Administration, dated June 29, 2004, which is hereby adopted by this notice. The issues discussed in the Decision Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the margin likely to prevail if the finding were to be revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in room B–099 of the main Commerce Building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at *http://ia.ita.doc.gov/frn,* under the heading ''July 2004.'' The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Review

We determine that revocation of the antidumping duty order on chloropicrin from China would be likely to lead to continuation or recurrence of dumping at the following percentage weighted-average percentage margins:

Manufacturers/Exporters/Producers	Weighted-average margin (percent)
China National Chemicals Import and Export Corporation (SINOCHEM)	58.00
China-wide rate	58.00

This notice also serves as the only reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing the results and notice in accordance with sections 751(c), 752, and 777(i)(I) of the Act.

Dated: June 29, 2004.

Jeffrey A. May,

Acting Assistant Secretary for Import Administration.

[FR Doc. 04–15230 Filed 7–2–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–868]

Folding Metal Tables and Chairs From the People's Republic of China: Preliminary Results of First Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of first antidumping duty administrative review.

SUMMARY: In response to requests from interested parties, the Department of Commerce (the Department) is conducting the first administrative review of the antidumping duty order on folding metal tables and chairs (''tables and chairs'') from the People's Republic of China (''PRC''). The period of review (''POR'') is December 3, 2001 to May 31, 2003. *See Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews, Requests for Revocation in Part and Deferral of Administrative Reviews,* 68 FR 44524, July 29, 2003 (''*Initiation Notice*''). We rescinded our review of two companies that did not properly file their request for review. We preliminarily determine that one company failed to cooperate by not acting to the best of its ability to comply with our requests for information and, as a result, should be assigned a rate based on adverse facts available. Finally, we have preliminarily determined that one cooperative company made sales to the United States of the subject merchandise at prices below normal value.

We invite interested parties to comment on these preliminary results. Parties that submit comments are requested to submit with each argument (1) a statement of the issue, and (2) a brief summary of the argument(s).

DATES: Effective July 6, 2004.

FOR FURTHER INFORMATION CONTACT: Anya Naschak or Jim Nunno at (202) 482–6375 or (202) 482–0783, respectively; Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On June 2, 2003, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on tables and chairs from the PRC. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 68 FR 32727 (June 2, 2003). On June 16, 2003, the Department received a timely request from Wok & Pan Industry, Inc. (''Wok & Pan'') requesting that the Department conduct an administrative review of the antidumping duty order on tables and chairs for entries of subject merchandise made by Wok & Pan. On June 26, 2003, EJ Footwear, LLC requested the Department conduct an administrative review of entries of subject merchandise made by Dongguan Shichang Metals Factory Co., Ltd. (''Shichang''). On June 30, 2003, the Meco Corporation (''petitioner'') requested the Department conduct an administrative review of entries of subject merchandise exported by three Chinese producers/exporters: Feili Furniture Development Co., Ltd and Feili (Fujian) Co., Ltd (''Feili''), New-Tec Integration Co., Ltd. (''New-Tec''), and Shichang. On July 29, 2003, the Department initiated an administrative review of the antidumping duty order on tables and chairs from the PRC, for the period of December 3, 2001, to May 31, 2003, in order to determine whether merchandise imported into the United States is being sold at less than fair value with respect to these companies. *See Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews, Requests for Revocation in Part and Deferral of Administrative Reviews,* 68 FR 44524, July 29, 2003 (''Initiation Notice'').

On August 5, 2003, the Department issued antidumping duty questionnaires to the above-referenced four PRC companies. On September 3, 2003, we received a response to Section A of our antidumping duty questionnaire from Wok & Pan. On September 11, 2003, we received responses to Sections C and D of our antidumping duty questionnaire from Wok & Pan. On September 12, 2003, we received responses to Section A of our antidumping duty questionnaire from Feili, New-Tec, and Shichang. On September 30, 2003, we received responses to Sections C and D of our antidumping duty questionnaire from Feili, New-Tec, and Shichang.

