

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: Final Results of Antidumping Duty Administrative Reviews and Final Rescission and Partial Rescission of Antidumping Duty Administrative Reviews

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

SUMMARY: On March 8, 2006, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary results of the administrative review of the antidumping duty order on heavy forged hand tools, finished or unfinished, with or without handles ("HFHTs"), from the People's Republic of China ("PRC"). See *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*, 71 FR 11580 (March 8, 2006) ("Preliminary Results"). We gave interested parties an opportunity to comment on the *Preliminary Results*. Based upon our analysis of the comments and information received, we made changes to the dumping margin calculations for the final results. We find that certain manufacturers/exporters sold subject merchandise at less than normal value during the period of review ("POR") February 1, 2004, through January 31, 2005.

EFFECTIVE DATE: September 14, 2006.

FOR FURTHER INFORMATION CONTACT: Matthew Renkey (Respondents Shandong Huarong Machinery Co. Ltd. and Tianjin Machinery Import & Export Corporation), Cindy Robinson (Respondent Iron Bull Industrial Co., Ltd.), and Nicole Bankhead (Respondent Shandong Machinery Import & Export Company), AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-2312, (202) 482-3797 and (202) 482-9068, respectively.

SUPPLEMENTARY INFORMATION:**Case History**

The *Preliminary Results* in this administrative review were published

on March 8, 2006. See *Preliminary Results*. This administrative review covers four exporters or producer/exporters of subject merchandise: Shandong Huarong Machinery Co., Ltd. ("Huarong"), Iron Bull Industrial Co., Ltd. ("Iron Bull"), Tianjin Machinery Import & Export Corporation ("TMC"), and Shandong Machinery Import & Export Company ("SMC")¹, collectively "the Respondents," and exports of the subject merchandise to the United States during the period February 1, 2004, through January 31, 2005.

On March 2, 2006, an importer/customer in the instant review ("Customer A")² requested a second extension to respond to the Department's February 17, 2006, letter requesting that Customer A provide its downstream sales data and additional information about its bankruptcy status. The Department granted Customer A an additional extension of eleven days to respond to the Department's February 17, 2006, questionnaire. On March 17, 2006, Customer A submitted its questionnaire response providing additional information on its bankruptcy status but no downstream sales information. On March 20, 2006, Customer A submitted certifications from its bankruptcy lawyers. On March 28, 2006, the Department issued supplemental questionnaires to TMC and SMC.

On April 4, 2006, TMC submitted its supplemental questionnaire response. On April 5, 2006, SMC submitted its supplemental questionnaire response. On April 7, 2006, the Petitioner,³ interested party Council Tool Company, and the Respondents submitted their case briefs. On April 13, 2006, the Petitioner and the Respondents submitted their rebuttal briefs.

On June 9, 2006, the Department extended the time limit for completion of the final results of the instant administrative review. See *Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles,*

¹ On March 23, 2005, the Department initiated the 14th administrative review of HFHTs from the PRC, for twenty-one companies in the axes/adzes and bars/wedges orders, and twenty companies in the hammers/sledges and picks/mattocks orders. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part ("Initiation Notice")*, 70 FR 14643 (March 23, 2005). The Department notes that SMC was inadvertently referred to as "Shanghai Machinery Import and Export Corporation" instead of Shandong Machinery Import & Export Company in the Initiation Notice of the instant review for the hammers/sledges order.

² Please see *SMC Hammers/Sledges Final Analysis Memo*, *SMC Bars/Wedges Final Analysis Memo*, and *Affiliation Memo* for information regarding Customer A.

³ Ames True Temper.

from the People's Republic of China: *Extension of Time Limit for the 14th Antidumping Duty Administrative Review*, 71 FR 33438 (June 9, 2006). On July 26, 2006, the Department fully extended the final results of the instant administrative review. 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 14th Antidumping Duty Administrative Review*, 71 FR 43714 (August 2, 2006).

On July 26, 2006, the Department issued Customer A a questionnaire requesting additional information on its bankruptcy status. Customer A did not respond to this questionnaire.

