

Dated: September 4, 2007.

Andrew McGilvray,

Executive Secretary.

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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-888

Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review

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

SUMMARY: In response to requests from interested parties, the Department of Commerce ("the Department") is conducting the administrative review of the antidumping duty order on floor-standing, metal-top ironing tables and certain parts thereof from the People's Republic of China ("PRC"). The period of review ("POR") is August 1, 2005, through July 31, 2006. We have preliminarily determined that Since Hardware (Guangzhou) Co., Ltd. ("Since Hardware"), the sole company subject to this review, has not made sales to the United States of the subject merchandise at prices below normal value. We invite interested parties to comment on these preliminary results. Parties filing comments are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument(s).

EFFECTIVE DATE: September 11, 2007.

FOR FURTHER INFORMATION CONTACT:

Anya Naschak or Bobby Wong, 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) 482-6375 or (202) 482-0409, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 6, 2004, the Department published in the **Federal Register** the antidumping duty order regarding floor-standing, metal-top ironing tables and certain parts thereof ("ironing tables") from the PRC. See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof From the People's Republic of China*, 69 FR 47868 (August 6, 2004) (*Amended Final FR*).

On August 1, 2006, the Department published a notice of opportunity to request an administrative review of the ironing tables antidumping duty order. See *Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation*, 71 FR 43441 (August 1, 2006). On August 2, 2006, and August 29, 2006, respectively, in accordance with 19 CFR 351.213(b)(2), Foshan Shunde Yongjian Housewares & Hardware Co., Ltd. ("Foshan Shunde") and Since Hardware requested administrative reviews of their sales under the antidumping duty order on ironing tables from the PRC. On August 31, 2006, Home Products International Inc. ("Petitioner") also requested an administrative review of Since Hardware's sales. On September 29, 2006, the Department initiated an administrative review of Since Hardware and Foshan Shunde. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 71 FR 57465 (September 29, 2006).

On December 21, 2006, Foshan Shunde filed a letter withdrawing its request for review. On January 23, 2007, the Department rescinded this administrative review with respect to Foshan Shunde. See *Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 2856 (January 23, 2007).

On April 17, 2007, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), and 19 CFR 351.213(h)(2), the Department extended the deadline for the preliminary results of review until August 31, 2007. See *Floor-Standing, Metal-Top Ironing Tables and Parts Thereof from the People's Republic of China: Extension of the Time Limit for the Preliminary Results of the 2005/2006 Administrative Review*, 72 FR 19173 (April 17, 2007).

On April 19, 2007, Petitioner submitted comments regarding the selection of appropriate surrogate values for valuing the factors of production for these preliminary results. On April 26, 2007, we invited interested parties to comment on the Department's surrogate country selection and/or significant production in the other potential surrogate countries and to submit publicly available information to value the factors of production. On April 30, 2007, Since Hardware submitted comments regarding Petitioner's April 19, 2007, submission. On May 9, 2007, Petitioner submitted additional

comments regarding surrogate values for the preliminary results. On July 2, 2007, Petitioner submitted comments on the Department's selection of a surrogate country.

On July 11, 2007, we extended the time limit for submitting publicly available surrogate values for consideration in these preliminary results. On July 20, 2007, Petitioner submitted additional comments on the appropriate surrogate values for valuing the factors of production for these preliminary results. In addition, on July 27, 2006, Petitioner submitted Indian audited financial statements for the 2005-2006 fiscal year. Since Hardware submitted rebuttal comments to Petitioner's July 20, 2007, comments on July 30, 2007.

The Department received timely filed original and supplemental questionnaire responses from Since Hardware.

Between July 31, 2007, and August 9, 2007, the Department received the following pre-preliminary results comments: Petitioner's July 31, 2007, submission ("Petitioner Pre-Prelim Comments"); Since Hardware's August 6, 2007, submission ("Since Hardware Pre-Prelim Comments"); and Petitioner's August 9, 2007, submission ("Petitioner Additional Prelim Comments")

Scope of the Order

For purposes of this order, the product covered consists of floor-standing, metal-top ironing tables, assembled or unassembled, complete or incomplete, and certain parts thereof. The subject tables are designed and used principally for the hand ironing or pressing of garments or other articles of fabric. The subject tables have full-height leg assemblies that support the ironing surface at an appropriate (often adjustable) height above the floor. The subject tables are produced in a variety of leg finishes, such as painted, plated, or matte, and they are available with various features, including iron rests, linen racks, and others. The subject ironing tables may be sold with or without a pad and/or cover. All types and configurations of floor-standing, metal-top ironing tables are covered by this review.