On October 27, 2003, petitioner withdrew their request for review of Feili and New-Tec. On November 26, 2003, the Department rescinded, in part, its review of the administrative review of the antidumping duty order of tables and chairs with respect to Feili and New-Tec. *See Certain Folding Metal*

Tables and Chairs From the People's Republic of China: Notice of Partial Rescission of First Antidumping Duty Administrative Review, 68 FR 66397 (November 26, 2003) and Memorandum to the File from Case Analysts to Joseph A. Spetrini on Rescission of 2001–2003 First Administrative Review of Folding Metal Tables and Chairs from the People's Republic of China, dated November 20, 2003 (''Rescission Memo''). As discussed in the Rescission Memo, Feili and New-Tec did not properly file their request for administrative review. Therefore, because the only parties that requested a review of these companies subsequently withdrew their request, the Department determined that rescission was appropriate.

On November 5, 2003, the Department rejected Wok & Pan's Section A, C, and D responses as improperly filed under 19 CFR 351.303, and requested that Wok & Pan re-file its Section A, C, and D responses and serve all interested parties. *See* Letter from Abdelali Elouaradia to Wok & Pan, dated November 5, 2003 (''Wok & Pan Refiling Letter''). Also on November 5, 2003, petitioner submitted comments on Shichang's questionnaire responses. Wok & Pan resubmitted its responses on November 14, 2003. On December 1, 2003, the Department rejected Wok & Pan's responses, as improperly filed (*see* further discussion below). On December 3, 2003, we invited interested parties to comment on the Department's surrogate country selection and/or significant production in the potential countries, and to submit publicly-available information to value the factors of production. On December 10, 2003, we issued a supplemental questionnaire to Shichang. On January 5, 2004, we received Shichang's supplemental questionnaire response. On January 13, 2004, petitioner submitted comments on Shichang's supplemental questionnaire response.

On January 15, 2004, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2) of the Department's regulations, the Department determined to extend the time limits for these preliminary results until June 29, 2004. *See Notice of Extension of Preliminary Results of Antidumping Duty Review: Certain Folding Metal Tables and Chairs From the People's Republic of China,* 69 FR 2329 (January 15, 2004). On January 28, 2004, we issued an additional supplemental questionnaire to Shichang.

On February 2, 2004, we received petitioner's and Shichang's comments on surrogate information with which to value the factors of production in this proceeding. None of the interested parties in this proceeding commented on the selection of a surrogate country. On February 9, 2004, we received Shichang's second supplemental questionnaire response.

Scope of the Antidumping Duty Order

The merchandise subject to this review consists of assembled and unassembled folding tables and folding chairs made primarily or exclusively from steel or other metal, as described below:

(1) Assembled and unassembled folding tables made primarily or exclusively from steel or other metal (''folding metal tables''). Folding metal tables include square, round, rectangular, and any other shapes with legs affixed with rivets, welds, or any other type of fastener, and which are made most commonly, but not exclusively, with a hardboard top covered with vinyl or fabric. Folding metal tables have legs that mechanically fold independently of one another, and not as a set. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of folding metal tables are the following:

a. Lawn furniture;

b. Trays commonly referred to as ''TV trays'';

c. Side tables;

d. Child-sized tables;

e. Portable counter sets consisting of rectangular tables 36″ high and matching stools; and

f. Banquet tables. A banquet table is a rectangular table with a plastic or laminated wood table top approximately 28″ to 36″ wide by 48″ to 96″ long and with a set of folding legs at each end of the table. One set of legs is composed of two individual legs that are affixed together by one or more cross-braces using welds or fastening hardware. In contrast, folding metal tables have legs that mechanically fold independently of one another, and not as a set.

