

Underground Outlet (Code 620)—Considerable editing to the standard is being proposed:

(a) To add clarity and readability, every section of the standard has been rewritten. However, the underlying design requirements contained in the "Criteria" section have not been significantly modified from the current version of the standard.

Water and Sediment Control Basin (Code 638)—Considerable editing to the standard is being proposed:

(a) Every section of the standard has been rewritten to add clarity and readability. However, the underlying design requirements contained in the "Criteria" section have not been significantly modified from the current version of the standard.

(b) The "Considerations," "Plans and Specifications," and "Operations and Maintenance" sections have been significantly expanded.

Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 requires NRCS to make available for public review and comment all proposed revisions to conservation practice standards used to carry out the highly erodible land and wetland provisions of the law. For the next 30 days, NRCS will receive comments relative to the proposed changes. Following that period, a determination will be made by NRCS regarding disposition of those comments, and a final determination of changes will be made.

Signed in Washington, DC, on July 2, 2008.

**Arlen L. Lancaster,**  
Chief, Natural Resources Conservation Service.

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## DEPARTMENT OF AGRICULTURE

### Rural Utilities Service

#### Brazos Electric Power Cooperative, Inc.: Notice of Availability of an Environmental Assessment

**AGENCY:** Rural Utilities Service, USDA.

**ACTION:** Notice of Availability of an Environmental Assessment.

**SUMMARY:** Notice is hereby given that the Rural Utilities Service, an agency delivering the United States Department of Agriculture (USDA) Rural Development Utilities Programs, hereinafter referred to as Rural Development and/or the Agency, is issuing an Environmental Assessment (EA) in connection with possible impacts related to the construction and

operation of a second 500 megawatt combined-cycle combustion turbine generation unit at Brazos Electric Power Cooperative's (Brazos) existing Jack County Plant Site, as proposed by Brazos, of Waco, Texas.

**DATES:** Written questions and comments on this notice must be received on or before July 14, 2008.

**ADDRESSES:** To obtain copies of the EA, or for further information, contact: Dennis E. Rankin, Environmental Protection Specialist, USDA Rural Development Utilities Programs, Engineering and Environmental Staff, Stop 1571, 1400 Independence Avenue, SW., Washington, DC 20250-1571, or e-mail: [drankin@wdc.usda.gov](mailto:drankin@wdc.usda.gov); Rob Reid, Project Director, PBS&J, 206 Wild Basin Road, Suite 300, Austin, Texas 78746-8342, telephone: (512) 329-8342 or e-mail: [rreid@pbsj.com](mailto:rreid@pbsj.com); or David McDaniel, Brazos, 2404 LaSalle Avenue, Waco, Texas 76702-2585, telephone: (254) 750-6324 or e-mail: [dmcdaniel@brazoselectric.com](mailto:dmcdaniel@brazoselectric.com). The EA can be reviewed online at the Agency's Web site: <http://www.usda.gov/rus/water/ees/ea/htm> and at the following locations:

USDA, Rural Development Utilities Programs, 1400 Independence Avenue, Room 2244, Washington, DC 20250;

Brazos Electric Power Cooperative, 2404 La Salle Avenue, Waco, TX 76702;

Wise Electric Cooperative, Corner of Hale & Cowan Streets, Decatur, TX 76234;

Gladys Johnson Ritchie Public Library, 620 West College Street, Jacksboro, TX 76458;

Bridgeport Public Library, 2159 Tenth Street, Bridgeport TX 76426.

**SUPPLEMENTARY INFORMATION:** Brazos is proposing to construct a second 500 MW gas-fired combined-cycle electric generation unit at its existing Jack County Plant Site on Henderson Ranch Road near the Joplin Community in Jack County, Texas. The project will consist of two combustion turbines and heat recovery steam generators and one steam turbine with a water-cooled steam surface condenser.

PBS&J, an environmental consultant, prepared an EA for Rural Development that describes the project and assesses the proposed plant's environmental impacts. The Agency has conducted an independent evaluation of the EA and believes that it accurately assesses the impacts of the proposed project. No significant impacts are expected as a result of the construction of the project. The EA is available for public review at addresses provided above in the Notice.

Any final action by Rural Development related to the proposed project will be subject to, and contingent upon, compliance with all relevant Federal environmental laws and regulations and completion of environmental review procedures as prescribed by the 7 CFR part 1794, Environmental Policies and Procedures.

Dated: July 8, 2008.

**Mark S. Plank,**

Director, Engineering and Environmental Staff, USDA/Rural Development Utilities Programs.

[FR Doc. E8-15915 Filed 7-11-08; 8:45 am]

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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 and Intent to Revoke in Part

**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, 2006, through May 31, 2007. We have preliminarily determined that Feili Furniture Development Limited Quanzhou City, Feili Furniture Development Co., Ltd., Feili Group (Fujian) Co., Ltd., and Feili (Fujian) Co., Ltd. (collectively "Feili") and Dongguan Shichang Metals Factory Co., Ltd. ("Shichang"), did not make sales below normal value ("NV") during the period of review ("POR"). 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.

We invite interested parties 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 14, 2008.

**FOR FURTHER INFORMATION CONTACT:** Lilit Astvatsatryan or Charles Riggle, 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) 482-6412 and (202)482-0650, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

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, 2007, 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*, 72 FR 30542 (June 1, 2007). In accordance with 19 CFR 351.213(b)(1), interested parties made the following requests for review: (1) on June 2, 2007, Feili, a producer/exporter of subject merchandise, requested that the Department conduct an administrative review of its sales;<sup>1</sup> (2) on June 25, 2007, Mecor Corporation ("Mecor"), a domestic producer of the like product, and Cosco Home & Office Products ("Cosco"), a U.S. importer of subject merchandise, each requested that the Department conduct administrative reviews of Feili and New-Tec Integration (Xiamen) Co. Ltd. ("New-Tec");<sup>2</sup> (3) on July 2, 2007,<sup>3</sup> New-Tec and Shichang, producers/exporters of subject merchandise, requested that the Department conduct an administrative review of their respective sales.<sup>4</sup>

On July 26, 2007, the Department published the initiation of the administrative review of the antidumping duty order on FMTCs from the PRC. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 72 FR 41057 (July 26, 2007).

The Department issued antidumping duty questionnaires to Shichang, Feili, and New-Tec on August 7, 2007. On September 4, 2007, Feili, Shichang, and New-Tec submitted a Section A

questionnaire response ("AQR"), and on September 27, 2007, Shichang, Feili, and New-Tec submitted Section C and D questionnaire responses ("CQR" and "DQR," respectively). On November 27, 2007, the Department issued supplemental questionnaires to New-Tec and Feili. On December 18, 2007, New-Tec and Feili submitted supplemental questionnaire responses. On December 28, 2007, the Department issued a supplemental questionnaire to Shichang. On January 25, 2008, Shichang submitted a supplemental questionnaire response. On February 21, 2008, the Department requested the Office of Policy to provide a list of surrogate countries for this review. *See Memorandum to Ron Lorentzen, Director, Office of Policy, "Certain Folding Metal Tables and Chairs from the People's Republic of China: Request for Surrogate Country Selection"* (February 21, 2008). On February 21, 2008, the Office of Policy issued its list of surrogate countries. *See Memorandum from Carole Showers, Acting Director, Office of Policy, "Administrative Review of Certain Folding Metal Tables and Chairs ("Tables and Chairs") from the People's Republic of China (PRC): Request for a List of Surrogate Countries"* (February 21, 2008) ("Surrogate Country Memorandum").

On February 25, 2008, the Department requested interested parties to submit surrogate value information and to provide surrogate country selection comments. On March 4, 2008, the Department published a notice in the **Federal Register** extending the time limit for the preliminary results of review until no later than May 30, 2008. *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*, 73 FR 11615 (March 4, 2008). Mecor provided comments on publicly available information to value the factors of production ("FOP") on March 10, 2008. None of the interested parties provided comments on the selection of a surrogate country. On March 17, 2008, Feili provided rebuttal comments on Mecor's March 10, 2008, surrogate value submission. On May 12, 2008, Mecor provided comments about applying surrogate values to Feili's and New-Tec's factor of cold-rolled steel.

On May 29, 2007, the Department published a notice in the **Federal Register** extending the time limit for the preliminary results of review until no later than June 30, 2008. *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*, 73 FR 30881 (May 29, 2008). On May 30, 2008, New-Tec provided rebuttal comments on Mecor's May 12, 2008, comments about applying surrogate values to New-Tec's factor of cold-rolled steel.

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 FOPs within 20 days after the date of publication of these preliminary results of review.

##### Verification of Responses

As provided in section 782(i) of the Act, we intend to verify the information from Feili upon which we will rely in making our final results, including information relevant to revocation.

##### Period of Review

The POR is June 1, 2006, through May 31, 2007.

##### 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.

<sup>1</sup> Feili's request for administrative review included a request for revocation.

<sup>2</sup> Although Cosco requested revocation on behalf of Feili and New-Tec, 19 CFR 351.222(e) only permits an exporter or a producer to request revocation. Thus, Cosco cannot request revocation because it is not an exporter or a producer.

<sup>3</sup> Because June 30, 2007, fell on a Saturday, the deadline for requesting a review was July 2, 2007, the next business day.

<sup>4</sup> New-Tec's request for administrative review included a request for revocation; however, based on the final results of the previous administrative review, New-Tec is not eligible for revocation. *See "Intent to Revoke" section, below.*

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, 9403.20.0015, 9403.20.0030, 9403.70.8010, 9403.70.8020, and 9403.70.8030 of the Harmonized Tariff Schedule of the United States ("HTSUS").<sup>5</sup> Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the scope of the order is dispositive.

Based on a request by RPA International Pty., Ltd. and RPS, LLC, the Department ruled on January 13, 2003, that poly-fold metal folding chairs are within the scope of the order.

On May 5, 2003, in response to a request by Staples, the Office Superstore Inc. ("Staples"), the Department issued a scope ruling that the chair component of Staples' "Complete Office-To-Go," a folding chair with a tubular steel frame and a seat and back of plastic, with

measurements of: height: 32.5 inches; width: 18.5 inches; and depth: 21.5 inches, is covered by the scope of the order.

On September 7, 2004, the Department found that table styles 4600 and 4606 produced by Lifetime Plastic Products Ltd. are within the scope of the order.

On July 13, 2005, the Department issued a scope ruling determining that "butterfly" chairs are excluded from the scope of the antidumping duty order. Butterfly chairs are described as consisting of a collapsible metal rod frame and a cover, such that when the chair frame is spread open, the pockets of the cover are slipped over the upper ends of the frame and the cover provides both the seating surface and back of the chair. The frame consists of eight s-shaped pieces (with the ends offset at almost a 90-degree angle) made from metal rods that are connected by hinges. In order to collapse the frame, the chair cover must be removed. The frame is collapsed by moving the four legs inward until they meet in the center, similar to the folding mechanism of a pocket umbrella.

On July 13, 2005, the Department issued a scope ruling determining that folding metal chairs, with wooden seats that have been padded with foam and covered with fabric or polyvinyl chloride and attached to the tubular steel seat frame with screws, are within the scope of the antidumping duty order.

On May 1, 2006, the Department issued a scope ruling determining that "moon chairs" are not included within the scope of the antidumping duty order. Moon chairs are described as containing circular, fabric-padded, concave cushions that envelop the user at approximately a 105-degree reclining angle. The fabric cushion is ringed and supported by two curved 16-mm steel tubes. The cushion is attached to this ring by nylon fabric. The cushion is supported by a 16-mm steel tube four-sided rectangular cross-brace mechanism that constitutes the moon chair's legs. This mechanism supports and attaches to the encircling tubing and enables the moon chair to be folded. To fold the chair, the user pulls on a fabric handle in the center of the seat cushion of the chair.

On October 4, 2007, the Department determined that International E-Z Up Inc.'s Instant Work Bench is not within the scope of the antidumping duty order from the PRC because E-Z Up's Instant Work Bench's legs and weight do not match the description of folding metal tables in the scope of the order or in the ITC's final report.

On April 18, 2008, the Department issued a scope ruling determining that Ignite USA LLC's Vika Twofold 2-in-1 workbench/scaffold is not within the scope of the antidumping duty order because the rotating leg mechanism differs from folding metal tables that are subject to the order, and its weight is almost twice as much as the expected maximum weight for folding metal tables.

#### Non-Market Economy Country Status

No party contested the Department's treatment of the PRC as a non-market economy ("NME") country, 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., Certain Cased Pencils from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 72 FR 27074, 27075 (May 14, 2007). 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. *See* Memorandum to Wendy Frankel, Director, Office 8, AD/CVD Operations, "Preliminary Results of the 2006-2007 Administrative Review of Folding Metal Tables and Chairs from the People's Republic of China: Surrogate Value Memorandum" (June 30, 2008) ("Surrogate Value Memorandum").

The Department determined that India, Indonesia, the Philippines, Colombia, and Thailand are countries comparable to the PRC in terms of economic development. *See* Surrogate Country Memorandum. Once we have identified the countries that are economically comparable to the PRC, we select an appropriate surrogate country by determining whether an economically comparable country is a

<sup>5</sup>Originally the scope included HTSUS number 9403.20.0010 but, effective July 1, 2003, HTSUS number 9403.20.0010 (metal household furniture) was eliminated from the HTS code. HTSUS numbers 9403.20.0011 (ironing boards) and 9403.20.0015 (other) were added in its place. HTSUS number 9403.20.0015 contains merchandise in HTSUS number 9403.20.0010 except for ironing boards.

significant producer of comparable merchandise and whether the data for valuing FOPs is both available and reliable.

The Department has determined that India is the appropriate surrogate country for use in this review. The Department based its decision on the following facts: (1) India is at a level of economic development comparable to that of the PRC; (2) India is a significant producer of comparable merchandise; and (3) India provides the best opportunity to use quality, publicly available data to value the FOPs. On the record of this review, we have usable surrogate financial data from India, but no such surrogate financial data from any other potential surrogate country. Additionally, the data submitted by both parties for our consideration as potential surrogate values are sourced from India.

