

days after the publication of this notice, or the first workday thereafter. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any written comments or hearing, within 120 days from publication of this notice.

Assessment Rates

Upon completion of the new shipper review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries in accordance with 19 CFR 351.212. The Department intends to issue liquidation instructions directly to CBP 15 days after the date of publication of the final results of this new shipper review. The Department clarified its "automatic assessment" regulation on May 6, 2003. See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the POR produced by the respondent for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this new shipper review for all shipments of CORE from Korea entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rate for subject merchandise manufactured and exported by Haewon will be the rate established in the final results of this new shipper review; except no cash deposit will be required if its weighted-average margin is *de minimis* (i.e., less than 0.5 percent); (2) if the exporter is not a firm covered in this review, but was covered in a previous review or the original less-than-fair-value (LTFV) investigation, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a previous review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash

deposit rate for all other manufacturers and/or exporters of this merchandise, shall be 17.70 percent, the all others rate established in the LTFV investigation. These requirements, when imposed, shall remain in effect until further notice.

Notification to Interested Parties

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties. We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: January 15, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-909]

Certain Steel Nails From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances and Postponement of Final Determination

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

EFFECTIVE DATE: January 23, 2008.

SUMMARY: We preliminarily determine that certain steel nails ("nails") from the People's Republic of China ("PRC") are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Tariff Act of 1930, as amended ("the Act"). The estimated margins of sales at LTFV are shown in the "Preliminary Determination" section of this notice. Interested parties are invited to comment on this preliminary determination. We will make our final determination within 135 days after the date of this preliminary determination.

FOR FURTHER INFORMATION CONTACT: Nicole Bankhead (respondent Paslode) or Matt Renkey (respondent Xingya

Group), 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) 482-9068 or 482-2312, respectively.

SUPPLEMENTARY INFORMATION:

Initiation

On May 29, 2007, the Department of Commerce ("the Department") received petitions on imports of nails from the PRC and United Arab Emirates ("UAE") filed in proper form by Mid Continent Nail Corporation, Davis Wire Corporation, Gerdau Ameristeel Corporation (Atlas Steel & Wire Division), Maze Nails (Division of W.H. Maze Company), Treasure Coast Fasteners, Inc., and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (collectively, "Petitioners"). These investigations were initiated on July 9, 2007. See *Certain Steel Nails from the People's Republic of China and the United Arab Emirates: Initiation of Antidumping Duty Investigations*, 72 FR 38816 (July 16, 2007) ("*Initiation Notice*").

On July 31, 2007, the United States International Trade Commission ("ITC") issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from the PRC and UAE of nails. The ITC's determination was published in the **Federal Register** on August 6, 2007. See *Certain Steel Nails From China and the United Arab Emirates* (Investigation No. 731-TA-1114 and 1115) (Preliminary), Publication 3939 (August 2007) ("*ITC Preliminary Determination*").

Scope Comments

In accordance with the preamble to our regulations, we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*. (See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) and *Initiation Notice* 72 FR at 38817.)

In this investigation and the concurrent investigation of nails from the UAE, we received three scope exclusion requests during the period July 2007 through January 2008.

On July 30, 2007, Stanley Fastening Systems, LP (Stanley), an interested party in this proceeding, requested that

banded brads and finish nails imported with a “nailer kit” or “combo kit”¹ as a single package be excluded from this investigation as being outside the “class or kind” of merchandise. Stanley conducted a *Diversified Products*² analysis in support of its position claiming that banded products imported in the same package as a pneumatic nailer and sold as a “nailer kit” or “combo kit” are not within the class of kind of merchandise covered in the scope of the instant investigation. In addition, Stanley states that, to the best of its information and belief, none of the petitioning companies in this investigation manufacture banded brads or finish nails.

On August 9, 2007, Petitioners objected to this exclusion request, arguing that the scope of this proceeding is comprehensive and, while the scope contains specific exclusions, it does not exclude any nails based on their importation in combination with one or more other articles. Petitioners claimed that it is their intention that the scope of this proceeding include all certain steel nails exhibiting the physical characteristics identified in the written scope description, regardless of how imported. Furthermore, according to Petitioners, a *Diversified Products* analysis requires a determination that collated steel finish nails remain scope merchandise, whether imported on their own or with a nail gun. Finally, Petitioners cite several cases³ in support of their contention that Department precedent supports their argument that these finish nails are merchandise covered by the scope of investigation. According to Petitioners, these rulings address fundamentally different types of kits or sets of merchandise, in which the subject merchandise at issue is subsumed with

a set of goods whose essential character is defined as something other than the merchandise itself.

On August 15, 2007, Stanley responded to Petitioners' August 9, 2007, submission claiming that none of Petitioners' arguments supports a conclusion that banded products imported in nailer kits are within the subject class of kind of merchandise.

On December 12, 2007, Stanley revised its July 30, 2007, scope exclusion request arguing that its new request reflects a broader exclusion and is easily administered by U.S. Customs and Border Protection (“CBP”) because the description of the excluded brads and finish nails is framed solely in terms of their physical characteristics. On December 18, 2007, Petitioners filed a letter stating that they agree with Stanley's December 12, 2007, scope exclusion request.

Therefore, based on the scope exclusion request from Stanley, the fact that Petitioners are in agreement with this request, and that there appears to be no impediment to enforceability by CBP,⁴ we preliminarily determine that the above described products are not subject to the scope of this investigation.⁵

In addition, Petitioners requested that the Department modify the scope of these investigations to exclude certain trademarked products in submissions dated October 5, 2007, October 12, 2007, October 24, 2007, and November 1, 2007.⁶ However, we found that the proposed scope modification language, which would exclude only specifically registered trademarked products, would provide an improper scope for this investigation because its effect would be to exclude only products of the parties controlling those trademarks, while the same products without the specified trademarks would be included, creating a scope that is neither impartial nor reasonable. Furthermore, the trademark requirement may cause significant administrability problems for CBP should an antidumping duty order be issued. Therefore, on November 15, 2007, we determined it inappropriate to

modify the scope of this investigation in accordance with Petitioners' request. See Memorandum to David M. Spooner, Assistant Secretary for Import Administration from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, AD/CVD Operations regarding “Certain Steel Nails from the PRC) and the UAE: Scope Modification Request” dated November 15, 2007.

On January 3, 2008, Hilti (China) Ltd. (“Hilti”), an interested party, requested that fasteners having a case hardness greater than or equal to 50 HRC, a carbon content greater than or equal to .5 percent, a round head, a secondary reduced-diameter raised head section, a centered shank, and a smooth symmetrical point, suitable for use in gas-actuated hand tools be excluded from the scope of this investigation.⁷ On January 9, 2008, Petitioners filed a letter stating that they agree with Hilti's January 4, 2008, scope exclusion request. However, we received this request too late to consider for purposes of the preliminary determination, but will consider it for the final determination.

Respondent Selection

On July 10, 2007, the Department requested quantity and value (“Q&V”) information from a total of 121 companies⁸ that Petitioners identified as potential producers or exporters of nails from the PRC. Also, on July 10, 2007, the Department sent a letter requesting Q&V information to the China Bureau of Fair Trade for Imports & Exports (“BOFT”) of the Ministry of Commerce (“MOFCOM”) requesting that BOFT transmit the letter to all companies who manufacture and export subject merchandise to the United States, or produce the subject merchandise for the companies who were engaged in exporting the subject merchandise to the United States during the POI.

Between July 25, 2007, and July 30, 2007, the Department received Q&V responses from 71 interested parties.⁹

⁷ On January 8, 2008, Illinois Tool Works Inc. (“ITW”), an interested party, opposed the exclusion request filed by Hilti, arguing that it is the only U.S. producer of the product at issue.

⁸ Petitioners identified 123 companies in the Petition. However, Qingdao D&L and Shanhai Suntec were each listed twice with slightly different names, but the same address, thus, we treated each as a single company.

⁹ For a complete list of all parties from which the Department requested Q&V information, see Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, through James C. Doyle, Director, AD/CVD Operations, Office 9, from Nicole Bankhead, Sr. International Trade Analyst, AD/CVD Operations, Office 9: Selection of Respondents for the

¹ A “nailer kit” consists of a pneumatic nailer, a “starter box” of branded products and a carrying case. A “combo kit” consists of an air compressor, a pneumatic nailer, a “starter box” of banded products and related accessories, such as an air hose.

² Prior to being codified in the regulations, these factors were identified by the Court of International Trade in *Diversified Products Corp. v. United States*, 572 F. Supp. 883 (CIT 1983), and therefore, they are also referred to as the “*Diversified Products* factors.”

³ See, e.g., Memorandum from Wendy J. Frankel, Director, AD/CVD Operations, Office 8, to Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, *Final Scope Ruling—Antidumping Duty Order on Certain Cased Pencils from the People's Republic of China—Request by Fiskars Brands, Inc.* (June 3, 2005); Memorandum from Laurie Parkhill, Director, Office 8, AD/CVD Enforcement, To Jeffrey A. May, Deputy Assistant Secretary for Import Administration, *Final Scope Ruling—Antidumping Duty Order on Certain Cased Pencils from the People's Republic of China—Request by Target Corporation Regarding “Hello Kitty Fashion Totes”* (September 29, 2004).

⁴ See Memorandum to the File from Kate Johnson, Senior Case Analyst, to The File entitled “Proposed Scope Exclusion,” dated January 15, 2008.

⁵ On January 8, 2008, Illinois Tool Works Inc. (“ITW”), an interested party, opposed the exclusion request filed by Stanley, arguing that it is the only U.S. producer of the product at issue. While the Department notes ITW's objection, it strives to craft a scope that both includes the specific products for which Petitioners have requested relief, and excludes those products which may fall within the general scope definition, but for which Petitioners do not seek relief.

⁶ Each submission contained a revised version of the proposed scope modification.

