anniversary of the effective date of continuation.

This five-year (sunset) review and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act.

Dated: October 3, 2011.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 2011–26226 Filed 10–7–11; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–941]**

### Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Preliminary Results of the First Administrative Review, Preliminary Rescission, in Part, and Extension of Time Limits for the Final Results

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

**DATES:** *Effective Date:* October 11, 2011.

**SUMMARY:** The Department of Commerce (''Department'') is conducting an administrative review of the antidumping duty order on certain kitchen appliance shelving and racks from the People's Republic of China (''PRC''), covering the period of review (''POR'') of March 5, 2009, through August 31, 2010.[1] The Department has preliminarily determined that sales have been made below normal value (''NV'') by the respondents examined in this administrative review. If these preliminary results are adopted in our final results of this review, the Department will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on all appropriate entries of subject merchandise during the period of review.

**FOR FURTHER INFORMATION CONTACT:** Katie Marksberry or Kabir Archuletta, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; *telephone:* (202) 482–7906 or (202) 482–2593, respectively.

**SUPPLEMENTARY INFORMATION:**

## Background

On October 28, 2010, the Department initiated an administrative review of certain kitchen appliance shelving and racks from the PRC for the period March 5, 2009, through August 31, 2010. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 75 FR 66349 (October 28, 2010) (''*First Initiation*'').[2]

On December 1, 2010, the Department placed U.S. Customs and Border Protection (''CBP'') data for the Harmonized Tarrif Schedule (''HTS'') numbers listed in the scope of the *Order* on the record of the review and stated that because there were apparent anomalies in the data that, for respondent selection purposes, it would be issuing quantity and value (''Q&V'') questionnaires to all companies under review, which were also issued on December 1, 2010.[3] The Department received timely Q&V responses from four exporters that shipped subject merchandise to the United States during the POR: Jiangsu Weixi Group Co. (''Weixi''); Guangdong Wireking Housewares & Hardware Co., Ltd. (''Wireking''); New King Shan (Zhuhai) Wire Co., Ltd. (''NKS''); and Hangzhou Dunli Import & Export Co., Ltd., (''Dunli''). The Department also received a timely Q&V response from Hengtong Hardware Manufacturer (Huizhou) Co., Ltd. (''Hengtong Hardware'') indicating that it had no shipments of subject merchandise during the POR. On December 23, 2010, the Department received an untimely Q&V response from Leader Metal Industry Co., Ltd., (aka Marmon Retail Services Asia Company) (''Leader''). On January 20, 2011, the Department sent a letter to Leader rejecting its untimely filed Q&V response and stating that it would not be considered for the purposes of this review.

### Respondent Selection

On January 20, 2011, the Department selected two mandatory respondents for this review, pursuant to section 777A(c)(2)(B) of the Tariff Act of 1930, as amended (''the Act''), Wireking and Weixi.[4] The Department sent its antidumping duty questionnaire to Weixi and Wireking on January 20, 2011.[5] In its questionnaire, the Department requested that each firm provide a response to Section A of the Department's non-market economy (''NME'') questionnaire by February 10, 2011, and Sections C and D of the NME questionnaire by February 28, 2011.

On February 2, 2011, eight days prior to the Department's February 10, 2011, deadline for Section A questionnaire responses, the Department received a request on behalf of NKS, a mandatory respondent in the *LTFV Investigation*[6] and a company for which an administrative review was requested, to be selected as a replacement mandatory respondent in the event of a non-responsive mandatory respondent. NKS also requested a 28-day extension to submit its questionnaire responses.[7] On February 4, 2011, Wireking filed a request for an extension of the deadline to submit its Section A response, which the Department extended to February 22, 2011, for Wireking and any potential voluntary respondents.[8] The

[1] *See* ''Period of Review'' section below for further explanation of the POR in this administrative review.

[2] Nashville Wire Products Inc. and SSW Holding Company, Inc. (collectively, ''Petitioners'') initially requested that the Department initiate an administrative review of ten companies; however, we required additional information concerning why, pursuant to 19 CFR 351.213(b)(1), Petitioners requested a review of five of these companies. *See First Initiation,* 75 FR at 66352. Accordingly, the Department postponed initiation of this administrative review with respect to five companies requested by Petitioners. *See id.* and *Initiation of Antidumping and Countervailing Duty Administrative Reviews; Correction,* 75 FR 69054 (November 10, 2010). After reviewing additional information placed on the record of this administrative review by Petitioners, we determined that, for three of the five companies, Petitioners did not provide any reason, other than alleged transshipment, for initiation; therefore, we declined to initiate a review for Asia Pacific CIS (Thailand) Co., Ltd., Taiwan Rail Company, and King Shan Wire Co., Ltd. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 75 FR 73036, 73039 (November 29, 2010). However, we did determine that it was appropriate to initiate this review with respect to two additional companies originally requested by Petitioners: Asia Pacific CIS (Wuxi) Co., Ltd.; and Hengtong Hardware Manufacturing (Huizhou) Co., Ltd. *See id.*

[3] *See* Memorandum to The File, from Katie Marksberry, International Trade Specialist, Office 9, regarding ''Release of Customs and Border Protection (''CBP'') Data'', dated December 1, 2010.

[4] *See* Memorandum to James C. Doyle, Office Director, Office 9, through Catherine Bertrand, Program Manager, Office 9, from Kabir Archuletta, International Trade Analyst, Office 9, regarding ''Selection of Respondents for the Antidumping Review of Certain Kitchen Appliance Shelving and Racks from the People's Republic of China,'' dated January 20, 2011.

[5] *See* Letters to Weixi and Wireking from Catherine Bertrand, Program Manager, AD/CVD Operations, Office 9, regarding ''Kitchen Appliance Shelving and Racks from the People's Republic of China,'' dated January 20, 2011.

[6] *See Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 74 FR 36656 (July 24, 2009) (''*LTFV Investigation Final*''), amended by *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Notice of Antidumping Duty Order,* 74 FR 46971 (September 14, 2009) (''*LTFV Investigation Amended Final*'').

[7] *See* Letter from NKS regarding ''Request for Extension of Time to File Voluntary Response and Request for Clarification of Reporting of Sales,'' dated February 2, 2011 (''NKS February 2 Submission'').

[8] *See* Memorandum to the File from Kabir Archuletta, International Trade Analyst, Office 9, regarding ''Guangdong Wireking Housewares &

Continued

Department did not receive an extension request from Weixi and did not receive its Section A response by the appointed deadline.

On February 23, 2011, the Department received a voluntary Section A questionnaire response from NKS.[9] On March 1, 2011, because Weixi did not cooperate with our request for information, the Department selected NKS as a replacement mandatory respondent because it was the the next largest exporter of subject merchandise.[10] We also determined that it was appropriate to use the voluntary Section A response already submitted by NKS as the basis for that company's response as a mandatory respondent.[11] On March 1, 2011, the Department sent its antidumping questionnaire to NKS and assigned a deadline of March 22, 2011, for its Sections C and D responses.[12]

## Case Schedule

On April 14, 2011, in accordance with section 751(a)(3)(A) of the Act, we extended the time period for issuing the preliminary results by 120 days, until September 30, 2011.[13]

## Period of Review

This review was intiated with a POR of March 5, 2009, through August 31, 2010. On February 2, 2011, the Department received a letter from NKS requesting clarification of the proper reporting periods for U.S. sales of subject merchandise.[14] In its letter, NKS noted that the U.S. International Trade Commission found that there was a threat of injury with regard to oven racks during the period of investigation.[15] As such, entries of oven racks prior to September 9, 2009, were liquidated without antidumping or countervailing duties. On February 9, 2011, the Department sent interested parties a letter stating that it would not be appropriate to include sales of merchandise that have been liquidated by the Department without the assessment of antidumping duties in the margin calculation for the current POR.[16] Accordingly, the Department instructed interested parties to adhere to an abbreviated reporting period for sales of oven racks, while sales of refrigerator and freezer shelves should continue to be reported in accordance with the POR for this review. The abbreviated POR for oven racks is September 9, 2009, through August 31, 2010. Additionally, the Department clarified that respondents should report their factors of production according to the reporting period specific to the type of merchandise they reported in their U.S. sales database.[17]

