

City Blvd., 3rd Floor, Lansing, Michigan, and Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230.

For further information, contact Kathleen Boyce at [Kathleen\\_Boyce@ita.doc.gov](mailto:Kathleen_Boyce@ita.doc.gov) or (202) 482-1346.

Dated: October 1, 2008.

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. E8-23886 Filed 10-7-08; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-331-802, A-533-840, A-570-893, A-549-822]

#### **Certain Frozen Warmwater Shrimp from Ecuador, India, the People's Republic of China, and Thailand: Notice of Extension of Time Limits for the Preliminary Results of the Third Administrative Reviews**

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

**EFFECTIVE DATE:** October 8, 2008.

**FOR FURTHER INFORMATION CONTACT:** David Goldberger (Ecuador) at (202) 482-4136, Elizabeth Eastwood (India) at (202) 482-3874, Erin Begnal (People's Republic of China) at (202) 482-1442, and Kate Johnson (Thailand) at (202) 482-4929, AD/CVD Operations, Offices 2 and 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On April 7, 2008, the Department of Commerce (the Department) published notices of initiation of the administrative reviews of the antidumping duty orders on certain frozen warmwater shrimp from Brazil, Ecuador, India, Thailand, the People's Republic of China (PRC) and the Socialist Republic of Vietnam (Vietnam), covering the period February 1, 2007, through January 31, 2008. See *Certain Frozen Warmwater Shrimp from Brazil, Ecuador, India, and Thailand: Notice of Initiation of Administrative Reviews*, 73 FR 18754 (April 7, 2008); and *Notice of Initiation of Administrative Reviews of the Antidumping Duty Orders on Frozen Warmwater Shrimp from the Socialist*

*Republic of Vietnam and the People's Republic of China*, 73 FR 18739 (April 7, 2008).

During the period May through August 2008, the Department selected mandatory respondents in each of the above-mentioned administrative reviews.<sup>1</sup> See the May 27, 2008, Memorandum from David Goldberger to James Maeder entitled "2007-2008 Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from Ecuador: Selection of Respondents for Individual Review"; the May 27, 2008, Memorandum from Elizabeth Eastwood to James Maeder entitled "2007-2008 Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from India: Selection of Respondents for Individual Review"; the May 27, 2008, Memorandum from Irina Itkin to James Maeder entitled "Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from Thailand: Selection of Respondents for Individual Review"; and the June 16, 2008, Memorandum to James C. Doyle from Susan Pulongbarit entitled "2007-2008 Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from the People's Republic of China - Selection of Respondents for Individual Review." On August 25, 2008, we selected an additional respondent in the administrative review of frozen warmwater shrimp from the PRC. See Memorandum to James C. Doyle from Erin Begnal entitled "2007-2008 Antidumping Duty Administrative Review: Frozen Warmwater Shrimp from the People's Republic of China Selection of Additional Mandatory Respondent."

#### **Extension of Time Limit of Preliminary Results**

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to make a preliminary determination in an administrative review within 245 days after the last day of the anniversary month of an order or finding for which a review is requested. Consistent with section 751(a)(3)(A) of the Act, the Department may extend the 245-day period to 365 days if it is not practicable to complete the review within a 245-day period. The deadline for the preliminary results of these reviews is currently October 31, 2008.

The Department determines that completion of the preliminary results of

these administrative reviews within the statutory time period is not practicable. We are unable to analyze cost allegations as well as third-country market issues in the market-economy reviews, or issue supplemental questionnaires and conduct verification in the market and non-market economy reviews within the current timeframe. The Department thus requires additional time to conduct its analysis for each company in each of these reviews. Therefore, in accordance with section 751(a)(3)(A) the Act, we are extending the time period for issuing the preliminary results of these reviews until March 2, 2009.<sup>2</sup> The final results continue to be due 120 days after the publication of the preliminary results. This notice is published pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2).

Dated: October 2, 2008.

**Stephen J. Claeys,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. E8-23885 Filed 10-7-08; 8:45 am]

BILLING CODE 3510-DS-S

## DEPARTMENT OF COMMERCE

### International Trade Administration

(A-570-932)

#### **Certain Steel Threaded Rod from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value**

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

**EFFECTIVE DATE:** October 8, 2008.

**SUMMARY:** We preliminarily determine that certain steel threaded rod ("CSTR") from the People's Republic of China ("PRC") is being, or is 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.

**FOR FURTHER INFORMATION CONTACT:** Bobby Wong or Toni Dach, AD/CVD Operations, Office 9, Import Administration, International Trade

<sup>2</sup> The Department also extended the administrative review of frozen warmwater shrimp from Vietnam until March 2, 2009. See *Third Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Extension of Time Limit for the Preliminary Results*, 73 FR 54139 (September 18, 2008).

<sup>1</sup> The Department rescinded the administrative review of frozen warmwater shrimp from Brazil on June 16, 2008. See *Certain Frozen Warmwater Shrimp from Brazil: Notice of Rescission of Antidumping Duty Administrative Review*, 73 FR 33976 (June 16, 2008).

Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-0409 or 482-1655, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Initiation

On March 5, 2008, the Department of Commerce ("Department") received a petition on imports of steel threaded rod from the PRC, filed in proper form by Vulcan Threaded Products, Inc. ("Petitioner"). See *Petition for the Imposition of Antidumping Duties on Steel Threaded Rod from the People's Republic of China* (March 5, 2008) ("petition"). This investigation was initiated on April 1, 2008. See *Steel Threaded Rod from the People's Republic of China: Initiation of Antidumping Duty Investigation*, 73 FR 17318 (April 1, 2008) ("Initiation Notice").