The Department did not receive any type of communication from BOFT regarding the request for Q&V information. See Respondent Selection Memorandum at 2. On July 25, 2007, Illinois Tool Works Inc. and Paslode Fasteners (Shanghai) Co., Ltd. (collectively, "Paslode") submitted a letter requesting that it be selected as a mandatory respondent. On August 10, 2007, Petitioners submitted comments on the Q&V responses. On August 13, 2007, Paslode rebutted Petitioners' Q&V comments. On August 24, 2007, we rejected untimely Q&V responses from six companies. See August 24, 2007, letters from Alex Villanueva, Program Manager, Re: Quantity and Value Questionnaire Response for Certain Steel Nails from the People's Republic of China Investigation: Rejection of Submission. On September 11, 2007, the Department selected Paslode and Suzhou Xingya Nail Co., Ltd, Senco-Xingya Metal Products (Taicang) Co., Ltd., Yunfa International Resources In., Senco Products, Inc., and Omnifast Inc. (collectively "Xingya Group") as mandatory respondents in this investigation ("Mandatory Respondents"). See Respondent Selection Memorandum at 5.

Separate Rates Applications

Between August 6, 2007, and September 10, 2007, we received separate rate applications from 68 companies¹⁰ (collectively, "SR Applicants"), including the mandatory respondents: Paslode and Xingya Group¹¹. On October 23, 2007, the Department rejected the separate rate application of Hilti because it was untimely. See Letter from Alex Villanueva, Program Manager, China/NME Group, Office 9: Rejection of Separate Rate Application, Including Quantity and Value Data, dated October 23, 2007. We issued deficiency questionnaires to Sinochem Tianjin Import and Export ("Sinochem") on December 3, 2007, and Guangdong Foreign Trade Import & Export Corporation ("Guangong FT") and Shouguang Meiqing ("Meiqing") on December 27, 2007.¹² We received

Antidumping Investigation of Certain Steel Nails from the People's Republic of China, dated September 11, 2007, ("Respondent Selection Memorandum").

¹⁰ The Department did not receive a separate rate application from Beijing Proud Metal Group Co., Ltd. and Jiangsu SOHO International Group Corporation withdrew its separate rate request on September 7, 2007.

¹¹ This included Suzhou Xingya Nail Co., Ltd and Senco-Xingya Metal Products (Taicang) Co., Ltd.

¹² We also issued a deficiency questionnaire to Union Enterprise Co., Ltd. ("Union") on December 7, 2007. However, upon further review we

responses from Sinochem on December 5, 2007, Guangong FT on December 27, 2007, and Meiqing on January 3, 2008.

On December 27, 2007, we sent all SR Applicants a letter requesting that companies that had submitted a separate rate application with the supplier name treated as business proprietary information ("BPI") resubmit the names of their suppliers as public information. We received responses between December 31, 2007, and January 11, 2008 from the following companies: China Silk Trading & Logistics Co., Ltd., The Stanley Works (Langfang) Fastening Systems Co., Ltd., Besco Machinery Industry (Zhejiang) Co., Ltd., Shanghai Tengyu Hardware Products Co., Ltd., Shanghai Cuvet Hardware Products Co., Ltd., Shanghai Chengkai Hardware Product. Co., Ltd., Shandong Oriental Cherry Hardware Import and Export Co., Ltd., Shandong Oriental Cherry Hardware Group Co., Ltd., Mingguang Abundant Hardware Products Co., Ltd., Shanghai Yueda Nails Industry Co., Ltd., Shanghai Jade Shuttle Hardware Tools Co., Ltd., Jining Huarong Hardware Products Co., Ltd., Shandong Dinglong Import & Export Co., Ltd., SDC International Australia Pty. Ltd., S-Mart (Tianjin) Technology Development Co., Ltd., Shanxi Hairui Trade Co., Ltd., PT Enterprise Inc., Shanxi Tianli Industries Co., Ltd., Tianjin Lianda Group Co., Ltd., Tianjin Xiantong Material & Trade Co., Ltd., Qingdao D&L, and Hebei Cangzhou New Century Foreign Trade Co., Ltd.¹³

Product Characteristics and Questionnaires

The Department requested comments from all interested parties on proposed product characteristics and model match criteria to be used in the designation of control numbers ("CONNUMs") to be assigned to the subject merchandise in the *Initiation Notice*. On July 30, 2007, the Department received comments from Shanxi Yuci Broad Wire Products, Ltd.

determined that Union is a wholly foreign-owned enterprise, and therefore the Department's deficiency questionnaire, which requested additional information on sections that wholly foreign-owned enterprises are not required to answer, was withdrawn on December 3, 2007. See Memorandum to: The File, From: Matthew Renkey, Senior Case Analyst, Re: Separate Rate Application for Union Enterprise (Kunshan) Co., Ltd., dated December 4, 2007.

¹³ Hilti also submitted a letter stating that it was the supplier of the merchandise it exported to the United States. However, as noted above, we rejected Hilti's separate application as untimely. Additional companies also resubmitted the names of their suppliers, however, they previously reported as public and therefore we are not listing the companies that already submitted their supplier names publicly.

and its affiliated companies ("Shanxi Yuci"), Paslode, Stanley, and Petitioners. The Department also received rebuttal comments from Stanley, Shanxi Yuci, and Xingya Group on August 9, 2007.

On September 11, 2007, the Department issued its sections A, C, D, and E, questionnaire with product characteristics and model match criteria used in the designation of CONNUMs and assigned to the merchandise under consideration to Paslode and Xingya Group. Between October 2, 2007, and January 4, 2008, the Department received section A, C, and D questionnaire responses from Paslode and Xingya Group. The Department also issued supplemental questionnaires to both companies and received responses during this time period. Petitioners submitted deficiency comments on the section C and D questionnaire responses of Paslode and Xingya Group between November 13, 2007 and December 6, 2007. On December 19, 2007, the Department requested that Xingya Group clarify the quantity and value it reported in its supplemental section C response filed on December 18, 2007. Xingya Group responded to this letter on December 28, 2007.

Petitioners submitted additional deficiency comments and surrogate value rebuttals on January 2, 2008, pertaining to both Xingya Group and Paslode. On January 8, 2008, Paslode rebutted Petitioners' January 2, 2008, comments.

Surrogate Country

On September 19, 2007, the Department determined that India, Sri Lanka, Egypt, Indonesia, and Philippines are countries comparable to the PRC in terms of economic development. See Memorandum from Ron Lorentzen, Director, Office of Policy, to Alex Villanueva, Program Manager, China/NME Group, Office 9: Antidumping Duty Investigation of Certain Steel Nails ("nails") from the People's Republic of China (PRC): Request for a List of Surrogate Countries, dated September 19, 2007 ("Surrogate Country List").

On September 27, 2007, the Department requested comments on the surrogate country selection from the interested parties in this investigation. Petitioners submitted surrogate country comments on November 1, 2007 ("Petitioners' Surrogate Country Letter"). No other interested parties commented on the selection of a surrogate country. For a detailed discussion of the selection of the surrogate country, see "Surrogate Country" section below.

Surrogate Value Comments

On December 3, 2007, Petitioners, Xingya Group, and Paslode, submitted comments on surrogate information with which to value the factors of production in this proceeding. On December 13, 2007, Petitioners, Xingya Group, and Paslode filed rebuttal comments on surrogate information with which to value the factors of production in this proceeding. Between December 20, 2007, and January 8, 2008, both Paslode and Xingya Group submitted additional surrogate value comments.

Critical Circumstances

On November 7, 2007, Petitioners alleged that there is a reasonable basis to believe or suspect critical circumstances exist with respect to the antidumping investigation of nails from the PRC. On November 19, 2007, the Department issued questionnaires requesting data for monthly exports to the United States from January 2005 through October 2007 from Paslode and Xingya Group, and received responses on December 3, 2007. We also received comments regarding Petitioners' critical circumstance allegations from Shanxi Yuci, Beijing Daruixing, Jinhai Hardware, and Certified Products International Inc. ("CPI") and Stanley on November 19, 2007, and November 29, 2007, respectively. Paslode and Xingya Group submitted their responses on December 3, 2007. For a detailed discussion, see the "Critical Circumstances" section below.

Targeted Dumping

On December 11, 2007, Petitioners filed an allegation of targeted dumping by Paslode based on a pattern of export prices for comparable merchandise that differ significantly among regions. On December 13, 2007, Petitioners revised certain aspects of their allegation. On December 14, 2007, Petitioners filed an allegation of targeted dumping by Xingya Group based on a pattern of export prices for comparable merchandise that differ significantly among customers. Petitioners also submitted the programming code they used in their targeted dumping allegations on December 14, 2007. On December 20, 2007, Paslode submitted comments on Petitioners' targeted dumping allegation. On December 26, 2007, Xingya Group submitted comments on Petitioners' targeted dumping allegation. On December 31, 2007, Petitioners filed rebuttal comments to Paslode's targeted dumping comments. On January 3, 2008, Petitioners filed rebuttal

comments to Xingya Group's December 26, 2007, comments. On January 9, 2008, Paslode submitted additional targeted dumping comments, which Petitioners responded to on January 10, 2008. Petitioners and Paslode submitted additional targeted dumping comments on January 14, 2008. See "Targeted Dumping" section below for further discussion.

Postponement of Preliminary Determination

On November 1, 2007, Petitioners made a timely request, pursuant to 19 CFR 351.205(e), for a 50-day postponement of the preliminary determination in the instant investigation, pursuant to section 733(c)(1)(A) of the Act. The Department extended the preliminary determination on November 5, 2007. See *Certain Steel Nails from the People's Republic of China and the United Arab Emirates: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 72 FR 63558 (November 9, 2007).