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, 8201.40.60, and 8205.59.5510.⁴ 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 issued nine conclusive scope rulings regarding the merchandise covered by these orders: (1) On August 16, 1993, the Department found the "Max Multi-Purpose Axe,"

⁴ See *Final Decision Memo* at Comment 5.

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,” imported by Import Traders, Inc., to be within the scope of the axes/adzes order; (5) on December 9, 2004, the Department found the “MUTT,” imported by Olympia Industrial, Inc., under HTSUS 8205.59.5510, to be within the scope of the axes/adzes order; (6) on May 23, 2005, the Department found 8–inch by 8–inch and 10–inch by 10–inch cast tampers, imported by Olympia Industrial, Inc. to be outside the scope of the orders; (7) on September 22, 2005, following remand, the U.S. Court of International Trade affirmed the Department’s determination that cast picks are outside the scope of the order; (8) on October 14, 2005, the Department found the Mean Green Splitting Machine, imported by Avalanche Industries, under HTSUS 8201.40.60, to be within the scope of the bars/wedges order, and (9) on July 27, 2006, the Department found that the gooseneck claw wrecking bar which has a length of 17 7/8” not including the curvature portion of the bar stock, imported by Central Purchasing, LLC. to be outside the scope of the order for bars and wedges.

Separate Rates

TMC, SMC, Huarong, and Iron Bull have requested separate, company–specific antidumping duty rates. In the *Preliminary Results*, we determined that TMC, SMC, Huarong, and Iron Bull met the criteria for the application of a separate antidumping duty rate. See *Preliminary Results* at 11583. For the final results, we continue to find that the evidence placed on the record of the instant review by TMC, SMC, Huarong, and Iron Bull demonstrate both a *de jure* and *de facto* absence of government control, with respect to their respective exports of the subject merchandise, and, thus all four companies are eligible for separate rate status. See *Final Decision Memo* at Comment 3.

Rescission of Review

In our *Preliminary Results*, in accordance with 19 CFR 351.213(d)(1), we preliminarily rescinded the review for all four orders for Shanghai Xinike

Trading Company (“SXT”). Additionally, in accordance with 19 CFR 351.213(d)(3), we preliminarily rescinded the orders on hammers/sledges and picks/mattocks for Huarong and Iron Bull, and also the order on axes/adzes for Iron Bull. See *Preliminary Results*, 71 FR 11583.

In accordance with 19 CFR 351.213(d)(1), we are rescinding these administrative reviews with respect to all four orders for SXT. The Department reviewed data from Customs and Border Protection (“CBP”) for Huarong and Iron Bull, which supports the claims that these companies did not export subject merchandise during the POR. Furthermore, no party placed evidence on the record demonstrating that Huarong or Iron Bull exported the merchandise identified above during the POR since the issuance of the *Preliminary Results*. Therefore, in accordance with 19 CFR 351.213(d)(3) and consistent with the Department’s practice, we are rescinding these administrative reviews with respect to the hammers/sledges and picks/mattocks orders for Huarong and Iron Bull, and also the order on axes/adzes for Iron Bull.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the Issues and Decision Memorandum (“*Final Decision Memo*”), which is hereby adopted by this notice. Parties can find a complete discussion of the issues raised in this administrative review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit (CRU), room B–099 of the main Department building. In addition, a copy of the *Final Decision Memo* can be accessed directly on our website at <http://ia.ita.doc.gov/>. The paper copy and electronic version of the *Final Decision Memo* are identical in content.