On March 12, 2008, 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 by reason of imports from China of certain steel threaded rod. The ITC's determination was published in the **Federal Register** on May 2, 2008. See *Certain Steel Threaded Rod From China*, 73 FR 24312 (May 2, 2008); see also *Certain Steel Threaded Rod From China: Investigation No. 731-TA-1145 (Preliminary)*, USITC Publication 3996 (April 2008).

##### 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). See also *Initiation Notice*, 73 FR at 17318. We received no comments from interested parties on issues related to the scope.

##### Respondent Selection

In the *Initiation Notice*, the Department stated that it intended to select respondents based on quantity and value ("Q&V") questionnaires. See *Initiation Notice*, 73 FR at 17321. On April 4, 2008, the Department requested Q&V information from 417 companies that Vulcan Threaded Products Inc. ("Petitioner"), identified as potential exporters or producers of steel threaded rod from the PRC. Additionally, the Department also posted the

questionnaire requesting Q&V information from potential producers/exporters of subject steel threaded rod on its website at [www.trade.gov/ia](http://www.trade.gov/ia). For a complete list of all parties from which the Department requested Q&V information, see petition at exhibit 6. The Department received timely Q&V responses from nineteen exporters that shipped subject merchandise to the United States during the period of investigation ("POI").

On June 9, 2008, the Department selected Jiaying Brother Fastener Co., Ltd. ("Brother Fastener") and Ningbo Yinzhou Foreign Trade Co., Ltd. ("Ningbo Yinzhou") as mandatory respondents in this investigation. See June 9, 2008, memorandum to the File, from Toni Dach, International Trade Analyst, and Bobby Wong, Senior International Trade Analyst, through James C. Doyle, Director, and Scot T. Fullerton, Program Manager, to Stephen J. Claeys, Deputy Assistant Secretary, regarding Selection of Respondents for the Antidumping Investigation of Steel Threaded Rod from the People's Republic of China ("Respondent Selection Memo"). As described in the *Affiliations* section below, after reviewing the questionnaire responses of Brother Fastener, we have determined to treat its Hong Kong based affiliates, RMB Fasteners Ltd. ("RMB") and IFI & Morgan Ltd. ("IFI"), as a single entity that is the appropriate respondent.

##### Separate Rates Applications

Between April 24, 2008, and June 3, 2008, we received timely separate-rate applications ("SRA") from eleven companies: Shanghai Recky International Trading Co., Ltd. ("Shanghai Recky"); Suntec Industries Co., Ltd. ("Suntec Industries"); Hangzhou Grand Imp. & Exp. Co., Ltd. ("Hangzhou Grand"); Shanghai Prime Machinery Co. Ltd. ("Shanghai Prime"); Jianxing Xinyue Standard Part Co., Ltd. ("Jianxing Xinyue"); Certified Products International Inc. ("CPII"); Jiashan Zhongsheng Metal Products Co., Ltd. ("Jiashan Zhongsheng"); Haiyan Dayu Fasteners Co., Ltd. ("Haiyan Dayu"); Zhejiang New Oriental Fastener Co., Ltd. ("New Oriental"); Brother Fastener; and Ningbo Yinzhou.

##### Product Characteristics & Questionnaires

In the *Initiation Notice*, the Department asked all parties in this investigation for comments on the appropriate product characteristics for defining individual products. On April 15, 2008, we received comments from Brother Fastener, with recommended product characteristics.

On June 10, 2008, the Department issued to Brother Fastener and Ningbo Yinzhou, sections A, C, D, and E of the Department's standard antidumping duty questionnaire,<sup>1</sup> which included product characteristics used in the designation of control numbers ("CONNUMs") and assigned to the merchandise under consideration. Between July 1, 2008, and July 31, 2008, the Department received section A, C, and D questionnaire responses from Brother Fastener and Ningbo Yinzhou. Brother Fastener and Ningbo Yinzhou were not required by the Department to submit a Section E response, because the Department determined that neither company had further manufacturing in the United States. See Brother Fastener Section A Response, dated July 11, 2008, at page A-30, and Ningbo Yinzhou Section A Response, dated July 1, 2008, at page 9. The Petitioner submitted deficiency comments on the Section C and D questionnaire responses of both respondents on August 22, 2008. From August 1, 2008, through September 3, 2008, the Department issued supplemental questionnaires to Brother Fastener and Ningbo Yinzhou and received responses between August 8, 2008, and September 8, 2008.

##### Surrogate Country

On July 29, 2008, the Department determined that India, Indonesia, the Philippines, Colombia, and Thailand are countries comparable to the PRC in terms of economic development. See July 29, 2008, Letter to All Interested Parties, from Scot T. Fullerton, Program Manager, Office 9, AD/CVD Operations, regarding "Antidumping Duty Investigation of Steel Threaded Rod from the People's Republic of China," ("Surrogate Country Letter"), attaching July 23, 2008, Memorandum to Scot T. Fullerton, Program Manager, Office 9, AD/CVD Operations, from Carole Showers, Acting Director, Office of Policy, regarding "Antidumping Duty Investigation of Steel Threaded Rod from the People's Republic of China (PRC): Request for List of Surrogate Countries."

On July 29, 2008, the Department requested comments on surrogate country selection from the interested parties in this investigation. On August

<sup>1</sup> Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section C requests a complete listing of U.S. sales. Section D requests information on factors of production, and Section E requests information on further manufacturing.