Postponement of Final Determination

On January 3, 2008, Xingya Group requested that, in the event of an affirmative preliminary determination in this investigation, the Department: (1) Postpone its final determination by 60 days in accordance with 19 CFR 351.210(2)(ii) and 735(a)(2)(A) of the Act; and (2) extend the application of the provisional measures prescribed under 19 CFR 351.210(e)(2) from a 4-month period to a 6-month period.

Period of Investigation

The period of investigation ("POI") is October 1, 2006, through March 31, 2007. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition, May 2007. See 19 CFR 351.204(b)(1).

Scope of Investigation

The merchandise covered by this investigation includes certain steel nails having a shaft length up to 12 inches. Certain steel nails include, but are not limited to, nails made of round wire and nails that are cut. Certain steel nails may be of one piece construction or constructed of two or more pieces. Certain steel nails may be produced from any type of steel, and have a variety of finishes, heads, shanks, point types, shaft lengths and shaft diameters. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized), whether by electroplating or hot-dipping one or more times), phosphate cement, and paint. Head styles include, but are not limited to, flat, projection,

cupped, oval, brad, headless, double, countersunk, and sinker. Shank styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted shank styles. Screw-threaded nails subject to this proceeding are driven using direct force and not by turning the fastener using a tool that engages with the head. Point styles include, but are not limited to, diamond, blunt, needle, chisel and no point. Finished nails may be sold in bulk, or they may be collated into strips or coils using materials such as plastic, paper, or wire. Certain steel nails subject to this proceeding are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7317.00.55, 7317.00.65 and 7317.00.75.

Excluded from the scope of this proceeding are roofing nails of all lengths and diameter, whether collated or in bulk, and whether or not galvanized. Steel roofing nails are specifically enumerated and identified in ASTM Standard F 1667 (2005 revision) as Type I, Style 20 nails. Also excluded from the scope of this proceeding are corrugated nails. A corrugated nail is made of a small strip of corrugated steel with sharp points on one side. Also excluded from the scope of this proceeding are fasteners suitable for use in powder-actuated hand tools, not threaded and threaded, which are currently classified under HTSUS 7317.00.20 and 7317.00.30. Also excluded from the scope of this proceeding are thumb tacks, which are currently classified under HTSUS 7317.00.10.00. Also excluded from the scope of this proceeding are certain brads and finish nails that are equal to or less than 0.0720 inches in shank diameter, round or rectangular in cross section, between 0.375 inches and 2.5 inches in length, and that are collated with adhesive or polyester film tape backed with a heat seal adhesive.¹⁴

While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these investigations is dispositive.

Non-Market-Economy Country

For purposes of initiation, Petitioners submitted LTFV analyses for the PRC as a non-market economy ("NME"). See *Initiation Notice*, 72 FR at 38820. The Department considers the PRC to be a NME country. See, e.g., *Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper*

¹⁴ See "Scope Comments" section below for further discussion.

from the People's Republic of China, 72 FR 30758, 30760 (June 4, 2007), unchanged in *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 60632 (October 25, 2007). 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. No party has challenged the designation of the PRC as an NME country in this investigation. Therefore, we continue to treat the PRC as an NME country for purposes of this preliminary determination.

Surrogate Country

When the Department is investigating imports from an NME, section 773(c)(1) of the Act directs it to base normal value, in most circumstances, on the NME producer's factors of production ("FOP") 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.

The Department's practice is explained in *Policy Bulletin 04.1*,¹⁵ which states that "Per capita GNI¹⁶ is the primary basis for determining economic comparability." The Department considers the five countries identified in its Surrogate Country List as "equally comparable in terms of economic development." *Id.* Thus, we find that India, Sri Lanka, Egypt, Indonesia, and Philippines are all at an economic level of development equally comparable to that of the PRC.

Second, *Policy Bulletin 04.1* provides some guidance on identifying comparable merchandise and selecting a producer of comparable merchandise. Based on the data provided by Petitioners, we find that India is a

producer of comparable merchandise. See Petitioners' Surrogate Country Letter at 6. Petitioners provided a list of Indian steel nail companies that produce nails of varying complexity, *i.e.*, collated nails, etc. *Id.* Additionally, the Department obtained worldwide export data for nails. Because the Department was unable to find production data, we are relying on export data as a substitute for overall production data in this case. Of the five countries listed in the Surrogate Country List, only two countries, India and Indonesia, are exporters of nails. *Id.* Consequently, at this time, the Philippines, Sri Lanka, and Egypt are not being considered as appropriate surrogate countries for the PRC because they are not exporters of nails. Moreover, India is a significant producer of comparable merchandise. Specifically, during 2006 United States imports of comparable merchandise from India were 560,043 pounds versus 80,935 pounds from Indonesia.

As noted above, the Department only received surrogate country comments from Petitioners. The Department is preliminarily selecting India as the surrogate country on the basis that: (1) It is at a similar level of economic development pursuant to 773(c)(4) of the Act; (2) it is a significant producer of comparable merchandise; and (3) we have reliable data from India that we can use to value the factors of production. Thus, we have calculated normal value using Indian prices when available and appropriate to value Paslode's and Xingya Group's factors of production. See Memorandum to the File from Matthew Renkey, through Alex Villanueva, Program Manager, AD/CVD Operations, Office 9, and James C. Doyle, Director, AD/CVD Operations, Office 9: Certain Steel Nails from the People's Republic of China: Surrogate Values for the Preliminary Determination, dated January 15, 2008 ("Surrogate Value Memorandum").

In accordance with 19 CFR 351.301(c)(3)(i), for the final determination in an antidumping investigation, interested parties may submit publicly available information to value the factors of production within 40 days after the date of publication of the preliminary determination.¹⁷

¹⁷ In accordance with 19 CFR 351.301(c)(1), for the final determination of this investigation, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information recently placed on the record. The Department generally cannot accept

Affiliations

We preliminarily find that the Xingya Group, comprised of Suzhou Xingya Nail Co., Ltd., Senco-Xingya Metal Products (Taicang) Co., Ltd., Wuxi Chengye Metal Products Co., Ltd., and Hong Kong Yu Xi Limited, to be affiliated parties within the meaning of section 771(33) of the Act, due to common ownership, shared management, and familial connections. See Xingya Group August 20, 2007, supplemental Q&V response at 2-3 and Exhibit 1 ("Xingya Group Supplemental Q&V Response"), and its November 13, 2007, supplemental Section A response at 7-8 and Exhibit 8 ("Xingya Group November Response"). Furthermore, we find that they should be considered as a single entity for purposes of this investigation. See generally 19 CFR 401(f). In addition to being affiliated, we find that a significant potential for manipulation of price exists. See 19 CFR 401(f)(2). Specifically, there exists a level of common ownership, shared management, and an intertwining of business operations. See Xingya Group Supplemental Q&V Response at 2-3 and Exhibit 1 and Xingya Group November Response at 7-8 and Exhibit 8.

Additionally, based on the evidence on the record in this investigation and presented in Paslode's questionnaire responses, we preliminarily find that Paslode Shanghai is affiliated with its U.S. customer ITW pursuant to section 771(33)(E) of the Act because of cross-ownership. See Paslode September 7, 2007, Separate Rate Application at Attachment 3. We note that no party has to date objected to these affiliation and collapsing decisions.

Separate Rates

Additionally, in the *Initiation Notice*, the Department notified parties of the recent application process by which exporters and producers may obtain separate-rate status in NME investigations. See *Initiation Notice*, 72 FR at 38821. The process requires exporters and producers to submit a separate-rate status application. See also *Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries*, (April 5, 2005), ("Policy Bulletin 05.1") available at

the submission of additional, previously absent-from-the-record alternative surrogate value information pursuant to 19 CFR 351.301(c)(1). See *Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part*, 72 FR 58809 (October 17, 2007) and accompanying Issues and Decision Memorandum at Comment 2.

¹⁵ See *Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process*, (March 1, 2004), ("Policy Bulletin 04.1") available at <http://ia.ita.doc.gov>.

¹⁶ GNI stands for gross national income, which comprises GDP plus net receipts of primary income (compensation of employees and property income) from nonresident sources. See, *e.g.*, <http://www.facts.com/biz10/globalworldincomepercapita.htm>.

<http://ia.ita.doc.gov>.¹⁸ However, the standard for eligibility for a separate rate (which is whether a firm can demonstrate an absence of both *de jure* and *de facto* governmental control over its export activities) has not changed.

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. It is the Department's policy to assign all exporters of merchandise subject to investigation in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. As discussed fully below, Paslode and Xingya Group, and all but one of the SR Applicants have provided company-specific information to demonstrate that they operate independently of *de jure* and *de facto* government control, and therefore satisfy the standards for the assignment of a separate rate.¹⁹

We have considered whether each PRC company that submitted a complete application is eligible for a separate rate. The Department's separate-rate test is not concerned, in general, with macroeconomic/border-type controls, e.g., export licenses, quotas, and minimum export prices, particularly if these controls are imposed to prevent dumping. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 72255, 72256 (December 31, 1998). The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. See *Certain Cut-to-Length Carbon Steel Plate from Ukraine: Final Determination of*

Sales at Less Than Fair Value, 62 FR 61754, 61758 (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 the *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("*Sparklers*"), as further developed in *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (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* governmental control over export activities. Additionally, if the Department determines that a company is wholly foreign-owned or located in a market economy, then a separate rate analysis is not necessary to determine whether it is independent from government control.

Wholly Foreign-Owned

In its separate-rate application, Paslode reported that it is wholly foreign-owned. Paslode explained that it is ultimately owned by ITW, which is located in the United States. Additionally, 23 separate rate companies reported that they are wholly owned by individuals or companies located in a market economy in their separate-rate applications (collectively "Foreign-owned SR Applicants"). See "PRELIMINARY DETERMINATION" section below for companies marked with a "Λ" designating companies as wholly foreign-owned. Therefore, because there is no PRC ownership of Paslode and the above-mentioned separate rate companies, i.e. they are wholly foreign-owned, and we have no evidence indicating that they are under the control of the PRC, a separate rates analysis is not necessary to determine whether these companies are independent from government control. See *Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People's Republic of China*, 64 FR 71104-05 (December 20, 1999) (where the respondent was wholly foreign-owned, and thus, qualified for a separate rate).