Furthermore, this order specifically covers imports of ironing tables, assembled or unassembled, complete or incomplete, and certain parts thereof. For purposes of this order, the term "unassembled" ironing table means a product requiring the attachment of the leg assembly to the top or the attachment of an included feature such as an iron rest or linen rack. The term "complete" ironing table means product

sold as a ready-to-use ensemble consisting of the metal-top table and a pad and cover, with or without additional features, e.g. iron rest or linen rack. The term “incomplete” ironing table means product shipped or sold as a “bare board” – i.e., a metal-top table only, without the pad and cover with or without additional features, e.g. iron rest or linen rack. The major parts or components of ironing tables that are intended to be covered by this order under the term “certain parts thereof” consist of the metal top component (with or without assembled supports and slides) and/or the leg components, whether or not attached together as a leg assembly. The order covers separately shipped metal top components and leg components, without regard to whether the respective quantities would yield an exact quantity of assembled ironing tables.

Ironing tables without legs (such as models that mount on walls or over doors) are not floor-standing and are specifically excluded. Additionally, tabletop or countertop models with short legs that do not exceed 12 inches in length (and which may or may not collapse or retract) are specifically excluded.

The subject ironing tables were previously classified under Harmonized Tariff Schedule of the United States (“HTSUS”) subheading 9403.20.0010. Effective July 1, 2003, the subject ironing tables are classified under new HTSUS subheading 9403.20.0011. The subject metal top and leg components are classified under HTSUS subheading 9403.90.8040. Although the HTSUS subheadings are provided for convenience and for Customs and Border Protection (“CBP”) purposes, the Department’s written description of the scope remains dispositive.

Non-Market-Economy Status

Pursuant to section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME shall remain in effect until revoked by the administering authority. In every case conducted by the Department involving the PRC, the PRC has been treated as a NME. See, e.g., *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People’s Republic of China: Preliminary Results 2001–2002 Administrative Review and Partial Rescission of Review*, 68 FR 7500, 7500–01 (February 14, 2003), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People’s Republic of China: Final Results of 2001–2002 Administrative Review and Partial Rescission of Review*, 68 FR 70488 (December 18,

2003). None of the parties to these reviews has contested such treatment. Accordingly, we calculated normal value (NV) in accordance with section 773(c) of the Act, which applies to NME countries.

Separate Rates

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to its export activities. See *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People’s Republic of China*, 56 FR 20588 (May 6, 1991) (“*Sparklers*”). In this review, Since Hardware submitted information in support of its claim for a company-specific rate.

Accordingly, we have considered whether Since Hardware is independent from government control, and therefore eligible for a separate rate. The Department’s separate-rate test to determine whether the exporters are independent from government control does not consider, in general, macroeconomic/border-type controls, e.g., export licenses, quotas, and minimum export prices, particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from Ukraine*, 62 FR 61754, 61757 (November 19, 1997), and *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 61276, 61279 (November 17, 1997).

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising from *Sparklers*, 56 FR 20588 at Comment 1, further discussed in *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People’s Republic of China*, 59 FR 22585, 22586–87 (May 2, 1994) (“*Silicon Carbide*”). In accordance with the separate-rates criteria, the Department assigns separate rates in NME cases only if respondents can

demonstrate the absence of both *de jure* and *de facto* government control over export activities. See *Sparklers*, 56 FR 20588 at Comment 1 and *Silicon Carbide*, 59 FR 22586–87.

Since Hardware provided complete separate-rate information in its responses to our original and supplemental questionnaires. Accordingly, we performed a separate-rates analysis to determine whether these exporters are independent from government control.

Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter’s business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies. See *Sparklers*, 56 FR 20588 at Comment 1. As discussed below, our analysis shows that the evidence on the record supports a preliminary finding of an absence of *de jure* government control for the three fully responsive companies based on each of these factors.

