

will issue instructions directly to U.S. Customs and Border Protection (CBP) to terminate the suspension of liquidation of subject merchandise and release all bonds and any cash deposits that have been posted, where applicable.

#### Notification Regarding Administrative Protective Orders

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination and notice are published in accordance with section 734(a) of the Act and 19 CFR 351.207(b).

Dated: November 21, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E8-28469 Filed 11-28-08; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

A-570-882

#### Refined Brown Aluminum Oxide from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review

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

**SUMMARY:** In response to a request from an interested party, the Department of Commerce (the Department) is conducting the 2006-2007 administrative review of the antidumping duty order on refined brown aluminum oxide (RBAO) from the People's Republic of China (PRC). The review covers one exporter, Qingdao Shunxingli Abrasives Co. Ltd. (Qingdao Shunxingli). The period of review (POR) is November 1, 2006, to October 31, 2007.

We have preliminarily determined that sales have been made at prices below normal value by Qingdao Shunxingli. If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries.

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

**EFFECTIVE DATE:** December 1, 2008.

**FOR FURTHER INFORMATION CONTACT:**

David Goldberger or Kate Johnson, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482-4136 or (202) 482-4929, respectively.

**SUPPLEMENTARY INFORMATION:**

#### Background

On November 1, 2007, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on, inter alia, RBAO from the PRC. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 72 FR 61859 (November 1, 2007). In response, Fujimi Corporation (Fujimi), an importer of the subject merchandise, timely requested an administrative review of the antidumping duty order on RBAO from the PRC for entries of the subject merchandise during the POR from two PRC producers/exporters: Henan Yilong High and New Materials Co., Ltd. (Henan Yilong), and Qingdao Shunxingli.

On December 27, 2007, the Department initiated a review on Henan Yilong and Qingdao Shunxingli. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 72 FR 73315 (December 27, 2007).

The Department issued antidumping duty questionnaires to Henan Yilong and Qingdao Shunxingli on January 7, 2008. We received responses to these questionnaires in March 2008. We issued a supplemental questionnaire to Henan Yilong in April 2008 and received a response later that month. We issued supplemental questionnaires to Qingdao Shunxingli in March, May, and July 2008. We received responses to these supplemental questionnaires in April, May, and July 2008, respectively.

On May 23, 2008, Fujimi withdrew its request for review of Henan Yilong and requested that the Department rescind the review with respect to this company. In accordance with 19 CFR 351.213(d)(1), we granted Fujimi's request and rescinded this administrative review with respect to

Henan Yilong. In addition, we extended the due date for completion of these preliminary results until not later than December 1, 2008. *See Refined Brown Aluminum Oxide from the People's Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review and Extension of Time Limit for Preliminary Results*, 73 FR 38173 (July 3, 2008).

#### Scope of the Order

The merchandise covered by this order is ground, pulverized or refined artificial corundum, also known as brown aluminum oxide or brown fused alumina, in grit size of 3/8 inch or less. Excluded from the scope of the order is crude artificial corundum in which particles with a diameter greater than 3/8 inch constitute at least 50 percent of the total weight of the entire batch. The scope includes brown artificial corundum in which particles with a diameter greater than 3/8 inch constitute less than 50 percent of the total weight of the batch. The merchandise under investigation is currently classifiable under subheadings 2818.10.20.00 and 2818.10.20.90 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise covered by the order is dispositive.

#### NME Country Status

In every case conducted by the Department involving the PRC, the PRC has been treated as a non-market-economy (NME) country. In accordance with section 771(18)(C)(i) of the Tariff Act of 1930, as amended (the Act), any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. *See Brake Rotors From the People's Republic of China: Preliminary Results and Partial Rescission of the 2004/2005 Administrative Review and Notice of Intent to Rescind the 2004/2005 New Shipper Review*, 71 FR 26736, (May 8, 2006); unchanged in *Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the 2004/2005 Administrative Review and Notice of Rescission of 2004/2005 New Shipper Review*, 71 FR 66304 (November 14, 2006). None of the parties to this proceeding has contested such treatment. Accordingly, we have calculated normal value in accordance with section 773(c) of the Act, which applies to NME countries.

### Separate Rates

As explained above, a designation of a country as an NME remains in effect until it is revoked by the Department. See section 771(18)(C) of the Act. 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. It is the Department's standard 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. See Policy Bulletin 05.1 entitled "Separate Rate Practice and Application of Combination Rates in Antidumping Duty Investigations Involving Non-Market Economy Countries," dated April 5, 2005. 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 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 the *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*).

The Department's separate-rate test determines whether the exporters are independent from government control and does not consider, in general, macroeconomic or 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., *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From Ukraine*, 62 FR 61754, 61757 (November 19, 1997).

Qingdao Shunxingli provided complete separate-rate information in its responses to our original and supplemental questionnaires. Qingdao Shunxingli is a wholly Chinese-owned company. Therefore, the Department must analyze whether Qingdao Shunxingli can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

### Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies. See *Sparklers* at Comment 1. As discussed below, our analysis shows that the evidence on the record supports a preliminary finding of an absence of *de jure* government control for Qingdao Shunxingli based on each of these factors.

The evidence provided by Qingdao Shunxingli supports a preliminary finding of *de jure* absence of governmental control based on the following facts: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) there are applicable legislative enactments decentralizing control of the companies; and (3) there are formal measures by the government decentralizing control of companies. See, e.g., "The Company Law of the People's Republic of China," submitted as Exhibit A-2 to Qingdao Shunxingli's March 5, 2008, response to Section A of the Department's questionnaire (QRA).

### Absence of De Facto Control

Typically, the Department considers four factors in evaluating whether a respondent is subject to *de facto* government control of its export functions: (1) whether the export prices are set by, or subject to, the approval of a government authority; (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 its 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* at 22586-87; see also *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995). The Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

With respect to *de facto* control, Qingdao Shunxingli reported that: (1) it independently set prices for sales to the United States through negotiations with customers and these prices are not subject to review by any government organization; (2) it did not coordinate with other exporters or producers to set the price or to determine to which market it will sell subject merchandise; (3) the PRC Chamber of Commerce did not coordinate its export activities; (4) its staff has the authority to contractually bind it to sell subject merchandise; (5) its management is selected without any government control or review; (6) there is no restriction on its use of export revenues; (7) its management ultimately determines the disposition of respective profits, and Qingdao Shunxingli has not had a loss on its export sales in the last two years; and (8) none of its managers is a government official. See QRA at pages A-2 - A-11. Furthermore, our analysis of Qingdao Shunxingli's questionnaire responses reveals no other information indicating government control of its export activities. Therefore, based on the information on the record, we preliminarily determine that there is an absence of *de facto* government control with respect to Qingdao Shunxingli's exports.

In summary, the evidence placed on the record of this review by Qingdao Shunxingli demonstrates an absence of *de jure* and *de facto* government control with respect to its exports of the merchandise under review, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*.

### Surrogate Country

When the Department analyzes imports from an NME country, section 773(c)(1) of the Act directs it to base normal value, in most circumstances, on the NME producer's factors of production (FOP), valued in a surrogate market-economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOP, the Department shall use, to the extent possible, the prices or costs of FOP in one or more market-economy countries that are at a level of economic development comparable to that of the NME country and that are significant producers of comparable merchandise. On January 14, 2008, the Department's Office of Policy issued a memorandum identifying India, the Philippines, Colombia and Thailand as being at a level of economic development comparable to the PRC for the POR. See Memorandum entitled "Administrative Review of the Antidumping Order on

Refined Brown Aluminum Oxide from the People's Republic of China (PRC): Request for a List of Surrogate Countries," dated January 14, 2008. After consideration of the relevant factors for surrogate country selection, the Department determined that India is the appropriate surrogate country for this review. See Memorandum entitled "Administrative Review of the Antidumping Duty Order on Refined Brown Aluminum Oxide from the People's Republic of China: Selection of a Surrogate Country," dated February 12, 2008. The sources of the surrogate factor values are discussed under the "Normal Value" section below and in the Memorandum entitled "Preliminary Results Valuation Memorandum" (Valuation Memo), dated contemporaneously with this notice.

## U.S. Price

### A. Export Price

In accordance with section 772(a) of the Act, we based U.S. price on the export price (EP) for sales to the United States made by Qingdao Shunxingli because the first sale to an unaffiliated party was made before the date of importation and the use of constructed EP was not otherwise warranted. We calculated EP for Qingdao Shunxingli based on the prices to unaffiliated purchasers in the United States.

In accordance with section 772(c) of the Act, we deducted from the price to unaffiliated purchasers, where appropriate, foreign inland freight, brokerage and handling, and international freight expenses.

As foreign inland freight and brokerage and handling services were provided by NME service providers, we valued these services using surrogate values. See Valuation Memo. For those international freight services that were provided by a market-economy provider and for which Qingdao Shunxingli paid in a market-economy currency, we deducted the actual expenses incurred. For those international freight services that were provided by an NME provider, we valued them using the weighted-average of the international freight expenses charged by market-economy providers, as described in the Valuation Memo.

### Normal Value

#### A. Methodology

Section 773(c)(1)(B) of the Act provides that the Department shall determine the normal value using a FOP methodology if the merchandise is exported from a NME country and the

information does not permit the calculation of normal value using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases normal value on the FOP because the presence of government controls on various aspects of NME countries renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies. See *Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind in Part*, 70 FR 39744 (July 11, 2005) (unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of 2003-2004 Administrative Review and Partial Rescission of Review*, 71 FR 2517 (January 17, 2006)).