13, 2008, Petitioner submitted surrogate country comments. 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 August 21, 2008, the Department extended the deadline for interested parties to submit surrogate information with which to value the factors of production in this proceeding. On August 25, 2008, Petitioner and Brother Fastener submitted surrogate value comments. On September 4, 2008, Brother Fastener submitted clarifying surrogate value comments.

#### Postponement of Preliminary Determination

On July 15, 2008, Petitioner requested, pursuant to 19 CFR 351.205(b)(2) and (e), for a 50-day postponement of the preliminary determination. The Department published a postponement of the preliminary determination on July 29, 2008. See *Postponement of Preliminary Determination of Antidumping Duty Investigation: Steel Threaded Rod from the People's Republic of China*, 73 FR 43913 (July 29, 2008).

#### Period of Investigation

The period of investigation ("POI") is July 1, 2007, through December 31, 2007. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition, March 2008. See 19 CFR 351.204(b)(1).

#### Scope of Investigation

The merchandise covered by this investigation is steel threaded rod. Steel threaded rod is certain threaded rod, bar, or studs, of carbon quality steel, having a solid, circular cross section, of any diameter, in any straight length, that have been forged, turned, cold drawn, cold rolled, machine straightened, or otherwise cold finished, and into which threaded grooves have been applied. In addition, the steel threaded rod, bar, or studs subject to this investigation are non headed and threaded along greater than 25 percent of their total length. A variety of finishes or coatings, such as plain oil finish as a temporary rust protectant, zinc coating (*i.e.*, galvanized, whether by electroplating or hot dipping), paint, and other similar finishes and coatings, may be applied to the merchandise.

Included in the scope of this investigation are steel threaded rod, bar, or studs, in which: (1) iron predominates, by weight, over each of

the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 1.80 percent of manganese, or
- 1.50 percent of silicon, or
- 1.00 percent of copper, or
- 0.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 1.25 percent of nickel, or
- 0.30 percent of tungsten, or
- 0.012 percent of boron, or
- 0.10 percent of molybdenum, or
- 0.10 percent of niobium, or
- 0.41 percent of titanium, or
- 0.15 percent of vanadium, or
- 0.15 percent of zirconium.

Steel threaded rod is currently classifiable under subheading 7318.15.5060 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Excluded from the scope of the investigation are: (a) threaded rod, bar, or studs which are threaded only on one or both ends and the threading covers 25 percent or less of the total length; and (b) threaded rod, bar, or studs made to American Society for Testing and Materials ("ASTM") A193 Grade B7, ASTM A193 Grade B7M, ASTM A193 Grade B16, or ASTM A320 Grade L7.

#### Non-market Economy Country

For purposes of initiation, Petitioner submitted LTFV analyses for the PRC as a non-market economy ("NME"). See *Initiation Notice*, 73 FR at 17318, 17320. 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 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 with respect to determining economic comparability is explained in Policy Bulletin 04.1,<sup>2</sup> which states that "OP {Office of Policy} determines per capita economic comparability on the basis of per capita gross national income, as reported in the most current annual issue of the *World Development Report* (The World Bank)." The Department considers the five countries identified in its Surrogate Country List as "equally comparable in terms of economic development." See *Policy Bulletin 04.1 at 2*. Thus, we find that India, Indonesia, the Philippines, Colombia, and Thailand 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. As noted in the Policy Bulletin, "comparable merchandise" is not defined in the statute or the regulations, since it is best determined on a case-by-case basis. See *Policy Bulletin 04.1 at 2*. As further noted in Policy Bulletin 04.1, in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise. *Id.* Based on the data provided by Petitioner, we find that India is a producer of identical merchandise, as Petitioner has specifically identified multiple Indian producers of CSTR. See Petition at 27 28 and Exhibit 14. Additionally, Petitioner submitted

<sup>2</sup> See *Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process*, (March 1, 2004), ("*Policy Bulletin 04.1*") at Attachment II of the Department's *Surrogate Country Letter*, also available at <http://ia.ita.doc.gov/policy/bull04-1.html>.

information for Indian companies that produce comparable merchandise and noted that the other potential surrogate countries such as Egypt, Indonesia, the Philippines, and Sri Lanka are not known manufacturers of CSTR. *Id.* 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. The Department first attempted to obtain export data for CSTR from the World Trade Atlas ("WTA") and was unable to find specific data for any of the countries on the Surrogate Country List. Thus, the Department obtained worldwide export data for comparable steel threaded products.

Specifically, we reviewed export data from the WTA for the HTS heading 7318.15, "Other Screw and Bolt, Threaded," for 2007. The Department found that, of the countries provided in the Surrogate Country List, all five countries were exporters of comparable merchandise: threaded bolt and screw products. As *Policy Bulletin 04.1* notes, it is normally sufficient to identify comparable merchandise on the basis of physical differences in the merchandise. See *Policy Bulletin 04.1* at 3. In the instant case, threaded bolt and screw products share similar physical characteristics with steel threaded rod (e.g., they are all made by combining iron, energy, and some further processing). Thus, all countries on the Surrogate Country List are considered as appropriate surrogates because each exported comparable merchandise.