Since Hardware has placed on the record a number of documents to demonstrate absence of *de jure* control, including documentation substantiating its claims that it is a wholly foreign-owned enterprise registered in China, the “Foreign Trade Law of the People’s Republic of China” (May 12, 1994) (“*Foreign Trade Law*”), and “Administrative Regulations of the People’s Republic of China Governing the Registration of Legal Corporations” (June 3, 1988) (“*Legal Corporations Regulations*”). See Since Hardware’s Section A questionnaire response dated November 8, 2006 (“*Since Hardware Section A*”) at Exhibits A–2 and A–5. Since Hardware also submitted a copy of its business license, which was issued by the Guangzhou Municipal Industrial and Commercial Administration. See Since Hardware Section A at Exhibit A–4. Since Hardware explained that its business license ensures that Since Hardware maintains sufficient capital and operating capacity to engage in normal business operations and that only Since Hardware may use its business license. See Since Hardware Section A at 4. Since Hardware affirms that there are no limitations imposed on Since Hardware by this license. See *id.* The license may be revoked, according to Since Hardware, only if a situation arises where, consistent with Article 30 of the

Legal Corporations Regulations, Since Hardware engages in prohibited activities. See Since Hardware Section A at 4 and Exhibit A–5. Further, Since Hardware states that to obtain a renewal of its business license, it must submit balance sheets and profit and loss (“P&L”) statements to the issuing authority. See *id.*

Since Hardware has placed on the record the *Foreign Trade Law* and states that this law allows it full autonomy from the central authority in governing its business operations. See Since Hardware Section A at 3. We have reviewed Article 11 of Chapter II of the *Foreign Trade Law*, which states, “foreign trade dealers shall enjoy full autonomy in their business operation and be responsible for their own profits and losses in accordance with the law.” As in prior cases, we have analyzed such PRC laws and found that they establish an absence of *de jure* control. See, e.g., *Preliminary Results of New Shipper Review: Certain Preserved Mushrooms From the People’s Republic of China*, 66 FR 30695, 30696 (June 7, 2001), unchanged in *Final Results of New Shipper Review: Certain Preserved Mushrooms From the People’s Republic of China*, 66 FR 45006 (August 27, 2001). Therefore, we preliminarily determine that there is an absence of *de jure* control over the export activities of Since Hardware.

Absence of De Facto Control

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. See *Silicon Carbide*, 59 FR at 22587. Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control, which would preclude the Department from assigning separate rates. See *id.*

Typically, the Department considers four factors in evaluating whether a respondent is subject to *de facto* government control of its export functions: (1) whether the export prices are set by, or subject to, the approval of a government authority; (2) whether the respondent has authority to negotiate and sign contracts, and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of its management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. See *id.*

Since Hardware has asserted the following: (1) it is a wholly foreign-owned company; (2) there is no government participation in its setting of export prices; (3) its general manager has the authority to bind sales contracts; (4) the company’s general manager appoints the company’s management and it does not have to notify government authorities of its management selection; (5) there are no restrictions on the use of its export revenue; and (6) its board of directors decides how profits will be used. See Since Hardware Section A at 4–8. We have examined the documentation provided and noted no discrepancies between the information on the record and Since Hardware’s statements on the record with respect to *de facto* control over its export activities.

Consequently, because evidence on the record indicates an absence of government control, both in law and in fact, over Since Hardware’s export activities, we preliminarily determine that Since Hardware has met the criteria for the application of a separate rate.

Fair Value Comparisons

To determine whether the respondent’s sales of the subject merchandise to the United States were made at prices below normal value, we compared its United States prices to normal values, as described in the “U.S. Price” and “Normal Value” sections of this notice. See section 773(a) of the Act.

U.S. Price

Export Price

We based U.S. price for Since Hardware on export price (“EP”) in accordance with section 772(a) of the Act, because the first sale to an unaffiliated purchaser was made prior to importation, and constructed export price (“CEP”) was not otherwise warranted by the facts on the record. We calculated EP based on the packed price from the exporter to the first unaffiliated customer in the United States. We deducted foreign inland freight, foreign brokerage and handling expenses from the starting price (gross unit price), in accordance with section 772(c) of the Act. Also, we added billing adjustments for origin receiving charges and freight revenue to the gross unit price, where applicable. We have preliminarily determined to accept these billing adjustments on the basis of the statements and documentation provided by Since Hardware indicating that these charges were separately listed on the sales invoice and paid for by the customer.

Where foreign inland freight or foreign brokerage and handling were provided by PRC service providers or paid for in renminbi, we valued these services using Indian surrogate values (see “Factors of Production” section below for further discussion).