## Scope of the Order

The scope of the order consists of shelving and racks for refrigerators, freezers, combined refrigerator-freezers, other refrigerating or freezing equipment, cooking stoves, ranges, and ovens (''certain kitchen appliance shelving and racks'' or ''the merchandise under order''). Certain kitchen appliance shelving and racks are defined as shelving, baskets, racks (with or without extension slides, which are carbon or stainless steel hardware devices that are connected to shelving, baskets, or racks to enable sliding), side racks (which are welded wire support structures for oven racks that attach to the interior walls of an oven cavity that does not include support ribs as a design feature), and subframes (which are welded wire support structures that interface with formed support ribs inside an oven cavity to support oven rack assemblies utilizing extension slides) with the following dimensions:

—Shelving and racks with dimensions ranging from 3 inches by 5 inches by 0.10 inch to 28 inches by 34 inches by 6 inches; or

—baskets with dimensions ranging from 2 inches by 4 inches by 3 inches to 28 inches by 34 inches by 16 inches; or

—side racks from 6 inches by 8 inches by 0.1 inch to 16 inches by 30 inches by 4 inches; or

—subframes from 6 inches by 10 inches by 0.1 inch to 28 inches by 34 inches by 6 inches.

The merchandise under the order is comprised of carbon or stainless steel wire ranging in thickness from 0.050 inch to 0.500 inch and may include sheet metal of either carbon or stainless steel ranging in thickness from 0.020 inch to 0.2 inch. The merchandise under this order may be coated or uncoated and may be formed and/or welded. Excluded from the scope of this order is shelving in which the support surface is glass.

The merchandise subject to the order is currently classifiable in the Harmonized Tariff Schedule of the United States (''HTSUS'') statistical reporting numbers 8418.99.8050, 8418.99.8060, 7321.90.5000, 7321.90.6090, 8516.90.8000 and 8419.90.9520. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

## NKS's Sales of Out of Scope Products

In its initial Section C Questionnaire Response, NKS provided information related to all of its POR production, including product codes of the subject merchandise it sold to the United States during the POR and also the product codes of certain products it claimed were out of the scope of this *Order* and, therefore, not reported in its U.S. Sales Database.[18] Petitioners subsequently argued that those products not reported by NKS have not been subject to a formal scope determination and therefore cannot be definitively excluded from reportable sales.[19] In response to the Department's request for more information regarding these products, NKS submitted detailed descriptions of the product codes it claims do not fall within the scope of this *Order,* justification as to why they should not be included in the scope of this *Order* and production drawings of the products in question.[20] NKS conceded that it would submit a request for a formal scope ruling if requested to do so by the Department but argued that

Hardware Co., Ltd. Section A Questionnaire Extension Request,'' dated February 10, 2011.

[9] *See* Letter from NKS regarding ''Voluntary Response to Section A by New King Shan (Zhuhai) Co., Ltd.,'' dated February 23, 2011.

[10] *See* Memorandum to James C. Doyle, Office Director, Office 9, through Catherine Bertrand, Program Manager, Office 9, from Kabir Archuletta, International Trade Analyst, Office 9, regarding ''Antidumping Review of Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Selection of an Additional Mandatory Respondent,'' dated March 1, 2011.

[11] *See id.*

[12] *See* Letter to NKS from Catherine Bertrand, Program Manager, Office 9, regarding ''Kitchen Appliance Shelving and Racks from the People's Republic of China,'' dated March 1, 2011.

[13] *See Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Extension of Time Limits for the Preliminary Results of the First Antidumping Duty Administrative Review,* 76 FR 20950 (April 14, 2011).

[14] *See* NKS February 2 Submission.

[15] *See id.* at 6 (citing *Certain Kitchen Appliance Shelving and Racks from China* (Investigation No. 731–TA–1154 (Final), USITC Publication 4098 (August 2009)).

[16] *See* Letter to All Interested Parties from Catherine Bertrand, Program Manager, Office 9, regarding ''Section C Reporting,'' dated February 9, 2011.

[17] *See* Letter to NKS from Catherine Bertrand, Program Manager, Office 9, regarding ''Section D and Appendix V Supplemental Questionnaire,'' dated May 5, 2011, at 4.

[18] *See* NKS Section C questionnaire response, dated April 6, 2011 (''NKS SCQR''), at 4–6.

[19] *See* Petitioners' Comments on NKS Supplemental Section A Response and Section C Response, dated April 15, 2011 (''Petitioners April 15 Comments''), at 8–10, and Petitioners' Comments on NKS Supplemental Section C Response and Additional Information Response, dated June 16, 2011 (''Petitioners June 16 Comments''), at 11–14.

[20] *See* NKS Second Supplemental Section A questionnaire response, dated April 26, 2011 (''NKS SSSAQR''), at Exhibit SSA–10, and NKS Supplemental Section D questionnaire response, dated June 7, 2011 (''NKS SSDQR''), at 22–23.

an examination of the products in question reveal that they are not racks and clearly fall outside of the dimensions specified by the scope of the *Order.*[21] Upon review of the documentation submitted by NKS, the Department preliminarily concludes that there is no evidence on the record of this review to indicate that the products in question fall within the scope of the *Order.* This conclusion is based on an examination of the dimensions of the products in question, as well as the factual information submitted by NKS indicating that these products do not appear to be shelving, baskets, racks, side racks, or subframes, as defined by the scope of the *Order.*[22] Therefore, the Department has not required NKS to report sales of these specific products made during the POR in its U.S. Sales Database for consideration in these preliminary results.

**NKS Affiliation**

In the *LTFV Investigation,* we found based on the evidence on the record that NKS was affiliated with certain related entities, pursuant to sections 771(33)(A), (E) and (F) of the Act, based on ownership and common control.[23] While NKS has stated in this review that its corporate structure has changed since the *LTFV Investigation* such that an owner with more than five percent ownership of a related entity has sold that interest,[24] we preliminarily determine that the changes reported by NKS do not significantly impact the affiliation analysis conducted in conjunction with the *LTFV Investigation.*[25] As such, we continue to find NKS affiliated with the same entities with which we found it affiliated in the *LTFV Investigation.*[26] However, we note that while we find NKS and its related entities affiliated, we are not finding that the facts warrant treatment as a single entity.

**Dunli's Separate Rate Certification**

On December 21, 2010, the Department received a timely filed separate rate certification from Dunli. Subsequently, the Department determined that there are two separate PORs applicable to this review. *See* ''Period of Review'' section above. On February 10, 2011, the Department sent a letter to Dunli asking that they clarify that they had made sales of subject merchandise within the amended PORs (*i.e.,* sales of subject refrigerator/freezer shelves during the period March 5, 2009–August 31, 2010, and/or sales of subject oven racks during the period September 9, 2009–August 31, 2010).[27] On February 16, 2011, Dunli submitted a response which stated that it had no sales of refrigerator/freezer shelves during the period of March 5, 2009 through August 31, 2010, and no sales of oven/baking racks during the period of September 9, 2009 through August 31, 2010. On February 17, 2011, the Department sent a letter to Dunli granting additional time for it to submit a revised separate rate certification or instead, to submit a no shipments certification if appropriate and withdraw its separate rate application.