The *Policy Bulletin 04.1* also provides some guidance in identifying significant producers of comparable merchandise and selecting a producer of comparable merchandise. The *Policy Bulletin* notes that any determination of what constitutes "significant production" should be made consistent with the characteristics of world production of, and trade in, comparable merchandise (subject to the availability of data on these characteristics). See *Policy Bulletin 04.1* at 3. Since these characteristics are specific to the merchandise in question, the standard for "significant producer" will be determined by the Department on a case-by-case basis, and fixed standards for making this determination have not been adopted. *Id.*

Further analysis of export data was required to determine whether any of the countries which produce comparable merchandise are significant producers of that comparable merchandise. The WTA data we obtained show that, in 2007, worldwide exports for HTS 7318.15 from: India were approximately 51,462,357 kg;

Indonesia were approximately 12,423,935 kg; Philippines were approximately 9,943,892 kg; and Sri Lanka were approximately 29,977 kg. Furthermore, the Department was unable to obtain Egyptian export data through WTA. Given the data noted above, although India, Indonesia, and the Philippines appear to be significant producers of comparable merchandise, no party in this proceeding requested that Indonesia or the Philippines be selected as the surrogate country.

With respect to data considerations in selecting a surrogate country, it is the Department's practice that, ". . . if more than one country has survived the selection process to this point, the country with the best factors data is selected as the primary surrogate country." See *Policy Bulletin 04.1* at 4. Currently, the record contains surrogate value information, including possible surrogate financial statements, only from India.

Thus, the Department is preliminarily selecting India as the surrogate country on the basis that: (1) it is at a similar level of economic development to the PRC, 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. Therefore, we have calculated normal value using Indian prices, when available and appropriate, to value RMB and IFI<sup>3</sup> and Ningbo Yinzhou's factors of production. See Memorandum to the File through Scot T. Fullerton, Program Manager, AD/CVD Operations, Office 9, from Bobby Wong, Senior International Trade Analyst, AD/CVD Operations, Office 9, regarding "Antidumping Duty Investigation of Certain Steel Threaded Rod from the People's Republic of China: Selection of Factor Values," dated October 1, 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.<sup>4</sup>

<sup>3</sup> See the "Affiliations" section, below, regarding the Department's determination to treat RMB and IFI, Brother Fastener's affiliated exporters, as the mandatory respondent.

<sup>4</sup> 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

## Affiliations

We preliminarily find that IFI and RMB (collectively, the "RMB and IFI Group") and Brother Fastener to be affiliated parties within the meaning of section 771(33) of the Act. See Brother Fastener's August 22, 2008, supplemental questionnaire response at exhibit 4. Furthermore, while the information on the record regarding the corporate structure of IFI and RMB is not complete, the Department has sufficient information to preliminarily determine that a significant potential for manipulation of price may exist. See 19 CFR 401(f)(2). Therefore, we preliminarily find that they should be considered a single entity for purposes of this investigation. See generally 19 CFR 401(f). However, due to the business proprietary nature of this discussion, for further analysis and discussion see October 1, 2008, Memorandum to James C. Doyle, Director, AD/CVD Operations, Office 9, From Bobby Wong, Senior International Trade Analyst, Through Scot T. Fullerton, Program Manager, Regarding: Antidumping Duty Investigation of Certain Steel Threaded Rod from the People's Republic of China: Affiliations of RMB Fasteners Ltd., IFI & Morgan Ltd., and Jiaying Brother Fastener Co., Ltd. Subsequent to the preliminary determination, we intend to solicit additional information from the RMB and IFI Group, regarding the corporate structure and affiliation for the final determination.

For purposes of the preliminary determination, we find that Brother Fastener, by itself, should not be considered the mandatory respondent for purposes of calculating a dumping margin. We preliminarily determine that although Brother Fastener had knowledge that its relevant sales were destined for the United States, such sales were made exclusively to its market economy-located affiliate, the RMB and IFI Group (of which Brother Fastener is the affiliated manufacturing entity), thereby disqualifying Brother Fastener's price for use as the export price. It is the Department's practice, in determining the appropriate respondent for whom to calculate a dumping margin, to take into consideration such issues as (1) which party takes title to

corrects information recently placed on the record. The Department generally will not accept 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.

the merchandise prior to the sale, (2) which party completes the sales negotiations, and (3) which party sets all essential terms of sale. *See, e.g., Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 71 FR 29303 (May 22, 2006) (“*Sawblades LTFV Final*”) and accompanying Issues and Decision Memorandum at Comment 17. Accordingly, we find that Brother Fastener is not the appropriate respondent. Rather, we find that the RMB and IFI Group is the appropriate respondent.

### Separate Rates

Additionally, in the *Initiation Notice*, the Department notified parties of the application process by which exporters and producers may obtain separate-rate status in NME investigations. *See Initiation Notice*, 73 FR at 17321. The process requires exporters and producers to submit a separate-rate status application. The Department's practice is discussed further in *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 <http://ia.ita.doc.gov/policy/bull05-1.pdf>.<sup>5</sup> 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, there is a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. *See Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of*

*China: Final Determination of Sales at Less Than Fair Value*, 73 FR 55039, 55040 (Sept. 24, 2008) (PET Film LTFV Final). 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. *See Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China*, 56 FR 20588 (May 6, 1991); *see also 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), and section 351.107(d) of the Department's regulations. Shanghai Recky, Suntec Industries, Hangzhou Grand, Shanghai Prime, Jianxing Xinyue, CPII, Jiashan Zhongsheng, Haiyan Dayu, and New Oriental, (hereinafter referred to as “Separate Rate Companies”), and Brother Fastener and Ningbo Yinzhou, the mandatory respondents, 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.

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.