Treatment of Sample Transactions

During the course of this review, Since Hardware reported that it provided a small number of samples to certain U.S. customers. See Since Hardware’s 2nd Supplemental response dated July 30, 2007 (“2nd Supplemental”) at 2–4. In determining whether to include these transactions in Since Hardware’s margin calculation, the Department analyzed whether Since Hardware received consideration for these samples, consistent with the Federal Circuit’s decision that a sale requires “both a transfer of ownership to an unrelated party and consideration. Consideration generally requires a bargained-for exchange.” See *NSK Ltd. v. United States*, 115 F.3d 965, 975 (Fed. Cir. 1997) (“*NSK*”). In the instant case, the Department notes that these samples were provided by Since Hardware to unaffiliated parties in the United States, and that none of the samples reported by Since Hardware were provided for commercial value (*i.e.*, samples shipped during the POR were zero-price transactions). Further, we note that certain of the reported samples were the first shipment of the applicable product code made to that customer, and the remaining samples were made for no commercial consideration in a non-commercial quantity, and shipped in a manner inconsistent with the remainder of Since Hardware’s sales during the POR. Consequently, for these preliminary results, we find that these reported samples were made for no commercial consideration and in non-commercial quantities to unaffiliated customers in a manner inconsistent with Since Hardware’s other sales during the POR. Therefore, consistent with the Federal Circuit’s determination in *NSK* (see *NSK* at 115 F.3d 965, 975), the Department preliminarily determines that Since Hardware’s transactions involving its samples do not constitute sales. As a result, the Department is excluding these transactions from Since Hardware’s margin calculation.

Normal Value

Surrogate Country

Section 773(c)(1) of the Act directs the Department to base NV on the NME producer’s factors of production valued in a surrogate market economy country

or countries. Section 773(c)(4) of the Act requires the Department to value an NME producer's factors of production based on the prices or costs of the factors of production, in one or more market-economy countries that to the extent possible: (1) are at a level of economic development comparable to that of the NME country, and (2) are significant producers of comparable merchandise. India is among the countries comparable to the PRC in terms of overall economic development, as identified in the Memorandum from the Office of Policy to James C. Doyle, Director, AD/CVD Operations, Office 9, dated April 18, 2007. See Memorandum to the File from Anya Naschak, Senior International Trade Analyst, regarding Selection of a Surrogate Country in the Second Antidumping Duty Administrative Review of Floor-Standing, Metal-Top Ironing Tables and Parts Thereof from the People's Republic of China, dated August 31, 2007 ("Surrogate Country Memorandum") at Attachment I. In addition, based on information from the investigation of ironing tables, India is a significant producer of comparable merchandise. See *Notice of Initiation of Antidumping Investigation: Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China*, 68 FR 44040, 44042 (July 25, 2003), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof From the People's Republic of China*, 69 FR 35296, 35297 (June 24, 2004).

Accordingly, we considered India the surrogate country for purposes of valuing the factors of production because it meets the Department's criteria for surrogate-country selection. See Surrogate Country Memorandum.

Market Economy Purchases

Certain of Since Hardware's inputs into the production of the subject merchandise were purchased from market economy ("ME") suppliers and paid for in ME currencies. We used the weight-averaged ME prices paid by Since Hardware when the inputs were obtained from a ME supplier, paid for in a ME currency, were demonstrated to be consistent with ME prices, and were a significant portion of the total purchases of that input.

In the recently-completed final results of the first administrative review of this order (see *Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China: Final Results and Final Rescission, In Part, of Antidumping*

Duty Administrative Review, 72 FR 13239 (March 21, 2007) ("*AR1 Final Results*"), and accompanying Issues and Decision Memorandum at Comment 6 ("*AR1 Decision Memorandum*"),¹ the Department determined that "there is a potential, in situations where a supplier is physically located in a ME, but overwhelmingly owned by an entity(ies) located in an NME, that such a supplier may make pricing decisions based on NME rather than ME principles." See AR1 Decision Memo at Comment 6. In this case, Since Hardware has again purchased ME inputs from the same NME-owned entity as discussed in the *AR1 Final Results*.

Both Petitioner and Since Hardware have submitted comments regarding the treatment of Since Hardware's ME purchases and the analysis of these purchases in the context of the above facts. See, e.g., Petitioner Pre-Prelim Comments, Since Hardware Pre-Prelim Comments, and Petitioner Additional Prelim Comments. Based on the information on the record of this administrative review with respect to the supplier of Since Hardware's ME inputs, the Department preliminarily finds that a similar analysis of Since Hardware's ME purchases is necessary to ensure that these purchases were made according to ME principles. However, as a full discussion of these issues is not possible here due to their business proprietary nature, we have fully addressed the basis for this preliminary decision in Since Hardware's analysis memo. See Memorandum to the File from Anya Naschak Senior International Trade Analyst and Bobby Wong, International Trade Analyst, regarding Since Hardware (Guangzhou) Co., Ltd. (Since Hardware) Analysis Memorandum for the Preliminary Results of Review, dated August 31, 2007 ("*Since Hardware Analysis Memo*").