On February 25, 2011, Dunli withdrew its separate rate certification and filed a no shipments certification. In order to examine this claim, the Department sent two inquiries, one for each POR, to CBP asking if any CBP office had any information contrary to Dunli's no shipments claim and requesting CBP alert the Department of any such information within ten days of receiving our inquiry. CBP received our inquiry on March 7, 2011. On March 14, 2011 we received notice from CBP that Dunli appeared to have an entry of subject merchandise during the POR. On March 15, 2011, the Department requested the entry documents corresponding to the entry noted by CBP. The Department received the entry documents from CBP and placed them on the record of the review on August 18, 2011, and requested comments from interested parties.

On August 29, 2011, the Department received comments from Dunli stating that it had overlooked a small quantity of shipments and had, as a result, inadvertently withdrawn its separate rate certification and filed a no shipments certification.[28] Additionally, Dunli argued that it was a harmless clerical error that did not affect respondent selection as it would not have been chosen as a mandatory respondent and that it would be adversely affected should the Department not provide Dunli with an opportunity to correct for the error.[29] As an attachment to its comments, Dunli refiled its separate rate certification. Because of the unusual circumstances of the multiple PORs in this review, as well as the fact that doing so will not impede the review, we will, for these preliminary results, accept Dunli's refiled separate rate certification.

**Preliminary Partial Rescission**

As discussed in the ''Background'' section above, Hengtong Hardware filed a no shipment certification indicating that it did not export subject merchandise to the United States during the POR. In order to examine this claim, we reviewed the CBP data used for respondent selection and found no discrepancies with the statement made by Hengtong Hardware. Additionally, we sent an inquiry to CBP asking if any CBP office had any information contrary to the no shipments claim and requesting CBP alert the Department of any such information within ten days of receiving our inquiry. CBP received our inquiry on January 6, 2011. We have not received a response from CBP with regard to our inquiry which indicates that CBP did not have information that was contrary to the claim of Hengtong Hardware. Therefore, because the record indicates that Hengtong Hardware did not export subject merchandise to the United States during the POR, we are preliminarily rescinding this administrative review with respect to this company in accordance with 19 CFR 351.213(d)(3) and consistent with our practice.[30]

**NME Country Status**

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country.[31]

[21] *See* NKS SSDQR at 23.

[22] *See* NKS SSSAQR at Exhibit SSA–10, and NKS SSDQR at 23.

[23] *See Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 74 FR 9591, 9594 (March 5, 2009), unchanged in *LTFV Investigation Final.*

[24] *See* NKS Supplemental Section A questionnaire response, dated March 28, 2011, at 18.

[25] *See* Memorandum to the File from Kabir Archuletta, Case Analyst, Office 9, through Catherine Bertrand, Program Manager, Office 9, regarding ''First Administrative Review of Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Affiliations of New King Shan (Zhu Hai) Co., Ltd.,'' dated September 30, 2011.

[26] *See id.*

[27] *See* Letter to Hangzhou Dunli from the Department regarding ''Certain Kitchen Appliance Shelving and Racks from the People's Republic of China (''PRC''),'' dated February 10, 2011.

[28] *See* Letter from Dunli regarding ''Separate Rate Certification of Hangzhou Dunli Import & Export Co., Ltd.,'' dated August 30, 2011 (''Dunli's Sep Rate Letter'').

[29] *See id.*

[30] *See, e.g., Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Notice of Preliminary Results and Partial Rescission of the Third Antidumping Duty Administrative Review,* 72 FR 53527, 53530 (September 19, 2007), unchanged in *Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Partial Rescission,* 73 FR 15479, 15480 (March 24, 2008).

[31] *See Certain Kitchen Appliance Shelving and Racks From the People's Republic of China:*

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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. None of the parties to this proceeding have contested such treatment. Accordingly, we calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

**Separate Rates**

Purusant to section 771(18)(C) of the Act, a designation of a country as an NME remains in effect until it is revoked by the Department. Accordingly, there is a rebuttable presumption that all companies within the PRC are subject to government control and, thus, should be assessed a single antidumping duty rate.[32] In the *First Initiation,* the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME proceedings.[33] It is the Department's policy to assign all exporters of the merchandise subject to review in NME countries a single 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 exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in *Sparklers,*[34] as amplified by *Silicon Carbide.*[35] However, if the Department determines that a company is wholly foreign-owned or located in a market economy (''ME''), then a separate rate analysis is not necessary to determine whether it is independent from government control.[36] In this review, Dunli is the only company, other than the companies under mandatory individual review, that submitted a separate rate certification.[37] Additionally, the Department received separate rate certifications and completed responses to the Section A portion of the NME antidumping questionnaire from Wireking and NKS, which contained information pertaining to each company's eligibility for a separate rate.[38]

We have considered whether each PRC company that submitted a complete application, certification or complete Section A Response as a mandatory respondent 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.[39] The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level.[40]

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 merchandise under investigation under a test arising from *Sparklers,* as further developed in *Silicon Carbide.* In accordance with the separate rate 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. Wholly Foreign-Owned*

In its Section A response, NKS reported that it is wholly-owned by individuals or companies located in a ME country.[41] Therefore, because it is wholly foreign-owned, and we have no evidence indicating that it is under the control of the PRC, a separate rate analysis is not necessary to determine whether this company is independent from government control.[42] Accordingly, we have preliminarily granted a separate rate to this company.

*2. 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.[43] The evidence provided by Dunli and Wireking 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.[44]

*3. Absence of De Facto Control*

Typically the Department considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a governmental agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.[45] 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

*Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 74 FR 9591, 9593 (March 5, 2009) (''*LTFV Investigation Prelim*'', unchanged in *LTFV Investigation Final).*

[32] *See Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China,* 71 FR 53079, 53082 (September 8, 2006); *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, 29307 (May 22, 2006).

[33] *See First Initiation.*

[34] *See Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China,* 56 FR 20588 (May 6, 1991) (''*Sparklers*'').

[35] *See 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*'').

[36] *See, e.g., Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles From the People's Republic of China,* 72 FR 52355, 52356 (September 13, 2007).

[37] *See* Dunli's Sep Rate Letter at Attachment 1.

[38] *See* Separate Rate Certification of Guangdong Wireking Housewares & Hardware Co., Ltd., dated December 29, 2010, and Separate Rate Certification of New King Shan (Zhu Hai) Co., Ltd., dated December 30, 2010 (''NKS Sep Rate Certification'').

[39] *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).

[40] *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).

[41] *See* NKS Section A questionnaire response dated February 23, 2011, at 2.

[42] *See Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate From the People's Republic of China,* 64 FR 71104–71105 (December 20, 1999) (where the respondent was wholly foreign-owned, and thus, qualified for a separate rate).

[43] *See Sparklers,* 56 FR at 20589.

[44] *See* Dunli Sep Rate Letter at Attachment 1, pages 5–6; and Wireking's Section A Questionnaire Response, dated February 23, 2011, at 4–5.

[45] *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).

which would preclude the Department from assigning separate rates.

We determine that, for Dunli and Wireking 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.[46]

The evidence placed on the record of this investigation by Dunli and Wireking 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 Dunli and Wireking separate rate status.

**Separate Rate Recipients**

As discussed above, the Department initiated this administrative review with respect to seven companies. Additionally, we are preliminarily rescinding this review with respect to Hengtong Hardware because we have preliminarily determined that it had no shipments of subject merchandise during the POR. Thus, including Wireking and NKS, six companies remain subject to this review. While Wireking, NKS and Dunli provided documentation supporting their eligibility for a separate rate, the remaining companies under active review have not demonstrated their eligibility for a separate rate. Furthermore, Weixi, which responded to the Department's Q&V questionnaire and reported shipments during the POR, was chosen by the Department as a mandatory respondent, but did not respond to the Department's full antidumping duty questionnaire. Therefore, the Department preliminarily determines that there were exports of merchandise under review from three PRC exporters that did not demonstrate their eligibility for separate rate status: Weixi, Asia Pacific CIS (Wuxi) Co., Ltd., and Leader Metal Industry Co., Ltd. (aka Marmon Retail Services Asia). As a result, the Department is treating these three PRC exporters as part of the PRC-wide entity, subject to the PRC-wide rate.