#### 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 the Separate Rate Companies 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 exporter's business and export licenses; 2) the applicable legislative enactments decentralizing control of the companies; and 3) any other formal measures by the government decentralizing control of companies. *See, e.g.,* CPII's June 2, 2008, Separate Rate Application (“SRA”) at 6 10; Hangzhou Grand's May 30, 2008, SRA at 5 9; Jiaying Xinyue's June 3, 2008, SRA at 9 12; Haiyan Dayu's June 3, 2008, SRA at 9 12; New Oriental's June 3, 2008, SRA at 9 12; Shanghai Recky's April 24, 2008, SRA at 6 11; Jiashan Zhongsheng's June 3, 2008, SRA at 9 12; Suntec Industries' May 30, 2008, SRA at 7 10; Shanghai Prime's May 30, 2008, SRA at 7 10; Brother Fastener's June 2, 2008, SRA at 7 12; and Ningbo Yinzhou's June 3, 2008, SRA at 6 10.

#### 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

<sup>5</sup> The *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 applies 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.

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 the Separate Rate Companies, 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, e.g., CPII's June 2, 2008, Separate Rate Application ("SRA") at exhibit 10; Hangzhou Grand's May 30, 2008, SRA at exhibit 9; Jiaying Xinyue's June 3, 2008, SRA at exhibit 10; Haiyan Dayu's June 3, 2008, SRA at exhibit 8; New Oriental's June 3, 2008, SRA at exhibit 12; Shanghai Recky's April 24, 2008, SRA at Annex IV–10; Jiashan Zhongsheng's June 3, 2008, SRA at exhibit 8; Suntec Industries' May 30, 2008, SRA at exhibit 9; Shanghai Prime's May 30, 2008, SRA at exhibit 10; Ningbo Yinzhou's June 3, 2008, SRA at exhibit 10; and Brother Fastener's June 2, 2008, SRA at exhibit 9.

As the Department has preliminarily determined that the RMB and IFI Group is properly considered the seller of the subject merchandise for purposes of calculating a dumping margin, and because we have changed the designation of the appropriate party to serve as the mandatory respondent, we are preliminarily granting RMB and IFI Group a separate rate. Although the information on the record demonstrating the RMB and IFI Group's eligibility for a separate rate is not complete, as information regarding separate rate status was submitted by its producer, Brother Fastener, the Department finds that it cannot preliminarily deny the RMB and IFI

Group a separate rate because the Department did not specifically ask for additional information to determine the RMB and IFI Group's separate rate eligibility. Thus, we intend to request additional information from the RMB and IFI Group subsequent to the preliminary determination in order to determine the RMB and IFI Group's separate rate status for the final determination. Moreover, as mentioned above, because we have determined that Brother Fastener had no sales of subject merchandise to unaffiliated purchasers during the POI, we preliminarily determine that Brother Fastener is not eligible to receive a separate rate.

With respect to Shanghai Prime, in its September 16, 2008, separate rates supplemental questionnaire response, it explained that a State-owned Assets Supervision and Administration Commission ("SASAC")-run company is a minority shareholder in the company. Furthermore, Shanghai Prime stated that, the SASAC-run company is entitled to profit distributions and attends and participates in appointing directors at shareholder meetings. However, Shanghai Prime stated that the SASAC-run company does impose limitations or provide instructions to the management of Shanghai Prime. See Shanghai Prime's September 16, 2008, Separate Rate Supplemental Questionnaire Response. While the Department remains concerned about the potential for state control, we find that the record of the instant investigation does not support the conclusion that Shanghai Prime operates under government control. Therefore, the Department is preliminarily granting Shanghai Prime a separate rate, but will continue to gather information regarding government control over Shanghai Prime for the purposes of the final determination.

The evidence placed on the record of this investigation by the Separate Rate Companies demonstrates an absence of *de jure* and *de facto* government control with respect to each of the exporter's exports of the merchandise under investigation, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. As a result, we have granted the Separate Rate Companies a weighted-average margin based on the experience of mandatory respondents and excluding any *de minimis* or zero rates or rates based on total AFA for the purposes of this preliminary determination. In addition, for the reasons outlined above, we have preliminarily granted the RMB and IFI Group separate rate status and assigned the RMB and IFI Group a separate rate as a single entity.

#### **Application of Facts Otherwise Available and Total Adverse Facts Available:**

##### **The PRC-Wide Entity - PRC-Wide Rate**

The Department has data that indicate there were more exporters of subject steel threaded rod 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 417 potential Chinese exporters of the subject merchandise, in addition to posting the Q&V questionnaire on the Department's website. See Q&V Delivery Memo. While information on the record of this investigation indicates that there are numerous producers/exporters of subject steel threaded rod in the PRC, we received only nineteen timely filed Q&V responses. 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. Therefore, the Department has preliminarily determined that there were exporters/producers of the subject merchandise during the POI from the PRC that did not respond to the Department's request for information. We have treated these PRC producers/exporters as part of the PRC-wide entity because they did not qualify for a separate rate. See, e.g., *Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Preliminary Partial Circumstances: Diamond Sawblades and Parts Thereof From the People's Republic of China*, 70 FR 77121, 77128 (December 29, 2005), and unchanged in *Sawblades LTFV Final*.

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 questionnaire requesting Q&V information. As a result, pursuant to section 776(a)(2)(A) of the Act, we find that the use of facts available is appropriate to determine the PRC-wide

rate. See *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 (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 *Statement of Administrative Action*, accompanying the Uruguay Round Agreements Act (“URAA”), H.R. Rep. No. 103–316, 870 (1994) (“SAA”); see also *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 requests 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.