Consistent with the methodology² utilized in the *AR1 Amended Final*, we have examined the average purchase price of each input purchased by Since Hardware from the NME-owned supplier, and compared the average purchase prices to weighted-average international market prices derived from annualized export statistics obtained from World Trade Atlas ("WTA") for

¹ While the calculation was revised in the *Notice of Amended Final Results of Antidumping Duty Administrative Review: Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China*, 72 FR 19689 (April 19, 2007) ("*AR1 Amended Final*"), the determination remained consistent with the *AR1 Final Results*.

² Where modifications were made to the details of this methodology, the Department has discussed these details in the Since Hardware Analysis Memo, due to their proprietary nature.

the country from which the input was originally produced. As discussed in detail in the Since Hardware Analysis Memo, the Department found that certain of Since Hardware's purchases of cold rolled steel, hot rolled steel, powder coating, and nails, were made at prices that were at or above the weighted-average international market price based on WTA export statistics. Because these prices are at or above the weighted-average international market price, the Department finds that Since Hardware's purchases of these inputs were made at prices reflective of ME principles, and have utilized Since Hardware's ME purchases for these inputs. See Since Hardware Analysis Memo for a detailed discussion of these prices. However, certain of Since Hardware's purchases of cold rolled steel, steel wire rod, cotton fabric, springs, bolts, and rivets from the same supplier show that these purchases were made at prices below the international market prices. Accordingly, the Department finds that record evidence demonstrates that purchases of these inputs may not be reflective of ME principles (i.e., the prices were below the weighted-average international market price based on the WTA statistics). Thus, the Department has disregarded these purchases in calculating normal value. For those inputs for which no purchases were made consistent with ME principles, the Department has relied upon its factors of production methodology described below.

The Department recently changed its practice with respect to the use of ME inputs in NME proceedings (see *Antidumping Methodologies: Market Economy Inputs, Expected Non Market Economy Wages, Duty Drawback; and Request for Comments*, 71 FR 61716 (October 19, 2006) ("*ME Input Policy*"). The Department stated that this practice "will take effect for all segments of NME proceedings that are initiated after publication of this notice in the **Federal Register**" (id. at 71 FR 61719), which was October 19, 2006. Given that the instant administrative review was initiated on September 29, 2006, the Department's new ME input policy will not be applied to this case. Therefore, we have analyzed Since Hardware's inputs which were purchased consistent with ME principles pursuant to our previous practice, which entailed a case-by-case basis analysis of whether the volume of ME inputs was meaningful. See e.g., *Folding Metal Tables and Chairs from the People's Republic of China: Final Results of Antidumping Duty Administrative*

Review, 71 FR 71509 (December 11, 2006) and accompanying Issues and Decision Memorandum at Comment 1 (“*T&C Final*”); *Hand Trucks and Certain Parts Thereof From the People’s Republic of China: Final Results of Administrative Review and Final Results of New Shipper Review*: 72 FR 27287 (May 15, 2007) and accompanying Issues and Decision Memorandum at Comment 12 (“*Hand Trucks Final*”).

Section IV of the Department’s standard Section D questionnaire requires respondents to report for each raw material the percentage purchased from a ME country and the percentage purchased from an NME. In its responses to the Department, Since Hardware reported the percentages of each raw material purchased from ME countries and paid for in a ME currency. For each of the inputs where Since Hardware’s ME purchases were found to be reflective of ME principles, the Department found that the percentage purchased from market economy suppliers was meaningful. Due to the proprietary nature of Since Hardware’s ME purchases and quantities, we are not able to discuss the details of these purchases here. For a complete discussion, see Since Hardware Analysis Memo. As a result, the Department found that Since Hardware’s ME purchases of cold rolled steel, hot rolled steel, powder coating, and nails were a meaningful portion of total purchases of that input and, in accordance with section 351.408(c)(1) of the Department’s regulations, have preliminarily valued these inputs using the actual ME prices paid.