Therefore, because India best represents the experience of producers of comparable merchandise operating in a surrogate country, we have selected India as the surrogate country and, accordingly, have calculated NV using Indian prices to value the respondents' FOPs, when available and appropriate. See Surrogate Value Memorandum. We have obtained and relied upon publicly available information wherever possible.

#### Separate Rates

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assessed a single antidumping duty rate. It is the Department's policy to assign all exporters of merchandise subject to review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. Exporters can demonstrate this independence through the absence of both *de jure* and *de facto* government control over export activities. The Department analyzes each entity exporting the subject merchandise under a test arising from the *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("*Sparklers*"), as further developed in *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585, 22587 (May 2, 1994) ("*Silicon Carbide*"). However, if the Department determines that a company is wholly foreign-owned or located in a market economy, then a separate-rate analysis

is not necessary to determine whether it is independent from government control.

#### 1. Wholly Foreign-Owned

Feili and Shichang reported that they are wholly owned by market-economy entities. Therefore, consistent with the Department's practice, a separate-rates analysis is not necessary to determine whether Feili's and Shichang's export activities are independent from government control, and we have preliminarily granted a separate rate to Feili and Shicheng.

#### 2. Located in a Market Economy with No PRC Ownership

No companies in this administrative review are located outside the PRC. Therefore, we are not addressing this ownership structure in these preliminary results of review.

#### 3. Joint Ventures Between Chinese and Foreign Companies or Wholly Chinese-Owned Companies

New-Tec stated that is a joint venture between Chinese and foreign companies. Therefore, the Department must analyze whether New-Tec can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

#### 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; and (3) other formal measures by the government decentralizing control of companies.<sup>6</sup>

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 PRC ("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, lacking record evidence to the contrary.<sup>7</sup> 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

Typically the Department considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.<sup>8</sup> The Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude the Department from assigning separate rates.

With regard to *de facto* control, New-Tec reported that: (1) it independently set prices for sales 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 did 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 appoints 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 of 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

<sup>6</sup> See *Sparklers*, 56 FR at 20589.

<sup>7</sup> 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).

<sup>8</sup> See *Silicon Carbide*, 59 FR at 22587; 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).

with respect to New-Tec's export functions and that New-Tec has met the criteria for the application of a separate rate.

The evidence placed on the record of this review by New-Tec demonstrates an absence of *de jure* and *de facto* government control with respect to its exports of subject merchandise, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. Accordingly, we have preliminarily granted a separate rate to New-Tec.

#### Date of Sale

19 CFR 351.401(i) 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 ordinary 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, 1090–1092 (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, Shichang, 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, Shichang's, and New-Tec's invoices establish the material terms of sale to the extent required by our regulations.<sup>9</sup> Nothing on the record rebuts the presumption that invoice date should be the date of sale.

#### Normal Value Comparisons

To determine whether sales of FMTCs to the United States by Feili, Shichang, 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, Shichang, 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 free-on-board or delivered price to unaffiliated purchasers for Feili, Shichang, and New-Tec. From this price, we deducted amounts for foreign inland freight, international movement expenses, air freight, brokerage and handling, and billing adjustments, as applicable, pursuant to section 772(c)(2)(A) of the Act.<sup>10</sup>

We used three sources to calculate a surrogate value for domestic brokerage expenses. The Department averaged July 2004–June 2005 data contained in the January 9, 2006, public version of Kejriwal Paper Ltd.'s ("Kejriwal") response submitted in the antidumping duty investigation of lined paper products from India,<sup>11</sup> the February 2004–January 2005 data contained in the May 24, 2005, public version of Agro Dutch Industries Limited's ("Agro Dutch") response submitted in the administrative review of the antidumping duty order on certain preserved mushrooms from India,<sup>12</sup> and December 2003–November 2004 data contained in the February 28, 2005,

<sup>10</sup> See Memorandum regarding "Analysis for the Preliminary Results of the 2006–2007 Administrative Review of Folding Metal Tables and Chairs from the People's Republic of China: Dongguan Shichang Metals Factory Co., Ltd. ('Shichang') (June 30, 2008) ('Shichang Preliminary Analysis Memorandum'); Memorandum regarding "Analysis for the Preliminary Results of the 2006–2007 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, 2008) ('New-Tec Preliminary Analysis Memorandum'); and Memorandum regarding "Analysis for the Preliminary Results of the 2006–2007 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, 2008) ('Feili Preliminary Analysis Memorandum').

<sup>11</sup> See *Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances in Part: Certain Lined Paper Products from India*, 71 FR 19706 (April 17, 2006) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India*, 71 FR 45012 (August 8, 2006)).

<sup>12</sup> See *Certain Preserved Mushrooms From India: Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 10597, 10599 (March 4, 2005) (unchanged in *Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Administrative Review*, 70 FR 37757 (June 30, 2005)).

public version of Essar Steel's ("Essar") response submitted in the antidumping duty administrative review of hot-rolled carbon steel flat products from India.<sup>13</sup> The brokerage expense data reported by Kejriwal, Essar, 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 three per-unit amounts to derive an overall average rate for the POR. See *Surrogate Value Memorandum*.