When employing an adverse inference, section 776 indicates that the Department may rely upon 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 (“AFA”), the Department selects a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated. 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.” As AFA, we have preliminarily assigned to the PRC-wide entity a rate of 206.00 percent, the highest calculated rate from the petition. The Department preliminarily determines that this information is the

most appropriate from the available sources to effectuate the purposes of AFA. The Department’s reliance on the petition rate to determine an AFA rate is subject to the requirement to corroborate secondary information.<sup>6</sup>

#### Corroboration

Section 776(c) of the Act provides 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. 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.”<sup>7</sup> The SAA explains that to “corroborate” means simply that the Department will satisfy itself that the secondary information to be used has probative value. *Id.* The SAA also explains that independent sources used to corroborate may include, for example, published price lists, official import statistics and U.S. Customs and Border Protection (“CBP”) data, and information obtained from interested parties during the particular investigation. *Id.* To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.<sup>8</sup>

The AFA rate that the Department used is from the petition.<sup>9</sup> Petitioners’ methodology for calculating the export price (“EP”) and NV in the petition is discussed in the initiation notice.<sup>10</sup> To corroborate the AFA margin we have selected, we compared that margin to the margins we found for the two cooperating respondents. We found that

<sup>6</sup> See the “Corroboration” section below.

<sup>7</sup> See SAA at 870.

<sup>8</sup> See *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 *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: Final Results of Antidumping Duty Administrative Reviews and Termination in Part.*, 62 FR 11825 (March 13, 1997).

<sup>9</sup> See *Petition for Imposition of Antidumping Duties on Certain Steel Threaded Rod from the People’s Republic of China*, dated March 5, 2008, at Volume II, Exhibit 23.

<sup>10</sup> See *Initiation Notice*, 73 FR at 17318 and 17320.

the margin of 206.00 percent has probative value because it is in the range of margins we found for the cooperating mandatory respondents. See *RMB/IFI Group Analysis Memorandum* at page 1, and *Ningbo Yinzhou Analysis Memorandum* at page 1. Accordingly, we find that the rate of 206.00 percent is corroborated within the meaning of section 776(c) of the Act.

Consequently, we are applying 206.00 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 the RMB and IFI Group, Ningbo Yinzhou, and the separate rate applicants receiving a separate rate.

#### Margin for the Separate Rate Companies

The Department received timely and complete separate rate applications from the Separate Rate Companies, who are all exporters of subject steel threaded rod 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 margin for the Separate Rate Companies based on the rate we calculated for the cooperating mandatory respondents, RMB & IFI Group and Ningbo Yinzhou.<sup>11</sup> Companies receiving this rate are identified by name in the “Suspension of Liquidation” section of this notice.

#### Date of Sale

RMB & IFI Group and Ningbo Yinzhou both reported that the date of sale was determined by the invoice date. See 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

<sup>11</sup> See, e.g., *Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People’s Republic of China*, 71 FR 77373, 77377 (December 26, 2006), unchanged in *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People’s Republic of China*, 72 FR 19690 (April 19, 2007).

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 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 (quoting 19 CFR 351.401(i)). 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 *Notice of Preliminary Results of Antidumping Duty Administrative Review, Intent to Rescind and Partial Rescission of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 72 FR 10151 (March 7, 2007), unchanged in *Notice of Final Results and Final Partial Rescission of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 72 FR 51595 (September 10, 2007), the Department used the date of the purchase order as the date of sale because the terms of sale were established at that point. In this case, as the Department found no evidence contrary to RMB & IFI Group and Ningbo Yinzhou’s claims that invoice date was the appropriate date of sale, the Department used invoice date as the date of sale for this preliminary determination.

#### Fair Value Comparison

To determine whether sales of subject steel threaded rod to the United States by the RMB and IFI Group and Ningbo Yinzhou were made at less than fair value, we compared export price (“EP”) to normal value (“NV”), as described in the “U.S. Price” and “Normal Value” sections of this notice.

#### U.S. Price

For RMB and IFI Group and Ningbo Yinzhou, we based U.S. price on EP in accordance with section 772(a) of the Act, because the first sale to an unaffiliated purchaser was made prior to importation, and constructed export price (“CEP”) was not otherwise warranted by the facts on the record. We calculated EP based on the packed price from the RMB and IFI Group and Ningbo Yinzhou to the first unaffiliated customer in the United States. Where applicable, we deducted discounts, PRC brokerage costs, incurred international freight costs, and marine insurance costs from the starting price (gross unit price), in accordance with section 772(c) of the Act.

For a complete discussion of the calculation of the U.S. price for the RMB and IFI Group and Ningbo Yinzhou, *see RMB and IFI Group Analysis Memorandum and Ningbo Yinzhou 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 Ningbo Yinzhou and the RMB and IFI Group. 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. *See, e.g., Fresh Garlic From the People’s Republic of China: Final Results of Antidumping Duty New Shipper Review*, 67 FR 72139 (December 4, 2002), and accompanying Issues and Decision Memorandum at Comment 6; and *Final Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms From the People’s Republic of China*, 66 FR 31204 (June 11, 2001), and accompanying Issues and Decision Memorandum at Comment 5. A detailed

description of all surrogate values used for Ningbo Yinzhou and the RMB and IFI Group can be found in the *Surrogate Value Memorandum, Ningbo Yinzhou Analysis Memorandum*, and *RMB and IFI 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 Ningbo Yinzhou and the RMB and IFI Group’s 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 those from the other Indian sources, 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. See *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value*, 73 FR 24552, 24559 (May 5, 2008), unchanged in PET Film LTFV Final. Therefore, we have not used prices from these countries in calculating the Indian import-based surrogate values. Additionally, we disregarded prices from NME countries. Finally, imports that were labeled as originating from an “unspecified” country were excluded from the average value, because the Department could not be certain that they were not from either an NME country or a country with general export subsidies.

