/CVD Operations, Office 8, “Folding Metal Tables and Chairs from the PRC: Corroboration of the PRC-wide Adverse Facts–Available Rate,” (June 30, 2006) (“*Corroboration Memorandum*”). Because the record of this administrative review contains margins within the range of 70.71 percent, this further supports that this rate continues to be relevant for use in this administrative review.

As we have determined, to the extent practicable, that the margin selected is both reliable and relevant, we determine that it has probative value. As a result, the Department determines that the margin is corroborated within the meaning of section 776(c) of the Act for the purposes of this administrative review and may reasonably be applied to the PRC-wide entity as AFA. Accordingly, we determine that the highest rate from any segment of this administrative proceeding, 70.71 percent, meets the corroboration criterion established in section 776(c) of the Act that secondary information have probative value.

Because these are the preliminary results of review, the Department will consider all margins on the record at the time of the final results of review for the purpose of determining the most appropriate final margin for the PRC-wide entity. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation*, 65 FR 1139, 1141 (January 7, 2000).

Date of Sale

Section 351.401(i) of the Department’s regulations states that:

in identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the normal course of business. However, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.

See also, *Allied Tube and Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090–1093 (CIT 2001) (upholding the Department's rebuttable presumption that invoice date is the appropriate date of sale). After examining the questionnaire responses and the sales documentation placed on the record by Feili and New-Tec, we preliminarily determine that invoice date is the most appropriate date of sale for each respondent. We made this determination based on statements on the record that indicate that Feili's and New-Tec's invoices establish the material terms of sale to the extent required by our regulations. See Feili CQR at C–11 and New-Tec CQR at C–12. Nothing on the record rebuts the presumption that invoice date should be the date of sale. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Saccharin From the People's Republic of China*, 67 FR 79049, 79054 (December 27, 2002).

Normal Value Comparisons

To determine whether sales of FMTCs to the United States by Feili and New-Tec were made at less than NV, we compared export price ("EP") to NV, as described in the "Export Price," and "Normal Value" sections of this notice, pursuant to section 771(35) of the Act.

Export Price

Because Feili and New-Tec sold subject merchandise to unaffiliated purchasers in the United States prior to importation into the United States (or to unaffiliated resellers outside the United States with knowledge that the merchandise was destined for the United States) and use of a constructed-export-price methodology is not otherwise indicated, we have used EP in accordance with section 772(a) of the Act.

We calculated EP based on the FOB or delivered price to unaffiliated purchasers for Feili and New-Tec. From this price, we deducted amounts for foreign inland freight, brokerage and handling, and where applicable, air freight, pursuant to section 772(c)(2)(A)

of the Act. See Memorandum to the File from Laurel LaCivita, Senior International Trade Compliance Analyst, through Charles Riggle, Program Manager, AD/CVD Operations, Office 8, "Analysis for the Preliminary Results of the 2004–2005 Administrative Review of Folding Metal Tables and Chairs from the People's Republic of China: Feili Furniture Development Limited Quanzhou City, Feili Furniture Development Co., Ltd., Feili Group (Fujian) Co., Ltd., Feili (Fujian) Co., Ltd. (collectively, 'Feili')" (June 30, 2006) ("Feili Preliminary Analysis Memorandum"); and Memorandum to the File from Matthew Quigley, International Trade Compliance Analyst, through Charles Riggle, Program Manager, AD/CVD Operations, Office 8, "Analysis for the Preliminary Results of the 2004–2005 Administrative Review of Folding Metal Tables and Chairs from the People's Republic of China: New-Tec Integration (Xiamen) Co. Ltd. ('New-Tec')" (June 30, 2006) ("New-Tec Preliminary Analysis Memorandum").

The Department used two sources to calculate a surrogate value for domestic brokerage expenses. The Department averaged December 2003–November 2004 data contained in Essar Steel's February 28, 2005, public version response submitted in the antidumping duty administrative review of hot-rolled carbon steel flat products from India. See *Certain Hot-Rolled Carbon Steel Flat Products From India: Notice of Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 2018 (January 12, 2006). This data was averaged with the February 2004–January 2005 data contained in Agro Dutch Industries Limited's ("Agro Dutch") May 24, 2005, public version response submitted in the administrative review of the antidumping duty order on certain preserved mushrooms from India. See *Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Administrative Review*, 70 FR 37757 (June 30, 2005); and *Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products from the People's Republic of China*, 71 FR 19695, 19704 (April 17, 2006) (utilizing this same data). The brokerage expense data reported by Essar Steel and Agro Dutch in their public versions are ranged data. The Department first derived an average per-unit amount from each source. Then the Department adjusted each average rate for inflation.

Finally, the Department averaged the two per-unit amounts to derive an overall average rate for the POR. See Surrogate Value Memorandum at 8 and Attachment XVI.

To value truck freight, we used the freight rates published by Indian Freight Exchange, available at <http://www.infreight.com>. The truck freight rates are contemporaneous with the POR; therefore, we made no adjustments for inflation. Where applicable, we valued air freight using the rates published in the UPS website: <http://www.ups.com>. We adjusted these rates for inflation using the U.S. Consumer Price Index published by the U.S. Department of Labor, Bureau of Labor Statistics, available on <http://data.bls.gov> because the surrogate values for air freight were derived from U.S. sources. See Surrogate Value Memorandum at 7–8 and Attachment XVII.

Zero-Priced Transactions

During the course of this review, both Feili and New-Tec reported a significant number of zero-priced transactions to their U.S. customers. See Feili's 1st SQR at 9 and Exhibit 13; and New-Tec's 3rd SQR at Exhibit 9. An analysis of the Section C databases provided by each company reveals that both companies made a significant number of zero-priced transactions with customers that had purchased the same merchandise in commercial quantities. See Feili Preliminary Analysis Memorandum at Attachment I; and New-Tec Preliminary Analysis Memorandum at Attachment I. In the final results of the second administrative review of FMTCs, we included New-Tec's zero-priced transactions in the margin calculation stating that the record demonstrated that: (1) New-Tec provided many pieces of the same product, indicating that these "samples" did not primarily serve for evaluation or testing of the merchandise; (2) New-Tec provided significant numbers of the same product to its U.S. customer while that customer was purchasing that same product; (3) New-Tec provided "samples" to the same customers to whom it was selling the same products in commercial quantities; (4) New-Tec acknowledged that it gave these products at zero price to its U.S. customers (already purchasing the same items) to sell to their own customers. See *FMTC Second Review* and accompanying Issues and Decision Memorandum at Comment 4. As a result, we concluded that New-Tec was not providing samples to entice its U.S. customers to buy the product. *Ibid.*

The Federal Circuit has not required the Department to exclude zero-priced or *de minimis* sales from its analysis, but rather, has defined a sale as requiring “both a transfer of ownership to an unrelated party and consideration.” See *NSK Ltd. v. United States*, 115 F.3d 965, 975 (Fed. Cir. 1997). The CIT in *NSK Ltd. v. United States* stated that it saw “little reason in supplying and re-supplying and yet re-supplying the same product to the same customer in order to solicit sales if the supplies are made in reasonably short periods of time,” and that “it would be even less logical to supply a sample to a client that has made a recent bulk purchase of the very item being sampled by the client.” *NSK Ltd. v. United States*, 217 F. Supp. 2d 1291, 1311–1312 (CIT 2002). Furthermore, the Courts have consistently ruled that the burden rests with a respondent to demonstrate that it received no consideration in return for its provision of purported samples. See, e.g., *Zenith Electronics Corp. v. United States*, 988 F. 2d 1573, 1583 (Fed. Cir. 1993) (explaining that the burden of evidentiary production belongs “to the party in possession of the necessary information”). See, also, *Tianjin Machinery Import & Export Corp. v. United States*, 806 F. Supp. 1008, 1015 (CIT 1992) (“The burden of creating an adequate record lies with respondents and not with {the Department}.”) (citation omitted). Moreover, “[e]ven where the Department does not ask a respondent for specific information that would enable it to make an exclusion determination in the respondent’s favor, the respondent has the burden of proof to present the information in the first place with its request for exclusion.” See *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, Singapore, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews*, 70 FR 54711 (September 16, 2005), and accompanying Issues and Decision Memorandum at Comment 8 (citing *NTN Bearing Corp. of America. v. United States*, 997 F. 2d 1453, 1458 (Fed. Cir. 1993)).

An analysis of Feili’s and New-Tec’s Section C computer sales listings reveals that both companies provided zero-priced merchandise to the same customers to whom they were selling or had sold the same products in commercial quantities, with the exception of one of Feili’s customers, who did not make any purchases of subject merchandise during the POR. See Feili Preliminary Analysis Memorandum at Attachment I, Surrogate Value Memorandum, and

New-Tec Preliminary Analysis Memorandum at Attachment I. In addition, Feili stated that it sometimes provided samples to its customers so that those customers could provide samples to their customers in turn. See Feili 3rd SQR at 2. Consequently, based on the facts cited above, the guidance of past CIT decisions, and consistent with the decision in the previous review, from the preliminary results of this review, we have not excluded zero-priced transactions from the margin calculation of this case for either Feili or New-Tec, with the exception of certain sales Feili made to a new customer that did not purchase any subject merchandise during the POR.

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 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 these economies 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).

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 respondents for materials, energy, labor, by-products, and packing.

In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to value the FOPs, but when a producer sources an input from a market-economy country and pays for it in market-economy currency, the Department will normally value the factor using the actual price paid for the input. See 19 CFR 351.408(c)(1); see also, *Lasko Metal Products v. United States*, 43 F.3d 1442, 1445–1446 (Fed. Cir. 1994) (affirming the Department’s use of market-based prices to value certain FOPs). Feili and New-Tec each reported that a significant portion of their purchases of cold-rolled steel, hot-rolled steel, steel wire rod, polypropylene plastic resin, polyurethane foam, powder coating, washers, screws, rivets, fibreboard, polyester fabric, corrugated paper and

cartons were sourced from market-economy countries and paid for in market-economy currencies. See Feili’s DQR at D–7 and New-Tec’s DQR at D–7. Pursuant to 19 CFR 351.408(c)(1), we used the actual price paid by respondents for inputs purchased from a market-economy supplier and paid for in a market-economy currency, except when prices may have been distorted by findings of dumping by the PRC and/or subsidies.

With regard to both the Indian import-based surrogate values and the market-economy input values, we have disregarded prices that we have reason to believe or suspect may be subsidized. We have reason to believe or suspect that prices of inputs from India, Indonesia, South Korea, and Thailand may have been subsidized. We have found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies and, therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized. See *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Notice of Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review*, 70 FR 54007, 54011 (September 13, 2005) (unchanged in the final results); *Automotive Replacement Glass Windshields From the People’s Republic of China: Final Results of Administrative Review*, 69 FR 61790 (October 21, 2004) and accompanying Issues and Decision Memorandum at Comment 5; and *China National Machinery Import & Export Corporation v. United States*, 293 F. Supp. 2d 1334 (CIT 2003), as affirmed by the Federal Circuit, 104 Fed. Appx. 183 (Fed. Cir. 2004). 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. 100–576 at 590 (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 have not used prices from these countries either in calculating the Indian import-based surrogate values or in calculating market-economy input values. In instances where a market-economy input was obtained solely from suppliers located in these countries, we used Indian import-based surrogate values to value the input. See Feili Preliminary Analysis Memorandum and New-Tec Preliminary Analysis Memorandum.

Furthermore, we did not use any market-economy purchases of polyvinyl chloride from Taiwan, on which the

PRC has an outstanding antidumping duty order. *See* World Trade Organization's Committee on Anti-Dumping Practices Semi-Annual Report Under Article 16.4 of the Agreement, G/ADP/N/CHN, for the period 1 July – 31 December 2005, available at www.wto.org. *See* Surrogate Value Memorandum at Attachment XIX.

Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on the FOPs reported by respondents for the POR. To calculate NV, the reported per-unit factor quantities were multiplied by publicly available Indian surrogate values (except as noted below). In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to render them delivered prices. Specifically, we added to Indian import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory where appropriate (*i.e.*, where the sales terms for the market-economy inputs were not delivered to the factory). This adjustment is in accordance with the decision of the Federal Circuit in *Sigma Corp. v. United States*. *Sigma Corp. v. United States*, 117 F. 3d 1401, 1408 (Fed. Cir. 1997). For a detailed description of all surrogate values used for respondents, see the Surrogate Value Memorandum.

Except as noted below, we valued raw material inputs using the weighted-average unit import values derived from the Monthly Statistics of the Foreign Trade of India, as published by the Directorate General of Commercial Intelligence and Statistics of the Ministry of Commerce and Industry, Government of India in the World Trade Atlas, available at <http://www.gtis.com/wta.htm> ("WTA"). The WTA data are reported in rupees and are contemporaneous with the POR. *See also*, Surrogate Value Memorandum at Attachment V. Where necessary, we adjusted the surrogate values to reflect inflation/deflation using the Indian Wholesale Price Index ("WPI") as published on the Reserve Bank of India ("RBI") website, available at www.rbi.org.in. We further adjusted these prices to account for freight costs incurred between the supplier and respondent. We used the freight rates published by Indian Freight Exchange available at <http://www.infreight.com>, to value truck freight. We valued rail freight using the freight rates published by the Indian Railways and available at

http://www.indianrailways.gov.in/railway/freightrates/freight_charges_2003.htm. The truck and rail freight rates are contemporaneous with the POR. Therefore, we made no adjustments for inflation. For a complete description of the factor values we used, see the Surrogate Value Memorandum.

Feili and New-Tec reported they had market-economy purchases representing a meaningful portion of the total purchases of each respective input for cold-rolled steel, hot-rolled steel, steel wire rod, polypropylene plastic resin, polyurethane foam, powder coating, washers, screws, rivets, fibreboard, vinyl sheet, polyester fabric, corrugated paper and cartons. Therefore, we valued these inputs using their respective per-kilogram market-economy purchase prices. *See* New-Tec Preliminary Analysis Memorandum. Where applicable, we also adjusted these values to account for freight costs incurred between the supplier and respondent. *See* Surrogate Value Memorandum, Feili Preliminary Analysis Memorandum, and New-Tec Preliminary Analysis Memorandum.

To value hydrochloric acid used in the production of FMTCs, we used per-kilogram import values obtained from *Chemical Weekly*. We adjusted this value for taxes and to account for freight costs incurred between the supplier and each respondent, respectively. We used per-kilogram import values obtained from the WTA for all other material inputs used in the production of FMTCs.

To value diesel oil and liquid petroleum gas, we used per-kilogram values obtained from Bharat Petroleum published on December 2003 and used in the *FMTC Second Review*. We also made adjustments to account for inflation and freight costs incurred between the supplier and respondents.

To value electricity, we used the 2000 electricity price data from International Energy Agency, Energy Prices and Taxes - Quarterly Statistics (First Quarter 2003), available at <http://www.eia.doe.gov/emeu/international/elecprti.html>, adjusted for inflation.

To value water, we used the Revised Maharashtra Industrial Development Corporation ("MIDC") water rates for June 1, 2003, available at <http://www.midcindia.com/water-supply>, adjusted for inflation.

For direct labor, indirect labor and packing labor, consistent with 19 CFR 351.408(c)(3), we used the PRC regression-based wage rate as reported on Import Administration's home page. *See* Expected Wages of Selected NME Countries (revised November 2005)

(available at <http://ia.ita.doc.gov/wages>). The source of these wage rate data on the Import Administration's web site is the *Yearbook of Labour Statistics 2003*, ILO, (Geneva: 2003), Chapter 5B: Wages in Manufacturing. The years of the reported wage rates range from 1998 to 2003. Because this regression-based wage rate does not separate the labor rates into different skill levels or types of labor, we have applied the same wage rate to all skill levels and types of labor reported by each respondent.

For factory overhead, selling, general, and administrative expenses ("SG&A"), and profit values, we used information from Godrej and Boyce Manufacturing Co. Ltd. for the year ending March 31, 2005. 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.*, cost of manufacture); and the profit rate as a percentage of the cost of manufacture plus SG&A. *See* Surrogate Value Memorandum for a full discussion of the calculation of these ratios.

For packing materials, we used the per-kilogram values obtained from the WTA and made adjustments to account for freight costs incurred between the PRC supplier and respondent.

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.

Preliminary Results of Review

We preliminarily determine that the following weighted-average dumping margins exist:

Manufacturer/Exporter	Margin (Percent)
Feili*	0.35
New-Tec*	0.11
The PRC-wide Entity**	70.71

* *de minimis*

** including Anji Jiu, Xiamen Zehui, and Yixiang

Disclosure

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the publication date 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). Any interested party may request a hearing

within 30 days of publication of this notice. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 42 days after the date of publication of this notice. *See* 19 CFR 351.310(d). Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 35 days after the date of publication. *See* 19 CFR 351.309(d). The Department requests that parties submitting written comments also provide the Department with an additional copy of those comments on diskette. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

The Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department will issue, as appropriate, appraisement instructions directly to CBP within 15 days of publication of these final results of administrative review. In accordance with 19 CFR 351.212(b), we calculated an exporter/importer (or customer)-specific assessment rate for the merchandise subject to this review. Where the respondent has reported reliable entered values, we calculated for all U.S. sales to each importer (or customer)-specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered quantity of the sales to each importer (or customer). Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis*, we will apply the assessment rate to the entered value of the importer's/customer's entries during the review period. Where we do not have entered values for all U.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). 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* rates 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.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) for the above-listed respondents, which have a separate rate, the cash deposit rate will be the company-specific rate established in the final results of review (except, if the rate is zero or *de minimis*, no cash deposit will be required); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 70.71 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) 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 determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 30, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6-10740 Filed 7-7-06; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-832

Continuation of Antidumping Duty Order: Pure Magnesium from the People's Republic of China

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

SUMMARY: As a result of the determinations by the Department of Commerce ("Department") and the International Trade Commission ("Commission") that revocation of this antidumping duty order would be likely to lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"), the Department hereby orders the continuation of the antidumping duty order on pure magnesium from the People's Republic of China ("the PRC"). The Department is publishing notice of the continuation of this antidumping duty order.

EFFECTIVE DATE: July 10, 2006.

FOR FURTHER INFORMATION CONTACT:

Hilary E. Sadler, Esq. or Jim Nunno, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482-4340 or (202) 482-0783, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 1, 2005, the Department initiated and the Commission instituted a sunset review of the antidumping duty order on pure magnesium from the PRC pursuant to section 751(c) of the Act. *See Initiation of Five-Year ("Sunset") Reviews*, 70 FR 52074 (September 1, 2005). As a result of its review, the Department found that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping and notified the Commission of the magnitude of the margins likely to prevail were the order to be revoked. *See Pure Magnesium from the People's Republic of China; Notice of Final Results of Expedited Sunset Review of Antidumping Duty Order*, 71 FR 580 (January 5, 2006).

The Commission determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty order on pure magnesium from the PRC would be likely to lead to continuation