**Rate for Non-Selected Companies**

In accordance with section 777A(c)(2)(B) of the Act, the Department employed a limited examination methodology, as it did not have the resources to examine all companies for which a review request was made. As stated above, the Department selected Wireking and NKS as the mandatory respondents in this review. In addition to the mandatory respondent, only Dunli submitted information as requested by the Department and remains subject to review as a cooperative separate rate respondent.

The statute and the Department's regulations do not address the establishment of a rate to be applied to individual companies not selected for examination where the Department limited its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally we have looked to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for respondents we did not examine in an administrative review. Section 735(c)(5)(A) of the Act instructs that we are not to calculate an all-others rate using any zero or *de minimis* margins or any margins based entirely on facts available. Accordingly, the Department's practice in this regard, in reviews involving limited respondent selection based on exporters accounting for the largest volume of trade, has been to average the rates for the selected companies, excluding zero and *de minimis* rates and rates based entirely on facts available.[47] Section 735(c)(5)(B) of the Act also provides that, where all margins are zero, *de minimis,* or based entirely on facts available, we may use ''any reasonable method'' for assigning the rate to non-selected respondents, including ''averaging the estimated weighted average dumping margins determined for the exporters and producers individually investigated.'' In this instance, consistent with our practice, we have preliminarily established a margin for the separate rate respondent, Dunli, based on the rate we calculated for the mandatory respondent whose rate was not *de minimis.*[48]

**The PRC-Wide Entity and Use of Adverse Facts Available (''AFA'')**

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply ''facts otherwise available'' if, *inter alia,* necessary information is not on the record or an interested party or any other person: (A) Withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

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 will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits, subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. 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 applicable requirements established by the administering authority'' if the information is timely, can be verified, is not so incomplete that it cannot serve as a reliable basis, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information if it can do so without undue difficulties.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) of the Act also authorizes the Department to use as adverse facts available (''AFA'') information derived from the petition, the final

[46] *See* Dunli's Sep Rate Letter at Attachment 1, pages 6–7; and Wireking's Section A Questionnaire Response, dated February 23, 2011, at 6–7.

[47] *See Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review,* 73 FR 52273, 52275 (September 9, 2008) and accompanying Issues and Decision Memorandum at Comment 6.

[48] *See, e.g., Forth Administrative Review of Certain Frozen Warmwater Shrimp From the People's Republic of China: Preliminary Results, Preliminary Partial Rescission of Antidumping Duty Administrative Review and Intent Not To Revoke, In Part,* 75 FR 11855 (March 12, 2010).

determination, a previous administrative review, or other information placed on the record.

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 or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined 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.'' [49] ''Corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value.[50] To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA explains, however, that the Department need not prove that the selected facts available are the best alternative information.[51]

We have preliminarily determined that three companies did not demonstrate their eligibility for a separate rate and are properly considered part of the PRC-wide entity. As explained above in the ''Separate Rates'' section, all companies within the PRC are considered to be subject to government control unless they are able to demonstrate an absence of government control with respect to their export activities. Such companies are thus assigned a single antidumping duty rate distinct from the separate rate(s) determined for companies that are found to be independent of government control with respect to their export activities. We consider the influence that the government has been found to have over the economy to warrant determining a rate for the entity that is distinct from the rates found for companies that have provided sufficient evidence to establish that they operate freely with respect to their export activities.[52]

Because we have determined that three companies are not entitled to separate rates and are now part of the PRC-wide entity, the PRC-wide entity—which includes Weixi, Asia Pacific CIS (Wuxi) Co., Ltd., and Leader Metal Industry Co., Ltd. (aka Marmon Retail Services Asia)—is now under review. The PRC-wide entity did not respond to our requests for information. Because the PRC-wide entity did not respond to our requests for information, we find it necessary under section 776(a)(2) of the Act to use facts available as the basis for these preliminary results. 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. We further find that the PRC-wide entity (Weixi, Asia Pacific CIS (Wuxi) Co., Ltd., and Leader Metal Industry Co., Ltd. (aka Marmon Retail Services Asia)) failed to respond to the Department's requests for information and, therefore, did not cooperate to the best of its ability. Therefore, because the PRC-wide entity did not cooperate to the best of its ability in the proceeding, the Department finds it necessary to use an adverse inference in making its determination, pursuant to section 776(b) of the Act.

**Selection of the Adverse Facts Available Rate**

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from (1) The petition, (2) a final determination in the investigation, (3) any previous review or determination, or (4) any other information placed on the record. Because of the PRC-wide entity's failure to cooperate in this administrative review, we have preliminarily assigned the PRC-wide entity an AFA rate of 95.99 percent, which is the PRC-wide rate determined in the *LTFV Investigation* and the only rate ever determined for the PRC-wide entity in this proceeding.[53]

The Department preliminarily determines that this information is the most appropriate from the available sources to effectuate the purposes of AFA, which is to induce respondents to provide the Department with complete and accurate information in a timely manner.[54] The Department's reliance on the PRC-wide rate from the original investigation to determine an AFA rate is subject to the requirement to corroborate secondary information.[55]

**Corroboration of Facts Available**

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 or review, it shall to the extent practicable, corroborate that information from independent sources that are reasonably at the Department's 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.'' [56] The SAA explains that ''corroborate'' means to determine that the information used has probative value. The Department has determined that to have probative value, information must be reliable and relevant.[57] The SAA also explains that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation.[58]

As stated above, we are applying as AFA the highest and only rate for the PRC-wide entity from any segment of this administrative proceeding, which is 95.99 percent from the *LTFV Investigation Final.* In deriving that rate, the Department relied upon a rate from the Petition.[59] Because only one mandatory respondent, NKS, received an individually calculated weighted-average margin in the *LTFV Investigation Final,* the Department had limited information from which to corroborate the selected AFA rate. To assess the probative value of the total AFA rate selected for the PRC-wide entity in the *LTFV Investigation Final,* the Department compared the transaction-specific rates calculated for NKS to the margins contained in the

[49] *See* SAA at 870.

[50] *See id.*

[51] *See id.* at 869.

[52] *See Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China,* 71 FR 53079, 53080 (September 8, 2006).

[53] *See LTFV Investigation Amended Final,* 74 FR at 46973.

[54] *See Notice of Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors From Taiwan,* 63 FR 8909, 8932 (February 23, 1998).

[55] *See* Section 776(c) of the Act and the ''Corroboration of Facts Available'' section below.

[56] *See* SAA at 870.

[57] *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).

[58] *See* SAA at 870; *see also Notice of Final Determination of Sales at Less Than Fair Value: Live Swine From Canada,* 70 FR 12181, 12183 (March 11, 2005).

[59] *See LTFV Investigation Final,* 74 FR at 36660.

petition and found that, by using NKS's highest transaction specific margin in the LTFV Investigation Final as a limited reference point, it could corroborate the 95.99 percent AFA rate.[60] Since the investigation, the Department has found no other corroborating information available in this case, and received no comments from interested parties as to the relevance or reliability of that secondary information. Based upon the above, for these preliminary results, the Department finds that the rate derived from the Petition and assigned to the PRC-wide entity in the *LTFV Investigation Final* is corroborated to the extent practicable for purposes of assigning the PRC-wide entity the same 95.99 percent rate as AFA in this administrative review.