The Department used the Indian Import Statistics to value the raw material and packing material inputs that Ningbo Yinzhou and the RMB and IFI 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 May 2008, see *Corrected 2007 Calculation of Expected Non-Market Economy Wages*, 73 FR 27795 (May 14, 2008), and <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 2005, ILO (Geneva: 2007), 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 respondents.

We valued truck freight expenses using a per-unit average rate calculated from data on the following Web site: <http://www.infobanc.com/logistics/logtruck.htm>. The logistics section of this Web site contains inland freight truck rates between many large Indian cities. Since this value is not

contemporaneous with the POI, we deflated the rate using WPI.

We valued international freight shipping expenses using contemporaneous rates reported by Maersk Line Shipping. Where applicable, for each respondent, the Department used the international freight rates reported for each corresponding origin and destination ports for each month of the POI.

We valued electricity using price data for small, medium, and large industries, as published by the Central Electricity Authority of the Government of India in its publication titled Electricity Tariff & Duty and Average Rates of Electricity Supply in India, dated July 2006. These electricity rates represent actual country-wide, publicly-available information on tax-exclusive electricity rates charged to industries in India. Since the rates are not contemporaneous with the POI, we inflated the values using the WPI.

To value water, the Department used data from the Maharashtra Industrial Development Corporation (<http://www.midindia.org>/[www.midcindia.org](http://www.midcindia.org)) since it includes a wide range of industrial water tariffs. This source provides 386 industrial water rates within the Maharashtra province from June 2003: 193 of the water rates were for the “inside industrial areas” usage category and 193 of the water rates were for the “outside industrial areas” usage category. Because the value was not contemporaneous with the POR, we used WPI data to inflate the rate to be contemporaneous to the POI.

We valued diesel using the rates provided by the OECD's International Energy Agency's publication: Key World Energy Statistics from 2004 and 2005. The prices are based on 2004 and 2005 first quarter prices of automotive diesel fuel retail prices, thus we used WPI data to inflate the price to be contemporaneous to the POI.

We valued brokerage and handling using a simple average of the brokerage and handling costs that were reported in public submissions that were filed in three antidumping duty cases. Specifically, we averaged the public brokerage and handling expenses reported by Agro Dutch Industries Ltd. in the antidumping duty administrative review of certain preserved mushrooms from India, Kejrwal Paper Ltd. in the LTFV investigation of certain lined paper products from India, and Essar Steel in the antidumping duty administrative review of hot-rolled carbon steel flat products from India. See *Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Administrative Review*, 71 FR

10646 (March 2, 2006); see also *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances in Part: Certain Lined Paper Products From India*, 71 FR 19706 (April 17, 2006), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India*, 71 FR 45012 (August 8, 2006) and *Certain hot-Rolled Carbon Steel Flat Products From India: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 2018,2021 (January 12, 2006) (unchanged in *Certain Hot-Rolled Carbon Steel Flat Products From India: Final Results of Antidumping Administrative Review*, 71 FR 40694 (July 18, 2006)). Since the resulting value is not contemporaneous with the POI, we inflated the rate using the WPI.

To value marine insurance, the Department used data from RGJ Consultants (<http://www.rjgconsultants.com/>). This source provides information regarding the per-value rates of marine insurance of imports and exports to/from various countries.

To value factory overhead, selling, general, and administrative expenses, and profit, we used the average of two audited 2006–2007 financial statements: Deepak Fasteners and Nasco Steel, producers in India of merchandise comparable to steel threaded rod. For a detailed discussion of all surrogate values used for this preliminary determination, see October 1, 2008, Surrogate Value Memorandum.

#### Use of Facts Available

Section 776(a)(1) of the Act mandates that the Department use facts available if necessary information is not available on the record of an antidumping proceeding. In this review, Ningbo Yinzhou reported that it used tolling companies to finish subject steel threaded rod sold to the U.S. during the POI. See July 1, 2008, Ningbo Yinzhou questionnaire response at 3. Furthermore, Ningbo Yinzhou did not report the factors of production associated with the inputs consumed by its unaffiliated tolling companies during the finishing process, which are necessary to the Department's calculation of normal value. Therefore, pursuant to section 776(a)(2)(B) of the Act, Ningbo Yinzhou failed to provide information relevant to the Department's analysis. Thus, consistent with section 782(d) of the Act, the Department has determined it necessary

to apply facts otherwise available to value zinc plated and hot-dip galvanizing finishes for subject steel threaded rods sold to the United States during the POI. To account for the finishing costs associated Ningbo Yinzhou's zinc-plating and hot-dip galvanized steel threaded rod sold to the U.S. during the POI, the Department has preliminarily determined to apply the reported cost of galvanizing rebar,<sup>12</sup> reported by Galrebars.com, a trade association in India, to value to the factors associated with galvanizing steel threaded rod. See Surrogate Value Memorandum at exhibit 4. However, subsequent to the preliminary

determination, the Department intends to request additional information from Ningbo Yinzhou regarding the factors of production consumed in galvanizing steel threaded rod for the purposes of the final determination.

**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.

**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 at 60806. This practice is described in *Policy Bulletin 05.1*, available at <http://ia.ita.doc.gov/>.