Accordingly, we have preliminarily granted a separate rate to Paslode and the Foreign-owned SR Applicants.

Located in a Market Economy

Four of the responding exporters in this investigation are located outside the PRC (collectively "Foreign SR Applicants"). See "PRELIMINARY DETERMINATION" section below for companies marked with a "+" designating companies as located in a market economy. Further, there is no PRC ownership in any of these companies. Therefore, we determine that no separate rates analysis is required for these exporters because they are beyond the jurisdiction of the PRC government. (See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China*, 61 FR 19026, 19027 (April 30, 1996) citing *Final Determination of Sales at Less Than Fair Value: Disposable Pocket Lighters from the People's Republic of China*, 60 FR 22359, 22361 (May 5, 1995)).

Joint Ventures Between Chinese and Foreign Companies or Wholly Chinese-Owned Companies

Certain companies stated that they are either joint ventures between Chinese and foreign companies or are wholly Chinese-owned companies (collectively "PRC SR Applicants"). See "PRELIMINARY DETERMINATION" section below for companies marked with a "*" designating companies as joint ventures between Chinese and foreign companies or wholly Chinese-owned companies. Therefore, the Department must analyze whether these respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

1. 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 at 20589.

The evidence provided by Xingya Group and the PRC SR Recipients supports a preliminary finding of *de jure* absence of governmental control based on the following: (1) an absence of restrictive stipulations associated with the individual exporters' business

¹⁸The *Policy Bulletin 05.1*, states: "{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applied both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation." See *Policy Bulletin 05.1* at 6.

¹⁹All separate rate applicants receiving a separate rate are hereby referred to collectively as the "SR Recipients."

and export licenses; (2) there are applicable legislative enactments decentralizing control of the companies; and (3) and there are formal measures by the government decentralizing control of companies. *See, e.g.*, Suzhou Xingya Nail Co., Ltd. September 10, 2007, Separate Rate Application (“Suzhou Xingya SRA”).

2. Absence of De Facto Control

Typically the Department considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a governmental agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. *See Silicon Carbide*, 59 FR at 22586–87; *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). 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 governmental control which would preclude the Department from assigning separate rates.

We determine that, for Xingya Group and the PRC SR Recipients, the evidence on the record supports a preliminary finding of *de facto* absence of governmental control based on record statements and supporting documentation showing the following: (1) Each exporter sets its own export prices independent of the government and without the approval of a government authority; (2) each exporter retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses; (3) each exporter has the authority to negotiate and sign contracts and other agreements; and (4) each exporter has autonomy from the government regarding the selection of management. *See Suzhou Xingya SRA*.

Therefore, the evidence placed on the record of this investigation by Xingya Group²⁰ and the PRC SR Recipients

²⁰ Some companies within Xingya Group submitted a timely separate application, however, because these companies are considered part of Xingya Group single entity we did not consider their separate rate status on an individual basis.

demonstrate an absence of *de jure* and *de facto* government control with respect to each of the exporters’ exports of the merchandise under investigation, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. As a result, for the purposes of this preliminary determination, we have granted a separate company-specific rate to Xingya Group. Additionally, we have granted all SR Applicants, except as identified below, a weighted-average margin, for the purposes of this preliminary determination. Finally, and as discussed previously, we granted Paslode a separate company-specific rate because it is wholly foreign-owned.

Companies Not Receiving a Separate Rate

The Department is not granting a separate rate to Tianjin Certified Products Inc. (“TCPI”) because it was not created nor did it export during the POI. Therefore, in accordance with Department practice, TCPI is not eligible for a separate rate.

The PRC-Wide Entity²¹

The Department has data that indicates there were more exporters of nails from the PRC than those indicated in the response to our request for Q&V information during the POI. *See Respondent Selection Memorandum*. We issued our request for Q&V information to 121 potential Chinese exporters of the subject merchandise, in addition to BOFT and MOFCOM.²² We received 72²³ Q&V responses filed by the July 30, 2007, deadline. *See Respondent Selection Memorandum* at 2. We did not receive Q&V responses from 71 of the companies to which we sent our request for Q&V information. However, out of the 71 companies that did not submit Q&V responses, 11 companies did not receive our Q&V questionnaire. *See Memorandum to the File*, from Irene Gorelik, senior trade analyst, Re: Companies Unresponsive to

²¹ This includes the following six companies whose Q&V the Department rejected: Tianjin Master Fastener Co., Ltd., Wuxi Baolin Nail Enterprises, Zhejiang Jinhua Friendship Industry Co., Ltd., Tianjin Ever Win Metal Products Co., Ltd., Tianjin Jetcom Manufacturing Co., Ltd., Shanghai Shengxiang Hardware Industrial Co., Ltd. and Hilti, whose untimely separate rate application was rejected. It also includes the two companies that the Department received Q&V responses for but did not receive separate rate applications.

²² For a list of companies to which the Department sent its request for Q&V information, *see Respondent Selection Memorandum* at Attachment 1.

²³ The Department inadvertently included Huanghua Jinhai Hardware Products Co., Ltd (“Jinhai”) as a company that did not respond to the Department’s Q&V response in the Respondent Selection Memo; Jinhai submitted a timely Q&V response.

the Department’s Request for Quantity and Value data for the Antidumping Investigation of Certain Steel Nails from the People’s Republic of China, dated January 15, 2008. Therefore, we are not including the companies that did not receive our Q&V questionnaires in our analysis. Furthermore, we note that there was no additional information on the record to allow for the Department to contact these entities.²⁴

Based upon our knowledge of the volume of imports of subject merchandise from the PRC, the companies which responded to the Q&V questionnaire, the SR Recipients, Paslode, and Xingya Group, do not account for all imports into the United States. Although all exporters were given an opportunity to provide Q&V information, not all exporters provided a response to the Department’s Q&V letter. Further, the Government of the PRC did not respond to the Department’s questionnaire. Therefore, the Department determines preliminarily that there were PRC exporters of the subject merchandise during the POI that received the Department’s Q&V request and did not respond to the Department’s request for information. We have treated these PRC exporters as part of the PRC-wide entity because they did not qualify for a separate rate.

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 subsections 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.

Information on the record of this investigation indicates that the PRC-wide entity was non-responsive. Certain companies did not respond to our request for Q&V information and did not respond to the Department’s questionnaire, and, as previously noted, the Government of the PRC received our questionnaire and did not respond. *See Respondent Selection Memorandum* at Attachment II for a full list of non-responsive companies. As a result, pursuant to section 776(a)(2)(A) of the Act, we find that the use of facts

²⁴ Two companies also stated that they did not have shipments of subject merchandise during the POI and thus are preliminarily not subject to any further analysis in this investigation.

available is appropriate to determine the PRC-wide rate. *See also* Statement of Administration Action accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103–316 Vol. I at 869–70 (1994) *reprinted in* 1994 U.S.C.C.A.N. 4040, 4198–99 (“SAA”); *Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 4986, 4991 (January 31, 2003), unchanged in *Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 37116 (June 23, 2003).

Section 776(b) of the Act provides that, in selecting from among the facts otherwise available, the Department may employ an adverse inference if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information. *see also* SAA at 870, 19 U.S.C.C.A.N. at 4199; *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation*, 65 FR 5510, 5518 (February 4, 2000). We find that, because the PRC-wide entity did not respond to our request for information, it has failed to cooperate to the best of its ability. Therefore, the Department preliminarily finds that, in selecting from among the facts available, an adverse inference is appropriate.

Further, section 776(b) of the Act authorizes the Department to use as adverse facts available (“AFA”) information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record. In selecting a rate for adverse facts available, the Department selects a rate that is sufficiently adverse “as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.” *See Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998). It is the Department’s practice to select, as AFA, the higher of the (a) highest margin alleged in the petition, or (b) the highest calculated rate of any respondent in the investigation. *See Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Quality Steel Products from the People’s Republic of China*, 65 FR 34660 (May 21, 2000) and accompanying Issues and

Decision Memorandum, at “Facts Available.” In the instant investigation, as AFA, we have assigned to the PRC-wide entity a margin based on information in the petition, because the margin derived from the petition is higher than the calculated margins for the selected respondents. In this case, we have applied the petition rate of 118.04 percent.

Section 776(c) of the Act requires that, when the Department relies on secondary information rather than on information obtained in the course of an investigation as facts available, it must, to the extent practicable, corroborate that information from independent sources reasonably at its disposal.²⁵ It is the Department’s practice also to consider independent sources such as published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *See SAA* at 870, 19 U.S.C.C.A.N. at 4199.

To “corroborate” means that the Department will satisfy itself that the secondary information to be used has probative value. *See SAA* at 870, 19 U.S.C.C.A.N. at 4199. As noted in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Final Results of Antidumping Duty Administrative Reviews and Termination in Part: Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan*, 62 FR 11825 (March 13, 2005), to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.

Petitioners’ methodology for calculating the export price and normal value in the petition is discussed in the initiation notice. *See Initiation Notice*, 72 FR at 38820. To corroborate the AFA margin selected, we compared the U.S. price and normal values from the petition to the U.S. price and normal values for the Xingya Group. *See*

Memorandum to the File from Matthew Renkey, Senior Case Analyst: Program Analysis for the Preliminary Determination of Antidumping Duty Investigation of Certain Steel nails from the People’s Republic of China: Xingya Group, dated January 15, 2008 (“Xingya Group Analysis Memorandum”). For the reasons discussed therein, we find that the rate of 118.04 percent is corroborated within the meaning of section 776(c) of the Act. Consequently, we are applying 118.04 percent as the single antidumping rate to the PRC-wide entity. The PRC-wide rate applies to all entries of the merchandise under investigation except for entries from Paslode, Xingya Group, and the SR Recipients.