**Date of Sale**

Section 351.401(i) of the Department's regulations states that, ''in identifying the date of sale of the merchandise under consideration 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 normal course of business.'' In *Allied Tube,* the 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.' ''[61] Additionally, 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.[62] 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.[63]

NKS reported that the date of sale was determined by the invoice issued by the affiliated importer to the unaffiliated United States customer. In this case, as the Department found no evidence contrary to NKS's claims that invoice date was the appropriate date of sale, the Department used invoice date as the date of sale for these preliminary results.

As it did in the *LTFV Investigation,* Wireking reported its U.S. sales for this review as constructed export price (''CEP'') sales because the sales are not made until after importation to the United States. Wireking reported that, while it issues a commercial invoice to the U.S. customer for the quantities of subject merchandise that it shipped, the quantity of each sale is not fixed when it issues the commercial invoice to the U.S. customer.[64] According to Wireking, the U.S. customer does not agree to purchase the final quantity for each of Wireking's reported sales until the U.S. customer issues document X[65] to Wireking, upon which payment and the total value of each sale is based.[66] Additionally, Wireking has reported that it records the date of document X in its accounting records, as well as the payment received pursuant to the sale.[67] Accordingly, based on the record evidence, the Department preliminarily determines that Wireking's date of sale is the date on which document X is issued because all the material terms of sale, *i.e.,* final quantity, value, and payment, are not fixed until the U.S. customer issues document X to Wireking. Therefore, the Department will calculate Wireking's price for its U.S. sales using the date of document X as the date of sale.

**Use of Facts Available for Wireking's Unit Weights**

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. Section 776(a)(2) of the Act also provides that the Department shall apply ''facts otherwise available'' if, *inter alia,* an interested party or any other person (A) Withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

In this review, as in the *LTFV Investigation,* Wireking reported that it does not maintain the records to trace the consumption of inputs or materials to the finished products (*i.e.* on a product-specific basis).[68] In the *LTFV Investigation,* the Department applied total AFA to Wireking for the final determination because it found production records at verification that Wireking had failed to submit, in spite of repeated requests from the Department that Wireking provide any documents that could be used to calculated product-specific usage ratios. The Department noted that:

> The Department afforded Wireking numerous opportunities to provide complete and accurate information for the calculation of its antidumping margin. This information is critical because it affects the Department's ability to ascertain whether Wireking has accurately reported its FOPs {factors of production}. Specifically, because Wireking failed to provide the BOMs {bills of materials} and actual production notes in timely manner prior to verification, the Department did not have the opportunity to fully investigate whether Wireking could have reported its FOPs on a more specific basis, nor did the Department have the opportunity to obtain and analyze this data.[69]

In this review, Wireking has used the standard weight of the consumption of steel wire for each finished product from its standard production notes (also referred to as the bill of materials), as the basis for its calculated unit consumption of FOPs for subject merchandise.[70] Specifically, Wireking reported that for this review it reported its factors of production (''FOPs'') by calculating, at each stage of production, the ratio of the finished standard weight of each product code to the finished standard weight of all products, subject and non-subject, generated at that stage. Wireking then applied that ratio to the total actual POR usage of each FOP to obtain a standard consumption of each FOP on a product-specific basis.

In multiple submissions to the Department, Petitioners provided data gathered from Wireking's submitted packing lists and Petitioners' own production experience of certain products that allegedly demonstrated that Wireking's reported unit weights

[60] *See id.*

[61] *See Allied Tube & Conduit Corp.* v. *United States* 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)) (''*Allied Tube*'').

[62] *See* 19 CFR 351.401(i); *see also Allied Tube,* 132 F. Supp. 2d at 1090–1092.

[63] *See Carbon and Alloy Steel Wire Rod from Trinidad and Tobago: Final Results of Antidumping Duty Administrative Review,* 72 FR 62824 (November 7, 2007) and accompanying Issue and Decision Memorandum at Comment 1; *Notice of Final Determination of Sales at Less Than Fair Value; Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products from Turkey,* 65 FR 15123 (March 21, 2000) and accompanying Issues and Decision Memorandum at Issue 2.

[64] *See* Wireking's Section A Response, dated February 23, 2011, at 13.

[65] The description of this document is business proprietary; for further discussion of this document, *see, e.g.,* Wireking's Supplemental Section A Response, dated February 23, 2011, at 14, and Wireking's Supplemental Section A & C Response, dated April 27, 2011, at 2.

[66] *See* Wireking's Supplemental Questionnaire Response, dated May 26, 2011, at 7.

[67] *See* Wireking's Supplemental Section A Response, dated (March 17, 2011), at 7.

[68] *See* Wireking's Section D Response, dated March 21, 2011, at 5.

[69] *See LTFV Investigation Final* and accompanying Issues and Decision Memorandum at Comment 16.

[70] *See* Wireking's Section D Response, dated March 21, 2011, at 11.

were understated.[71] After comparing the unit weight of products reported in Wireking's packing lists to Wireking's reported unit weights, we preliminarily find that Wireking has understated the unit weights of its finished products.[72] Furthermore, we note that Wireking has stated that the weights on its packing lists are higher than its reported standard weights because it intentionally overstates the weights on the packing list to ensure that the packing list weight will not be lower than the actual weight when the container is checked by CBP. However, we find that overstating the weight on the packing lists to the extent done by Wireking would subject Wireking to unnecessary, additional shipping costs, and does not reflect a reasonable business decision. For a detailed discussion of the specific weight variations between documents, please *see* Wireking's Analysis Memo and Wireking's Supplemental Questionnaire Response, dated July 20, 2011, at Exhibit S4–3. Additionally, the Department notes that Petitioners have argued that weights quoted by Wireking in e-mail correspondence with its U.S. customer would serve as a more appropriate benchmark to determine to what extent Wireking has understated the unit weights of its finished product. However, the Department finds that the packing lists, which are prepared by Wireking for use by an outside third party, are more reliable than the informal and internal business emails between Wireking and its customer.

Because Wireking reported that it multiplied its FOP ratios by the unit weight of the finished product to obtain the per-unit consumption ratio of finished product, we further find that Wireking has understated its FOP ratios. Therefore, pursuant to section 776(a)(2)(B) of the Act, we preliminarily determine that Wireking has not provided accurate information relevant to the Department's analysis. Thus, consistent with sections 776(a)(2)(B) and 782(d) of the Act, and consistent with the Department's determination in the *LTFV Investigation Final,* the Department is disregarding the standard weights reported by Wireking for each finished product and is applying facts otherwise available to Wireking's unit weight of each finished product to calculate Wireking's NV based on its reported FOP data. To account for the correct per-unit consumption ratio of each of Wireking's finished products, the Department has preliminarily determined to increase Wireking's reported FOP data by the difference in Wireking's reported unit weight and the product-specific unit weight reported in Wireking's packing list. Moreover, the Department has made the necessary corresponding changes to the variables reported in the U.S. sales database.[73]

**Wireking's Production Records**

As explained above in the ''Use of Facts Available for Wireking's Unit Weights'' section, for these preliminary results, the Department is accepting Wireking's reported standard allocation methodology and applying FA to its reported unit weights. However, the Department now advises Wireking that it must, going forward and in all future segements of this proceeding, generate and maintain detailed production records sufficient to allow Wireking to report its FOP usage on an actual, CONNUM-specific basis.