To value truck freight, we used the freight rates published by Indian Freight Exchange, available at <http://www.infreight.com>. Where applicable, we valued air freight using the rates published on the UPS website: <http://www.ups.com>. The truck and air-freight rates are not contemporaneous with the POR; therefore, we made adjustments for inflation. See *Surrogate Value Memorandum*.

#### Zero-Priced Transactions

In the final results of the 2003–2004, 2004–2005, and the 2005–2006 administrative reviews of FMTCs, we included Feili and/or New-Tec's zero-priced transactions in the margin calculation because the record demonstrated that Feili and New-Tec provided many pieces of the same product, indicating that these "samples" did not primarily serve for evaluation or testing of the merchandise; and Feili and New-Tec provided "samples" to the same customers to whom it was selling the same products in commercial quantities.<sup>14</sup> As a result, we concluded that these transactions were not what we consider to be samples because Feili and New-Tec were not providing product to entice its U.S. customers to buy the product.

<sup>13</sup> See *Certain Hot-Rolled Carbon Steel Flat Products From India: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 2018, 2021 (January 12, 2006) (unchanged in *Certain Hot-Rolled Carbon Steel Flat Products From India: Final Results of Antidumping Duty Administrative Review*, 71 FR 40694 (July 18, 2006)).

<sup>14</sup> See *Folding Metal Tables and Chairs from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 71 FR 2905 (January 18, 2006), and accompanying Issues and Decision Memorandum at Comment 4; *Folding Metal Tables and Chairs from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 71 FR 71509 (December 11, 2006), and accompanying Issues and Decision Memorandum at Comment 4; and *Folding Metal Tables and Chairs from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 72 FR 71355 (December 17, 2007), and accompanying Issues and Decision Memorandum at Comments 10 and 11.

<sup>9</sup> See Feili's CQR at C-10; Shichang's CQR at 11; and New Tec's CQR at 11.

The U.S. Court of Appeals for the Federal Circuit ("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."<sup>15</sup> The Court of International Trade ("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."<sup>16</sup> 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.<sup>17</sup> Moreover, even where the Department does not ask a respondent for specific information to demonstrate that a transaction is a sample, the respondent has the burden of presenting the information in the first place to demonstrate that its transactions qualify for exclusion.<sup>18</sup>

An analysis of Feili's, New-Tec's and Shichang's Section C computer sales listings reveals that all companies provided zero-priced merchandise to the same customers to whom they were selling, or had sold, the same products in commercial quantities. Consequently, based on the facts cited above, the guidance of past court decisions, and our previous decisions, for the preliminary results of this review, we have not excluded these transactions from the margin calculation for either Feili, New-Tec or Shichang.

### 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 bases NV on FOPs 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 FOPs 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. In accordance with 19 CFR 351.408(c)(1), the Department normally uses publicly available information to value the FOPs. However, when a producer sources a meaningful amount of 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). Further, the Department disregards prices it has reason to suspect may be dumped or subsidized. See, e.g., *China National Machinery Import & Export Corp. v. United States*, 293 F. Supp. 2d 1334, 1339 (CIT 2003) (aff'd, 104 Fed. Appx. 183 (Fed. Cir. 2004)).

We have reason to believe or suspect that prices of inputs from Indonesia, South Korea, and Thailand may have been subsidized. We have found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies and, therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized.<sup>19</sup> The legislative history explains that we need not conduct a formal investigation to ensure that such prices are not subsidized.<sup>20</sup> Rather, Congress indicated that the Department should base its decision on information that is available to it at the time it makes its determination. Therefore, we have not used prices from these countries in calculating the Indian import-based

surrogate values. In instances where respondents source a market economy input solely from suppliers located in these countries, we used Indian import-based surrogate values to value the input. In addition, we excluded Indian import data from NME countries and unidentified countries from our surrogate value calculations.<sup>21</sup>

### 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, we multiplied the reported per-unit factor quantities 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*, 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. Where we could not obtain publicly available information contemporaneous with the POR with which to value FOPs, we adjusted the surrogate values using, where appropriate, the Indian Wholesale Price Index as published in the *International Financial Statistics* of the International Monetary Fund. We used the U.S. Consumer Price Index as published in the Bureau of Labor Statistics, to adjust the air freight and air fuel surcharge values as published in AFMS Transportation Management

<sup>15</sup> See *NSK Ltd. v. United States*, 115 F.3d 965, 975 (Fed. Cir. 1997).

<sup>16</sup> *NSK Ltd. v. United States*, 217 F. Supp. 2d 1291, 1311-1312 (CIT 2002).

<sup>17</sup> 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).