Margin for the Separate Rate Applicants

The Department received timely and complete separate rates applications from the Separate Rates Applicants, who are all exporters of nails from the PRC, which were not selected as mandatory respondents in this investigation. Through the evidence in their applications, these companies have demonstrated their eligibility for a separate rate, as discussed above. Consistent with the Department’s practice, as the separate rate, we have established a weighted-average margin for the Separate Rates Applicants based on the rates we calculated for Paslode and Xingya Group. Companies receiving this rate are identified by name in the “Suspension of Liquidation” section of this notice.

Date of Sale

Section 351.401(i) of the Department’s regulations states that, “{i}n identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer’s records kept in the ordinary course of business.” However, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale. *See* 19 CFR 351.401(i); *see also Allied Tube and Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090–1093 (CIT 2001) (“*Allied Tube*”). The date of sale is generally the date on which the parties agree upon all substantive terms of the sale. This normally includes the price, quantity, delivery terms and payment terms. In *Allied Tube*, the Court of International Trade (“CIT”) noted that a “party seeking to establish a date of sale other than invoice date bears the burden of

²⁵ Secondary information is described in the SAA as “information derived from the petition that gave rise to the investigation or review, the final determination concerning subject merchandise, or any previous review under section 751 concerning the subject merchandise.” *See SAA* at 870.

producing sufficient evidence to satisfy the Department that a different date better reflects the date on which the exporter or producer establishes the material terms of sale." *Allied Tube* 132 F. Supp. 2d at 1090 (citations omitted). In order to simplify the determination of date of sale for both the respondent and the Department and in accordance with 19 CFR 351.401(i), the date of sale will normally be the date of the invoice, as recorded in the exporter's or producer's records kept in the ordinary course of business, unless satisfactory evidence is presented that the exporter or producer establishes the material terms of sale on some other date. In other words, the date of the invoice is the presumptive date of sale, although this presumption may be overcome. For instance, in *Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from Taiwan*, 61 FR 14064, 14067 (March 29, 1996), the Department used the date of the purchase order as the date of sale because the terms of sale were established at that point.

After examining the questionnaire responses and the sales documentation that Paslode and Xingya Group placed on the record, we preliminarily determine that invoice date is the most appropriate date of sale for all Paslode sales and for all CEP sales made by Xingya Group. For the Xingya Group's EP sales, where shipment date preceded invoice date, we used shipment date as the date of sale. For EP sales where shipment date was the same as or after the invoice date, we used the invoice date as the date of sale. See Xingya Group October 23, 2007, Section C questionnaire response at 11.

Fair Value Comparisons

To determine whether sales of nails to the United States by Paslode and Xingya Group were made at less than fair value, we compared the export price ("EP") or constructed export price ("CEP"), as appropriate, to normal value ("NV"), as described in the "U.S. Price," and "Normal Value" sections of this notice.

U.S. Price

A. EP

For Xingya Group, in accordance with section 772(a) of the Act, we based the U.S. price for certain sales on EP because the first sale to an unaffiliated purchaser was made prior to importation, and the use of CEP was not otherwise warranted. In accordance with section 772(c) of the Act, we calculated EP by deducting, where applicable, foreign inland freight, foreign brokerage and handling,

international freight, and rebates from the gross unit price.

We based these movement expenses on surrogate values where a PRC company provided the service and was paid in Renminbi ("RMB") (see "Factors of Production" section below for further discussion). For details regarding our EP calculation, see Xingya Group Analysis Memorandum.

B. CEP

In accordance with section 772(b) of the Act, we based the U.S. price for certain sales on CEP because these sales were made by Paslode's and Xingya Group's U.S. affiliates. In accordance with section 772(c)(2)(A) of the Act, we calculated CEP by deducting, where applicable, the following expenses from the gross unit price charged to the first unaffiliated customer in the United States: Marine insurance, discounts, rebates, billing adjustments, foreign movement expenses, and international freight, and United States movement expenses, including brokerage and handling. Further, in accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), where appropriate, we deducted from the starting price the following selling expenses associated with economic activities occurring in the United States: Credit expenses, warranty expenses, other direct selling expenses, and indirect selling expenses. In addition, pursuant to section 772(d)(3) of the Act, we made an adjustment to the starting price for CEP profit. We based movement expenses on either surrogate values, actual expenses, or an average of the two as explained above in the "EP" section of this notice. For details regarding our CEP calculations, see Memorandum to the File from Nicole Bankhead, Senior Case Analyst: Program Analysis for the Preliminary Determination of Antidumping Duty Investigation of Certain Steel Nails from the People's Republic of China: Paslode, dated January 15, 2008 ("Paslode Analysis Memorandum"); Xingya Group Analysis Memorandum.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using a FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on the FOP because the presence of government controls on various aspects of non-market economies renders price comparisons and the calculation of

production costs invalid under the Department's normal methodologies.

Factor Valuation Methodology

In accordance with section 773(c) of the Act, we calculated NV based on FOP data reported by respondents for the POI. To calculate NV, we multiplied the reported per-unit factor-consumption rates by publicly available surrogate values (except as discussed below). In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to the Indian surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory where appropriate. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp. v. United States*, 117 F.3d 1401, 1407-1408 (Fed. Cir. 1997). A detailed description of all surrogate values used for respondents can be found in the Surrogate Value Memorandum and company-specific analysis memoranda. Additionally, for detailed descriptions of all actual values used for market-economy inputs, see the company-specific analysis memoranda dated January 15, 2008. See Paslode Analysis Memorandum; Xingya Group Analysis Memorandum.

For this preliminary determination, in accordance with the Department's practice, we used data from the Indian Import Statistics and other publicly available Indian sources in order to calculate surrogate values for the mandatory respondents' FOPs (direct materials, energy, and packing materials) and certain movement expenses. In selecting the best available information for valuing FOPs in accordance with section 773(c)(1) of the Act, the Department's practice is to select, to the extent practicable, surrogate values which are non-export average values, most contemporaneous with the POI, product-specific, and tax-exclusive. See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR

71005 (December 8, 2004). The record shows that data in the Indian Import Statistics, as well as that from the other Indian sources, represent data that are contemporaneous with the POI, product-specific, and tax-exclusive. In those instances where we could not obtain publicly available information contemporaneous to the POI with which to value factors, we adjusted the surrogate values using, where appropriate, the Indian Wholesale Price Index ("WPI") as published in the International Financial Statistics of the International Monetary Fund.

Furthermore, with regard to the Indian import-based surrogate values, we have disregarded import prices that we have reason to believe or suspect may be subsidized. We have reason to believe or suspect that prices of inputs from Indonesia, South Korea, and Thailand may have been subsidized. We have found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies and, therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized. See *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 69 FR 20594 (April 16, 2004) and accompanying Issues and Decision Memorandum at Comment 7 ("*CTVs from the PRC*"). Further, guided by the legislative history, it is the Department's practice not to conduct a formal investigation to ensure that such prices are not subsidized. See H.R. Rep. 100-576 at 590 (1988). Rather, the Department bases its decision on information that is available to it at the time it makes its determination. Therefore, we have not used prices from these countries either in calculating the Indian import-based surrogate values or in calculating market-economy input values. In instances where a market-economy input was obtained solely from suppliers located in these countries, we used Indian import-based surrogate values to value the input. See *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.

The Department used the Indian Import Statistics to value the raw material and packing material inputs that Paslode and Xingya Group used to produce the subject merchandise during the POI, except where listed below.

For direct, indirect, and packing labor, consistent with 19 CFR 351.408(c)(3), we used the PRC regression-based wage rate as reported on Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in January 2007, <http://ia.ita.doc.gov/wages/index.html>. The source of these wage-rate data on the Import Administration's web site is the Yearbook of Labour Statistics 2002, ILO (Geneva: 2002), Chapter 5B: Wages in Manufacturing. Because this regression-based wage rate does not separate the labor rates into different skill levels or types of labor, we have applied the same wage rate to all skill levels and types of labor reported by the respondent. See Surrogate Value Memorandum.

To value factory overhead, selling, general, and administrative expenses, and profit, we used the audited financial statements from Lakshmi Precision Screws' 2006-2007 Annual Report. While this company produces comparable rather than identical merchandise, it uses an integrated wire-drawing production process with steel wire rod as the main input, which closely mirrors that of the mandatory respondents. Lakshmi therefore possesses a more similar cost structure than that of a company which produces merchandise from higher value steel wire that does not undergo the wire-drawing stage.

To value low and medium carbon steel wire rod, we used price data fully contemporaneous with the POI for 6mm and 8mm steel wire rod available on the Web site of the Indian Joint Plant Committee ("JPC"). The JPC is a joint industry/government board that monitors Indian steel prices. These data are publicly available, specific to the input in question, represent a broad market average, and are tax-exclusive. See 19 CFR 351.408(c)(1).

For a detailed discussion of all surrogate values used for this preliminary determination, see Surrogate Values Memorandum.

Currency Conversion

We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Critical Circumstances

On November 7, 2007, Petitioners alleged that there is a reasonable basis to believe or suspect critical circumstances exist with respect to the antidumping investigation of nails from the PRC. On December 3, 2007, Paslode

and Xingya Group submitted information on their exports of nails from January 2005 through September 2007 as requested by the Department (collectively, "mandatory respondents") (see mandatory respondents' December 3, 2007 Critical Circumstances Questionnaire responses ("CCQR")). In accordance with 19 CFR 351.206(c)(2)(i), because Petitioners submitted critical circumstances allegations more than 20 days before the scheduled date of the preliminary determination, the Department must issue preliminary critical circumstances determinations not later than the date of the preliminary determination.