**NKS's Reported U.S. Sales Variable [74]**

In its U.S. Sales database, NKS has reported a variable that it argues should be accounted for in the Department's margin calculation. However, based on information placed on the record by NKS and its U.S. customer, the Department has determined not to include this variable in the margin calculation for these preliminary results. Due to the proprietary nature of the factual information concerning this discussion, a detailed explanation of this issue is provided in a separate business proprietary memorandum.[75]

**NKS's Reported Indirect Selling Expenses**

In the *LTFV Investigation* the Department determined that, in accordance with section 776(a)(1) of the Act, the use of facts available was warranted for the calculation of indirect selling expenses (''ISEs'') for the affiliates of NKS.[76] The Department further stated that it would deduct ISEs for NKS's U.S. affiliate and other affiliated companies from NKS's CEP in accordance with 19 CFR 351.402(b), which states that ''the Secretary will make adjustments for expenses associated with commercial activities in the United States that relate to the sale to the unaffiliated purchaser, no matter where or when paid.'' [77]

In this review, NKS initially submitted an ISE calculation that only included certain expenses for one of its affiliates. The Department requested that NKS revise its reported ISEs to include additional line item expenses and to include expenses for its other affiliates. Subsequently, NKS submitted a revised calculation which included additional expenses as well as certain expenses related to a second affiliate. However, NKS argued that the Department should not include all reported expenses and should instead accept NKS's suggested calculation. We have determined, based on the information on the record of this review, to apply the second, more complete ISE calculation submitted by NKS which includes all additional requested expenses, because there is not sufficient information currently on the record of this review to determine whether NKS's requested line item exclusions are appropriate. Therefore, the Department has requested additional information from NKS regarding each line item expense included in its submitted ISE calculations.[78]

Additionally, NKS declined to submit calculated ISEs for a third affiliate that it claims did not take title to the goods, did not arrange for shipping details, did not warehouse the goods, and did not sell the goods.[79] Although NKS claims that this affiliate is in no way involved in the sale of subject merchandise, the Department finds that the record of this review does not provide sufficient information to definitively determine that this is the case. The Department notes that, while we deducted ISEs for this affiliate in the *LTFV Investigation,* certain circumstances have since changed and the extent of the involvement of this affiliate in the sale of subject merchandise has yet to be

[71] *See* Petitioners' Letter regarding ''Deficiencies in Sections C and D of Wireking's Response,'' dated March 28, 2011; Petitioners' letter regarding ''The True Weight of Finished Products and The Relationship to the True Weight of Direct Material Inputs,'' dated May 9, 2011; Petitioners' Letter regarding ''Petitioners' Commercial Experience For Benchmarking Wireking's Factors of Production,'' dated May 31, 2011; and Petitioners' Letter regarding ''Factual Information Regarding Production Requirements (U.S. Petitioner's Business Proprietary Information),'' dated May 26, 2011.

[72] *See* Memorandum to The File, through Catherine Bertrand, Program Manager, Office 9, from Katie Marksberry, International Trade Specialist, Office 9, regarding ''Analysis Memorandum for the Preliminary Results of the First Antidumping Duty Review of Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Guandong Wireking Housewares and Hardware Co., Ltd. (''Wireking''),'' dated September 30, 2011 (''Wireking Analysis Memo'').

[73] *See* Wireking's Analysis Memo.

[74] *See* Memorandum to the File from Kabir Archuletta, Analyst, Office 9, regarding ''Information Related to New King Shan's Reported Gross Unit Price and Billing Adjustments,'' dated September 30, 2011 (''NKS BPI Memo'').

[75] *See id.*

[76] *See LTFV Investigation Final,* 74 FR at 36659.

[77] *See* 19 CFR 351.402(b).

[78] *See* Letter from Catherine Bertrand, Program Manager, Office 9, to NKS regarding ''Sixth Supplemental Questionnaire.'' dated September 13, 2011 (''Sixth Supplemental Questionnaire'').

[79] *See* NKS August 1 Response at Exhibit SSSC–4.

fully explained on the record of this review.[80]

Therefore, the Department has requested additional information from NKS that specifically addresses the involvement of this affiliate in the sale of subject merchandise and the propriety of excluding certain expenses from the ISE calculations of its other affiliates.[81] Although the late timing of this questionnaire will not allow us to consider the response of NKS in these preliminary results, the information will be reviewed and incorporated into the final results. Therefore, for the preliminary results, we will use the INDIRSU1 ISE calculation provided by NKS pending NKS's response to its outstanding supplemental questionnaire.[82]

**Allegations of NKS's Failure To Disclose Third Country Transshipments**

On June 16, 2011, Petitioners submitted comments requesting that the Department resort to total AFA for NKS based on allegations that it concealed U.S. sales shipped through third countries.[83] These claims were based on price quotes submitted by NKS, a comparison of sales in the *LTFV Investigation* and those reported in this review, and email correspondence between NKS and its U.S. customer.[84] Alternatively, Petitioners requested that the Department solicit further information and pointed to a number of specific issues for further clarification.[85] Between May 2, 2011, and August 1, 2011, the Department requested clarification and received responses from NKS related to the allegations made by Petitioners.[86] However, based on the information reported in these responses, the Department has determined, for these preliminary results, that there is not adequate information on the record of this review to determine that NKS has failed to report U.S. sales to the Department. Therefore, we are not requiring NKS to revise its Section C questionnaire responses or databases to include sales of merchandise from third countries for these preliminary results. Additionally, the Department has obtained CBP data related to Petitioners' allegations and is placing the data on the record of this review and requesting comments from interested parties related to this issue within ten days of publication of this notice, rebuttal comments pertaining to the CBP data will be due five days after affirmative comments.[87]

**Surrogate Country and Surrogate Values**

When the Department investigates imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's FOPs, 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 FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market economy countries that are at a level of economic development comparable to that of the NME country and significant producers of comparable merchandise.

On January 3, 2011, the Department sent interested parties a letter requesting comments on the surrogate country and information pertaining to the valuation of FOPs.[88] On April 18, 2011, the Department received comments from Wireking regarding the valuation of FOPs. On August 1, 2011, the Department received comments from Petitioners regarding the valuation of FOPs. Wireking submitted rebuttal surrogate value comments on August 11, 2011. We did not receive surrogate value comments from any other interested parties.

As discussed in the *NME Country Status* section, above, the Department considers the PRC to be an NME country. The Department determined that India, Indonesia, the Philippines, Thailand, Ukraine and Peru are countries comparable to the PRC in terms of economic development.[89] Moreover, it is the Department's practice to select an appropriate surrogate country based on the availability and reliability of data from these countries.[90] The Department finds India to be a reliable source for surrogate values because India is at a comparable level of economic development pursuant to 773(c)(4) of the Act, is a significant producer of comparable merchandise, and has publicly available and reliable data.[91] Furthermore, the Department notes that India has been the primary surrogate country in the past segment.[92] As noted above, Wireking and Petitioners submitted surrogate value data for FOPs, including that from India. Given the above facts, the Department has selected India as the primary surrogate country for this review.[93] The sources of the surrogate factor values are discussed under the *Normal Value* section below and in the Surrogate Value Memo.

**U.S. Price**

*Constructed Export Price*

Both Wireking and NKS reported that all of their POR sales were constructed export price (''CEP'') in accordance with section 772(b) of the Act. For these sales, we based CEP on prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for foreign movement expenses, international movement expenses, U.S. movement expenses, and appropriate selling expenses, in accordance with section 772(c)(2)(A) of the Act. Additionally, in accordance with section 772(c)(1)(C) of the Act, we adjusted CEP where appropriate to account for countervailing duties attributable to subject merchandise in order to offset export subsidies preliminarily found in the concurrent administrative review of the countervailing duty order on certain kitchen appliance shelving and racks from the PRC.

[80] *See* NKS August 1 Response at 18; NKS Supplemental Section C Questionnaire Response, dated May 27, 2011 (''NKS SSCQR''), at 25; and NKS Fourth Supplemental Questionnaire and First Addendum Response, dated August 30, 2011 (''NKS August 30 Response''), at 1–4.

[81] *See* Letter from Catherine Bertrand, Program Manager, Office 9, to NKS regarding ''Sixth Supplemental Questionnaire.'' dated September 13, 2011.

