DOC case No.	ITC case No.	Country	Product
A–588–839	731–TA–740	Japan	Sodium Azide

Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the *Sunset Regulations* (19 CFR 351.218) and *Sunset Policy Bulletin*, the Department's schedule of sunset reviews, case history information (*i.e.*, previous margins, duty absorption determinations, scope language, import volumes), and service lists, available to the public on the Department's sunset Internet website at the following address: *''http://ia.ita.doc.gov/sunset/''*.

All submissions in this sunset review must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303. Also, we suggest that parties check the Department's sunset website for any updates to the service list before filing any submissions. The Department will make additions to and/or deletions from the service list provided on the sunset website based on notifications from parties and participation in this review. Specifically, the Department will delete from the service list all parties that do not submit a substantive response to the notice of initiation.

Because deadlines in a sunset review are, in many instances, very short, we urge interested parties to apply for access to proprietary information under administrative protective order (''APO'') immediately following publication in the **Federal Register** of the notice of initiation of the sunset review. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required From Interested Parties

Domestic interested parties (defined in 19 CFR 351.102) wishing to participate in this sunset review must respond not later than 15 days after the date of publication in the **Federal Register** of the notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review.

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in the sunset review must file substantive responses not later than 30 days after the date of publication in the **Federal Register** of the notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for foreign and domestic parties. Also, note that the Department's information requirements are distinct from the International Trade Commission's information requirements. Please consult the Department's regulations for information regarding the Department's conduct of sunset reviews.[1] Please consult the Department's regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: November 27, 2001.

Richard W. Moreland,

Acting Assistant Secretary, for Import Administration.

[FR Doc. 01–29893 Filed 11–30–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–868]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Folding Metal Tables and Chairs From the People's Republic of China

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

EFFECTIVE DATE: December 3, 2001.

FOR FURTHER INFORMATION CONTACT: Helen Kramer or John Drury, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0405, and (202) 482–0195, respectively.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2000).

Preliminary Determination

We preliminarily determine that folding metal tables and chairs (''FMTC'') from the People's Republic of China (''PRC'') are being, or are likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

This investigation was initiated on May 17, 2001. See Initiation of Antidumping Duty Investigation: Folding Metal Tables and Chairs from the People's Republic of China, 66 FR 28728, May 24, 2001 (''Notice of Initiation''). The Department set aside a period for all interested parties to raise issues regarding product coverage. See Notice of Initiation at 28730. We received comments regarding product coverage as follows:

(1) Cosco, Inc. (an importer of the merchandise under investigation) suggested on June 6, 2001, that folding tables and folding chairs should be considered as primarily of metal only if at least two structural components consist entirely of metal;

(2) Meco Corporation (the petitioner) responded on June 18, 2001, that Cosco's suggested clarification was an impermissible attempt to change the intended scope of the investigation to exempt merchandise that the petition expressly covers, and to permit future

[1] A number of parties commented that these interim-final regulations provided insufficient time for rebuttals to substantive responses to a notice of initiation, 19 CFR 351.218(d)(4)). As provided in 19 CFR 351.302(b), the Department will consider individual requests for extension of that five-day deadline based upon a showing of good cause.

circumvention of antidumping duty order through minor alterations; and

(3) On October 5, 2001, National Public Seating Corp. (''NPSC''), an importer, asked that certain double-hinged chairs be excluded from the scope. On October 26, 2001, Meco responded that the petition expressly covers the type of chair NPSC sought to exclude.

On June 11, 2001, the United States International Trade Commission (''ITC'') issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of the subject merchandise from the PRC, which was published in the **Federal Register** on June 15, 2001. See Certain Folding Metal Tables and Chairs From China, 66 FR 32644.