(2) Assembled and unassembled folding chairs made primarily or exclusively from steel or other metal (''folding metal chairs''). Folding metal chairs include chairs with one or more cross-braces, regardless of shape or size, affixed to the front and/or rear legs with rivets, welds or any other type of fastener. Folding metal chairs include: those that are made solely of steel or other metal; those that have a back pad, a seat pad, or both a back pad and a seat pad; and those that have seats or backs made of plastic or other materials. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of folding metal chairs are the following:

a. Folding metal chairs with a wooden back or seat, or both;

b. Lawn furniture;

c. Stools;

d. Chairs with arms; and

e. Child-sized chairs.

The subject merchandise is currently classifiable under subheadings 9401710010, 9401710030, 9401790045, 9401790050, 9403200010 and 9403200030 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and U.S. Customs and Border Protection (''CBP'') purposes, the Department's written description of the merchandise is dispositive.

Verification

As provided in section 782(i)(2) of the Tariff Act of 1930, as amended (the Act), and section 351.307 of the Department's regulations, we conducted verification of the questionnaire and supplemental responses of Shichang. We used standard verification procedures, including on-site inspection of the production facility of Shichang. Our verification results are outlined in the Memorandum to the File, through Abdelali Elouaradia, Program Manager, Verification of U.S. Sales and Factors of Production Information Submitted by Dongguan Shichang Metals Factory, Ltd. and Maxchief Investments, Ltd., dated April 23, 2004 (''Verification Report''). A public version of this report is on file in the Central Records Unit (''CRU'') located in room B–099 of the Main Commerce Building.

Separate Rates

In proceedings involving non-market economy (''NME'') countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to its export activities. In this review, Shichang requested a separate company-specific rate.

To establish whether a company is sufficiently independent in its export activities from government control to be entitled to a separate, company-specific rate, the Department analyzes the exporting entity in an NME country under the test established in the *Final*

Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China, 56 FR 20588, 20589 (May 6, 1991) (''Sparklers''), and amplified by the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China,* 59 FR 22585, 22586–22587 (May 2, 1994) (''Silicon Carbide'').

The Department's separate-rate test is unconcerned, 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. The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. *See, e.g., Certain Cut-to-Length Carbon Steel Plate From Ukraine: Final Determination of Sales at Less Than Fair Value,* 62 FR 61754, 61757 (November 19, 1997); *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); and *Honey From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value,* 60 FR 14725, 14726 (March 20, 1995). Shichang provided separate-rate information in its responses to our original and supplemental questionnaires. Accordingly, we performed a separate-rates analysis to determine whether this exporter is independent from government control (*see Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China,* 61 FR 56570 (April 30, 1996), for a summary of the process by which the Department conducts this analysis).

As stated above in the ''Background'' section, the Department rejected Wok & Pan's questionnaire responses as untimely and improperly filed. Wok & Pan filed its Sections A, C, and D responses on September 3, 2003 and September 11, 2003. However, as noted in the Wok & Pan Refiling Letter, Wok & Pan failed to serve all interested parties with hard copies of their responses in accordance with 19 CFR 351.303. Specifically, the Department noted that Section 351.303 (f)(1)(i) requires that ''a person filing a document with the Department simultaneously must serve a copy of the document on all other persons on the service list by personal service or first class mail.'' Therefore, the Department returned Wok & Pan's responses and gave Wok & Pan an opportunity to alleviate this discrepancy by re-filing its responses by November 13, 2003. The Department further noted in a letter from Abdelali Elouaradia to Wok & Pan dated November 6, 2003, that if Wok & Pan did not remedy its service problems by the deadline, the Department ''may not be able to consider your Section A, C or D submissions in this administrative review.'' The Department received Wok & Pan's submissions past the deadline, on November 14, 2003. Further, Wok & Pan failed to serve these responses on interested parties, despite explicit instructions to do so. On November 24, 2003, analyst John Drury spoke with counsel for all interested parties, regarding Wok & Pan's November 14, 2003, submission. Interested parties noted that they had not received copies of Wok & Pan's November 14, 2003, submission. *See* Memorandum to the File from Case Analyst John Drury: Telephone Conversation with Interested Parties regarding Wok & Pan's November 14, 2003, Submission. On December 1, 2003, the Department rejected Wok & Pan's questionnaire responses in accordance with 19 CFR 351.302(d) because they were not received in a timely manner, and were not properly served on interested parties pursuant to 19 CFR 351.303(f)(1)(i) and (ii), and informed Wok & Pan that it will be considered an interested party rather than a respondent for the duration of this administrative review. *See* Letter from Abdelali Elouaradia to Wok & Pan dated December 1, 2003. Therefore, the Department preliminarily determines that, for the purpose of these preliminary results, Wok & Pan has not responded to our requests for information regarding separate rates and therefore separate rates treatment is not warranted. *See, e.g., Natural Bristle Paint Brushes and Brush Heads From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review,* 61 FR 57389 (November 6, 1996). Consequently, consistent with the statement in our notice of initiation, we find that, because Wok & Pan does not qualify for a separate rate, it is deemed to be part of the PRC-entity. *See Administrative Review Initiation. See also* ''The PRC-wide Rate and Use of Facts Otherwise Available'' section below.

Based on a review of the responses we have concluded that Shichang is owned by a Taiwanese national and incorporated in the British Virgin Islands. Therefore, we determine that no separate-rate analysis is required for this company.

The PRC-wide Rate and Use of Facts Otherwise Available

Shichang and Wok & Pan were given the opportunity to respond to the Department's questionnaire. We received questionnaire responses from Shichang, and we have calculated a separate rate for Shichang. The PRC-wide rate applies to all entries of subject merchandise except for entries Fromaves\notices.xml PRC producers/exporters that have their own calculated rate.

As discussed above, Wok & Pan is appropriately considered to be part of the PRC-wide entity. Therefore, we determine it is necessary to review the PRC-wide entity because it did not provide information necessary to the instant proceeding. In doing so, we note that section 776(a)(1) of the Act mandates that the Department use the facts available if necessary information is not available on the record of an antidumping proceeding. In addition, section 776(a)(2) of the Act provides that if an interested party or any other person: (A) Withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the Department shall, subject to section 782(d) of the Act, use the facts otherwise available in reaching the applicable determination under this title. Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department shall promptly inform the party submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that party with an opportunity to remedy or explain the deficiency. Section 782(e) of the Act provides that the Department shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the administering authority. Because the PRC-wide entity provided no information, we determine that sections 782(d) and (e) of the Act are not relevant to our analysis.

According to section 776(b) of the Act, if the Department finds that an interested party ''has failed to cooperate by not acting to the best of its ability to comply with a request for information,''

the Department may use information that is adverse to the interests of the party as facts otherwise available. Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See Statement of Administrative Action (''SAA'')* accompanying the URAA, H. Doc. No. 316, 103d Cong., 2d Session at 870 (1994). Furthermore, ''an affirmative finding of bad faith on the part of the respondent is not required before the Department may make an adverse inference.'' *Antidumping Duties; Countervailing Duties: Final Rule,* 62 FR 27296, 27340 (May 19, 1997).

As above stated, the PRC-wide entity did not respond to our requests for information. Because the PRC-wide entity did not respond to our request for information in the form or manner requested, we find it necessary, under section 776(a)(2) of the Act, to use facts otherwise available as the basis for the preliminary results of review for the PRC-wide entity.

In addition, pursuant to section 776(b) of the Act, we find that the PRC-wide entity failed to cooperate by not acting to the best of its ability to comply with a request for information. As noted above, the PRC-wide entity failed to respond in the proper format or in a timely manner to the Department's questionnaire, despite repeated requests that it do so. Thus, because the PRC-wide entity refused to participate fully in this proceeding, we find it appropriate to use an inference that is adverse to the interests of the PRC-wide entity in selecting from among the facts otherwise available. By doing so, we ensure that the companies that are part of the PRC-wide entity will not obtain a more favorable result by failing to cooperate than had they cooperated fully in this review.

An adverse inference may include reliance on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record. See section 776(b) of the Act. It is the Department's practice to assign the highest rate from any segment of the proceeding as total adverse facts available when a respondent fails to cooperate to the best of its ability. *See, e.g., Stainless Steel Wire Rods from India, Final Results and Partial Rescission of Antidumping Duty Administrative Review,* 69 FR 29923, 29924 (May 26, 2004).

In accordance with the Department's practice, we have preliminarily assigned to the PRC-wide entity (including Wok & Pan) the rate of 70.71 percent as adverse facts available. This rate is the PRC-wide rate established in the LTFV investigation based on information contained in the petition. See Memorandum to the File from Abdelali Elouaradia to Richard Weible: Final Determination in the Antidumping Investigation of Folding Metal Tables and Chairs from the People's Republic of China: Total Facts Available Corroboration Memorandum, dated April 17, 2002 (''Final AFA Memo''). 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).

We note that information from a prior segment of this proceeding constitutes ''secondary information,'' and section 776(c) of the Act provides that, when the Department relies on such secondary information rather than on information obtained in the course of a review, the Department shall, to the extent practicable, corroborate that information from independent sources that are 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 the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' *See SAA* at 870. The *SAA* states that the independent sources may include published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation or review. The SAA also clarifies that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. *See SAA* at 870. 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) (''TRBs''), to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.

We note that in the LTFV investigation, the Department corroborated the information in the petition that formed the basis of the 70.71 percent PRC-wide entity rate. *See* Final AFA Memo. Specifically, in the LTFV investigation, the Department compared the prices in the petition to the prices submitted by individual respondents for comparable merchandise. For normal value (''NV''), we compared petitioners'' factor-consumption data to data reported by respondents. *See* Final AFA Memo.

In order to satisfy the corroboration requirements under section 776(c) of the Act, in the instant review, we reviewed the Department's corroboration of the petition rates from the LTFV investigation. *See* Memorandum to the File from Case Analyst, through Edward C. Yang, Office Director, The Use of Adverse Facts Available for non-responsive companies (*i.e.*, Wok & Pan Industry, Inc. (''Wok & Pan'')), and the PRC-wide entity; Corroboration of Secondary Information, dated June 29, 2004 (''AFA & Corroboration Memo''). No information has been presented to call into question the reliability of the information from the investigation. Therefore, we find that the petition information is reliable. *See* AFA & Corroboration Memo at 1 and Attachment 2.

We further note that, with respect to the relevance aspect of corroboration, the Department stated in *TRBs* that it will ''consider information reasonably at its disposal as to whether there are circumstances that would render a margin irrelevant. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin.'' *See TRBs* at 61 FR 57392. *See also Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review,* 61 FR 6812, 6814 (February 22, 1996) (disregarding the highest margin in the case as best information available because the margin was based on another company's uncharacteristic business expense resulting in an extremely high margin). The rate used is the rate currently applicable to all exporters subject to the PRC-wide rate. Further, as noted above, there is no information on the record that the application of this rate would be inappropriate in this administrative review or that the margin is not relevant. Thus, we find that the information is relevant. Therefore, the Department preliminarily determines that the PRC-wide entity rate of 70.71 is reliable and relevant, and has probative

value within the meaning of section 776(c) of the Act.

Normal Value Comparisons

To determine whether Shichang's sales of the subject merchandise to the United States were made at prices below normal value, we compared their United States prices to normal values, as described in the ''United States Price'' and ''Normal Value'' sections of this notice.

United States Price

For Shichang, we based United States price on export price (''EP'') in accordance with section 772(a) of the Act, because the first sale to an unaffiliated purchaser was made prior to importation, and constructed export price (''CEP'') was not otherwise warranted by the facts on the record. We calculated EP based on the packed FOB price from the exporter to the first unaffiliated customer in the United States. Where applicable, we deducted foreign inland freight, and brokerage and handling from the starting price (gross unit price), in accordance with section 772(c) of the Act.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using a factors-of-production methodology if (1) the merchandise is exported from an NME country, and (2) available 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.

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. Pursuant to 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. Shichang did not contest such treatment in this review. Accordingly, we have applied surrogate values to the factors of production to determine NV for Shichang. See Factors of Production Valuation Memorandum for the Preliminary Results of the First Administrative Review of the Antidumping Duty Order on Folding Metal Tables and Chairs from the People's Republic of China, dated June 29, 2004 (''Factor Valuation Memo''). A public version of this memorandum is on file in the CRU located in room B–099 of the Main Commerce Building.

We calculated NV based on factors of production and market economy prices paid by Shichang for certain inputs in accordance with section 773(c)(4) of the Act and section 351.408(c) of our regulations. Consistent with the LTFV investigation of this order, we determine that India (1) is comparable to the PRC in level of economic development, and (2) is a significant producer of comparable merchandise. *See Notice of Final Determination of Sales at Less Than Fair Value: Folding Metal Tables and Chairs from the People's Republic of China, 67* FR 20090 (April 24, 2002) (''Final Determination''). Accordingly, we valued the factors of production for inputs purchased from a NME using publicly available information from India. In selecting the surrogate values for inputs where Shichang did not purchase from a market economy supplier, we considered the quality, specificity, and contemporaneity of the data, in accordance with our practice. Where appropriate, we adjusted Indian import prices by adding foreign inland freight expenses in order to derive delivered prices. When we used Indian import values to value inputs sourced domestically by PRC suppliers, we added to Indian surrogate values a surrogate freight cost calculated using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest port of export to the factory. 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, 1408 (Fed. Cir. 1997).

We valued raw material inputs using the weighted-average unit import values derived from the World Trade Atlas, which notes that its data was obtained from the Ministry of Commerce of India (''Indian Import Statistics'') for the time period corresponding to the POR (see Factor Valuation Memo). When we relied on Indian import values to value inputs, in accordance with the Department's practice, we excluded imports from both NMEs and countries deemed to have generally available export subsidies (*i.e.*, Indonesia, Korea, and Thailand) from our surrogate value calculations. For those Indian rupee values not contemporaneous with the POR, we adjusted for inflation using wholesale price indices published in the International Monetary Fund's International Financial Statistics.

For the inputs used in the production of subject merchandise that were purchased from a market economy supplier and paid for in a convertible currency, § 351.408(c)(1) of the Department's regulations stipulates that ''where a factor is purchased from a market economy supplier and paid for in a market economy currency, the Secretary normally will use the price paid to the market economy supplier.'' For the inputs that Shichang demonstrated that it purchased the raw material from a market economy supplier and paid in convertible currency, we used the purchase price paid, as reported in Shichang's Second Supplemental questionnaire response dated February 9, 2004, at Exhibit 6, and Verification Exhibit 16. Modifications were made to these prices as described in the Proprietary Memorandum to the File from Anya Naschak through Edward C. Yang: Preliminary Results Analysis Memorandum for Dongguan Shichang Metals Factory Co., Ltd., and Maxchief Investments Ltd., dated June 29, 2004 (''Analysis Memo'').

It is, however, the Department's practice to exclude the market economy purchase price if it has reason to believe or suspect these prices may be dumped or subsidized prices. *See Final Determination for the 1998–99 Administrative Review of Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China,* 66 FR 1953 (January 10, 2001) (''TRBs 2001''), Issues and Decision Memorandum at Comment 1. Petitioners have placed on the record documentation indicating that the cold rolled steel purchased by Shichang is being sold at dumped prices (for a description of the input and its country of origin, see Analysis Memo). Respondents did not respond to this information on the record. Therefore, the Department has determined that for these preliminary results, Shichang's purchases of cold rolled steel were purchased at dumped prices. Because the Department's practice is to exclude prices that are dumped or subsidized, the Department has calculated the value for this input using a surrogate value derived from Indian Import Statistics, rather than the purchase price paid.

In accordance with § 351.301(c)(3)(ii) of the Department's regulations, for the final results of an antidumping administrative review, interested parties may submit publicly available information to value factors of production within 20 days after the date of publication of these preliminary results.

Currency Conversion

We made currency conversions pursuant to section 351.415 of the Department's regulations at the rates certified by the Federal Reserve Bank.

Preliminary Results of Review

We preliminarily determine that the following antidumping duty margins exist:

Exporter	POR	Margin (percent)
Dongguan Shichang Metals Factory Ltd	12/03/01–05/31/03	2.97
PRC-wide Entity (including Wok & Pan)	12/03/01–05/31/03	70.71

For details on the calculation of the antidumping duty weighted-average margin for Shichang, see Analysis Memo. A public version of this memorandum is on file in the CRU.

Assessment Rates

Pursuant to section 351.212(b), the Department calculates an assessment rate for each importer of the subject merchandise. Upon issuance of the final results of this review, if any importer-specific assessment rates calculated in the final results are above *de minimis* (*i.e.*, at or above 0.50 percent), the Department will issue appraisement instructions directly to CBP to assess antidumping duties on appropriate entries by applying the assessment rate to the entered value of the merchandise. For assessment purposes, we calculated importer-specific assessment rates for the subject merchandise by aggregating the antidumping duties due for all U.S. sales to each importer and dividing the amount by the total quantity of the sales to that importer. If these preliminary results are adopted in our final results of review, we will direct CBP to assess the resulting rate against the total quantity for the subject merchandise on each of Shichang's importer's/customer's entries during the POR.

Cash-Deposit Requirements

The following cash-deposit rates will be effective upon publication of the final results of this review for all shipments of tables and chairs from the PRC entered, or withdrawn from warehouse, for consumption on or after publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For subject merchandise exported by Shichang, the cash-deposit rate will be that established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously investigated or reviewed companies not listed above that have separate rates, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) the cash-deposit rate for all other PRC exporters (including Wok & Pan) will be the ''PRC-wide'' rate established in the final results of this review; and (4) the cash deposit rate for all other non-PRC exporters will be the rate applicable to the PRC exporter that supplied that exporter.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Schedule for Final Results of Review

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

Unless otherwise notified by the Department, interested parties may submit case briefs within 30 days of the date of publication of this notice in accordance with section 351.309(c)(ii) of the Department's regulations. As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Rebuttal briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the case brief is filed. If a hearing is held, an interested party may make an affirmative presentation only on arguments included in that party's case brief and may make a rebuttal presentation only on arguments included in that party's rebuttal brief. Parties should confirm by telephone the time, date, and place of the hearing within 48 hours before the scheduled time. The Department will issue the final results of this review, which will include the results of its analysis of issues raised in the briefs, not later than 120 days after the date of publication of this notice.

Notification to Importers

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

This administrative review and this notice are published in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: June 29, 2004.

Jeffrey A. May,

Acting Assistant Secretary for Import Administration.

[FR Doc. 04–15231 Filed 7–2–04; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic from the People's Republic of China: Preliminary Results of Antidumping Duty New Shipper Review

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

SUMMARY: In response to a request from a new shipper, the Department of Commerce is conducting a new shipper review of the antidumping duty order on fresh garlic from the People's Republic of China. The period of review is November 1, 2002, through October 31, 2003.

We preliminarily determine that Jinxiang Shanyang Freezing Storage Co., Ltd., has made sales in the United States at prices below normal value.

We invite interested parties to comment on these preliminary results.