<sup>18</sup> See *NTN Bearing Corp. of America v. United States*, 997 F.2d 1453, 1458 (Fed. Cir. 1993).

<sup>19</sup> See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 69 FR 20594 (April 16, 2004), and accompanying Issues and Decision Memorandum at Comment 7.

<sup>20</sup> See *Omnibus Trade and Competitiveness Act of 1988, Conference Report to Accompanying H.R. 3, H.R. Rep. 100-576 at 590-91 (1988).*

<sup>21</sup> For a detailed description of all surrogate values used for each respondent, see Surrogate Value Memorandum.

Group. *See* Surrogate Value Memorandum.

We further adjusted material input values 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, for the period June 1, 2005, to October 31, 2005, and made an adjustment for inflation.

Pursuant to 19 CFR 351.408(c)(1), when a respondent sources inputs from a market-economy supplier in meaningful quantities (*i.e.*, not insignificant quantities), we use the actual price paid by respondents for those inputs, except when prices may have been distorted by findings of dumping by the PRC and/or subsidies.<sup>22</sup> Feili, New-Tec and Shichang each made significant raw materials purchases from market-economy suppliers. Therefore, in accordance with our practice outlined in *Antidumping Methodologies: Market Economy Inputs*,<sup>23</sup> we used the actual purchases of these inputs to value these inputs.<sup>24</sup> Where the quantity of the input purchased from market-economy suppliers is insignificant, the Department will not rely on the price paid by an NME producer to a market-economy supplier because it cannot have confidence that a company could fulfill all its needs at that price. In instances where the quantity purchased was insignificant but meaningful, we determined the surrogate value as the weighted-average value of the market-economy input price and the Indian import value of the input. When the market-economy purchases of a given input were not meaningful, we disregarded the market-economy input price and based the surrogate value on the Indian import value. For a complete description of the factor values we used, *see* Surrogate Value Memorandum, Feili Preliminary Analysis Memorandum, Shichang Preliminary Analysis Memorandum, and New-Tec Preliminary Analysis Memorandum.

To value diesel oil and liquid petroleum gas, we used per-kilogram values obtained from Bharat Petroleum, published February 22, 2007. We made

adjustments to account for inflation and freight costs incurred between the supplier and respondents. *See* Surrogate Value Memorandum.

To value electricity, we used the fourth quarter of 2002 electricity price data from International Energy Agency, Key World Energy Statistics, adjusted for inflation. *See* Surrogate Value Memorandum.

To value water, we used the Revised Maharashtra Industrial Development Corporation water rates for June 1, 2003, available at <http://www.midcindia.com/water-supply>, adjusted for inflation. *See* Surrogate Value Memorandum.

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 the Import Administration's home page. *See* Expected Wages of Selected NME Countries (finalized May 2008) (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 2004. 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. *See* Surrogate Value Memorandum.

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, 2007.<sup>25</sup> 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. We did not use the surrogate financial statements of Tube Investments of India Limited because it is not a producer of comparable merchandise.<sup>26</sup> Additionally, we did not use the surrogate financial statements of Infiniti Modules Pvt. Ltd. for the year ending March 31, 2006, because they are not contemporaneous with the POR and are missing the profit and loss statement, thus affecting the

Department's ability to analyze the company's income and expenses for purposes of surrogate financial ratio calculations.<sup>27</sup> Finally, we disregarded the surrogate financial statements of Infiniti Modules Pvt. Ltd. for the year ending March 31, 2005, and Godrej and Boyce Manufacturing Co. Ltd. for the year ending March 31, 2006, because they are not contemporaneous with the POR.<sup>28</sup>

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. *See* Surrogate Value Memorandum.

### 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. However, where we calculated SV based on the weighted-average value of market-economy purchases and surrogate values, we made currency conversions using the average exchange rate for the POR.

### Intent to Revoke in Part

On June 2, 2007, and July 2, 2007, respectively, Feili and New-Tec requested that, pursuant to 19 CFR 351.222(b)(2), the Department revoke the antidumping duty order, in part, based on their three consecutive years of sales at not less than NV. Feili and New-Tec submitted, along with their revocation requests, a certification stating that: 1) each company sold subject merchandise at not less than NV during the POR, and that in the future each company would not sell such merchandise at less than NV (*see* 19 CFR 351.222(e)(1)(i); 2) each company has sold the subject merchandise to the United States in commercial quantities during each of the past three years (*see* 19 CFR 351.222(e)(1)(ii); and 3) each company agreed to its immediate reinstatement in the order, as long as any exporter or producer is subject to the order, if the Department concludes that the company, subsequent to the revocation, sold the subject merchandise at less than NV. *See* 19 CFR 351.222(b)(2)(iii), and as referenced at 19 CFR 351.222(e)(1)(iii).

Based on the preliminary results in this review and the final results of the two preceding reviews (*see Folding*

<sup>22</sup> *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27366 (May 19, 1997).