Factors of Production

In accordance with section 773(c) of the Act, we calculated NV based on the factors of production which included, but were not limited to: (A) hours of labor required; (B) quantities of raw materials employed; (C) amounts of energy and other utilities consumed; and (D) representative capital costs, including depreciation. We used the factors of production reported by the producer for materials, energy, labor, and packing. To calculate NV, we multiplied the reported unit factor quantities by publicly available values in the surrogate country, India.

Since Hardware reported by-product sales. With respect to the application of the by-product offset to normal value, consistent with the Department’s determination in the investigation of diamond sawblades from the PRC, because the surrogate financial statements on the record of this administrative review contain no

references to the treatment of by-products and because Since Hardware reported that it sold its by-products, we will deduct the surrogate value of the by-product from normal value. See *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People’s Republic of China*, 71 FR 29303 (May 22, 2006), and accompanying Issues and Decision Memorandum at Comment 9, unchanged in *Notice of Amended Final Determination of Sales at Less Than Fair Value: Diamond Sawblades and Parts Thereof from the People’s Republic of China*, 71 FR 35864 (June 22, 2006). This is consistent with accounting principles based on a reasonable assumption that if a company sells a by-product, the by-product necessarily incurs expenses for overhead, SG&A, and profit. See *id.*

In selecting the surrogate Indian values, we considered the quality, specificity, and contemporaneity of the data, in accordance with our practice. See, e.g., *Fresh Garlic From the People’s Republic of China: Final Results of Antidumping Duty New Shipper Review*, 67 FR 72139 (December 4, 2002), and accompanying Issues and Decision Memorandum (“Garlic Decision Memorandum”) at Comment 6; and *Final Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms From the People’s Republic of China*, 66 FR 31204 (June 11, 2001), and accompanying Issues and Decision Memorandum at Comment 5. When we used publicly available import data from the Ministry of Commerce of India (“Indian Import Statistics”) for August 2005 through July 2006 to value inputs sourced domestically by PRC suppliers, we added to the Indian surrogate values a surrogate freight cost calculated using the shorter of the reported distance from the domestic supplier to the factory or the distance from the closest seaport to the factory. This adjustment is in accordance with the Federal Circuit’s decision in *Sigma Corp. v. United States*, 117 F.3d 1401, 1408 (Fed. Cir. 1997). When we used non-import surrogate values for factors sourced domestically by PRC suppliers, we based freight for inputs on the actual distance from the input supplier to the site at which the input was used. In addition, in instances where we relied on Indian import data to value inputs, in accordance with the Department’s practice, we excluded imports from both NME countries and countries deemed to maintain broadly available, non-

industry-specific subsidies which may benefit all exporters to all export markets (*i.e.*, Indonesia, South Korea, and Thailand) from our surrogate value calculations. See, e.g., *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People’s Republic of China: Final Results of 1999–2000 Administrative Review, Partial Rescission of Review, and Determination Not to Revoke Order in Part*, 66 FR 57420 (November 15, 2001) and accompanying Issues and Decision Memorandum at Comment 1. See Memorandum to the File: Factors of Production Valuation Memorandum for the Preliminary Results of Antidumping Duty Administrative Review of Floor-standing, Metal-top Ironing Tables and Certain Parts Thereof from the People’s Republic of China, dated August 31, 2007 (“Factor Valuation Memo”), for a complete discussion of the import data that we excluded from our calculation of surrogate values.

Where we could not obtain publicly available information contemporaneous with the POR to value factors, we adjusted the surrogate values using the Indian Wholesale Price Index (“WPI”) as published in the *International Financial Statistics* of the International Monetary Fund, for those surrogate values in Indian rupees. We made currency conversions, where necessary, pursuant to 19 CFR 351.415, to U.S. dollars using the daily exchange rate corresponding to the reported date of each sale. We relied on the daily exchanges rates posted on the Import Administration website (<http://www.trade.gov/ia/>). See Factor Valuation Memo.

We valued the factors of production as follows:

The Department used the Indian Import Statistics to value the raw material and packing material inputs that Since Hardware used to produce the merchandise under review during the POR, except where noted below. For a detailed description of all surrogate values used in this administrative review, see Factor Valuation Memo.

To value water, we calculated the average rate of inside and outside industrial water rates from various regions as reported by the Maharashtra Industrial Development Corporation, <http://midcindia.org>, dated June 1, 2003. We inflated the value for water using the POR average WPI rate. See Factor Valuation Memo.

We valued electricity using the 2000 electricity price in India reported by the International Energy Agency statistics for *Energy Prices & Taxes, Second Quarter 2003*. We inflated the value for

electricity using the POR average WPI rate. See Factor Valuation Memo.