Changes Since the Preliminary Results

Based on a review of the record as well as comments received from parties regarding our *Preliminary Results*, we have made revisions to the margin calculations for the final results. Specific changes to SMC’s margin calculation include a recalculation of the international freight expenses and truck freight in the margin programs for both the hammers/sledges and bars/wedges orders and a revision to the calculation of one packing freight factor, packing weight, and normal value in the margin program for the hammers/

sledges order. See *Final Decision Memo at Comment 8*; see also *Analysis for the Final Results of the 14th Administrative Review of Heavy Forged Hand Tools from the Peoples’ Republic of China: Shandong Machinery Import & Export Company (“SMC”) - Hammers/Sledges (“SMC Final Hammers/Sledges Analysis Memo”)*; *Analysis for the Final Results of the 14th Administrative Review of Heavy Forged Hand Tools from the Peoples’ Republic of China: Shandong Machinery Import & Export Company (“SMC”) - Bars/Wedges (“SMC Final Bars/Wedges Analysis Memo”)*. Specific changes to Huarong’s axes/adzes calculation program include a recalculation of international freight expenses and truck freight. See *Final Decision Memo at Comment 8*; see also *Analysis for the Final Results of the 14th Administrative Review of Heavy Forged Hand Tools from the Peoples’ Republic of China: Huarong (“Huarong Final Analysis Memo”)*. Specific changes to TMC’s margin calculation in the picks/mattocks order include a recalculation of truck freight in the margin program. See *Final Decision Memo at Comment 8*; see also *Analysis for the Final Results of the 14th Administrative Review of Heavy Forged Hand Tools from the Peoples’ Republic of China: TMC (“TMC Final Analysis Memo”)*.

The Department also notes that in the *Preliminary Results* the brokerage and handling value for Pidilite Industries Ltd. (“Pidilite”) was incorrectly labeled November 1, 2002, through September 30, 2003. See *Memorandum from Matt Renkey, Case Analyst, through Alex Villanueva, Program Manager, Office 9, to the File, 14th Administrative Review of HFHTs from the People’s Republic of China (“PRC”): Surrogate Values for the Preliminary Results*, dated February 28, 2006 (“*Surrogate Values Memo*”) at Exhibits 2 and 12. The Department also notes that the average brokerage and handling surrogate value was incorrectly calculated. See *Id.* The Department has corrected the brokerage and handling value for these final results. See *Memorandum from Matthew Renkey, Case Analyst, through Alex Villanueva, Program Manager, Office 9, to the File, 14th Administrative Review of HFHTs from the People’s Republic of China (“PRC”): Selection of Surrogate Values for the Final Results*, dated September 5, 2006.

Affiliation

The Department preliminarily determined that SMC is affiliated with one of its U.S. customers, Customer A. See *Preliminary Results*, at 11584. Specifically, the Department determined

that SMC and Customer A are affiliated through their joint ownership of another PRC company involved in the production and export of subject merchandise. See Memorandum from Nicole Bankhead, Case Analyst, through Alex Villanueva, Program Manager, Office 9, to James C. Doyle, Director, Office 9, 14th Administrative Review of the Antidumping Duty Order on Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, from the People's Republic of China: Affiliation, dated February 28, 2006 ("SMC Affiliation Memo") for further details regarding this issue. The Department continues to find that SMC is affiliated with Customer A. See Final Analysis Memo at Comment 10A and Facts Available ("FA") Section Below.

Facts Available

In the Preliminary Results, we determined that the use of partial neutral facts available was appropriate for SMC's constructed export price ("CEP") sales through Customer A in accordance with sections 776(a)(2)(A) and 776(a)(2)(B) of the Tariff Act of 1930, as amended ("the Act"). In addition, we preliminarily based the dumping margins for SMC, Huarong, TMC, and Iron Bull on total adverse facts available ("AFA") for their sales of merchandise subject to certain HFHTs orders pursuant to sections 776(a) and 776(b) of the Act. See Preliminary Results, 71 FR 11580 at 11584-87.

For these final results, in accordance with sections 776(a)(2)(A), 776(a)(2)(B) and 776(b) of the Act, we have determined that the use of partial AFA, rather than neutral facts available, is appropriate for SMC's CEP sales through Customer A. See Final Decision Memo at Comment 10B. As partial AFA, we are applying the highest transaction margin from SMC's sales to its other U.S. customers to those sales it made to Customer A. See SMC Hammers/Sledges Final Analysis Memo and the SMC Bars/Wedges Final Analysis Memo. We also continue to find that the application of total AFA to SMC for axes/adzes and picks mattocks; Huarong for bars/wedges; to TMC for axes/adzes, hammers/sledges, and bars/wedges; and Iron Bull for bars/wedges is appropriate because each respondent significantly impeded our ability to (1) conduct the reviews of these orders, and (2) instruct CBP to assess the correct antidumping duties, as mandated by section 731 of the Act.