[82] *See* Memorandum to the File from Kabir Archuletta, Case Analyst, Office 9, through Catherine Bertrand, Program Manager, Office 9, regarding ''Analysis Memorandum for the Preliminary Results of the First Antidumping Duty Administrative Review of Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: New King Shan (Zhu Hai) Co., Ltd.'', dated September 30, 2011 (''NKS Analysis Memo'').

[83] *See* Petitioners' June 16 Comments at 2–5; *see also* Petitioners' April 15 Comments at 2–5.

[84] *See id.*

[85] *See id.*

[86] *See* NKS SSCQR, NKS SSDQR, and NKS August 1 Response.

[87] *See* Memorandum to The File, from Katie Marksberry, International Trade Specialist, Office 9; regarding ''Release of CBP Data for Comment,'' dated September 30, 2011.

[88] *See* Letter to Interested Parties from Catherine Bertrand, Program Manager, Office 9, regarding ''First Administrative Review of Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Deadlines for Surrogate Country and Surrogate Value Comments,'' dated January 3, 2011.

[89] *See* Letter from the Department to Interested Parties, regarding ''First Administrative Review of Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Deadlines for Surrogate Country and Surrogate Value Comments,'' dated January 3, 2011.

[90] *See* Department Policy Bulletin No. 04.1: Non-Market Economy Surrogate Country Selection Process, dated March 1, 2004.

[91] *See* Memorandum to the File through Catherine Bertrand, Program Manager, Office 9, from Katie Marksberry, Case Analyst, Office 9, regarding ''First Administrative Review of Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Surrogate Factor Valuations for the Preliminary Results,'' dated concurrently with this notice (''Surrogate Value Memo'').

[92] *See LTFV Investigation Final,* 74 FR at 36659.

[93] *See* Surrogate Value Memo.

In accordance with section 772(d)(1) of the Act, we also deducted those selling expenses associated with economic activities occurring in the United States where appropriate. We deducted, where appropriate, commissions, inventory carrying costs, credit expenses, and indirect selling expenses. Where foreign movement expenses, international movement expenses, or U.S. movement expenses were provided by Chinese service providers or paid for in Chinese renminbi, we valued these services using surrogate values.[94] For those expenses that were provided by a market-economy provider and paid for in market-economy currency, we used the reported expense.[95] Due to the proprietary nature of certain adjustments to U.S. price, for a detailed description of all adjustments made to U.S. price for Wireking and NKS, *see* company specific analysis memos.

**Normal Value**

*Methodology*

Section 773(c)(1)(B) of the Act provides that the Department shall determine the NV using an 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 FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies.[96]

**Factor Valuations**

In accordance with section 773(c) of the Act, we calculated NV based on FOP data reported by the respondents for the POR. Because we had two effective PORs for this review, we used FOP data specific to the separate PORs, where possible. For more details, *see* Surrogate Value Memo. To calculate NV, we multiplied the reported per-unit factor-consumption rates by publicly available surrogate values (except as discussed below).

In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. We added to each Indian import surrogate value a surrogate freight cost calculated from the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory, where appropriate. *See Sigma Corp.* v. *United States,* 117 F.3d 1401, 1407–1408 (Fed. Cir. 1997). Where we could not obtain publicly available information contemporaneous to the POR with which to value FOPs, we adjusted the surrogate values, where appropriate, using the Indian Wholesale Price Index (''WPI'') as published in the International Monetary Fund's *International Financial Statistics. See* Surrogate Value Memo.

The Department used Indian import statistics from Global Trade Atlas to value the raw material and packing material inputs that Wireking and NKS used to produce subject merchandise during the POR, except where listed below.

To value low carbon steel wire rod, we used price data from the Indian Join Plant Committee (''JPC''), which is a joint industry/government board that monitors Indian steel prices. These data are fully contemporaneous with the POR, and are specific to the reported inputs of the respondents. Further, in accordance with 19 CFR 351.408(c)(1), these data are publicly available, represent a broad market average, and we are able to calculate them on a tax-exclusive basis. For a detailed discussion of all surrogate values used for these preliminary results, *see* Surrogate Value Memo.

The Department valued electricity using the updated electricity price data for small, medium, and large industries, as published by the Central Electricity Authority, an administrative body of the Government of India, in its publication titled *Electricity Tariff & Duty and Average Rates of Electricity Supply in India,* dated March 2008. These electricity rates represent actual country-wide, publicly-available information on tax-exclusive electricity rates charged to small, medium, and large industries in India. We did not inflate this value because utility rates represent current rates, as indicated by the effective dates listed for each of the rates provided.

The Department valued water using data from the Maharashtra Industrial Development Corporation (''MIDC'') as it includes a wide range of industrial water tariffs. To value water, we used the average rate for industrial use from MIDC water rates at *http://www.midcindia.org.*

The Department valued truck freight expenses using a per-unit average rate calculated from data on the Infobanc *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 POR, the Department deflated the rate using WPI.

To value factory overhead, selling, general, and administrative (''SG&A'') expenses, and profit, the Department used the audited financial statements of Bansidhar Granites and Mekins Agro Products (''Mekins''). Although the Department notes that Wireking has argued that Mekins financial statement includes a packing credit which indicates that it receives countervailable subsidies, there is not enough information on the record to determine whether the packing credit has been found to be a countervailable subsidy by the Department.[97] Therefore, for these preliminary results, we are using both the financial statement of Mekins and Bansidhar Granites to value overhead, SG&A, and profit.

Previously, the Department used regression-based wages that captured the worldwide relationship between per capita Gross National Income (''GNI'') and hourly manufacturing wages, pursuant to 19 CFR 351.408(c)(3), to value the respondent's cost of labor. However, on May 14, 2010, the Court of Appeals for the Federal Circuit (''CAFC''), in *Dorbest Ltd.* v. *United States,* 604 F.3d 1363, 1372 (Fed. Cir. 2010) (''*Dorbest*''), invalidated 19 CFR 351.408(c)(3). As a consequence of the CAFC's ruling in *Dorbest,* the Department no longer relies on the regression-based wage rate methodology described in its regulations.

On June 21, 2011, the Department revised its methodology for valuing the labor input in NME antidumping proceedings.[98] In *Labor Methodologies,* the Department determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country. Additionally, the Department determined that the best data source for industry-specific labor rates is Chapter 6A: Labor Cost in Manufacturing, from

[94] *See* Surrogate Value Memo for details regarding the surrogate values for movement expenses.

[95] *See* NKS Analysis Memo.

[96] *See, e.g., Preliminary Determination of Sales at Less Than Fair Value, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products From the People's Republic of China,* 71 FR 19695, 19703 (April 17, 2006), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China,* 71 FR 53079 (September 8, 2006).

[97] *See* Surrogate Value Memo.

[98] *See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor,* 76 FR 36092 (June 21, 2011) (''*Labor Methodologies*'').

the International Labor Organization (ILO) Yearbook of Labor Statistics (''Yearbook'').

In these preliminary results, the Department calculated the labor input using the wage method described in *Labor Methodologies.* To value the respondent's labor input, the Department relied on data reported by India to the ILO in Chapter 6A of the Yearbook. The Department further finds the two-digit description under ISIC–Revision 3 (''Manufacture of Fabricated Metal Products, Except Machinery and Equipment'') to be the best available information on the record because it is specific to the industry being examined, and is therefore derived from industries that produce comparable merchandise. Accordingly, relying on Chapter 6A of the Yearbook, the Department calculated the labor input using labor data reported by India to the ILO under Sub-Classification 28 of the ISIC-Revision 3 standard, in accordance with section 773(c)(4) of the Act. For these preliminary results, the calculated industry-specific wage rate is $1.22. A more detailed description of the wage rate calculation methodology is provided in the Surrogate Value Memo.