We valued diesel using the rates provided by the OECD's International Energy Agency's publication: Key World Energy Statistics from 2004 and 2005. The prices are based on 2004 and 2005 first quarter prices of automotive diesel fuel retail prices. See Factor Valuation Memo.

With respect to valuation of factory overhead, selling, general and administrative expenses, and profit, in the *AR1 Final Results* the Department relied on the 2004–2005 Infiniti Modules Pvt. Ltd. (“Infiniti Modules”) financial statements, because they represented the most specific, contemporaneous, and publicly available information. See AR1 Decision Memorandum at Comment 1. In the instant case, Petitioner placed on the record Infiniti Modules 2004–2005 and 2005–2006 financial statements and the 2004–2005 Agew Steel Manufacturers Private Limited (“Agew Steel”) financial statements in its April 19, 2007, submission at Exhibits 1–2, and argued that the Department should rely on the 2004–2005 Agew Steel financial statements, utilizing the 2005–2006 Infiniti Modules' profit ratio in lieu of Agew Steel's negative profit ratio to calculate factory overhead, selling, general, and administrative expenses, and profit. Since Hardware also argued the Department should rely on the Infiniti Modules 2004–2005 financial statements.

In valuing factors of production, section 773(c)(1) of the Act instructs the Department to use “the best available information” from the appropriate market economy country. As discussed above, in choosing the most appropriate surrogate value, the Department considers several factors, including the quality, specificity, and contemporaneity of the source information. See, e.g., Garlic Decision Memorandum at Comment 6. For these preliminary results, the Department has determined that the 2004–2005 Infiniti Modules financial statements are complete, publicly available, and reflect merchandise comparable to ironing tables. We note that the 2004–2005 Infiniti Modules financial statements were obtained from the Indian Registrar of Companies, and are publicly available. See Petitioner's July 27, 2007, surrogate value submission. With respect to quality, we note that the 2004–2005 Infiniti Modules financial statements are complete, audited financial statements with all auditors notes and schedules, as well a complete balance sheet and P&L. Regarding specificity, we preliminarily find,

consistent with the AR1 Decision Memorandum at Comment 1, Infiniti Modules manufactures merchandise that closely reflects merchandise comparable to ironing tables. Therefore, we preliminarily find that the 2004–2005 Infiniti Modules financial statements are publicly available, quality, data, and specific to the merchandise under review.

With respect to the Agew Steel and the 2005–2006 Infiniti Modules financial statements, the Department finds that these statements are less complete than the 2004–2005 Infiniti Modules statement. The Department notes that both the Agew Steel and 2005–2006 Infiniti Modules financial statements are missing the P&L. Irrespective of whether the same surrogate financial ratios may be derived from the schedules included in these statements, the function of an audit is to audit the balance sheet and P&L of a company, not the schedules. See e.g., 2004–2005 Infiniti Modules financial statements, included in Petitioner's April 19, 2007, submission at Exhibit 2, which states “we have audited the attached balance sheet of M/s. Infiniti Modules Pvt. Limited, as at 31st March 2005 and the P&L account for the year ended 31st March 2005.”³ In this case, the Department has on the record a financial statement that includes all information upon which the auditors relied to evaluate the potential surrogate company's financial reports. As a result we preliminarily find, that the Agew Steel and 2005–2006 Infiniti Modules financial statements are less complete than those of the 2004–2005 Infiniti Modules financial statements. In addition, because these statements are less complete than the 2004–2005 Infiniti Modules financial statements, we find that the Agew Steel and 2005–2006 Infiniti Modules financial statements are less reliable than the 2004–2005 Infiniti Modules financial statements. The Department has evaluated the other potential sources for valuing surrogate financial ratios placed on the record of this proceeding. None of these other potential sources is as reliable or otherwise as appropriate for surrogate value purposes as the 2004–2005 Infiniti Modules financial statements. Thus, the Department preliminarily finds, consistent with the *AR1 Final Results*, that the 2004–2005 Infiniti Modules financial statements are the best information available on the

³ See also 2005–2006 Infiniti Modules financial statements, included in Petitioner's July 27, 2007, submission at Exhibit 1, auditors report at page 3; and Agew Steel financial statements, included in Petitioner's April 19, 2007, submission at Exhibit 1, page 8

record of this review, pursuant to section 773(c)(1) of the Act, from which to value the surrogate financial ratios of factory overhead, selling, general & administrative expenses, and profit. See Factor Valuation Memo for detail on the calculation of these ratios.