For the final results the Department is basing SMC's sales through Customer A on partial AFA, using SMC's own data. A complete explanation of the selection, corroboration, and application of AFA

for all other AFA rates can be found in the Preliminary Results. See Preliminary Results, 71 FR 11580 at 11587. The Department received comments and rebuttal comments with regard to certain aspects of our selection and application of AFA. See Final Decision Memo, at Comments 2, 3, 8, 9 and 10. The Department has made no changes since the Preliminary Results that would affect the Department's selection, corroboration, and application of facts available for the other companies receiving AFA. Accordingly, for the final results, we continue to apply AFA as noted above.

Final Results of Review

The weighted-average dumping margins for the POR are as follows:

HEAVY FORGED HAND TOOLS FROM THE PRC: AXES/ADZES

Manufacturer/Exporter	Weighted-Average Margin (Percent)
TMC	189.37
Huarong	189.37
SMC	189.37
PRC-Wide Rate	189.37

HEAVY FORGED HAND TOOLS FROM THE PRC: HAMMERS/SLEDGES

Manufacturer/Exporter	Weighted-Average Margin (Percent)
TMC	45.42
SMC	34.56
PRC-Wide Rate	45.42

HEAVY FORGED HAND TOOLS FROM THE PRC: PICKS/MATTOCKS

Manufacturer/Exporter	Weighted-Average Margin (Percent)
TMC	53.04
SMC	98.77
PRC-Wide Rate	98.77

HEAVY FORGED HAND TOOLS FROM THE PRC: BARS/WEDGES

Manufacturer/Exporter	Weighted-Average Margin (Percent)
TMC	139.31
Huarong	139.31
SMC	104.54
Iron Bull	139.31
PRC-Wide Rate	139.31

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of certain

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 will be the rates shown above; (2) for any previously reviewed or investigated PRC or non-PRC exporter, not covered in this review, with a separate rate, the cash deposit rate will be the company-specific rate established in the most recent segment of those proceedings; (3) for all other PRC exporters, the cash deposit rates will be the PRC-wide rates established in the final results of this review; 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 review.

Assessment Rates

The Department will issue appraisal instructions directly to CBP within 15 days of publication of the final results of this administrative review. In accordance with 19 CFR 351.212(b)(1), we have calculated importer-specific assessment rates for merchandise subject to this review. For SMC, TMC, and Huarong, we divided the total dumping margins of its reviewed sales by the total entered value of its reviewed sales for each applicable importer to calculate *ad valorem* assessment rates. We will direct CBP to assess the resulting assessment rates against the entered customs values for the subject merchandise on SMC, TMC and Huarong's entries under the relevant order during the POR. Where an importer-specific *ad valorem* rate is *de minimis*, we will order CBP to liquidate appropriate entries without regard to antidumping duties.

Lastly, for the respondents receiving dumping rates based upon AFA, the Department will instruct CBP to liquidate entries according to the AFA *ad valorem* rate. The Department will issue appraisal instructions directly to CBP upon the completion of the final results of this administrative review.

Reimbursement of Duties

This notice also serves as a final 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 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 doubled antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective orders ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this administrative review and notice in accordance with sections 751(a) and 777(i) of the Act.

Dated: September 5, 2006.