Section 733(e)(1) of the Act provides that the Department will preliminarily determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A)(i) There is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise; or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales; and (B) there have been massive imports of the subject merchandise over a relatively short period. Section 351.206(h)(1) of the Department's regulations provides that, in determining whether imports of the subject merchandise have been "massive," the Department normally will examine: (i) The volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, section 351.206(h)(2) of the Department's regulations provides that an increase in imports of 15 percent during the "relatively short period" of time may be considered "massive." Section 351.206(i) of the Department's regulations defines "relatively short period" as normally being the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later (*i.e.*, the comparison period). The comparison period is normally compared to the three months prior to the filing of the petition (*i.e.*, the base period). *Id.* The regulations also provide, however, that if the Department finds that importers, exporters, or producers had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, the Department may establish the base and comparison periods based on the earlier date. *Id.*

In determining whether the above statutory criteria have been satisfied, we examined: (1) The evidence presented in Petitioners' November 7, 2007, submission; (2) new evidence obtained since the initiation of the LTFV investigation (*i.e.*, additional import statistics released by the U.S. Customs and Border Protection); and (3) additional information obtained from Xingya and Paslode (*see* CCQR).

In accordance with section 733(e)(1)(A)(ii) of the Act, to determine whether importers of nails from the PRC knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, the Department must rely on the facts before it at the time the determination is made. The Department generally bases its decision with respect to knowledge on the margins calculated in the preliminary antidumping duty determination and the ITC preliminary injury determination.

The Department normally considers margins of 25 percent or more for export price EP sales and 15 percent or more for CEP sales sufficient to impute importer knowledge of sales at LTFV. *See, e.g., Carbon and Alloy Steel Wire Rod From Germany, Mexico, Moldova, Trinidad and Tobago, and Ukraine: Notice of Preliminary Determination of Critical Circumstances*, 67 FR 6224, 6225 (February 11, 2002) unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod From Germany*, 67 FR 55802 (August 30, 2002). In this preliminary determination, Xingya Group has a margin of 44.57 percent and Paslode has a margin of 20.77 percent. The SR Recipients, which have preliminarily received a separate rate, have a margin of 29.36 percent, based on a weighted-average of the margins of the Mandatory Respondents. The PRC-wide entity has a margin of 118.04. We find that the antidumping duty preliminary margins for Xingya Group, Paslode, the SR Recipients, and the PRC-wide entity support a finding that there is a reasonable basis to believe or suspect that the importers knew or should have known that there was likely to be material injury by reason of sales at LTFV of nails from the PRC from these respondents.

In determining whether to find that an importer knew or should have known that there would be material injury by reason of dumped imports, the Department normally will look to the preliminary injury determination of the ITC. If the ITC finds a reasonable

indication of present material injury to the relevant U.S. industry, the Department will determine that a reasonable basis exists to impute importer knowledge that there would be material injury by reason of dumped imports. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From Japan*, 64 FR 30574, 30578 (June 8, 1999). On July 31, 2007, the ITC issued its preliminary affirmative injury determination for nails from the PRC. *See ITC Preliminary Determination*. As a result, the Department has determined that importers knew or should have known that there would be material injury by reason of dumped imports of subject merchandise from Japan.

In accordance with section 733(e)(1)(B) of the Act, the Department must determine whether there have been massive imports of the subject merchandise over a relatively short period. Pursuant to 19 CFR 351.206(h), we will not consider imports to be massive unless imports in the comparison period have increased by at least 15 percent over imports in the base period. As discussed above, the Department normally determines the comparison period for massive imports based on the filing date of the petition. Based on the May 29, 2007, filing date, we have determined that June 2007 is the month in which importers, exporters or producers knew or should have known an antidumping duty investigation was likely.

It is our practice to base the critical circumstances analysis on all available data, using base and comparison periods of no less than three months. *See Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from India*, 69 FR 47111 (Aug. 4, 2004) unchanged in the final determination, (*Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From India*, 69 FR 76916 (December 23, 2004)); and *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 69 FR 20594 (Apr. 16, 2004), and accompanying Issues and Decision Memorandum at Comment 3. We believe that a five-month period is most appropriate as the basis for our critical circumstances analysis because using

five months capture all data available at this time, based on June 2007 as the beginning of the comparison period. Additionally, a five-month period properly reflects the "relatively short period" set forth in the statute for determining whether imports have been massive. *See* 733(e)(1)(B) of the Act. Therefore, in applying the five-month period, we used a comparison period of January 2007, to May 2007, and a base period of June 2007, to October 2007.

Mandatory Respondents

The Department used the shipment data of Paslode and Xingya Group to examine the relevant comparison period of five months before June 2007 and five months following that period. When we compared Xingya Group's import data during the base period with the comparison period, it had an increased volume of exports over the base period of greater than 15 percent and consequently, we find their imports to be massive. *See* Memorandum to the File from Paul Walker, Senior Case Analyst: Critical Circumstances Data for the Preliminary Determination of Antidumping Duty Investigation of Certain Steel Nails from the People's Republic of China, dated January 15, 2008, at Attachment II ("CC MTF") for the exact percentage changes. Additionally, when we compared Paslode's import data during the base period with the comparison period, it did not have an increased volume of exports over the base period of greater than 15 percent and consequently, we find their exports not to be massive.

SR Recipients

For the SR Recipients, we did not request the monthly shipment information necessary to determine if there were massive imports. As the basis to measure whether massive imports existed for purposes of critical circumstances, we relied on the experience of the Mandatory Respondents receiving a separate rate. When we compared the weight-averaged import data during the base period with the comparison period from the Mandatory Respondents, we found that the weight-averaged volume of imports of nails for the SR Recipients did not increase 15 percent over the base period. *See* CC MTF at Attachment II for the exact percentage changes.

PRC Entity

Because the PRC entity failed to respond to the Department's antidumping questionnaire, we were unable to obtain shipment data from the PRC entity for purposes of our critical circumstances analysis, and there is no

information on the record with respect to its export volumes. We relied on the ITC Dataweb site (<http://databweb.usitc.gov>) to determine whether there were imports of nails from the PRC during the base and the comparison periods not accounted for in the shipment data for the Mandatory Respondents. See CC MTF at Attachment I. We found that there were such imports and we were able to rely on such data to quantify the imports attributed to the PRC-wide entity because the HTSUS article codes covering imported nails from China contain mostly data for subject merchandise, allowing us to segregate the Mandatory Respondents' data from the China-wide import data.

We have deducted the Mandatory Respondents' data from the China-wide import data as to avoid possible double-counting. When we compared the PRC-wide entity import data during the adjusted base period with the adjusted comparison period, we found that the volume of imports of nails for the PRC-wide entity during the comparison period was greater than 15 percent over the base period. See CC MTF at Attachment II. Consequently, we find that the PRC-wide entity did have an increased volume of exports over the base period of greater than 15 percent, and therefore, we find their imports to be massive.

In accordance with section 733(e)(1)(A)(ii) of the Act, the Department preliminarily determines that importers knew or should have known that the PRC entity was selling nails at LTFV because the PRC entity's preliminary dumping margin was greater than 15 percent. See Xingya Group Analysis Memo. In addition, as a result of the ITC's affirmative preliminary determination in the instant LTFV investigation, the Department preliminarily finds there is a reasonable basis to believe or suspect that importers knew or should have known that there was likely to be material injury by reason of dumped imports, consistent with section 733(e)(1)(A)(ii) of the Act. See *ITC Preliminary Determination*. As discussed above, the volume of imports of nails from the PRC-wide entity was massive within the meaning of section 733(e)(1)(B) of the Act. The volumes of imports of nails for Xingya Group was above 15 percent, and were thus massive within the meaning of 733(e)(1)(B) of the Act. However, for Paslode and the SR Recipients, the volume of imports was

below 15 percent, and were thus not massive within the meaning of section 733(e)(1)(B) of the Act. As a result, we preliminarily find that critical circumstances exist for the PRC-wide entity and Xingya Group, but do not exist for imports of nails from Paslode and the SR Recipients.

We will make a final determination concerning critical circumstances for all producers/exporters of subject merchandise from the PRC when we make our final dumping determination in this investigation, which is currently 135 days after the preliminary determination.

Targeted Dumping

Based on our examination of the targeted dumping allegations filed by Petitioners on December 10, 2007, December 14, 2007,²⁶ and consideration of the rebuttal comments submitted by Paslodes and the Xingya Group, we have determined that the allegations indicate that there is a pattern of export prices for comparable merchandise that differs significantly. See *Notice of Final Determination of Sales at Less than Fair Value: Coated Free Sheet Paper from the Republic of Korea*, 72 FR 60630 (October 17, 2007), and accompanying Issues and Decision Memorandum at Comments 1–8. Therefore, for purposes of this preliminary determination, we have preliminarily accepted the Petitioner's allegation that Paslode targeted certain regions and Xingya targeted certain customers during the POI.²⁷ See Memorandum To The File from Alex Villanueva, Program Manager To James C. Doyle, Director, Office 9, regarding "Antidumping Duty Investigation of Certain Steel Nails from the People's Republic of China—Preliminary Analysis on Targeting," dated January 15, 2008.

We note, however, that the Department is in the process of re-assessing the framework and standards for both targeted dumping allegations and targeted dumping analyses. Accordingly, we intend to develop a new framework in the context of this proceeding and to apply it in time for parties to have an opportunity to comment before the final determination.

In formulating this new methodology the Department requests comments by

²⁶ On January 10, 2008, Petitioners provided an almost identical targeted dumping allegation with the exception of converting the export price from kilograms to a per-carton basis.