On June 21, 2001, the Department issued a questionnaire requesting volume and value of U.S. sales information to the Embassy of the PRC and to the Ministry of Foreign Trade and Economic Development, and sent courtesy copies to the following known producers/exporters of subject merchandise identified in the petition: Dongguan Shichang Metals Factory Co., Ltd., Xiamen New-Tec Jcc Co., Ltd., Samwise Hardware Products Factory, Office Max, Inc., Fujian Anxi Yinfa Handicrafts Co., Ltd., Shin Crest (Div. Taiwan Shin Yeh Enterprise Co.), Shian International Co., Tian Jian Industries (Group) Co. Ltd., China National Aero-Technology Import & Export Corp., Numark Industries Co., Ltd., Sun Son Trading Co. (Agent of Supper Chair Enterprise Co., Ltd.), Fujian Province Materials General Co., Xiaguang Industry Co., Ltd., China North Industries Guangzhou, Ningbo United Group Co., Ltd., China Precision Machinery, Xiamen Xiangjiang Imp. and Exp. Corp., Wuxi East Grace Garments Imp. Exp. Corp., Mitex International (H K) Ltd., and Nanhai Hongda Metal Products Co., Ltd. Additionally, we notified the PRC Government that it was responsible for ensuring that volume and value information for those companies and for all other companies not identified in our list be provided to the Department.

A timely response to the Department's questionnaire seeking volume and value of U.S. sales information was received on July 9, 2001, from Dongguan Shichang Metals Factory Co. Ltd. (''Dongguan''). Because Feili Furniture Development Co., Ltd. and Feili (Fujian) Co., Ltd. (''Feili Group''), New-Tec Integration Co., Ltd. (''New-Tec'') and Shin Crest Pte. Ltd. (''Shin Crest'') did not file public versions of their original submissions in proper form on July 6 and 9, 2001, respectively, we rejected these submissions, but indicated they would be accepted if refiled in proper form. They were refiled in proper form on July 13, 2001, by Shin Crest and on July 16, 2001, by Feili Group and New-Tec. On August 3, 2001, the Department issued the respondent selection memorandum, selecting Feili Group and Shin Crest to be investigated (see Selection of Respondents section below). Additional responses were received on August 9, 2001, from Himark Industry Corp. Ltd. and on September 13, 2001, from Supper Chair Enterprise Co., Ltd., which were rejected by the Department as untimely.

On July 12, 2001, Meco proposed product characteristics. On August 6, 2001, the Department issued its antidumping questionnaire to Feili Group and Shin Crest and a letter to interested parties providing an opportunity to comment on the Department's proposed product characteristics. Comments were submitted on August 13, 2001 by Cosco proposing additional characteristics, which were not accepted by the Department.

On August 7, 2001, the Department received requests from Dongguan and New-Tec to be treated as voluntary respondents in this investigation. Dongguan also requested that if it were not selected as a voluntary respondent that it be allowed to answer section A of the questionnaire and be granted a rate equal to the average of the mandatory respondents' rates.

The Department received section A responses from Feili Group and New-Tec on August 27, 2001, and from Dongguan and Shin Crest on September 4, 2001. On September 7, 2001, petitioners submitted comments regarding respondents' section A responses. On September 12, 2001, the Department received a section C and D questionnaire response from Dongguan. On September 13, 2001, the Department issued section A supplemental questionnaires to Feili Group and Shin Crest and received sections C and D questionnaire responses from Feili Group, New-Tec and Shin Crest. The Department received responses from Feili Group and Shin Crest to its section A supplementals on September 27, 2001. On September 24, 2001, petitioners submitted comments on respondents' section C and D responses. On September 25 and 27, 2001, the Department issued sections C and D supplemental questionnaires to Shin Crest and Feili Group, respectively, and received responses on October 10 and 12, 2001.

On August 29, 2001, the Department issued a request for parties to submit comments on surrogate market-economy country selection, and publicly available information for valuing the factors of production. The petitioner and Feili Group submitted comments in response to these requests on September 28, 2001. On October 1, 2001, Shin Crest submitted surrogate value data to the Department. On October 9, 2001, and subsequent dates petitioner, Feili Group and Shin Crest provided additional information and comments on surrogate country selection and surrogate value data. The petitioner proposed to use Indonesia as the surrogate country, although Indian data were used in the petition. The respondents proposed to use India. See Surrogate Country section below.

On October 4, 2001, petitioner alleged that Feili Group and Shin Crest purchased cold-rolled steel inputs from market-economy suppliers at prices that were below the producers' cost of production, or subsidized, or both. On October 15, 2001, Shin Crest commented that the Department's regulations and practice require the use of actual prices paid to market-economy suppliers in NME investigations. Feili Group commented on the same date that petitioner's argument regarding subsidized Korean steel prices is based on a case that was terminated by the ITC. On November 6, 2001, petitioner responded that the Department has the authority to disregard the price that an NME producer pays for an input purchased from a market-economy supplier if it has reason to believe or suspect that the input has been dumped or subsidized.

In response to a request by petitioners for a thirty-day postponement of the preliminary determination, the Department postponed the deadline for the preliminary determination to November 5, 2001, pursuant to section 733(c)(1)(A) of the Act. See Notice of Postponement of Preliminary Antidumping Duty Determination: Folding Metal Tables and Chairs from the People's Republic of China, 66 FR 50608 (October 4, 2001). On October 23, 2001, petitioners requested an additional postponement. On November 9, 2001, the Department published a notice extending the deadline to November 23, 2001 (66 FR 56635).

Period of Investigation

The period of investigation (POI) is October 1, 2000 through March 31, 2001. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition

(April 27, 2001). See 19 CFR 351.204(b)(1).

Scope of Investigation

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

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

- Lawn furniture;
- Trays commonly referred to as ''TV trays'';
- Side tables;
- Child-sized tables;
- Portable counter sets consisting of rectangular tables 36″ high and matching stools; and
- Banquet tables. A banquet table is a rectangular table with a plastic or laminated wood table top approximately 28″ to 36″ wide by 48″ to 96″ long and with a set of folding legs at each end of the table. One set of legs is composed of two individual legs that are affixed together by one or more cross-braces using welds or fastening hardware. In contrast, folding metal tables have legs that mechanically fold independently of one another, and not as a set.

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

- Folding metal chairs with a wooden back or seat, or both;
- Lawn furniture;
- Stools;
- Chairs with arms; and
- Child-sized chairs.

The subject merchandise is currently classifiable under subheadings 9401710010, 9401710030, 9401790045, 9401790050, 9403200010 and 9403200030 of the HTSUS. Although the HTSUS subheadings are provided for convenience and U.S. Customs Service purposes, the Department's written description of the merchandise is dispositive.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. However, section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of exporters/producers, to limit its examination to a reasonable number of such companies if it is not practicable to examine all companies. Where it is not practicable to examine all known producers/exporters of subject merchandise, this provision permits the Department to investigate either: (A) A sample of exporters, producers, or types of products that is statistically valid based on the information available to the Department at the time of selection; or (B) exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined. After consideration of the complexities expected to arise in this proceeding and the resources available to the Department, we determined that it was not practicable in this investigation to examine all known producers/exporters of subject merchandise. Instead, we limited our examination to two producers, based on the relative volumes of their reported U.S. sales during the POI.

The subject merchandise is classified under broad HTSUS headings and cannot be distinguished from non-subject merchandise in official import statistics. Consequently, the Department could not use this information to determine the volume of imports of the subject merchandise. Therefore, to determine the two largest producers/exporters of subject merchandise for the PRC, we relied on the data submitted by the producers/exporters in response to the Department's June 21, 2001, request for information, which was sent to all companies identified in the petition, as well as to the PRC Government and Embassy in Washington. The data submitted by the four producers/exporters that submitted timely responses to the quantity and value questionnaire show that, of these producers/exporters, Feili Group and Shin Crest were the two largest producers/exporters of subject merchandise to the United States during the POI. Feili Group was not identified in the petition, but responded to the Department's request for information. While information submitted by petitioners indicates that these producers/exporters may not constitute the universe of possible producers/exporters of subject merchandise during the POI, because we did not receive any response from the PRC indicating what constitutes the complete universe, we must rely on data submitted by the four producers/exporters for purposes of respondent selection. See Memorandum from Richard O. Weible to Joseph A. Spetrini on Respondent Selection (August 3, 2001).

Non-Market Economy Country Status

The Department has treated the PRC as a non-market economy (''NME'') country in all past antidumping investigations (see, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Bulk Aspirin From the People's Republic of China, 65 FR 33805 (May 25, 2000); Notice of Final Determination of Sales at Less Than Fair Value: Certain Non-Frozen Apple Juice Concentrate from the People's Republic of China, 65 FR 19873 (April 13, 2000) (Apple Juice)). A designation as an NME remains in effect until it is revoked by the Department (see section 771(18)(C) of the Act). No party to this investigation has requested a revocation of the PRC's NME status. We have, therefore, preliminarily determined to continue to treat the PRC as an NME country. When the Department is investigating imports from an NME, section 773(c)(1) of the Act directs us to base the normal value (''NV'') on the NME producer's factors of production, valued in a comparable market economy that is a significant producer of comparable merchandise. The sources of individual factor prices are discussed under the ''Normal Value'' section, below.

Furthermore, no interested party has requested that the folding metal tables and chairs industry in the PRC be treated as a market-oriented industry and no information has been provided that would lead to such a determination. Therefore, we have not treated the folding metal tables and chairs industry

in the PRC as a market-oriented industry in this investigation.

Separate Rates

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to investigation in an NME country this single rate, unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. The two companies that the Department selected to investigate (i.e., Feili Group and Shin Crest) and the PRC companies that were not selected as mandatory respondents by the Department for this investigation, but which have submitted separate rates responses (i.e., New-Tec and Dongguan) have provided the requested separate rates information and have stated that, for each company, there is no element of government ownership or control.

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

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising out of the Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China, 56 FR 20588 (May 6, 1991) (''Sparklers''), as amplified by Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China, 59 FR 22585 (May 2, 1994) (''Silicon Carbide''). In accordance with the separate rates criteria, the Department assigns separate rates in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

1. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. See Sparklers, 56 FR at 20508.

All four PRC companies seeking separate rates reported that the subject merchandise was not subject to any government list regarding export provisions or export licensing, and was not subject to export quotas during the POI. Each company also submitted copies of its respective business license. We found no inconsistencies with the exporters' claims of the absence of restrictive stipulations associated with an individual exporter's business license. Our examination of the record indicates that each exporter submitted copies of the legislation of the PRC or documentation demonstrating the statutory authority for establishing the de jure absence of government control over the companies. Thus, we believe that the evidence on the record supports a preliminary finding of *de jure* absence of governmental control based on: (1) an absence of restrictive stipulations associated with the individual exporter's business license; and (2) the applicable legislative enactments decentralizing control of the companies.

2. Absence of De Facto Control

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a governmental agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. See Silicon Carbide, 59 FR at 22586–87; see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China, 60 FR 22544, 22545 (May 8, 1995). As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. See Silicon Carbide, 56 FR at 22587. Therefore, the Department has determined that an analysis of de facto control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

Regarding whether each exporter sets its own export prices independently of the government and without the approval of a government authority, each exporter reported that it determines its prices for sales of the subject merchandise based on the cost of the merchandise, movement expenses, overhead, profit, and the market situation in the United States. Each exporter stated that it negotiates prices directly with its customers. Also, each exporter claimed that its prices are not subject to review or guidance from any governmental organization. Regarding whether each exporter has authority to negotiate and sign contracts and other agreements, our examination of the record indicates that each exporter reported that it has authority to negotiate and sign contracts and other agreements. Also, each exporter claimed that its negotiations are not subject to review or guidance from any governmental organization. There is no evidence on the record to suggest that there is any governmental involvement in the negotiation of contracts.

Regarding whether each exporter has autonomy in making decisions regarding the selection of management our examination of the record indicates that each exporter reported that it has autonomy in making decisions regarding the selection of management. Also, each exporter claimed that its selection of management is not subject to review or guidance from any governmental organization. There is no evidence on the record to suggest that there is any governmental involvement in the selection of management by the exporters.

Regarding whether each exporter retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses, our examination of the record indicates that each exporter reported that it retains the proceeds of its export sales, using profits according to its business needs. Also, each exporter reported that the allocation of profits is determined by its top management.

There is no evidence on the record to suggest that there is any governmental involvement in the decisions regarding disposition of profits or financing of losses.

Therefore, we determine that the evidence on the record supports a preliminary finding of *de facto* absence of governmental control based on record statements and supporting documentation showing that: (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.

The evidence placed on the record of this investigation by Dongguan, Feili Group, New-Tec and Shin Crest demonstrates an absence of government control, both in law and in fact, 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. Therefore, for the purposes of this preliminary determination, we are granting separate rates to the two mandatory respondents, Feili Group and Shin Crest, and a rate equal to the weighted average of the mandatory respondents' rates (excluding zero or *de minimis* rates and rates based entirely on adverse facts available) to Dongguan and New-Tec, which provided complete questionnaire responses, including supplemental responses. For a full discussion of this issue, see the memorandum from Helen Kramer to Richard Weible, Folding Metal Tables and Chairs from the People's Republic of China: Separate Rates Analysis for the Preliminary Determination, dated November 23, 2001 (''Separate Rates Memorandum'').

Facts Available

Section 776(a) of the Act provides that, if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form or manner requested, significantly impedes a proceeding under the antidumping statute, or provides information which cannot be verified, the Department shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. Pursuant to section 782(e) of the Act, the Department shall not decline to consider submitted information if that information is necessary to the determination but does not meet all of the requirements established by the Department provided that all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting Department requirements; and (5) the information can be used without undue difficulties.

Section 776(a)(2)(B) of the Act requires the Department to use facts available when a party does not provide the Department with information by the established deadline or in the form and manner requested by the Department. In addition, section 776(b) of the Act provides that, if the Department finds that an interested party ''has failed to cooperate by not acting to the best of its ability to comply with a request for information,'' the Department may use information that is adverse to the interests of that party as facts otherwise available.

PRC-Wide Rate

As discussed above (see ''Separate Rates''), all PRC producers/exporters that do not qualify for a separate rate are treated as a single enterprise. As noted above in ''Case History,'' all producers/exporters were given the opportunity to respond to the Department's questionnaire regarding volume and value of U.S. sales. As explained above, we received timely responses from Dongguan, Feili Group, New-Tec, and Shin Crest. Late responses were submitted by Himark Industry Corp. Ltd. and Supper Chair Enterprise Co., Ltd. The Department did not receive responses from the following companies identified in the petition as exporters of the subject merchandise to the United States during the POI: Samwise Hardware Products Factory, Office Max, Inc., Fujian Anxi Yinfa Handicrafts Co., Ltd., Shian International Co., Tian Jian Industries (Group) Co. Ltd., China National Aero-Technology Import & Export Corp., Numark Industries Co., Ltd., Sun Son Trading Co. (Agent of Supper Chair Enterprise Co., Ltd.), Fujian Province Materials General Co., Xiaguang Industry Co., Ltd., China North Industries Guangzhou, Ningbo United Group Co., Ltd., China Precision Machinery, Xiamen Xiangjiang Imp. and Exp. Corp., Wuxi East Grace Garments Imp. Exp. Corp., Mitex International (H K) Ltd., and Nanhai Hongda Metal Products Co., Ltd.

Because these companies did not respond to our June 21, 2001, request for information, we assume that these companies also exported the subject merchandise to the United States during the POI. Consequently, we are applying a single antidumping rate—the PRC-wide rate—to all other exporters in the PRC based on our presumption that those respondents who failed to demonstrate entitlement to a separate rate constitute a single enterprise under common control by the Chinese government. See, e.g., Final Determination of Sales at Less Than Fair Value: Synthetic Indigo from the People's Republic of China, 65 FR 25706, 25707 (May 3, 2000). The PRC-wide rate applies to all entries of subject merchandise except for entries from Dongguan, Feili Group, New-Tec, and Shin Crest.

As set forth above, section 776(b) of the Act provides that, in selecting from among the facts available, the Department may employ adverse inferences against an interested party if that party failed to cooperate by not acting to the best of its ability to comply with requests for information. See also ''Statement of Administrative Action'' accompanying the URAA, H.R. Rep. No. 103–316, 870 (1994) (''SAA''). The Department finds that exporters (i.e., the single PRC entity) who did not respond to our request for information have failed to cooperate to the best of their ability. Therefore, the Department preliminarily finds that, in selecting from among the facts available, an adverse inference is appropriate. See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod From Germany, 63 FR 10847 (March 5, 1998).

Section 776(b) provides that an adverse inference may include reliance on information derived from (1) the petition, (2) the final determination in the investigation segment of the proceeding, (3) a previous review under section 751 of the Act or a determination under section 753 of the Act, or (4) any other information placed on the record. The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse ''as to effectuate the purpose of the facts available role to induce respondents to provide the Department with complete and accurate information in a timely manner.'' See Static Random Access Memory Semiconductors from Taiwan; Final Determination of Sales at Less than Fair

Value, 63 FR 8909, 8932 (February 23, 1998). The Department also considers the extent to which a party may benefit from its own lack of cooperation in selecting a rate. See Roller Chain, Other than Bicycle, from Japan; Notice of Final Results and Partial Recission of Antidumping Duty Administrative Review, 62 FR 60472, 60477 (November 10, 1997). Accordingly, in order to ensure that the rate is sufficiently adverse so as to induce cooperation by the PRC entity, we have preliminarily assigned the highest dumping margin calculated in this segment of the proceeding, which is 134.77 percent, to the PRC entity, based on our presumption that those respondents who failed to demonstrate entitlement to a separate rate constitute a single enterprise under common control by the Chinese government. See, e.g., Final Determination of Sales at Less Than Fair Value: Synthetic Indigo from the People's Republic of China, 65 FR 25706, 25707 (May 3, 2000) (''Synthetic Indigo'').

Because this is a preliminary margin, the Department will consider all margins on the record at the time of the final determination for the purpose of determining the most appropriate final PRC-wide margin. See Notice of Preliminary Determination of Sales at Less Than Fair Value: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation, 65 FR 1139 (January 7, 2000).

Surrogate Country

When the Department is investigating 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 factors of production, 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, the Department, in valuing the factors of production, shall utilize, to the extent possible, the prices or costs of factors of production in one or more market-economy countries that: (A) are at a level of economic development comparable to that of the NME country; and (B) are significant producers of comparable merchandise. The sources of the surrogate factor values are discussed under the NV section below.

The Department has determined that India, Pakistan, Indonesia, Sri Lanka and the Philippines are countries comparable to the PRC in terms of economic development. See Memorandum from Jeffrey May to Richard Weible, ''Antidumping Duty Investigation of Folding Metal Tables and Chairs from the People's Republic of China,'' dated July 31, 2001. Customarily, we select an appropriate surrogate country based on the availability and reliability of data from the countries. For PRC cases, the primary surrogate country has most often been India, if it is a significant producer of comparable merchandise. In this case, we have found that India is a significant producer of comparable merchandise. See Surrogate Country Selection Memorandum to The File from John Drury and Helen M. Kramer, dated November 23, 2001, (''Surrogate Country Memorandum'').

We used India as the primary surrogate country and, accordingly, we have calculated NV using Indian prices to value the PRC producers' factors of production, when available and appropriate. See Surrogate Country Memorandum. We have obtained and relied upon publicly available information wherever possible. See Factor Valuation Memorandum to The File from Case Analysts, dated November 23, 2001 (''Factor Valuation Memorandum'').

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

Fair Value Comparisons

To determine whether sales of folding metal tables and chairs to the United States by Feili Group and Shin Crest were made at less than fair value, we compared export price (''EP'') to normal value (''NV''), as described in the ''Export Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs.

Export Price

In accordance with section 772(a) of the Act, export price is the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c).

In accordance with section 772(a) of the Act, we used EP for Feili Group and Shin Crest because the subject merchandise was sold directly to unaffiliated customers in the United States prior to importation and because CEP was not otherwise indicated. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average EPs to the NVs.

Feili Group

We calculated weighted-average EP for Feili Group's U.S. sales, based on packed prices, F.O.B. port of export, to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. Feili Group reported that it paid a fee to an unaffiliated trucking company in the PRC which included all movement expenses. Therefore, Feili Group reported all movement expenses paid in a single field. The charges in this single field include brokerage and handling, and foreign inland freight. Because transportation for all sales was provided by a NME company, we based movement expenses associated with these sales on surrogate values.

Shin Crest

We calculated EP for Shin Crest based on packed F.O.B. prices to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. These included domestic inland freight and brokerage and handling charges. Shin Crest reported that it used NME carriers for foreign inland freight to certain ports. We based these expenses for these sales on Indian surrogate freight rates and the distances to the respective ports. For other sales we used Shin Crest's reported foreign inland freight expenses paid to market-economy carriers. For all sales we used the reported brokerage and handling charges, which were paid to a market-economy company. See Factor Valuation Memorandum.

Normal Value

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

Factors of production include: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. We used factors of production, reported by respondents, for materials, energy, labor, by-products, and packing.

In accordance with 19 CFR 351.408(c)(1), the Department will

normally use publicly available information to value factors of production. However, the Department's regulations also provide that where a producer sources an input from a market economy and pays for it in market-economy currency, the Department employs the actual price paid for the input to calculate the factors-based NV. Id.; see also *Lasko Metal Products* v. *United States,* 43 F. 3d 1442, 1445–1446 (Fed. Cir. 1994) (''Lasko''). Respondents Feili Group and Shin Crest reported that some of their inputs were sourced from market economies and paid for in a market-economy currency. See Factor Valuation Memorandum, dated November 23, 2001 for a listing of these inputs.

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by respondents for the POI. To calculate NV, the reported per-unit factor quantities were multiplied by publicly available Indian surrogate values (except as noted below). In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to Indian import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp.* v. *United States,* 117 F. 3d 1401 (Fed. Cir. 1997). For a detailed description of all surrogate values used for respondents, see Factor Valuation Memorandum.

Except as noted below, we valued raw material inputs using the weighted-average unit import values for the period April 2000—February 2001 derived from the Monthly Trade Statistics of Foreign Trade of India—Volume II—Imports (February 2001) (''Indian Import Statistics''). We valued electricity using the cost in India per kwh in 1997 reported in U.S. dollars, adjusted for inflation using wholesale price indices published in the International Monetary Fund's International Financial Statistics. We valued water as reported for India in 1997 by the Asian Development Bank, adjusted for inflation. See Factor Valuation Memorandum.

As noted above, respondents Shin Crest and Feili Group sourced certain raw material inputs from market-economy suppliers and paid for them in market-economy currencies. Specifically, Feili Group sourced cold-rolled steel, plastic pellets and polyester fabric from market-economy suppliers. Shin Crest reported that it sourced cold-rolled steel coils, PVC sheets, polyester fabric, polyurethane foam, rivets, screws, polyethylene panels, plywood, plastic caps, plastic bags, cartons and powder paint from market-economy suppliers. For this preliminary determination, the Department has used the market-economy prices for the inputs listed above, in accordance with 19 CFR 351.408(c)(1). We added to the weighted-average price for each input the Indian surrogate value for transporting the input to the factory, where appropriate (i.e., where the sales terms for the market-economy inputs were not delivered to the factory).

For all instances in which respondents reported delivery by truck to calculate domestic inland freight, we used an average of multiple price quotes in September 2000 and April 2001 for transporting materials by truck between Mumbai (Bombay) and various Indian cities, which were reported by The Financial Express of India on its website. We converted the Indian rupee value to U.S. dollars.

As noted above under Case History, the petitioner has urged the Department to reject the prices paid for cold-rolled steel. Section 773(c)(1) of the Act requires the Department to use ''best available information'' to value a NME producer's factors of production. Section 351.408(c)(1) of the Department's regulations describes our method for valuing factors of production, including our preference for using the price paid by a NME producer that imports the input, when the input is purchased from a market-economy supplier and paid for in a market-economy currency. It is not the Department's practice to reject actual prices paid in market-economy currencies to market-economy suppliers, unless they are not at arm's length or if the amount purchased was insignificant. See Helical Spring Lock Washers from the People's Republic of China; Final Results of Antidumping Administrative Review, 65 FR 31143 (May 16, 2000), Issues and Decision Memorandum at Comment 1, where the Department stated:

> We do not believe that substituting a surrogate value for the price a NME producer actually paid to a market economy supplier for an input actually used to produce the merchandise being sold to the United States could meet the best available information standard imposed by the statute.

See also Shakeproof Assembly Components Division of Illinois Tool Works, Inc. v. United States, 2001 U.S. App. LEXIS 22491, Fed. Cir. Slip Op. 00–1521 (October 12, 2001). The Department intends to verify on-site the respondents' reported factor prices.

Respondents identified steel scrap as a by-product which they claimed was sold. The Department has offset the respondents' cost of production by the amount of reported scrap. See Factor Valuation Memorandum for a discussion of the surrogate value used.

For energy, to value electricity, we used 1997 data reported as the average Indian domestic prices within the category ''Electricity for Industry,'' published in the International Energy Agency's publication, Energy Prices and Taxes—Quarterly Statistics (Third Quarter 2000), as adjusted for inflation. We valued water using the Asian Development Bank's Second Water Utilities Data Book: Asian and Pacific Region (1997), adjusted for inflation. We valued LPG and diesel oil using prices as of June 2001 from India Infoline.

For direct, indirect, and packing labor, consistent with section 351.408(c)(3) of the Department's regulations, we used the PRC regression-based wage rate at Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in May 2000 (see *http://ia.ita.doc.gov/wages*). The source of the wage rate data on the Import Administration's Web site is the 1999 Year Book of Labour Statistics, International Labor Office (Geneva: 1999), Chapter 5B: Wages in Manufacturing.

To value factory overhead, selling, general and administrative expenses (''SG&A'') and profit, we used the audited financial statements for the year ended March 31, 2001, from an Indian producer of steel furniture, including the subject merchandise, Godrej & Boyce Manufacturing Company Ltd. (''Godrej''). See Factor Valuation Memorandum for the calculation of these ratios from Godrej's financial statements. The petitioner argued that the Department should use the financial statement of an Indonesian producer of steel furniture (but not the subject merchandise) to calculate the overhead, selling, general and administrative expenses (''SG&A'') and profit ratios. As discussed in the Surrogate Country Memorandum, India is the preferred surrogate country, and Godrej is a producer of comparable merchandise; therefore we used Godrej's financial statements rather than those of an Indonesian surrogate.

Finally, to value material inputs for packing, we used the reported values for purchases from market-economy suppliers. For packing materials

purchased from NME sources, we used Indian Import Statistics data for the period April 1, 2000 through February 2001. See Factor Valuation Memorandum.

Verification

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

Rate for Producers/Exporters That Responded to the Questionnaires

For Dongguan and New-Tec, which were not selected as respondents, but provided separate rates information in section A and also responded to the sections C and D questionnaires, we have calculated a weighted-average margin based on the rates calculated for those producers/exporters that were selected to respond. The rate for these companies is analogous to the Department's calculation of the All Others rate (see section 735(c)5 of the Act). It is equal to an average of all calculated margins other than any zero or de minimis margins, or any margins determined entirely under section 776 of the Act. As Shin Crest's preliminary margin is zero, the rate for Dongguan and New-Tec is equal to Feili's margin.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all imports of subject merchandise, except for merchandise produced and exported by Shin Crest, entered or withdrawn from warehouse for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the U.S. Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average percent margin
Shin Crest Pte. Ltd.	0.00
Feili Furniture Development Co., Ltd. and Feili (Fujian) Co., Ltd.	134.77
Dongguan Shichang Metals Factory Co. Ltd.	134.77
New-Tec Integration Co., Ltd.	134.77
China-Wide	134.77

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination of sales at LTFV. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation, of the subject merchandise.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than fifty days after the date of publication of this notice, and rebuttal briefs, limited to issues raised in case briefs, no later than fifty-five days after the date of publication of this preliminary determination. See 19 CFR 351.309(c)(1)(i); 19 CFR 351.309(d)(1). A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, any hearing will be held fifty-seven days after publication of this notice at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this notice. See 19 CFR 351.310(c). Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief, and may make rebuttal presentations only on arguments included in that party's rebuttal brief. See 19 CFR 351.310(c).

If this investigation proceeds normally, we will make our final determination no later than 75 days after the date of the preliminary determination.

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

Dated: November 23, 2001.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–29814 Filed 11–30–01; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–812]

Antidumping Duty Order: Certain Hot-Rolled Carbon Steel Flat Products From Indonesia

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

EFFECTIVE DATE: December 3, 2001.

FOR FURTHER INFORMATION CONTACT: Mark Manning or Ronald Trentham at (202) 482–3936 and (202) 482–6320, respectively, AD/CVD Enforcement, Group II, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended, (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (2000).

Background

On September 28, 2001, in accordance with sections 735(d) and 777(i)(1) of the Act, the Department published its affirmative final determination in this proceeding. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From Indonesia,* 66 FR 49628.

Scope of Order

For purposes of this order, the products covered are certain hot-rolled carbon steel flat products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with