David M. Spooner,

Assistant Secretary for Import Administration,

Appendix I Decision Memorandum

I. CHANGES SINCE THE PRELIMINARY RESULTS

II. GENERAL COMMENTS:

Comment 1: Adverse Facts Available ("AFA") for "Agent" Sales

Comment 2: AFA Rate for the Bars/Wedges Order

Comment 3: Separate Rates for TMC and SMC

Comment 4: Rejecting the Respondents' Case Brief

Comment 5: Addition of an HTS Number to the Scope of the Order

Comment 6: Application of Packing Materials and the By-product Offset in the Calculation of Normal Value

Comment 7: Referral to Customs and Border Protection ("CBP") Regarding Evasion of These Orders by Huarong, TMC and Iron Bull

Comment 8: Clerical Errors from the Preliminary Results

A. Calculation of per unit Importer Assessment Rates

B. SMC Missing Packing Variable

C. CBP Instructions

III. COMPANY-SPECIFIC ISSUES:

Comment 9: Huarong

A. Axes/Adzes Rate

B. Bars/Wedges Rate

Comment 10: SMC

A. Affiliation Determination

B. Partial Adverse Facts Available for Constructed Export Price ("CEP") Sales

C. Rate to Apply to SMC

D. AFA for SMC's Non-Reported Sales
Comment 11: AFA for Iron Bull's Sales of Bars/Wedges

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DEPARTMENT OF COMMERCE

International Trade Administration

(A-351-824, A-823-805, A-570-828)

Silicomanganese from Brazil, Ukraine, and the People's Republic of China: Continuation of Antidumping Duty Orders

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

SUMMARY: As a result of the determinations by the Department of Commerce (the Department) and the International Trade Commission (ITC) that revocation of the antidumping duty orders on silicomanganese from Brazil, Ukraine, and the People's Republic of China (PRC) would be likely to lead to continuation or recurrence of dumping and of material injury to an industry in the United States within a reasonably foreseeable time, the Department is publishing notice of the continuation of these antidumping duty orders.

EFFECTIVE DATE: September 14, 2006.

FOR FURTHER INFORMATION CONTACT: Janis Kalnins or Minoo Hatten, Office 5, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1392 and (202) 482-1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 3, 2006, the Department initiated and the ITC instituted the second sunset reviews of the antidumping duty orders on silicomanganese from Brazil, Ukraine, and the PRC pursuant to section 751(c) of the Act of 1930, as amended (the Act). See *Initiation of Five-year (Sunset) Reviews*, 71 FR 91 (January 3, 2006).

As a result of our review, the Department found that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping and notified the ITC of the magnitude of the margins likely to prevail were the orders to be

revoked. See *Silicomanganese from Brazil, Ukraine, and the People's Republic of China; Five-year Sunset Reviews of Antidumping Duty Orders; Final Results*, 71 FR 26927 (May 9, 2006). On September 1, 2006, the ITC determined pursuant to section 751(c) of the Act that revocation of the antidumping duty orders on silicomanganese from Brazil, Ukraine, and the PRC would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. See *Silicomanganese from Brazil, China, and Ukraine*, 71 FR 52145 (September 1, 2006), and ITC Publication 3879 (August 2006) entitled *Silicomanganese from Brazil, China, and Ukraine: Investigation Nos. 731-TA-311-314, 317, and 379 (Second Review)*.

Scope of the Orders

The merchandise covered by these orders is silicomanganese. Silicomanganese, which is sometimes called ferrosilicon manganese, is a ferroalloy composed principally of manganese, silicon and iron, and normally contains much smaller proportions of minor elements, such as carbon, phosphorus, and sulfur. Silicomanganese generally contains by weight not less than 4 percent iron, more than 30 percent manganese, more than 8 percent silicon, and not more than 3 percent phosphorous. All compositions, forms, and sizes of silicomanganese are included within the orders, including silicomanganese slag, fines, and briquettes. Silicomanganese is used primarily in steel production as a source of both silicon and manganese.

Silicomanganese is currently classifiable under subheading 7202.30.0000 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Some silicomanganese may also currently be classifiable under HTSUS subheading 7202.99.5040. These orders cover all silicomanganese, regardless of its tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of these orders remains dispositive.

Determination

As a result of the determinations by the Department and ITC that revocation of these antidumping duty orders would be likely to lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping