

**PREVIOUSLY APPROVED FARM PRODUCTS FOR NEBRASKA'S CENTRAL FILING SYSTEM—Continued**

Bull Semen	Raspberries
Cantaloupe	Rye
Carrots	Seed Crops
Cattle & Calves	Sheep & Lambs
Chickens	Silage
Corn	Sorghum Grain
Cucumbers	Soybeans
Dry Beans	Squash
Eggs	Strawberries
Emu	Sugar Beets
Fish	Sunflower Seeds
Flax Seed	Sweet corn
Grapes	Tomatoes
Hay	Trees
Hogs	Triticale
Honey	Turkeys
Honey Dew Melon	Vetch
Horses	Walnuts
Llama	Watermelon
Milk	Wheat
Muskmelon	Wool

This notice announces the amended certification for Nebraska's central filing system in accordance with the request to add an additional farm product.

**Effective Date:** This notice is effective upon signature for good cause because it will allow Nebraska to provide information about an additional farm product through its central filing system. Approving additional farm products for approved central filing systems does not require public notice. Therefore, this notice may be made effective in less than 30 days after publication in the **Federal Register** without prior notice or other public procedure.

**Authority:** 7 U.S.C. 1631, 7 CFR 2.22(a)(3)(v) and 2.81(a)(5), and 9 CFR 205.101(e).

Dated: March 4, 2005.

**Gary McBryde,**

*Acting Deputy Administrator, Grain Inspection, Packers and Stockyards Administration.*

[FR Doc. 05-4704 Filed 3-9-05; 8:45 am]

**BILLING CODE 3410-EN-P**

**COMMISSION ON CIVIL RIGHTS**

**Sunshine Act Notice**

**DATE AND TIME:** Friday, March 18, 2005, 9:30 a.m.

**PLACE:** U.S. Commission on Civil Rights, 624 9th Street, NW., Room 540, Washington, DC 20425.

**STATUS:**

**Agenda**

- I. Approval of Agenda
- II. Approval of Minutes of February 18, 2005 Meeting
- III. Announcements

IV. Staff Director's Report

V. Program Planning

- Consideration of proposals for projects to be undertaken by the Commission during FY 2005, 2006 and 2007

VI. Management and Operations

VII. Report of the Working Group on Reform

VIII. Future Agenda Items

**CONTACT FOR FURTHER INFORMATION:**

Kenneth L. Marcus, Press and Communications (202) 376-7700.

**Debra A. Carr,**

*General Counsel.*

[FR Doc. 05-4851 Filed 3-8-05; 1:38 pm]

**BILLING CODE 6335-01-M**

**DEPARTMENT OF COMMERCE**

**Bureau of Industry and Security**

[Docket No.: 050302054-5054-01]

**Meeting With Interested Public on Humanitarian Shipments to Sudan**

**AGENCY:** Bureau of Industry and Security, Department of Commerce.

**ACTION:** Notice of open meeting.

**SUMMARY:** The Bureau of Industry and Security (BIS) publishes this notice to announce that the agency will hold a meeting on March 28, 2005 for organizations interested in exporting "tools of trade" items for humanitarian work in Sudan under a License Exception, as provided under the rule BIS published in the **Federal Register** on February 18, 2005. U.S. Government officials will provide information at this meeting on the use of this License Exception for Sudan. This meeting is open to the public.

**DATES:** The meeting will be held on March 28, 2005, 2 p.m. e.s.t.

**ADDRESSES:** If you wish to attend the meeting, please provide your name and company or organizational affiliation to fax numbers (202) 482-4145 or (202) 482-6088, Attn: Sudan Briefing, or call (202) 482-5537. The meeting will be held at the Herbert C. Hoover Building, 14th Street between Constitution and Pennsylvania Avenues, NW., Room 4830, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** For further information, please contact Eric Longnecker at BIS on (202) 482-5537 or (202) 482-4252.

**SUPPLEMENTARY INFORMATION:** On February 18, 2005, the Bureau of Industry and Security (BIS) published a Final Rule in the **Federal Register** that allows certain organizations working to relieve human suffering in Sudan, including those registered with the Department of the Treasury's Office of Foreign Assets Control (OFAC) pursuant

to the Sudanese Sanctions Regulations (31 CFR 538.521), as well as their staff and employees, to use the authority of License Exception TMP (15 CFR 740.9) to export to Sudan certain "tools of trade" items which would otherwise require a license from BIS for export to Sudan pursuant to the Export Administration Regulations (15 CFR parts 730-774). As set forth in the February 18, 2005 rule, the newly-added provisions will authorize certain organizations working to relieve human suffering in Sudan to export basic telecommunications equipment, computers, global positioning system (GPS) or similar satellite receivers, and software and parts and components for the use of these items. Eligible goods may be exported to Sudan for up to one year. These items, and the restrictions on the use of this provision, are described in more detail in the February 18, 2005 rule.

In order to provide more information on the use of this License Exception for Sudan, BIS will hold a meeting on March 28, 2005. This meeting is open to the public. In order to prepare for those of you who plan to attend the meeting, please submit your name and company or organizational affiliation to BIS via fax or phone number provided in the **ADDRESSES** section.

Dated: March 4, 2005.

**Eileen Albanese,**

*Director, Office of Exporter Services, Bureau of Industry and Security.*

[FR Doc. 05-4737 Filed 3-9-05; 8:45 am]

**BILLING CODE 3510-JT-M**

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[A-570-803]

**Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Preliminary Results of Administrative Reviews and Preliminary Partial Rescission of Antidumping Duty Administrative Reviews**

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

**SUMMARY:** The Department of Commerce (the "Department") is conducting administrative reviews of the antidumping duty orders on heavy forged hand tools, finished or unfinished, with or without handles, from the People's Republic of China. These reviews cover imports of subject merchandise from four manufacturers/exporters. We preliminarily find that

certain manufacturers/exporters sold subject merchandise at less than normal value during the POR. If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection ("Customs") to assess antidumping duties on all appropriate entries. We invite interested parties to comment on these preliminary review results. We will issue the final review results no later than 120 days from the date of publication of this notice.

**EFFECTIVE DATE:** March 10, 2005.

**FOR FURTHER INFORMATION CONTACT:** Julia Hancock (Huarong), Hallie Zink (Olympia Shanghai) and Paul Walker (TMC), AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-1394, (202) 482-6907 and (202) 482-0412, respectively.

**SUPPLEMENTARY INFORMATION:**

**Case History**

On February 19, 1991, the Department published in the **Federal Register** four antidumping orders on heavy forged hand tools ("HFHTs") from the People's Republic of China ("PRC"). See *Antidumping Duty Orders: Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles From the People's Republic of China*, 56 FR 6622 (February 19, 1991). Imports covered by these orders comprise the following classes or kinds of merchandise: (1) Hammers and sledges with heads over 1.5 kg (3.33 pounds) (hammers/sledges); (2) bars over 18 inches in length, track tools and wedges (bars/wedges); (3) picks/mattocks; and (4) axes/adzes. See the "Scope of the Antidumping Duty Orders" section below for the complete description of subject merchandise.

On February 3, 2004, the Department published an opportunity to request a review on all four antidumping orders on HFHTs from the PRC. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 69 FR 5125 (February 3, 2004). On February 27, 2004, Shandong Huarong Machinery Co., Ltd. ("Huarong") requested an administrative review. On February 27, 2004, Shanghai Xinike Trading Company, Ltd. ("Olympia Shanghai") requested a new shipper review. On February 27, 2004, the Petitioner requested reviews of 302 companies, covering all four antidumping duty orders. On March 26, 2004, the

Department initiated the 13th review of HFHTs from the PRC, covering all four antidumping duty orders for 194 companies. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part ("Initiation")*, 69 FR 15788 (March 26, 2004).

On April 12 and 13, 2004, the Department issued shortened section A antidumping duty questionnaires to companies for which the Department initiated administrative reviews.<sup>1</sup> On April 14, 2004, the Department issued sections A, C, D, and E of the General Antidumping Duty Questionnaire to Tianjin Machinery Import and Export Corporation ("TMC"), Huarong, Liaoning Machinery Import and Export Corporation ("LMC"), LIMAC, Shandong Machinery Import and Export Corp. ("SMC"), Shandong Jinma Industrial Group Company ("Jinma") and Olympia Shanghai. On April 15, 2004, the Department requested the assistance of representatives of the government of the PRC in transmitting the shortened section A antidumping duty questionnaires to all companies who manufacture or export HFHTs to the United States.

On April 20, 2004, the Petitioner asked the Department to reject the request for review filed by Olympia Shanghai on February 27, 2004.

On May 5, 2004, the Department issued shortened section A questionnaires to certain additional companies, for which the Department initiated administrative reviews.<sup>2</sup>

On May 6, 2004, TMC requested clarifications regarding the Department's April 14, 2004 questionnaire.

On May 12, 2004, the Department received copies of Chinese laws and regulations that apply to the export activities of Huarong, Olympia Shanghai and TMC from the Respondents. On May 12, 2004, Huarong submitted its section A questionnaire response ("SAQR"). On May 12, 2004, Ningbo Tiangong Great Star Tools Company, Ltd. notified the Department that they had no shipments of HFHTs to the United States during the period of review ("POR").

On May 13, 2004, TMC and Olympia Shanghai submitted their SAQRs. On May 13, 2004, Fexian Hualu Tool

Company, Ltd. notified the Department that it had no shipments of HFHTs to the United States during the POR.

On May 14, 2004, SMC requested an extension of time to respond to section A of the Department's April 14, 2004 questionnaire, which was due May 12, 2004.

On May 15, 2004, Jinhua Twin-Star Tools Company, Ltd. notified the Department that they had no shipments of HFHTs to the United States during the POR.

On May 17, 2004, the Department submitted a memo to the file noting that SMC requested two extensions, one on May 14 and one on May 17, 2004, via telephone, for submitting SMC's SAQR which was due May 12, 2004. On May 17, 2004, the Department notified SMC that its extension request was untimely. On May 17, 2004, Zhangjiagang Tianda Special Hardware Company, Ltd. notified the Department that it had no shipments of HFHTs to the United States during the POR.

On May 18, 2004, the Department issued the remaining shortened section A questionnaires to companies for which the Department initiated administrative reviews.<sup>3</sup>

On May 18, 2004, the Department responded to the Petitioner's April 20, 2004, letter requesting that the Department reject Olympia Shanghai's February 27, 2004, request for a new shipper review. On May 18, 2004, the Department addressed TMC's May 6, 2004, clarification letter concerning the Department's April 14, 2004 questionnaire.

On May 19, 2004, the Petitioner submitted comments on TMC's May 6, 2004, letter requesting clarifications on the Department's April 14, 2004, questionnaire.

On May 25, 2004, the Petitioner submitted an updated Summary of Antidumping Duty Margins at the Department's request.

On June 9, 2004, Huarong submitted its section C&D questionnaire responses ("SCDQR").

On June 15, 2004, the Petitioner submitted comments on the SAQRs of Olympia Shanghai, TMC and Huarong.

On July 8, 2004, the Department requested from the Office of Policy a memorandum listing surrogate countries.

On July 13, 2004, the Department sent TMC a supplemental SAQ. On July 14, 2004, the Department sent Huarong and Olympia Shanghai supplemental SAQRs.

<sup>1</sup> These companies are not represented by any counsel to the best of the Department's knowledge.

<sup>2</sup> These questionnaires were sent via Federal Express ("FedEx"). Of these, FedEx returned 13 questionnaires due to area of delivery problems. The Department re-issued these 13 questionnaires via DHL on May 7, 2004. Additionally, 22 questionnaires were returned to the Department because of an incorrect address.

<sup>3</sup> These questionnaires were sent via FedEx. Of these, FedEx returned 11 questionnaires as undeliverable.

On July 15, 2004, the Department sent a letter to Huarong and TMC addressing certain formatting problems with its databases. On July 15, 2004, the Petitioner submitted to the Department deficiency comments regarding the SCDQRs of Olympia Shanghai and Huarong. On July 15, 2004, the Department received from the Office of Policy a list of surrogate countries. On July 16, 2004, the Department sent a letter to Olympia Shanghai addressing certain formatting problems with its databases.

On July 19, 2004, the Petitioner submitted to the Department comments on the TMC's SCDQRs. On July 19, 2004, Huarong, Olympia Shanghai and TMC responded to the Department's letter requesting revisions to the Respondents' databases.

On July 22, 2004, the Department sent Huarong and TMC supplemental section C questionnaires.

On July 23, 2004, the Petitioner submitted to the Department comments on surrogate country selection. On July 23, 2004, the Department sent Olympia Shanghai supplemental section C and D questionnaires.

On July 26, 2004, the Department provided all interested parties the opportunity to submit information pertinent to valuing factors of production in this review.

On August 2, 2004, TMC and Huarong submitted their supplemental SAQRs.

On August 6, 2004, the Department sent TMC a supplemental section D questionnaire. On August 10, 2004, the Department sent Huarong a supplemental section D questionnaire.

On August 10, 2004, Huarong and TMC requested guidance on the scope of the antidumping duty orders.

On August 13, 2004, the Department selected India as the surrogate country. On August 13, 2004, Huarong submitted its supplemental section C questionnaire response.

On August 20, 2004, the Department responded to TMC and Huarong's August 10, 2004, request for guidance regarding whether cast tampers are within the scope of the order.

On August 25, 2004, the Petitioner submitted comments on sections A and C questionnaire responses of TMC.

On August 30, 2004, Huarong submitted its supplemental section D questionnaire response.

On September 20, 2004, the Petitioner requested that the Department reopen the administrative record to allow the Petitioner to submit new factual information. On September 22, 2004, the Petitioner submitted comments on the sections A and C supplemental

questionnaire responses of Olympia Shanghai.

On September 22, 2004, the Department sent Olympia Shanghai a second supplemental SAQ.

On September 23, 2004, the Petitioner submitted comments on Huarong's sections A and D responses. On September 24, 2004, the Petitioner submitted comments on TMC's supplemental section D response.

On September 28, 2004, the Department sent Huarong a second supplemental SAQ.

On September 29, 2004, the Department sent the Petitioner a letter denying their request to reopen the record in order to submit new factual information.

On September 30, 2004, the Petitioner requested that the Department place certain documents from the 12th Administrative Review on the administrative record of the instant review.

On October 7, 2004, the Department sent Huarong a second supplemental section D questionnaire.

On October 8, 2004, the Department sent TMC a second supplemental section A questionnaire. On October 8, 2004, the Department sent Olympia Shanghai a supplemental section D questionnaire.

On October 15, 2004, the Department received Olympia Shanghai's second supplemental SAQR.

On October 26, 2004, the Department sent TMC a second supplemental section C questionnaire. On October 27, 2004, Huarong submitted corrections to the exhibits accompanying Huarong's response to the Department's second supplemental section A questionnaire.

On October 28, 2004, the Department sent Huarong a supplemental section C questionnaire.

On October 29, 2004, the Department extended the time limit for the preliminary results of the instant review on HFHTs from the PRC. *See Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review*, 69 FR 63140 (October 29, 2004).

On November 5, 2004, TMC submitted minor corrections to its response to the Department's second supplemental section A questionnaire. On November 15, 2004, TMC submitted its second supplemental section C questionnaire response.

On November 12, 2004, Huarong submitted its second supplemental section C questionnaire response. On November 15, 2004, the Petitioner

submitted comments on TMC's supplemental SAQR. On November 15, 2004, Huarong submitted its second supplemental section D questionnaire response. On November 17, 2004, TMC submitted the diskette with the section C database to accompany TMC's November 12, 2004, response to the Department's supplemental section C questionnaire. On November 22, 2004, Huarong and TMC submitted additional documentation to accompany their November 12, 2004, response to the Department's second supplemental section C questionnaire.

On November 29, 2004, TMC submitted comments responding to the Petitioner's comments regarding TMC's ownership.

On December 14, 2004, the Department notified all interested parties that publicly available information to value factors of production must be submitted by December 28, 2004, for consideration in these preliminary results.

On December 20, 2004 the Petitioner submitted comments on the supplemental sections A, C & D questionnaire responses of TMC.

On December 23, 2004, the Department sent TMC a supplemental questionnaire regarding certain deficiencies in its section A, C and D questionnaire responses.

On December 30, 2004, the Petitioner submitted comments on the supplemental questionnaire response of Huarong. On January 6, 2005, the Department sent Huarong a supplemental questionnaire addressing certain deficiencies in Huarong's section A, C and D questionnaire responses. On January 21, 2005, the Department sent Huarong a third supplemental section A questionnaire.

On January 26, 2005, the Department sent TMC a letter requesting that TMC revise its databases. On January 26, 2005, Huarong submitted its third supplemental section A, C & D questionnaire response.

On January 27, 2005, the Department sent Huarong a supplemental questionnaire. On January 28, 2005, the Department sent Olympia Shanghai a supplemental questionnaire. On February 1, 2005, Huarong requested an extension from February 2, 2005, until February 7, 2005, to respond to the Department's January 27, 2005 supplemental questionnaire. On February 1, 2005, the Department denied Huarong's extension request because the Department had already extended the deadline by two days from January 31, 2005, until February 2, 2005.

On February 2, 2005, TMC submitted a revised database in response to the Department's January 25, 2005 letter. On February 2, 2005, the Department sent Olympia Shanghai a supplemental questionnaire.

On February 3, 2005, TMC submitted a corrected database in response to the Department's January 26, 2005 letter. On February 3, 2005, the Department received Olympia Shanghai's response to the Department's supplemental questionnaire dated January 28, 2005. On February 3, 2005, the Department received Huarong's response to the Department's fourth and fifth supplemental questionnaire dated January 21, 2005 and January 27, 2005, respectively. On February 4, 2005, the Department received Olympia Shanghai's response to the Department's February 2, 2005 questionnaire.

#### Period of Review

POR is February 1, 2003, through January 31, 2004.

#### Scope of the Antidumping Duty Orders

The products covered by these orders are HFHTs from the PRC, comprising the following classes or kinds of merchandise: (1) Hammers and sledges with heads over 1.5 kg (3.33 pounds); (2) bars over 18 inches in length, track tools and wedges; (3) picks and mattocks; and (4) axes, adzes and similar hewing tools. HFHTs include heads for drilling hammers, sledges, axes, mauls, picks and mattocks, which may or may not be painted, which may or may not be finished, or which may or may not be imported with handles; assorted bar products and track tools including wrecking bars, digging bars and tampers; and steel wood splitting wedges. HFHTs are manufactured through a hot forge operation in which steel is sheared to required length, heated to forging temperature, and formed to final shape on forging equipment using dies specific to the desired product shape and size. Depending on the product, finishing operations may include shot blasting, grinding, polishing and painting, and the insertion of handles for handled products. HFHTs are currently provided for under the following Harmonized Tariff System of the United States ("HTSUS") subheadings: 8205.20.60, 8205.59.30, 8201.30.00, and 8201.40.60. Specifically excluded from these investigations are hammers and sledges with heads 1.5 kg. (3.33 pounds) in weight and under, hoes and rakes, and bars 18 inches in length and under. The HTSUS subheadings are provided for convenience and Customs purposes.

The written description remains dispositive.

The Department has issued five final scope rulings regarding the merchandise covered by these orders: (1) On August 16, 1993, the Department found the "Max Multi-Purpose Axe," imported by the Forrest Tool Company, to be within the scope of the axes/adzes order; (2) on March 8, 2001, the Department found "18-inch" and "24-inch" pry bars, produced without dies, imported by Olympia Industrial, Inc. and SMC Pacific Tools, Inc., to be within the scope of the bars/wedges order; (3) on March 8, 2001, the Department found the "Pulaski" tool, produced without dies by TMC, to be within the scope of the axes/adzes order; (4) on March 8, 2001, the Department found the "skinning axe," produced through a stamping process, imported by Import Traders, Inc., to be within the scope of the axes/adzes order; and (5) on September 22, 2003, the Department found cast picks, produced through a casting process by TMC, to be within the scope of the picks/mattocks order.

#### Verification

Following the publication of these preliminary results, we intend to verify, as provided in section 782(i) of the Act, sales and cost information submitted by respondents, as appropriate. At that verification, we will use standard verification procedures, including on-site inspection of the manufacturers' facilities, the examination of relevant sales and financial records, and the selection of original source documentation containing relevant information. We plan to prepare verification reports outlining our verification results and place these reports on file in the Central Records Unit, room B099 of the main Commerce building.

#### Preliminary Partial Rescission

In accordance with 19 CFR 351.213(d)(3), we are preliminarily rescinding these reviews with respect to Ningbo Tiangong Great Star Tools Company, Ltd., Fexian Hualu Tool Company, Ltd., Jinhua Twin-Star Tools Company, Ltd. and Zhangjiagang Tianda Special Hardware Company, Ltd., who reported that they did not sell merchandise subject to any of the four HFHT antidumping orders during the POR.

In accordance with 19 CFR 351.213(d)(3), we are preliminarily rescinding the review of Huarong with respect to the hammers/sledges and picks/mattocks orders, since Huarong reported that they made no shipments of

subject hammers/sledges and picks/mattocks.

No one has placed evidence on the record to indicate that Huarong had sales of subject merchandise during the POR. In addition, we examined shipment data furnished by Customs for the producers/exporters identified above and are satisfied that the record does not indicate that there were U.S. entries of subject merchandise from these companies during the POR.

In accordance with 19 CFR 351.213(d)(3), we are preliminarily rescinding the review of Olympia Shanghai with respect to all four orders. We have determined that Olympia Shanghai did not sell merchandise subject to any of the four HFHT antidumping orders during the POR. *Memorandum from James Doyle, Director, Office 9, to Barbara E. Tillman, Acting Deputy Assistant Secretary, 13th Review of Heavy Forged Hand Tools from the People's Republic of China: Preliminary Partial Rescission of Olympia Shanghai*, dated February 28, 2005. In addition, we examined shipment data furnished by Customs for Olympia Shanghai and are satisfied that the record does not indicate that there were U.S. entries of subject merchandise from Olympia Shanghai during the POR.

#### Separate Rates Determination

The Department has treated the PRC as a non-market economy ("NME") country in all previous antidumping cases. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the People's Republic of China*, 69 FR 70997 (December 8, 2004). It is the Department's policy to assign all exporters of the merchandise subject to review that are located in NME countries a single antidumping duty rate unless an exporter can demonstrate an absence of governmental control, both in law (*de jure*) and in fact (*de facto*), with respect to its export activities. To establish whether an exporter is sufficiently independent of governmental control to be entitled to a separate rate, the Department analyzes the exporter using the criteria established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("Sparklers"), as amplified in the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) ("Silicon Carbide"). Under the separate rates criteria established in these cases, the Department assigns separate rates to

NME exporters only if they can demonstrate the absence of both *de jure* and *de facto* governmental control over their export activities.

#### *Absence of De Jure Control*

Evidence supporting, though not requiring, a finding of the absence of *de jure* governmental control over export activities includes: (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) any other formal measures by the government decentralizing control of companies. See *Sparklers* at 20589.

In previous reviews of the HFHTs orders, the Department granted separate rates to Huarong and TMC. See, e.g., *Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Final Results of Antidumping Duty Administrative Reviews, Final Partial Rescission of Antidumping Duty Administrative Reviews, and Determination Not To Revoke in Part*, 69 FR 55581 (September 15, 2004) ("*Final Results of the 12th Review*"). However, it is the Department's policy to evaluate separate rates questionnaire responses each time a Respondent makes a separate rates claim, regardless of whether the Respondent received a separate rate in the past. See *Manganese Metal From the People's Republic of China, Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 63 FR 12441 (March 13, 1998). In the instant reviews, Huarong, and TMC submitted complete responses to the separate rates section of the Department's questionnaire. The evidence submitted in the instant review by these Respondents includes government laws and regulations on corporate ownership, business licences, and narrative information regarding the companies' operations and selection of management. The evidence provided by Huarong and TMC supports a finding of a *de jure* absence of governmental control over their export activities because: (1) There are no controls on exports of subject merchandise, such as quotas applied to, or licenses required for, exports of the subject merchandise to the United States; and (2) the subject merchandise does not appear on any government list regarding export provisions or export licensing.

#### *Absence of De Facto Control*

The absence of *de facto* governmental control over exports is based on whether the Respondent: (1) Sets its own export prices independent of the government

and other exporters; (2) retains the proceeds from its export sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) has the authority to negotiate and sign contracts and other agreements; and (4) has autonomy from the government regarding the selection of management. See *Silicon Carbide* at 22587; *Sparklers* at 20589; see also *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

In their questionnaire responses, Huarong and TMC submitted evidence indicating an absence of *de facto* governmental control over their export activities. Specifically, this evidence indicates that: (1) Each company sets its own export prices independent of the government and without the approval of a government authority; (2) each company retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) each company has a general manager, branch manager or division manager with the authority to negotiate and bind the company in an agreement; (4) the general manager is selected by the board of directors or company employees, and the general manager appoints the deputy managers and the manager of each department; and (5) foreign currency does not need to be sold to the government. Therefore, the Department has preliminarily found that Huarong and TMC have established *prima facie* that they qualify for separate rates under the criteria established by *Silicon Carbide* and *Sparklers*.

#### **Use of Facts Available**

Section 776(a)(2) of the Act, provides that, if an interested party: (A) Withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested, subject to sections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Furthermore, section 776(b) of the Act states that "if the administering authority finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the Commission, the administering

authority or the Commission \* \* \*, in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available." See also Statement of Administrative Action ("*SAA*") accompanying the Uruguay Round Agreements Act ("*URAA*"), H.R. Rep. No. 103-316 at 870 (1994).

In the instant reviews, Huarong and TMC significantly impeded both our ability to complete the review of the bars/wedges order, the hammers/sledges order and the axes/adzes order which we conducted pursuant to section 751 of the Act, and to impose the correct antidumping duties, as mandated by section 731 of the Act. As discussed below, although Huarong and TMC are entitled to separate rates, we preliminarily find that their failure to cooperate with the Department to the best of their ability in responding to the Department's request for information warrant the use of AFA in determining dumping margins for their sales of merchandise subject to certain HFHTs orders.

#### *Huarong*

Prior to the instant period under review, Huarong entered into an agreement with a PRC company under which the PRC company would act as an "agent" for the vast majority of Huarong's U.S. sales of bars/wedges. Pursuant to this agreement, the "agent" supplied Huarong with blank invoices which were on the "agent's" letterhead. Huarong filled out these invoices and used them when exporting subject bars/wedges to the United States during the POR. The essential purpose of an invoice is to identify the seller and the quantity and value of a sale, primarily for the buyer, but in certain situations to Customs for proper assessment of AD duties. Permitting an invoice to reflect transactions materially made by another entity frustrates the essential purpose of the invoice. When making "agent" sales, Huarong conducted all of the negotiations with the U.S. customer regarding price and quantity, and arranged for the foreign inland freight, international freight, and marine insurance associated with these sales. Additional information regarding these transactions is in the *Memorandum from James Doyle, Director, Office 9, to Barbara E. Tillman, Acting Deputy Assistant Secretary, 13th Review of Heavy Forged Hand Tools from the People's Republic of China: Application of Adverse Facts Available to Shandong Huarong Machinery Co., Ltd.* ("*Huarong AFA Memo*") dated February 28, 2005.

After reviewing the record of this review, we find that Huarong has continually misrepresented the true nature of its relationship with the "agent" during the POR. In its questionnaire responses, Huarong claimed that its relationship with the "agent" stemmed from a *bona fide* business arrangement whereby the "agent" provided commercial services in connection with Huarong's sales. However, after issuing several supplemental questionnaires on this topic, the Department learned that the "agent" had no real commercial involvement in these sales. The "agent" was financially compensated by Huarong, not for commercial services normally associated with being a sales agent, but instead, for providing Huarong with blank invoices—essentially selling its identity to Huarong—which Huarong used to make the vast majority of its sales to the United States. See *Huarong AFA Memo*. The result of this misrepresentation was that the invoices did not reflect the identity of the true producer/exporter which impact Customs ability to assess the proper cash deposit rates.

Section 776(a)(2)(C) of the Act states that the Department may, if an interested party "significantly impedes a proceeding" under the antidumping statute, use facts otherwise available in reaching the applicable determination. In this case, Huarong's invoice scheme with its "agent" has impeded our ability to complete the administrative review, pursuant to section 751 of the Act, and calculate the correct antidumping duties, as required by section 731 of the Act. Therefore, pursuant to section 776(a)(2)(C) of the Act, we find it appropriate to base Huarong's dumping margin for bars/wedges on facts available.

In selecting from among the facts available, pursuant to section 776(b) of the Act, an adverse inference is warranted when the Department has determined that a Respondent has failed to cooperate by not acting to the best of its ability to comply with our request for information. In this case, an adverse inference is warranted because: (1) Huarong misrepresented the nature of its arrangement with the "agent" by portraying that company as a *bona fide* agent for the vast majority of Huarong's sales of bars/wedges to the United States; and (2) Huarong participated in a scheme that resulted in circumvention of the antidumping duty order by evading the applicable cash deposit and assessment rates. By engaging in a scheme designed to avoid the Department's calculation, Huarong necessarily failed to cooperate to the

best of its ability to respond to the Department's request for information. As a result, Huarong evaded Customs application of accurate and applicable cash deposit and assessment rates. Moreover, section 776(b) of the Act indicates that an adverse inference may include reliance on information derived from the petition, the final determination in the less-than-fair-value ("LTFV") investigation, any previous administrative review, or any other information placed on the record. As AFA, we are assigning to Huarong's sales of bars/wedges the 139.31 percent PRC-wide rate for bars/wedges published in the most recently completed administrative review of this antidumping order. See *Final Results of the 12th Review* as amended; see also *Huarong AFA Memo*.

#### TMC

Prior to the instant period under review, TMC entered into agreements with several other PRC companies under which TMC would act as an "agent" for these companies' U.S. sales of bars/wedges, hammers/sledges and axes/adzes. Pursuant to these agreements, TMC supplied these companies with blank invoices, with TMC's letterhead. These other companies filled out these invoices and used them when exporting their subject bars/wedges, hammers/sledges and axes/adzes to the United States during the POR. The essential purpose of an invoice is to identify the seller and the quantity and value of a sale, primarily for the buyer, but in certain situations to Customs for proper assessment of AD duties. Permitting an invoice to reflect transactions materially made by another entity frustrates the essential purpose of the invoice. When acting as the "agent" for these sales, TMC had no part in negotiating the price and quantity with the U.S. customer, nor in arranging the foreign inland freight, international freight, and marine insurance associated with these sales. Additional information regarding these transactions is in the *Memorandum from James Doyle, Director, Office 9, to Barbara E. Tillman, Acting Deputy Assistant Secretary, 13th Review of Heavy Forged Hand Tools from the People's Republic of China: Application of Adverse Facts Available to Tianjin Machinery Import & Export Corporation* ("TMC AFA Memo") dated February 28, 2005.

After reviewing the record of this review, we preliminarily find that TMC has continually misrepresented the true nature of its relationship with these other companies during the POR. In its questionnaire responses, TMC claimed that its relationship with these other

companies stemmed from a *bona fide* business arrangement whereby TMC provided commercial services in connection with the other companies' sales. However, after issuing several supplemental questionnaires on this topic, the Department learned that TMC had no real commercial involvement in these sales. TMC was financially compensated by these other companies, not for commercial services normally associated with being a sales agent, but instead for providing these other companies with blank invoices, which the other companies used to make sales to the United States. See *TMC AFA Memo*. The result of this misrepresentation was that the invoices did not reflect the identity of the true producer/exporter which impact Customs ability to assess the proper cash deposit rates.

In this case, TMC's participation in an invoice scheme with other companies has impeded our ability to identify the true producer/exporter and to complete the administrative review, pursuant to section 751 of the Act, and impose the correct antidumping duties, as required by section 731 of the Act. Therefore, pursuant to section 776(a)(2)(C) of the Act, we find it is appropriate to base TMC's dumping margin for bars/wedges, hammers/sledges and axes/adzes on facts available.

Pursuant to section 776(b) of the Act, an adverse inference is warranted because: (1) TMC misrepresented the nature of its arrangement with these other companies by portraying itself as a *bona fide* sales agent for the majority of the other companies' sales of bars/wedges, hammers/sledges and axes/adzes to the United States; and (2) TMC participated in a scheme that resulted in circumvention of three antidumping duty orders. By engaging in a scheme designed to avoid the Department's calculation, TMC necessarily failed to cooperate to the best of its ability to respond to the Department's request for information. As a result, TMC evaded Customs application of accurate and applicable cash deposit and assessment rates. In accordance with Section 776(b) of the Act, as AFA, we are assigning an AFA rate of 139.31 percent to TMC's sales of merchandise covered by the antidumping duty order on bars/wedges, an AFA rate of 45.42 percent to TMC's sales of merchandise covered by the antidumping duty order on hammers/sledges and an AFA rate of 147.36 percent to TMC's sales of merchandise covered by the antidumping duty order on axes/adzes. See *Final Results of the 12th Review*; see also *TMC AFA Memo*.

### PRC-Wide Entity

As mentioned in the "Case History" section above, the Department initiated these administrative reviews of the axes/adzes, bars/wedges, hammers/sledges and picks/mattocks orders with respect to 194 PRC companies. On April 12–14, 2004 and May 5, 2004, we issued a shortened Section A questionnaire to all of the companies identified in the notice of initiation. *See Initiation*. Further, 187 of the 194 companies identified in our notice of initiation did not respond to our shortened Section A questionnaire nor did these companies provide any information demonstrating that they are entitled to a separate rate, therefore they are not entitled to a separate rate. Thus, we consider these companies to be part of the PRC-wide entity. *See Memo to the File from Paul Walker, Case Analyst*, dated February 28, 2005. In accordance with sections 776(a)(2)(A) and (B), as well as section 776(b) of the Act, we are assigning total AFA to the PRC-wide entity.

Section 776(a)(2) of the Act provides that, if an interested party or any other person (A) withholds information that has been requested by the administering authority, or (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act, the Department shall, subject to section 782(d) of the Act, use the facts otherwise available in reaching the applicable determination under this title. Furthermore, under section 782(c) of the Act, a Respondent has a responsibility not only to notify the Department if it is unable to provide the requested information but also to provide a full explanation as to why it cannot provide the information and suggest alternative forms in which it is able to submit the information. Because these 187 companies did not establish their entitlement to a separate rate and failed to provide requested information, we find that, in accordance with sections 776(a)(2)(A) and (B) of the Act, it is appropriate to base the PRC-wide margin in these reviews on facts available. *See, e.g., Final Results of Antidumping Duty Administrative Review for Two Manufacturers/Exporters: Certain Preserved Mushrooms from the People's Republic of China*, 65 FR 50183, 50184 (August 17, 2000).

Section 776(b) of the Act provides that, if the Department finds that an interested party "has failed to cooperate by not acting to the best of its ability to comply with a request for information," the Department may use information

that is adverse to the interests of the party as the facts otherwise available. Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." *See SAA* accompanying the URAA, H. Doc. No. 103–316, at 870 (1994). Section 776(b) of the Act authorizes the Department to use, as AFA, information derived from the petition, the final determination in the LTFV investigation, any previous administrative review, or any other information placed on the record.

Section 776(b)(4) of the Act permits the Department to use as AFA information derived in the LTFV investigation or any prior review. Thus, in selecting an AFA rate, the Department's practice has been to assign Respondents who fail to cooperate with the Department's requests for information the highest margin determined for any party in the LTFV investigation or in any administrative review. *See, e.g., Stainless Steel Plate in Coils from Taiwan; Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review*, 67 FR 5789 (February 7, 2002). As AFA, we are assigning to the PRC-wide entity's sales of axes/adzes, bars/wedges, hammers/sledges, and picks/mattocks the rates of 147.36, 139.31, 45.42, and 129.93 percent, respectively. The rates selected for bars/wedges was published in the most recently completed review of the HFHT's orders. *See Final Results of the 12th Review* as amended. The rate selected as AFA for hammers/sledges is from the LTFV investigation. *See Final Results of the 12th Review* as amended. The rates for axes/adzes and picks/mattocks were calculated in the instant review.

### Corroboration

Section 776(c) of the Act requires the Department to corroborate, to the extent practicable, secondary information used as facts available. Secondary information is defined 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* accompanying the URAA, H.R. Doc. No. 103–316 at 870 (1994); *see also* 19 CFR 351.308(d).

The SAA further provides that the term "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value. *See SAA* at 870. Thus, to corroborate secondary information, the Department will, to the extent

practicable, examine the reliability and relevance of the information used. However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. Thus, in an administrative review, if the Department chooses, as total AFA, a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin. *See Heavy Forged Hand Tools From the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review and Determination Not To Revoke in Part*, 67 FR 57789, 57791 (September 12, 2002).

All of the AFA rates selected above were calculated using information provided during the LTFV investigation, a past administrative review, or the instant review. Furthermore, none of these rates were judicially invalidated. Therefore, we consider these rates to be reliable. *See TMC AFA Memo* and *Huarong AFA Memo* for further details.

When circumstances warrant, the Department may diverge from its standard practice of selecting as the AFA rate the highest rate in any segment of the proceeding. For example, in *Fresh Cut Flowers From Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996) ("*Flowers from Mexico*"), the Department did not use the highest margin in the proceeding as best information available (the predecessor to facts available) because that margin was based on another company's aberrational business expenses and was unusually high. *See Flowers from Mexico* at 6814. In other cases, the Department has not used the highest rate in any segment of the proceeding as the AFA rate because the highest rate was subsequently discredited, or the facts did not support its use. *See D&L Supply Co. v. United States*, 113 F.3d 1220, 1221 (Fed. Cir. 1997) (the Department will not use a margin that has been judicially invalidated). None of these unusual circumstances are present with respect to the rates being used here. Moreover, the rates selected for axes/adzes, bars/wedges, and picks/mattocks are the rates currently applicable to the PRC-wide entity.

The rate selected as AFA for the PRC-wide entity's sales of hammers/sledges is from the LTFV investigation. The previous PRC-wide rate for hammers/sledges of 27.71 percent has not encouraged cooperation. A review of the company-specific rates that have been calculated for hammers/sledges in prior

administrative reviews indicates that there are no company-specific rates for hammers/sledges higher than the previous PRC-wide rate of 27.71 percent. The selected rate of 45.42 has relevance because it, and a nearly equivalent rate, were the PRC-wide rates for hammers/sledges during the first six administrative reviews of this order. See *Final Results of the 12th Review*; see also *F. Ili De Cecco di Filippo Fara S. Martino S.p.A. v. United States*, 216 F. 3d 1027 (Fed. Cir. 2000) (rate is reasonably accurate with some built-in increase to encourage cooperation).

The rates selected as AFA for the PRC-wide entity's sales of bars/wedges is from the 11th review and was corroborated again in the 12th review. See *Final Results of the 12th Review*.

The rate selected as AFA for the PRC-wide entity's sales of axes/adzes and picks/mattocks wedges are the highest calculated rates in the instant review.

Accordingly, we have corroborated the AFA rates identified above, as required, in accordance with the requirement of section 776(c) of the Act that secondary information be corroborated (*i.e.*, that it have probative value). See *TMC AFA Memo* and *Huarong AFA Memo* for further details.

#### Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base normal value ("NV"), in most circumstances, on the NME producer's factors of production, valued in a surrogate market-economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the factors of production, the Department shall utilize, to the extent possible, the prices or costs of factors of production in one or more market-economy countries that are at a level of economic development comparable to that of the NME country and are significant producers of comparable merchandise. The sources of the surrogate values we have used in this investigation are discussed under the "Normal Value" Section below.

As discussed in the "Separate Rates" section, the Department considers the PRC to be an NME country. The Department has treated the PRC as an NME country in all previous antidumping proceedings. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. We have no evidence suggesting that this determination should be changed.

Therefore, we treated the PRC as an NME country for purposes of these reviews and calculated NV by valuing the FOP in a surrogate country.

The Department determined that India, Indonesia, Sri Lanka, Philippines, Morocco and Egypt are countries comparable to the PRC in terms of economic development. See *Memorandum from Ron Lorentzen, Office of Policy, Acting Director, to James C. Doyle, Program Manager: Antidumping Duty Administrative Review of Heavy Forged Hand Tools ("Hand Tools") from the People's Republic of China (PRC): Request for a List of Surrogate Countries*, dated July 15, 2004. We select an appropriate surrogate country based on the availability and reliability of data from the countries. See *Department Policy Bulletin No. 04.1: Non-Market Economy Surrogate Country Selection Process ("Policy Bulletin")*, dated March 1, 2004. In this case, we have found that India is a significant exporter of comparable merchandise, merchandise classified under HTSUS subheadings 8205.20, 8205.59, 8201.30, and 8201.40, the subheadings applicable to subject hand tools, and is at a similar level of economic development pursuant to 733(c)(4) of the Act. See *Memorandum from Paul Walker, Case Analyst, through Edward C. Yang, Office Director, Office IX, to The File, 13th Administrative Review of Heavy Forged Hand Tools from the People's Republic of China ("PRC"): Selection of a Surrogate Country ("Surrogate Country Memo")*, dated August 13, 2004. Since our issuance of the *Surrogate Country Memo*, we have not received comments from interested parties.

#### U.S. Price

The Department is calculating dumping margins for the picks/mattocks order for TMC and the axes/adzes order for Huarong. There is no record evidence that these companies engaged in the "agent" sale scheme as described above with respect to these sales. In accordance with section 772(a) of the Act, the Department calculated export prices ("EPs") for sales to the United States for the participating Respondents receiving calculated rates because the first sale to an unaffiliated party was made before the date of importation and the use of constructed EP ("CEP") was not otherwise warranted. We calculated EP based on the price to unaffiliated purchasers in the United States. In accordance with section 772(c) of the Act, as appropriate, we deducted from the starting price to unaffiliated purchasers foreign inland freight, brokerage and handling, international

freight, and marine insurance. For the Respondents receiving calculated rates, each of these services was either provided by a NME vendor or paid for using a NME currency, with one exception. For international freight, provided by a market economy provider and paid in U.S. dollars, we used the actual cost per kg. of the freight. For international freight, provided by a NME provider, we used a surrogate value. Thus, we based the deduction for these movement charges on surrogate values. See the "Normal Value" section of this notice for details regarding these surrogate values.

We valued brokerage and handling and marine insurance using the rates reported in the public version of the questionnaire response in *Stainless Steel Wire Rod From India; Final Results of Administrative Review*, 63 FR 48184 (September 9, 1998) ("*India Wire Rod*"). The source used to value foreign inland freight is identified below in the "Normal Value" section of this notice. See *Memorandum from Paul Walker, Case Analyst, through James Doyle, Director, Office 9, to the File, 13th Administrative Review of Heavy Forged Hand Tools from the People's Republic of China: Selection of Factor Values for the Preliminary Results ("Surrogate Values Memo")*, dated February 28, 2005.

To account for inflation or deflation between the time period that the freight, brokerage and handling, and insurance rates were in effect and the POR, we adjusted the rates using the wholesale price index ("WPI") for India from the International Monetary Fund ("IMF") publication, *International Financial Statistics*. See *Surrogate Values Memo*.

#### Normal Value

In accordance with section 773(c) of the Act, we calculated NV based on factors of production ("FOP") reported by the Respondents for the POR. To calculate NV, we valued the reported FOP by multiplying the per-unit factor quantities by publicly available Indian surrogate values. In selecting surrogate values, we considered the quality, specificity, and contemporaneity of the available values. As appropriate, we adjusted the value of material inputs to account for delivery costs. Where appropriate, we increased Indian surrogate values by surrogate inland freight costs. We calculated these inland freight costs using the reported distances from the PRC port to the PRC factory, or from the domestic supplier to the factory. This adjustment is in accordance with the United States Court of Appeals for the Federal Circuit's ("CAFC") decision in *Sigma Corp. v.*



*United States*, 117 F. 3d 1401, 1407–1408 (Fed.Cir. 1997). For those values not contemporaneous with the POR, we adjusted for inflation or deflation using the appropriate wholesale or WPI published in the IMF's International Financial Statistics. Consistent with the *Final Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields From the People's Republic of China*, 67 FR 6482 (February 12, 2002) and accompanying Issues and Decision Memorandum at Comment 1, we excluded from the surrogate country import data used in our calculations imports from Korea, Thailand and Indonesia due to subsidies. See *Surrogate Values Memo*.

The Department prefers to rely upon the Respondents' HTS classification for its inputs during the POR. On July 26, 2004, the Department requested factor value data from all interested parties by August 23, 2004. No parties submitted comments. On December 14, 2004 the Department again made a request for factor value data from interested parties, however, only the Petitioner responded to this request. In addition to using information provided in the Petitioner's comments, the Department conducted its own search for the HTS heading and article description which best captured the factors of production described by TMC and Huarong.

We valued direct materials used to produce HFHTs: Steel, handles, paint, labels and anti-rust oil, using USD/kilogram value of imports that entered India during the period January 2003 through December 2003, based upon data obtained from the World Trade Atlas. See *Surrogate Values Memo* at Exhibits 3 & 4.

We valued coal to produce HFHTs using USD/kilogram value of imports that entered India during the period January 2003 through December 2003, based upon data obtained from the World Trade Atlas. See *Surrogate Values Memo* at Exhibit 5. We valued electricity using rates from *Key World Energy Statistics 2003*, published by the International Energy Agency ("IEA"). We adjusted the electricity rates for the POR by using the WPI inflator. See *Surrogate Values Memo* at Exhibit 5. We have used previous editions of this report in other antidumping proceedings. See, e.g., *Notice of Final Results and Rescission, in Part, of the Antidumping Duty Administrative Review: Petroleum Wax Candles From the People's Republic of China Monday*, 69 FR 12121, 12126 (March 15, 2004).

Section 351.408(c)(3) of the Department's regulations requires the use of a regression-based wage rate.

Therefore, to value the labor input, the Department used the regression-based wage rate for China published by Import Administration on our website. The source of the wage rate data is the *Yearbook of Labour Statistics 2001*, published by the International Labour Office ("ILO"), (Geneva: 2001), Chapter 5B: Wages in Manufacturing. See the Import Administration Web site: <http://ia.ita.doc.gov/wages/01wages/01wages.html>.

To value packing materials, the Department used Indian Import Statistics published by World Trade Atlas. See *Surrogate Values Memo* at Exhibit 7.

Our treatment of by-products is in accordance with the Department's practice. "We allowed recovery/by-product credits where the company provided information demonstrating that the recoveries/by-products were sold and/or reused in the production process." See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Steel Flat Products from the Peoples' Republic of China*, 66 FR 49632 (September 28, 2001) and accompanying Issues and Decision Memo at Comment 3. To value the by-products, the Department used a surrogate value for scrap rail using Indian Import Statistics published by World Trade Atlas. See *Surrogate Values Memo* at Exhibit 6.

Whenever possible, the Department will use producer-specific data to calculate financial ratios. Unlike industry-specific data, which tends to be broader in terms of merchandise included, product-specific data obtained from specific producers of merchandise identical or similar to the subject merchandise pertains directly to the subject merchandise. See, e.g., *Notice of 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), and accompanying Issues and Decision Memorandum at Comment 3. However, when the Department and the parties are unable to obtain surrogate information for valuing overhead, selling, general and administrative ("SG&A") expenses, and profit from manufacturers of merchandise identical or comparable to the subject merchandise, the Department must rely upon surrogate information derived from broader industry groupings. See *Notice of Final Results of New Shipper Review: Petroleum Wax Candles from the People's Republic of China*, 67 FR 41395 (June 18, 2002), and accompanying Issues and Decision Memorandum, at Comment 6.

In the instant reviews, neither the Petitioner nor the Respondents have placed any financial statements on the record. Moreover, the Department has been unable to locate public financial statements specific to hand tools producers in India. Therefore, the Department is using broader financial data from the RBI Bulletin to calculate the financial ratios. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China*, 68 FR 7765 (February 18, 2003) and the accompanying Issues and Decision Memorandum at Comment 4; *Final Results of Antidumping New Shipper Review: Potassium Permanganate from the People's Republic of China*, 66 FR 46775 (September 7, 2001), and the accompanying Issues and Decision Memorandum, at Comment 20; *Notice of Initiation of Antidumping Duty Investigation: Lawn and Garden Steel Fence Posts From the People's Republic of China*, 67 FR 37388, 37391 (May 29, 2002), and the accompanying Issues and Decision Memorandum, at Comment 6.

Therefore, we derived ratios for factory overhead, SG&A expenses, and profit using information reported for 2,031 Public Limited Companies for the period 2002–2003, in the Reserve Bank of India Bulletin for August 2004. From this information, we were able to calculate factory overhead as a percentage of direct materials, labor, and energy expenses; SG&A expenses as a percentage of the total cost of manufacturing ("TOTCOM"); and profit as a percentage of the sum of TOTCOM and SG&A expenses. See *Surrogate Values Memo* at Exhibit 9.

We used rates used by the Department in the *Notice of Final Determination of Sales at Less Than Fair Value: Bulk Aspirin From the People's Republic of China*, 65 FR 33805 (May 25, 2000) to value truck and rail freight services incurred to transport direct materials, packing materials, and coal from the suppliers of the inputs to the factories producing HFHTs. See *Surrogate Value Memo* at Exhibit 8.

#### **Preliminary Results of the Review**

As a result of our reviews, we preliminarily find that the following margins exist for the period February 1, 2003 through January 31, 2004:

Manufacturer/exporter	Weighted-average margin (percent)
<b>Heavy Forged Hand Tools from the PRC: Axes/Adzes</b>	
TMC .....	147.36
Huarong .....	147.36
PRC-Wide Rate .....	147.36
<b>Heavy Forged Hand Tools from the PRC: Hammers/Sledges</b>	
TMC .....	45.42
PRC-Wide Rate .....	45.42
<b>Heavy Forged Hand Tools from the PRC: Picks/Mattocks</b>	
TMC .....	129.93
PRC-Wide Rate .....	129.93
<b>Heavy Forged Hand Tools from the PRC: Bars/Wedges</b>	
TMC .....	139.31
Huarong .....	139.31
PRC-Wide Rate .....	139.31

### Public Comment

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

be based on the final results of this review.

### Assessment Rates

Upon completion of these administrative reviews, the Department will determine, and Customs shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), for the Respondents receiving calculated dumping margins, we calculated importer-specific per-unit duty assessment rates based on the ratio of the total amount of the dumping duties calculated for the examined sales to the total quantity of those same sales. These importer-specific per-unit rates will be assessed uniformly on all entries of each importer that were made during the POR. In accordance with 19 CFR 351.106(c)(2), we will instruct Customs to liquidate without regard to antidumping duties any entries for which the importer-specific assessment rate is *de minimis* (i.e., less than 0.5 percent *ad valorem*). For all shipments of subject merchandise for the four antidumping orders covering HFHTs from the PRC, exported by the Respondents and imported by entities not identified by the Respondents in their questionnaire responses, we will instruct Customs to assess antidumping duties at the cash deposit rate in effect on the date of the entry. Lastly, for the Respondents receiving dumping rates based upon AFA, the Department, upon completion of these reviews, will instruct Customs to liquidate entries according to the AFA *ad valorem* rate. The Department will issue appraisement instructions directly to Customs upon the completion of the final results of these administrative reviews.

### Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the final results of these administrative reviews for all shipments of HFHTs from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies named above will be the rates for those firms established in the final results of these administrative reviews; (2) for any previously reviewed or investigated PRC or non-PRC exporter, not covered in these reviews, with a separate rate, the cash deposit rate will be the company-specific rate established in the most recent segment of these proceedings; (3) for all other PRC exporters, the cash deposit rates will be the PRC-wide rates established in the final results of these

reviews; and (4) the cash deposit rate for any non-PRC exporter of subject merchandise from the PRC who does not have its own rate will be the rate applicable to the PRC exporter that supplied the non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative reviews.

### Notification to Interested Parties

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. 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.

We are issuing and publishing this determination in accordance with sections 751(a)(1) and 777(I)(1) of the Act.

Dated: February 28, 2005.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E5-1017 Filed 3-9-05; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Availability of Seats for the Fagatele Bay National Marine Sanctuary Advisory Council

**AGENCY:** National Marine Sanctuary Program (NMSPP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Department of Commerce (DOC).

**ACTION:** Notice and request for application.

**SUMMARY:** The Fagatele Bay National Marine Sanctuary is seeking applicants for the following vacant seats on its Sanctuary Advisory Council (Council): Research (voting), education (voting), fishing/Western Pacific Fisheries Management Council member (voting), ocean recreation or ocean centered eco-tourism (voting), and community-at-large, with preference to Futiga Village (voting). Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations; philosophy