**Preliminary Determination**

The weighted-average dumping margins are as follows:

**CERTAIN STEEL THREADED ROD FROM THE PRC**

| Exporter  | Producer   | Weighted-Average Margin |
|---|--|-------------------------|
| RMB Fasteners Ltd., and IFI & Morgan Ltd. ("RMB and IFI Group") | Jiaxing Brother Fastener Co., Ltd. (aka Jiaxing Brother Standard Parts Co., Ltd.)  | 77.85%                  |
| Ningbo Yinzhou Foreign Trade Co. Ltd.                           | Zhejiang Guorui Industry Co., Ltd.; or Ningbo Daxie Chuofeng Industrial Development Co. Ltd.   | 176.57%                 |
| <b>Separate Rates Entities</b>                                  | <b>Producer</b>  | <b>Margin</b>           |
| Shanghai Recky International Trading Co., Ltd.                  | Shanghai Xiangrong International Trading Co., Ltd.; Shanghai Xianglong International Trading Co., Ltd.; Pighu City Zhapu Screw Cap Standard Part Co., Ltd. | 91.22%                  |
| Suntec Industries Co., Ltd.                                     | Jiaxing Xinyue Standard Part Co., Ltd.; or Haiyan County No. 1 Fasteners Factory   | 91.22%                  |
| Hangzhou Grand Imp. & Exp. Co., Ltd.                            | Zhapu Creative Standard Parts Material Co., Ltd.   | 91.22%                  |
| Shanghai Prime Machinery Co. Ltd.                               | Haiyan Yida Fasteners Co., Ltd.; or Jiaxing Xinyue Standard Part Co., Ltd.   | 91.22%                  |
| Jiaxing Xinyue Standard Part Co., Ltd.                          | Jiaxing Xinyue Standard Part Co., Ltd.   | 91.22%                  |
| Certified Products International Inc.                           | Jiashan Zhongsheng Metal Products Co., Ltd.; or Jiaxing Xinyue Standard Part Co., Ltd.   | 91.22%                  |
| Zhejiang New Oriental Fastener Co., Ltd.                        | Zhejiang New Oriental Fastener Co., Ltd.   | 91.22%                  |
| Jiashan Zhongsheng Metal Products Co., Ltd.                     | Jiashan Zhongsheng Metal Products Co., Ltd.  | 91.22%                  |
| Haiyan Dayu Fasteners Co., Ltd.                                 | Haiyan Dayu Fasteners Co., Ltd.  | 91.22%                  |
| PRC-wide Entity   |  | 206.00%                 |

**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 CBP to suspend liquidation of all entries of subject steel threaded rod from the PRC as described in the "Scope of Investigation" section, entered, or withdrawn from warehouse, for consumption from Shanghai Recky,

Suntec Industries, Hangzhou Grand, Shanghai Prime, Jianxing Xinyue, CPII, Jiashan Zhongsheng, Haiyan Dayu, New Oriental, Ningbo Yinzhou, the RMB and IFI Group, and the PRC-wide entity on or after the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or

<sup>12</sup> For this purpose, we consider partially deformed concrete steel reinforcing bar (*i.e.*, rebar) comparable merchandise to CSTR.

the posting of a bond equal to the weighted-average amount by which the normal value exceeds U.S. price, as indicated above.

### 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 steel threaded rod, 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* 19 CFR 351.309(c)(i) and (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.

Unless the deadline is extended pursuant to section 735(a)(2) of the Act, the Department will make its final determination within 75 days after the date of this preliminary determination, pursuant to section 735(a)(1) of the Act.

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

Dated: October 1, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E8-23896 Filed 10-7-08; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-XK54**

#### Marine Mammals; File No. 13602

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; receipt of application.

**SUMMARY:** Notice is hereby given that Dr. Terrie Williams, Long Marine Lab, Institute of Marine Sciences, University of California at Santa Cruz, 100 Shaffer Road, Santa Cruz, CA 95060, has applied in due form for a permit to conduct research on captive marine mammals.

**DATES:** Written, telefaxed, or e-mail comments must be received on or before November 7, 2008.

**ADDRESSES:** The application and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713-2289; fax (301)427-2521; and Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213; phone (562)980-4001; fax (562)980-4018.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301)427-2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: File No. 13602.

#### FOR FURTHER INFORMATION CONTACT:

Jennifer Skidmore or Amy Sloan, (301)713-2289.

**SUPPLEMENTARY INFORMATION:** The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222-226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The applicant is requesting a permit to continue permitted activities authorized under Permit No. 984-1587. This research compares the energetic responses and diving physiology of odontocetes and pinnipeds to determine key physiological factors required for survival. Two adult bottlenose dolphins (*Tursiops truncatus*) currently maintained at Long Marine Lab will be used as model species due to availability, trainability, and a foundation of data from previous studies. Additional odontocetes and other marine mammal species (up to 122 animals representing 7 species over 5 years) would be added through cooperative agreements with accredited zoological institutions. Other species and subjects from rehabilitation and stranding programs may be added opportunistically. This research on captive animals will provide data for understanding the impact of changing environmental demands on wild marine mammals. Two approaches are used, (1) basic physiological evaluation (caloric intake, metabolism, heart rate, stroke rate, aerobic dive capacity, thermal capacity) measured seasonally on mature and immature dolphins, and (2) comparative evaluation of identical parameters for other species representing different evolutionary lineages. The results will be used to develop energetics models for large and small cetaceans as well as other marine