Because of the variability of wage rates in countries with similar levels of per capita gross domestic product, 19 CFR 351.408(c)(3) requires the use of a regression-based wage rate. Therefore, to value the labor input, we used the PRC's regression-based wage rate published by Import Administration on its website, <http://www.trade.gov/ia/>. See Factor Valuation Memo.

To value truck freight, we calculated a weighted-average freight cost based on publicly available data from www.infreight.com, an Indian inland freight logistics resource website. See Factor Valuation Memo.

To value brokerage and handling, the Department used a simple average of the publicly summarized version of the average value for brokerage and handling expenses reported in the U.S. sales listings in the submission from Essar Steel Ltd. (“Essar Steel”), dated February 28, 2005, in the antidumping duty review of Certain Hot-Rolled Carbon Steel Flat Products from India; the submission from Agro Dutch Industries Limited (“Agro Dutch”), dated May 24, 2005, at Exhibit B–1, in the antidumping duty administrative review of Certain Preserved Mushrooms from India; and the submission from Kejriwal Paper Ltd. (“Kejriwal”), dated January 9, 2006, in the antidumping duty review of Lined Paper from India. While none of these sources are contemporaneous to the POR, these data represent the best information available. Further, the Department's preference is to average these data sources because they represent values for numerous transactions that are available for a range of products and minimize the potential distortions that might arise from a single price source. One value, taken in isolation, could differ significantly when compared across a range of products, values, and special circumstances of a single transaction. See *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 19690 (April 19, 2007), and accompanying Issues and Decision memo at Comment 5. See also Factor Valuation Memo.

In accordance with 19 CFR 351.301(c)(3)(ii), for the final results of this administrative review, interested parties may submit publicly available

information to value the factors of production until 20 days following the date of publication of these preliminary results.

Preliminary Results of Review

We preliminarily determine that the following antidumping duty margins exist:

Exporter	Margin (percent)
Since Hardware (Guangzhou) Co., Ltd.	0.31 % (<i>de minimis</i>)

For details on the calculation of the antidumping duty weighted-average margin for Since Hardware, see Since Hardware Analysis Memo. A public version of this memorandum is on file in the Department's central records unit ("CRU").

Assessment Rates

Pursuant to 19 CFR 351.212(b), the Department will determine, and Customs and Border Protection ("CBP") shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate assessment instructions directly to CBP 15 days after the date of publication of the final results of this review. For assessment purposes, where possible, we calculated importer-specific assessment rates for ironing tables from the PRC via *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any assessment rate calculated in the final results of this review is above *de minimis*. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of these reviews and for future deposits of estimated duties, where applicable.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) for the exporters listed above, the cash deposit rate will be established in the final results of this review (except, if the rate is zero or *de minimis*, i.e., less than 0.5 percent, no cash deposit will be

required for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 157.68 percent (see *Amended Final FR*); and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Schedule for Final Results of Review

The Department will disclose calculations performed in connection with the preliminary results of this review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of publication of this notice in accordance with 19 CFR 351.310(c). Any hearing would normally be held 37 days after the publication of this notice, or the first workday thereafter, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Requests for a public hearing should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) to the extent practicable, an identification of the arguments to be raised at the hearing.

Unless otherwise notified by the Department, interested parties may submit case briefs within 30 days of the date of publication of this notice in accordance with 19 CFR 351.309(c)(1)(ii). As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited in accordance with 19 CFR 351.309(c)(2). Rebuttal briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the case brief is filed in accordance with 19 CFR 351.309(d). If a hearing is held, an interested party may make an

affirmative presentation only on arguments included in that party's case brief and may make a rebuttal presentation only on arguments included in that party's rebuttal brief in accordance with 19 CFR 351.310(c). Parties should confirm by telephone the time, date, and place of the hearing within 48 hours before the scheduled time. The Department will issue the final results of this review, which will include the results of its analysis of issues raised in the briefs, not later than 120 days after the date of publication of this notice in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during these review periods. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and this notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 31, 2007.

David M. Spooner,
Assistant Secretary for Import
Administration.

[FR Doc. E7-17865 Filed 9-10-07; 8:45 am]

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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 and Rescissions of the 2005-2006 Administrative Reviews

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

SUMMARY: On March 8, 2007, the Department published the preliminary results of the 2005-2006 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 (PRC). See *Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Preliminary Results and Partial*