<sup>23</sup> *See Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments*, 71 FR 61716, 61717-19 (October 19, 2006) ("Antidumping Methodologies: Market Economy Inputs").

<sup>24</sup> For a detailed description of all actual values used for market-economy inputs, *see* the company-specific analysis memoranda dated concurrently with this notice.

<sup>25</sup> *See* Mecos's May 12, 2008, Surrogate Value Comments at Exhibit 7D.

<sup>26</sup> *See* Mecos's May 12, 2008, Surrogate Value Comments at Exhibit 7E; and Feili's March 17, 2008, Surrogate Value Rebuttal Comments at Exhibit 1.

<sup>27</sup> *See* Mecos's May 12, 2008 Surrogate Value Comments at Exhibit 7B; and Feili's March 17, 2008, Surrogate Value Rebuttal Comments at Exhibit 2.

<sup>28</sup> *See* Mecos's May 12, 2008, Surrogate Value Comments at Exhibits 7A and 7C.

*Metal Tables and Chairs from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 71 FR 2905 (January 18, 2006), and *Folding Metal Tables and Chairs from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 71 FR 71509 (December 11, 2006), we have preliminarily determined that Feili has demonstrated three consecutive years of sales at not less than NV. Furthermore, Feili claims that its aggregate sales to the United States have been made in commercial quantities during the last three segments of this proceeding. We intend to pursue this issue after these preliminary results. We have preliminarily determined that New-Tec has not demonstrated three consecutive years of sales at not less than NV because New-Tec's margin was above *de minimis* in the final results of the prior administrative review, covering the year immediately preceding the current POR. *See Folding Metal Tables and Chairs from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 71 FR 71509 (December 11, 2006). Accordingly, we have determined that New-Tec is not eligible for revocation in this review. In addition, the preliminary results for New-Tec indicate that its calculated margin in this review is also above *de minimis*.

Interested parties are invited to comment in their case briefs on all of the requirements that must be met by Feili and New Tec under 19 CFR 351.222 to qualify for revocation from the antidumping duty order. Based on the above facts and absent any evidence to the contrary, the Department preliminarily determines that the continued application of the order to Feili is not otherwise necessary to offset dumping. Therefore, if these preliminary findings are affirmed in our final results, we intend to revoke the order with respect to merchandise exported by Feili. In accordance with 19 CFR 351.222(f)(3), we will terminate the suspension of liquidation for any such merchandise entered, or withdrawn from warehouse, for consumption on or after June 1, 2007, and will instruct CBP to refund any cash deposit.

#### Preliminary Results of Review

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

| Manufacturer/Exporter | Margin (Percent) |
|-----------------------|------------------|
| New-Tec .....         | 0.64             |
| Feili .....           | 0.08*            |

| Manufacturer/Exporter | Margin (Percent) |
|-----------------------|------------------|
| Shichang .....        | 0.01*            |
| * <i>de minimis</i>   |                  |

#### 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 seven days of the release of the final verification report issued in this review. *See* 19 CFR 351.309(c). Interested parties may file rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, no later than five days after the date on which the case briefs are due. *See* 19 CFR 351.309(d). Any interested party may request a hearing within 30 days of publication of this notice. *See* 19 CFR 351.310(c). We will hold a hearing, if requested, two days after the deadline for submission of the rebuttal briefs. *See* 19 CFR 351.310(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.

#### Deadline for Submission of Publicly Available Surrogate Value Information

In accordance with 19 CFR 351.301(c)(3), the deadline for submission of publicly available information to value FOPs under 19 CFR 351.408(c) is 20 days after the date of publication of the preliminary results. In accordance with 19 CFR 351.301(c)(1), if an interested party submits factual information less than ten days before, on, or after (if the Department has extended the deadline), the applicable deadline for submission of such factual information, an interested party has ten days to submit factual information to rebut, clarify, or correct the factual information no later than ten days after such factual information is served on the interested party. However, pursuant to 19 CFR 351.301(c)(1), the Department generally will not accept in the rebuttal submission additional, alternative surrogate value information not previously on the record, if the deadline for submission of surrogate value

information has passed. *See Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part*, 72 FR 58809 (October 17, 2007), and accompanying Issues and Decision Memorandum at Comment 2. Furthermore, the Department generally will not accept business proprietary information in either the surrogate value submissions or the rebuttals thereto, as the regulation regarding the submission of surrogate values allows only for the submission of publicly available information.

#### Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. If these preliminary results are adopted in our final results of review, we will direct CBP to assess the resulting rate against the entered customs value for the subject merchandise on each importer's/customer's entries during the POR, as appropriate.

#### 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 that have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

## Notification to Importers

This notice 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, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E8-15949 Filed 7-11-08; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-896]

### Magnesium Metal from the People's Republic of China: Final 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 magnesium metal from the People's Republic of China ("PRC") covering the period April 1, 2006, through March 30, 2007. On March 6, 2008, we published our preliminary results. *See Magnesium Metal From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 73 FR 12122 ("Preliminary Results"). We invited interested parties to comment on these preliminary results. Based on our analysis of the comments received, we have made changes to our margin calculations. Therefore, the final results differ from the preliminary results.

**EFFECTIVE DATE:** July 14, 2008.

**FOR FURTHER INFORMATION CONTACT:** Karine Gziryan, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4081.

**SUPPLEMENTARY INFORMATION:**

## Background

On March 6, 2008, the Department published its *Preliminary Results*. The mandatory respondent in this case is Tianjin Magnesium International Co., Ltd., ("TMI"). TMI and the petitioner<sup>1</sup> submitted case briefs on April 7, 2008, and rebuttal briefs on April 14, 2008. In addition, the petitioner and TMI submitted requests for a hearing on April 7, 2008. The hearing was held on May 6, 2008. The Department has conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended ("the Act").

## Period of Review

The period of review ("POR") for this administrative review is April 1, 2006, through March 31, 2007.

## Scope of the Order

The product covered by this antidumping duty order is magnesium metal, which includes primary and secondary alloy magnesium metal, regardless of chemistry, raw material source, form, shape, or size. Magnesium is a metal or alloy containing by weight primarily the element magnesium. Primary magnesium is produced by decomposing raw materials into magnesium metal. Secondary magnesium is produced by recycling magnesium-based scrap into magnesium metal. The magnesium covered by this antidumping duty order includes blends of primary and secondary magnesium.

The subject merchandise includes the following alloy magnesium metal products made from primary and/or secondary magnesium including, without limitation, magnesium cast into ingots, slabs, rounds, billets, and other shapes, magnesium ground, chipped, crushed, or machined into raspings, granules, turnings, chips, powder, briquettes, and other shapes: products that contain 50 percent or greater, but less than 99.8 percent, magnesium, by weight, and that have been entered into the United States as conforming to an "ASTM Specification for Magnesium Alloy"<sup>2</sup> and thus are outside the scope of the existing antidumping orders on magnesium from the PRC (generally referred to as "alloy" magnesium).

The scope of the antidumping duty order excludes the following merchandise: (1) all forms of pure magnesium, including chemical

combinations of magnesium and other material(s) in which the pure magnesium content is 50 percent or greater, but less than 99.8 percent, by weight, that do not conform to an "ASTM Specification for Magnesium Alloy"<sup>3</sup> (2) magnesium that is in liquid or molten form; and (3) mixtures containing 90 percent or less magnesium in granular or powder form, by weight, and one or more of certain non-magnesium granular materials to make magnesium-based reagent mixtures, including lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon, slag coagulants, fluorspar, nepheline syenite, feldspar, alumina (Al<sub>2</sub>O<sub>3</sub>), calcium aluminate, soda ash, hydrocarbons, graphite, coke, silicon, rare earth metals/mischmetal, cryolite, silica/fly ash, magnesium oxide, periclase, ferroalloys, dolomite lime, and colemanite.<sup>4</sup>

The merchandise subject to this antidumping duty order is currently classifiable under items 8104.19.00 and 8104.30.00 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS items are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

## Separate Rates

In proceedings involving non-market economy ("NME") countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to review in an NME country this single

<sup>3</sup> This material is already covered by existing antidumping orders. *See Antidumping Duty Orders: Pure Magnesium from the People's Republic of China, the Russian Federation and Ukraine; Amended Final Determination of Sales at Less Than Fair Value: Antidumping Duty Investigation of Pure Magnesium from the Russian Federation*, 60 FR 25691 (May 12, 1995), and *Antidumping Duty Order: Pure Magnesium in Granular Form from the People's Republic of China*, 66 FR 57936 (November 19, 2001).

<sup>4</sup> This third exclusion for magnesium-based reagent mixtures is based on the exclusion for reagent mixtures in the 2000-2001 investigations of magnesium from the PRC, Israel, and Russia. *See Final Determination of Sales at Less Than Fair Value: Pure Magnesium in Granular Form from the People's Republic of China*, 66 FR 49345 (September 27, 2001); *Final Determination of Sales at Less Than Fair Value: Pure Magnesium From Israel*, 66 FR 49349 (September 27, 2001); *Final Determination of Sales at Not Less Than Fair Value: Pure Magnesium From the Russian Federation*, 66 FR 49347 (September 27, 2001). These mixtures are not magnesium alloys because they are not chemically combined in liquid form and cast into the same ingot.

<sup>1</sup> The petitioner is U.S. Magnesium LLC.

<sup>2</sup> The meaning of this term is the same as that used by the American Society for Testing and Materials in its *Annual Book of ASTM Standards: Volume 01.02 Aluminum and Magnesium Alloys*.