²⁷ The Department made certain adjustments to Petitioner's allegations. See *Id.*

February 15, 2008, regarding certain principles: (1) Whether it is appropriate to collapse into one test the assessment of patterns of low prices and of significant price differentials; (2) if so, whether the test for a pattern of low prices ought to be established on the basis of a simple comparison of the average price to the alleged target with an average non-targeted price; and (3) whether any test for a significant price difference ought to simply be based on an absolute, bright-line threshold or whether it should account for other aspects of the non-targeted group's data.

In preliminarily accepting the allegation of targeted dumping, we find that the price differences cannot be taken into account using the average-to-average comparison methodology for targeted sales because that methodology, by averaging the high prices with the low prices, has the effect of masking the extent of sales at LTFV. See section 777A(d)(1)(B) of the Act. Accordingly, we used the average-to-transaction methodology for these sales in accordance with 19 CFR 351.414(f)(1).

When calculating the weighted-average margin for Paslode and Xingya Group, we combined the margin calculated for the targeted sales using the average-to-transaction methodology with the margin calculated for the non-targeted sales using the average-to-average methodology. In combining the margins for the targeted and non-targeted U.S. sales databases, we have not offset any margins found among the targeted U.S. sales.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information upon which we will rely in making our final determination.

Combination Rates

In the *Initiation Notice*, the Department stated that it would calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. See *Initiation Notice*, 72 FR 38821, 38822. This change in practice is described in *Policy Bulletin 05.1*, available at <http://ia.ita.doc.gov/>.

The weighted-average dumping margins are as follows:²⁸

²⁸ Companies designated with a "A" are wholly foreign owned, "+" are located in a market economy, and "*" are joint-venture companies between Chinese and foreign companies or are wholly Chinese owned, as explained above in the "SEPARATE RATES" section.

CERTAIN STEEL NAILS FROM THE PRC²⁸

| Exporter | Producer | Weighted-average margin (percent) |
|---|--|-----------------------------------|
| Paslode Fasteners (Shanghai) Co., Ltd. [^] Xingya Group:* | Paslode Fasteners (Shanghai) Co., Ltd | 20.77 |
| Suzhou Xingya Nail Co., Ltd | Suzhou Xingya Nail Co., Ltd | 44.57 |
| Senco-xingya Metal Products (Taicang) Co., Ltd | Senco-xingya Metal Products (Taicang) Co., Ltd. | |
| Hong Kong Yu Xi Co., Ltd | Wuxi Chengye Metal Products Co., Ltd. | |
| Jisco Corporation [^] | Qingdao Jisco Co., Ltd | 29.36 |
| Koram Panagene Co., Ltd. [^] | Qingdao Koram Steel Co., Ltd | 29.36 |
| Handuk Industrial Co., Ltd. [^] | Rizhao Handuk Fasteners Co., Ltd.; Rizhao Changxing Nail-making Co., Ltd | 29.36 |
| Kyung Dong Corp.* | Rizhao Qingdong Electric Appliance Co., Ltd | 29.36 |
| Xi'an Metals & Minerals Import and Export Co., Ltd.* | Huanghua Jinhai Hardware Products Co., Ltd | 29.36 |
| Hebei Cangzhou New Century Foreign Trade Co., Ltd.* | Huanghua Jinhai Hardware Products Co., Ltd.; Beijing Hongshen Metal Products Co., Ltd.; Tianjin Dagang Huasheng Nailery Co., Ltd. | 29.36 |
| Chongqing Hybest Tools Group Co., Ltd.* | Chongqing Hybest Nailery Co., Ltd | 29.36 |
| China Silk Trading & Logistics Co., Ltd.* | Maanshan Longer Nail Product Co., Ltd.; Wuxi Qiangye Metalwork Production Co., Ltd | 29.36 |
| Beijing Daruixing Global Trading* | Beijing Tri-metal Co., Ltd.; Beijing Daruixing Nail Products Co., Ltd.; Tianjin Kunxin Hardware Co., Ltd.; Tianjin Hewang Nail Making Factory. | 29.36 |
| Huanghua Jinhai Hardware Products Co.* | Huanghua Jinhai Hardware Products Co | 29.36 |
| Beijing Daruixing Nail Products Co., Ltd.* | Beijing Tri-metal Co., Ltd.; Beijing Daruixing Nail Products Co., Ltd | 29.36 |
| Beijing Tri-metal Co., Ltd.* | Beijing Daruixing Nail Products Co., Ltd | 29.36 |
| Cana (Tianjin) Hardware Inc., Co., Ltd. [^] | Cana (Tianjin) Hardware Inc., Co., Ltd. | 29.36 |
| China Staple Enterprise (Tianjin) Co., Ltd. [^] | ChinaStaple Enterprise (Tianjin) Co., Ltd | 29.36 |
| Hengshui Mingyao Hardware & Mesh Products Co, Ltd. [^] | Hengshui Mingyao Hardware & Mesh Products Co, Ltd | 29.36 |
| Nanjing Dayu Pneumatic Gun Nails Co., Ltd. [^] | Nanjing Dayu Pneumatic Gun Nails Co., Ltd. | 29.36 |
| Qidong Liang Chyuan Metal Industry Co., Ltd. [^] | Qidong Liang Chyuan Metal Industry Co., Ltd. | 29.36 |
| Romp (Tianjin) Hardware Co., Ltd. [^] | Romp (Tianjin) Hardware Co., Ltd | 29.36 |
| Shandong Dinglong Import & Export Co., Ltd.* | Qingyun Hongyi Hardware Factory | 29.36 |
| Tianjin Jinchi Metal Products Co., Ltd.* | Tianjin Jinchi Metal Products Co., Ltd | 29.36 |
| Tianjin Jinghai County Hongli Industry and Business Co., Ltd.* | Tianjin Jinghai County Hongli Industry and Business Co., Ltd | 29.36 |
| Tianjin Jurun Metal Products Co., Ltd.* | Tianjin Jurun Metal Products Co., Ltd | 29.36 |
| Zhejiang Gem-chun Hardware Accessory Co., Ltd. [^] | Zhejiang Gem-chun Hardware Accessory Co., Ltd | 29.36 |
| Huanghua Xionghua Hardware Products Co., Ltd. [^] | Huanghua Xionghua Hardware Products Co., Ltd | 29.36 |
| Zhaoqing Harvest Nails Co., Ltd. [^] | Zhaoqing Harvest Nails Co., Ltd | 29.36 |
| SDC International Australia Pty., Ltd. [^] | S-mart Tianjin Technology Development Co., Ltd.; Tianjin Jishili Hardware Co., Ltd. Tianjin Baisheng Metal Product Co., Ltd.; Tianjin Foreign Trade (Group) Textile & Garment Co., Ltd.; Dagang Zhitong Metal Products Co., Ltd. | 29.36 |
| Tianjin Universal Imp & Exp Corporation* | Huanghua Shenghua Hardware Manufactory Factory; Tianjin Dagang Dongfu Metallic Products Co., Ltd.; Tianjin Dagang Jingang Nail Factory; Tianjin Dagang Linda Metallic Products Co., Ltd.; Tianjin Dagang Yate Nail Co., Ltd.; Tianjin Jieli Hengyuan Metallic Products Co., Ltd. Tianjin Shishun Metallic Products Co., Ltd. Tianjin Yihao Metallic Products Co., Ltd. Tianjin Yongcang Metallic Products Co., Ltd. | 29.36 |
| Certified Products International Inc.+ | Huanghua Jinhai Hardware Products Co., Ltd.; Shanxi Yuci Broad Wire Products Co., Ltd.; Hengshui Mingyao Hardware & Mesh Products Co., Ltd.; Tianjin Zhonglian Metals Ware Co., Ltd.; Beijing Daruixing Nail Products Co., Ltd.; Huanghua Xionghua Hardware Products Co., Ltd.; Tianjin Port Free Trade Zone Xiangtong Intl. Industry & Trade Corp. Shangdong Dinglong Import & Export Co., Ltd.; Wuhu Shijie Hardware Co., Ltd.; Romp (Tianjin) Hardware Co., Ltd.; Tianjin Jurun Metal Products Co., Ltd.; Yitian (Nanjing) Hardware Co., Ltd.; Nanjing Da Yu Pneumatic Gun Nails Co., Ltd.; Wintime Import & Export Corporation Limited of Zhongshan; Tianjin Chentai International Trading Co., Ltd.; Tianjin Longxing (Group) Huanyu Imp. & Exp. Co., Ltd.; Zhejiang Gem-chun Hardware Accessory Co., Ltd.; Shanxi Pioneer Hardware Industrial Co., Ltd.; Wuhu Xin Lan De Industrial Co., Ltd.; Tianjin Zhitong Metal Products; Suntec Industries Co., Ltd.; China Staple Enterprise (Tianjin) Co., Ltd.; Tianjin Jinghai County Hongli Industry & Business Co., Ltd.; Hebei Super Star Pneumatic Nails Co., Ltd.; Shanghai Chengkai Hardware Products Co., Ltd.; Tianjin Jinchi Metal Products Co., Ltd.; Shaoxing Chengye Metal Producing Co., Ltd.; Tianjin Shenyuan Steel Producing Group Co., Ltd.; Shanghai Jade Shuttle Hardware Tools Co., Ltd. | 29.36 |

CERTAIN STEEL NAILS FROM THE PRC²⁸—Continued

| Exporter | Producer | Weighted-average margin (percent) |
|--|---|-----------------------------------|
| Dezhou Hualude Hardware Products Co., Ltd.* | Tianjin Bosai Hardware Tools Co., Ltd.; Beijing Yonghongsheng Metal Products Co., Ltd.; Tianjin City Jinchi Metal Products Co., Ltd.; Huanghua Huarong Hardware Products Co., Ltd.; Huanghua Yufutai Hardware Products Co., Ltd.; Qingyuan County Hongyi Hardware Products Factory; Tianjin Zhitong Metal Products Co., Ltd.; Tianjin Baisheng Metal Products Co., Ltd.; Tianjin Dagang Hewang Nails Factory. | 29.36 |
| Shanxi Tianli Industries Co., Ltd.* | Dingzhou Ruili Nail Production Co., Ltd.; Haixing Hongda Hardware Production Co., Ltd.; Huanghua Xinda Nail Production Co., Ltd.; Tianjin Huachang Metal Products Co., Ltd.; Tianjin Huapeng Metal Company; Tianjin Huasheng Nails Production Co., Ltd.; Tianjin Jin Gang Metal Products Co., Ltd.; Tianjin Kunxin Metal Products Co., Ltd.; Tianjin Linda Metal Company; Tianjin Xinyaunsheng Metal Products Co., Ltd.; Tianjin Yongyi Standard Parts Production Co., Ltd.; Wuqiao Huifeng Hardware Production Co., Ltd.. | 29.36 |
| Suntec Industries Co., Ltd.* | Wuqiao County Huifeng Hardware Products Factory; Wuqiao County Xinchuang Hardware Products Factory; Huanghua Jinhai Hardware Products Co., Ltd.; Haixin Linhai Hardware Products Factory; Tianjin Baisheng Metal Products Co., Ltd.; Tianjin City Jinchi Metal Products Co., Ltd.; Tianjin City Dagang Area Jinding Metal Products Factory; Tianjin Jishili Hardware Products Co., Ltd.; Tianjin Jietong Hardware Products Co., Ltd.; Tianjin Ruiji Metal Products Co., Ltd.; Tianjin Yongxu Metal Products Co., Ltd.; Wuxi Baolin Nail-making Machinery Co., Ltd.; Suzhou Xinya Nail Co., Ltd. | 29.36 |
| Sinochem Tianjin Imp & Exp Shenzhen Corp.* | Tianjin Jihy Metal Products Co., Ltd. | 29.36 |
| Qingdao D&L Group Ltd.* | Tianjin City Daman Port Area Jinding Metal Products Factory; Tianjin Yongxu Metal Products Co., Ltd.; Huanghua Jinhai Metal Products Co., Ltd.; Dong'e Fuqiang Metal Products Co., Ltd. | 29.36 |
| Tianjin Xiantong Material & Trade Co., Ltd.* | Tianjin Xiantong Fucheng Gun Nail Manufacture Co., Ltd. | 29.36 |
| Zhongshan Junlong Nail Manufactures Co., Ltd.+ | Zhongshan Junlong Nail Manufactures Co., Ltd. | 29.36 |
| Shandong Minmetals Co., Ltd.* | Shouguang Meiqing Nail Industry Co., Ltd. | 29.36 |
| Shouguang Meiqing Nail Industry Co., Ltd.^ | Shouguang Meiqing Nail Industry Co., Ltd. | 29.36 |
| S-mart (Tianjin) Technology Development Co., Ltd.^ | Tianjin Jishili Hardware Co., Ltd.; Tianjin Baisheng Metal Product Co., Ltd.; Tianjin Dagang Hewang Nail Factory; Tianjin Shishun Metal Products Co., Ltd.; Tianjin Xinyaunsheng Metal Product Co., Ltd.; Tianjin Yongchang Metal Product Co., Ltd. | 29.36 |
| Tianjin Liande Group Co., Ltd.* | Tianjin Dagang Hewang Nails Manufacture Plant; Tianjin Dagang Jingang Nails Manufacture Plant; Tianjin Dagang Longhua Nails Manufacture Plant; Tianjin Dagang Shenda Metal Products Co., Ltd.; Tianjin Jietong Metal Products Co., Ltd.; Tianjin Qichuan Metal Products Co., Ltd.; Tianjin Yongxu Metal Products Co., Ltd.; Zhangjiagang Longxiang Packing Materials Co., Ltd. | 29.36 |
| Union Enterprise Co., Ltd.^ | Union Enterprise Co., Ltd. | 29.36 |
| Beijing Hong Sheng Metal Co., Ltd.* | Beijing Hong Sheng Metal Co., Ltd. | 29.36 |
| PT Enterprise Inc.+ | Shanxi Hairui Trade Co., Ltd.; Shanxi Pioneer Hardware Industrial Co., Ltd.; Shanxi Yuci Broad Wire Products Co., Ltd. | 29.36 |
| Shanxi Hairui Trade Co., Ltd.* | Shanxi Pioneer Hardware Industrial Co., Ltd.; Shanxi Yuci Broad Wire Products Co., Ltd. | 29.36 |
| Shanxi Pioneer Hardware Industrial Co., Ltd.* | Shanxi Pioneer Hardware Industrial Co., Ltd. | 29.36 |
| Shanxi Yuci Broad Wire Products Co., Ltd.* | Shanxi Yuci Broad Wire Products Co., Ltd. | 29.36 |
| Yitian Nanjing Hardware Co., Ltd.^ | Yitian Nanjinghardware Co., Ltd. | 29.36 |
| Chiieh Yung Metal Ind. Corp.+ | Cym (Nanjing) Nail Manufacture Co., Ltd. | 29.36 |
| Shanghai Seti Enterprise International Co., Ltd.* | Suzhou Yaotian Metal Products Co. Ltd. | 29.36 |
| Shanghai Curvet Hardware Products Co., Ltd.^ | Shanghai Tengyu Hardware Tools Co., Ltd. | 29.36 |
| Shanghai Tengyu Hardware Tools Co., Ltd.* | Shanghai Curvet Hardware Products Co., Ltd. | 29.36 |
| Xuzhou CIP International Group Co., Ltd.^ | Xuzhou Cip International Group Co., Ltd. | 29.36 |
| Wuhu Shijie Hardware Co., Ltd.* | Wuhu Shijie Hardware Co., Ltd. | 29.36 |
| Wuhu Xin Lan De Industrial Co., Ltd.* | Wuhu Xin Lan De Industrial Co., Ltd. | 29.36 |
| Tianjin Zhonglian Metals Ware Co., Ltd.* | Tianjin Zhonglian Metals Ware Co., Ltd. | 29.36 |
| Jining Huarong Hardware Products Co., Ltd.* | Jining Huarong Hardware Products Co., Ltd. | 29.36 |
| Mingguang Abundant Hardware Products Co., Ltd.* | Mingguang Abundant Hardware Products Co., Ltd. | 29.36 |
| Shandong Oriental Cherry Hardware Group Co., Ltd.* | Shandong Oriental Cherry Hardware Group Co., Ltd. | 29.36 |

CERTAIN STEEL NAILS FROM THE PRC²⁸—Continued

| Exporter | Producer | Weighted-average margin (percent) |
|--|--|-----------------------------------|
| Shandong Oriental Cherry Hardware Import and Import Co., Ltd.* | Shandong Oriental Cherry Hardware Import and Import Co., Ltd | 29.36 |
| Shanghai Chengkai Hardware Product Co., Ltd.^ | Shanghai Chengkai Hardware Product Co., Ltd | 29.36 |
| Shanghai Jade Shuttle Hardware Tools Co., Ltd.^ | Shanghai Jade Shuttle Hardware Tools Co., Ltd | 29.36 |
| Shanghai Yueda Nails Industry Co., Ltd.* | Shanghai Yueda Nails Industry Co., Ltd | 29.36 |
| Besco Machinery Industry (Zhejiang) Co., Ltd. + | Besco Machinery Industry (Zhejiang) Co., Ltd | 29.36 |
| The Stanley Works (Langfang) Fastening Systems Co., Ltd.^ | The Stanley Works (Langfang) Fastening Systems Co., Ltd | 29.36 |
| Guangdong Foreign Trade Import & Export Corporation* | Shanghai Nanhui Jinjun Hardware Factory | 29.36 |
| PRC-wide | | 118.04 |

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Suspension of Liquidation

In accordance with section 733(d) of the Act, we will instruct U.S. Customs and Border Protection (“CBP”) to suspend liquidation of all entries of nails from the PRC as described in the “Scope of Investigation” section, entered, or withdrawn from warehouse, for consumption from Paslode and the SR Recipients on or after the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds U.S. price, as indicated above. For Xingya Group and the PRC-wide entity, we will direct CBP to suspend liquidation of any entries of nails from the PRC as described in the “Scope of Investigation” section, that are entered, or withdrawn from warehouse, for consumption on or after 90 days prior to the date of publication in the **Federal Register** of our preliminary determination. The suspension of liquidation will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary affirmative determination of sales at less than fair value. Section 735(b)(2) of the Act requires the ITC to make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by

reason of imports of nails, or sales (or the likelihood of sales) for importation, of the subject merchandise within 45 days of our final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than seven days after the date of the final verification report is issued in this proceeding and rebuttal briefs limited to issues raised in case briefs no later than five days after the deadline date for case briefs (*see* 351.309(d)). A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes.

In accordance with section 774 of the Act, and if requested, we will hold a public hearing, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. If a request for a hearing is made, we intend to hold the hearing shortly after the deadline of submission of rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days after the date of publication of this notice. *See* 19 CFR 351.310(c). Requests should contain the party’s name, address, and telephone number, the number of participants, and a list of the issues to be discussed. At the hearing,

each party may make an affirmative presentation only on issues raised in that party’s case brief and may make rebuttal presentations only on arguments included in that party’s rebuttal brief.

Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Act, on January 3, 2008, Xingya Group requested that in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days. At the same time, Xingya Group requested that the Department extend the application of the provisional measures prescribed under 19 CFR 351.210(e)(2) from a 4-month period to a 6-month period. In accordance with section 733(d) of the Act and 19 CFR 351.210(b), because (1) our preliminary determination is affirmative, (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: January 15, 2008.

David M. Spooner,
Assistant Secretary for Import Administration.

[FR Doc. E8–1106 Filed 1–22–08; 8:45 am]

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