As stated above, the Department used India ILO data reported under Chapter 6A of Yearbook, which reflects all costs related to labor, including wages, benefits, housing, training, *etc.* Because the financial statements used to calculate the surrogate financial ratios include itemized detail of labor costs, the Department made adjustments to certain labor costs in the surrogate financial ratios. *See Labor Methodologies,* 76 FR at 36093.

We valued brokerage and handling using a price list of export procedures necessary to export a standardized cargo of goods in India. The price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by ocean transport in India that is published in *Doing Business 2010: India,* published by the World Bank.

Where appropriate, 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.

**Export Subsidy Adjustment**

Section 772(c)(1)(C) of the Act unconditionally states that U.S. price ''shall be increased by the amount of any countervailing duty imposed on the subject merchandise * * * to offset an export subsidy.'' [99] The Department determined in its preliminary results of the companion countervailing duty administrative review that NKS and Wireking's merchandise benefited from export subsidies.[100] Therefore, we have increased each company's U.S. price for countervailing duties imposed attributable to export subsidies, where appropriate.[101]

**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.

**Preliminary Results of the Review**

The Department has determined that the following preliminary dumping margins exist for the period March 5, 2009 through August 31, 2010:

| Exporter | Margin (percent) |
|---|---|
| Guangdong Wireking Housewares & Hardware Co., Ltd. (a/k/a Foshan Shunde Wireking Housewares & Hardware Co., Ltd.) [102] | 5.18. |
| New King Shan (Zhu Hai) Co., Ltd.[103] | 0.00 (zero). |
| Hangzhou Dunli Import & Export Co., Ltd. | 5.18. |
| PRC-Wide Entity [104] ..... | 95.99. |

As stated above in the *Rate for Non-Selected Companies* section of this notice, Dunli qualified for a separate rate in this review. Moreover, as stated above in the *Respondent Selection* section of this notice, we limited this review by selecting the largest exporter and did not select Dunli as a mandatory respondent. Therefore, we have preliminarily assigned to Dunli a dumping margin based on its most recently assigned rate in the *LTFV Investigation* because the mandatory respondents in this review received *de minimis* rates and it is not the Department's practice to assign separate rates based on rates that are *de minimis* or zero, or based entirely on facts available.

The Department will disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

In accordance with 19 CFR 351.301(c)(3)(ii), for the final results of this administrative review, interested parties may submit publicly available information to value FOPs within 20 days after the date of publication of these preliminary results. Interested parties must provide the Department with supporting documentation for the publicly available information to value each FOP. Additionally, in accordance with 19 CFR 351.301(c)(1), for the final results of this administrative review, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information recently placed on the record. The Department generally cannot accept the submission of additional, previously absent-from-the-record alternative surrogate value information pursuant to 19 CFR 351.301(c)(1).[105]

Because, as discussed above, the Department intends to verify the information upon which we will rely in making our final determination, the Department will establish the briefing schedule at a later time, and will notify parties of the schedule in accordance with 19 CFR 351.309. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. *See* 19 CFR 351.309(c) and (d).

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is

[99] *See, e.g., Carbazole Violet Pigment 23 from India: Final Results of Antidumping Duty Administrative Review,* 75 FR 38076, 38077 (July 1, 2010), and accompanying Issues and Decision Memorandum at Comment 1.

[100] *See Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Preliminary Results of the Countervailing Duty Administrative Review,* dated concurrently with this notice.

[101] *See* NKS Analysis Memo; *see also* Wireking Analysis Memo.

[102] In the *LTFV Investigation* the Department found that Wireking was a single entity with Company G (the name of this company is business proprietary; *see* Wireking Analysis Memo). The information placed on the record of this review demonstrates that there have not been changes to the ownership structure. Therefore, we continue to find Wireking and Company G to constitute a single entity.

[103] New King Shan (Zhu Hai) Co., Ltd., is the only entity receiving this rate calculated in this administrative review.

[104] The PRC-wide entity includes Jiangsu Weixi Group Co., Asia Pacific CIS (Wuxi) Co., Ltd., and Leader Metal Industry Co., Ltd. (aka Marmon Retail Services Asia), as well as any company that does not have a separate rate.

[105] *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.

requested, must submit a written request to the Assistant Secretary for Import Administration, Room 1117, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs.

**Extension of the Time Limits for the Final Results**

Section 751(a)(3)(A) of the Act requires that the Department issue the final results of an administrative review within 120 days after the date on which the preliminary results are published. If it is not practicable to complete the review within that time period, section 751(a)(3)(A) of the Act allows the Department to extend the deadline for the final results to a maximum of 180 days after the date on which the preliminary results are published.

In this proceeding, the Department requires additional time to complete the final results of this administrative review to issue additional supplemental questionnaires, conduct verifications, generate the reports of the verification findings, and properly consider the issues raised in case briefs from interested parties. Thus, it is not practicable to complete this administrative review within the original time limit. Consequently, the Department is extending the time limit for completion of the final results of this review by 60 days, in accordance with section 751(a)(3)(A) of the Act. The final results are now due no later 180 days after the publication date of these preliminary results.

**Assessment Rates**

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review excluding any reported sales that entered during the gap period. In accordance with 19 CFR 351.212(b)(1), we are calculating importer- (or customer-) specific assessment rates for the merchandise subject to this review. Where the respondent has reported reliable entered values, we calculate importer- (or customer-) specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer). Where an importer- (or customer-) specific *ad valorem* rate is greater than *de minimis,* we will apply the assessment rate to the entered value of the importers'/customers' entries during the POR, pursuant to 19 CFR 351.212(b)(1).

Where we do not have entered values for all U.S. sales to a particular importer/customer, we calculate a per-unit assessment rate by aggregating the antidumping duties due for all U.S. sales to that importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer).[106] To determine whether the duty assessment rates are *de minimis,* in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer- (or customer-) specific *ad valorem* ratios based on the estimated entered value. Where an importer- (or customer-) specific *ad valorem* rate is zero or *de minimis,* we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[107] For the company receiving a separate rate that were not selected for individual review, we will assign an assessment rate based on rates calculated in previous segment as discussed above.

**Cash Deposit Requirements**

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be the rate established in the final results of this review (except, if the rate is zero or *de minimis, i.e.,* less than 0.5 percent, a zero cash deposit rate will be required for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 95.99 percent;[108] and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter(s) that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

**Notification to Importers**

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These preliminary results are issued and published in accordance with sections 751(a)(1), 751(a)(2)(B) and 777(i)(1) of the Act, 19 CFR 351.221(b)(4), and 19 CFR 351.214.

Dated: September 30, 2011.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 2011–26205 Filed 10–7–11; 8:45 am]

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[106] *See* 19 CFR 351.212(b)(1).

[107] *See* 19 CFR 351.106(c)(2).

[108] *See Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China,* 70 FR 24502, 24505 (May 10, 2005) (explaining the derivation of the PRC-wide rate.

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–898]**

### Chlorinated Isocyanurates From the People's Republic of China: Notice of Court Decision Not in Harmony With the Final Results of Administrative Review and Notice of Amended Final Results of Administrative Review Pursuant to Court Decision

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

**DATES:** *Effective Date:* September 23, 2011.

**SUMMARY:** On September 13, 2011, the United States Court of International Trade (''Court'' or ''CIT'') sustained the Department of Commerce's (''Department'') final results of redetermination pursuant to the Court's remand.[1] Consistent with the decision of the United States Court of Appeals for the Federal Circuit (''CAFC'') in *Timken Co. v. United States,* 893 F.2d 337 (Fed.

[1] *See Arch Chemicals, Inc. and Hebei Jiheng Chemicals, Co., Ltd. v. United States and Clearon Corporation and Occidental Chemical Corporation,* Court No. 08–00040: *Final Results of Redetermination Pursuant To Remand,* dated July 15, 2011 (''*Arch Chemicals III*'').