The FOP for RBAO include the following elements: (1) quantities of raw materials employed; (2) hours of labor required; (3) amounts of energy and other utilities consumed; (4) representative capital and selling costs; and (5) packing materials. We used the FOP reported by Qingdao Shunxingli for materials, labor, energy, and packing. Where appropriate, we adjusted the surrogate prices by including freight costs to make them delivered prices.

#### B. FOP Valuation

In accordance with section 773(c) of the Act, we calculated normal value based on the FOP reported by Qingdao Shunxingli for the POR. To calculate normal value, we multiplied the reported per-unit factor-consumption rates by publicly available surrogate values, in accordance with 19 CFR 351.408(c)(1). In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data.

Consistent with the Department's practice, we calculated price-index adjusters to inflate or deflate, as appropriate, surrogate values that are not contemporaneous with the POR using the wholesale price index or equivalent for the subject country. See, e.g., *Chlorinated Isocyanurates from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 73 FR 24943 (May 6, 2008); unchanged in *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 73 FR 52645 (September 10, 2008). The methodology

which we applied in this review is detailed in the Valuation Memo.

We were unable to identify an appropriate surrogate value from India for the crude brown aluminum oxide raw material input. Therefore, we used a weighted-average U.S. price, derived from the data reported in the Defense Logistics Agency FY2000 Annual Report. Our selection of this value is further discussed in the Valuation Memo. The sources and data we used to determine the surrogate values for the other FOP, as well as the surrogate financial ratios for factory overhead, selling, general and administrative expenses (SG&A), and profit, are discussed in detail in the Valuation Memo.

#### Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following percentage weighted-average dumping margin exists for the period November 1, 2006, through October 31, 2007:

Manufacturer/Exporter	Percent Margin
Qingdao Shunxingli Abrasives Co. Ltd. ....	54.62

#### Comments

We will disclose the calculations used in our analysis to parties in this review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties may submit publicly available information to value factors no later than 20 days after the date of publication of these preliminary results of review. See 19 CFR 351.301(c)(3)(ii). Any interested party may request a hearing within 30 days of the date of publication of this notice. See 19 CFR 351.310(c). Interested parties who wish to request a hearing or to participate in a hearing if a hearing is requested must submit a written request to the Assistant Secretary for Import Administration within 30 days after the date of publication of this notice. See 19 CFR 351.310(c). Requests should contain the following: (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 case and rebuttal briefs. See 19 CFR 351.310(c). Case briefs from interested parties may be submitted not later than 30 days after the date of publication of this notice of preliminary results of review. See 19 CFR 351.309(c)(1)(ii). Rebuttal briefs from interested parties, limited to the issues raised in the case briefs, may be

submitted not later than five days after the time limit for filing the case briefs. See 19 CFR 351.309(d)(1). If requested, any hearing will be held two days after the scheduled date for submission of rebuttal briefs. See 19 CFR 351.310(d). Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument a statement of the issue, a summary of the arguments not exceeding five pages, and a table of statutes, regulations, and cases cited. See 19 CFR 351.309(c)(2).

The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any such written briefs or at the hearing, if held, not later than 120 days after the date of publication of this notice. See section 751(a)(3)(A) of the Act.

**Assessment Rates**

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review.

Pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis*. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

**Cash-Deposit Requirements**

The following cash deposit requirements will be effective upon publication of the notice of final results of the administrative review for all shipments of RBAO from the PRC entered, or withdrawn from warehouse, for consumption on or after the date of

publication, as provided by section 751(a)(2)(C) of the Act: (1) for subject merchandise exported by Qingdao Shunxingli, the cash-deposit rate will be that established in the final results of review; (2) for previously reviewed or investigated companies not listed above that have separate rates, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) for all other PRC exporters of subject merchandise, which have not been found to be entitled to a separate rate, the cash-deposit rate will be PRC-wide rate of 135.18 percent; and (4) for all non-PRC exporters of subject merchandise, the cash-deposit rate will be the rate applicable to the PRC exporter that supplied that 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.

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

Dated: November 21, 2008.

**David M. Spooner**,  
Assistant Secretary for Import Administration.

[FR Doc. E8-28458 Filed 11-28-08; 8:45 am]

**BILLING CODE 3510-DS-S**

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**Initiation of Five-year ("Sunset") Reviews**

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

**SUMMARY:** In accordance with section 751(c) of the Tariff Act of 1930, as amended ("the Act"), the Department of Commerce ("the Department") is automatically initiating a five-year review ("Sunset Review") of the antidumping duty orders listed below. The International Trade Commission ("the Commission") is publishing concurrently with this notice its notice of *Institution of Five-year Review* which covers the same orders.

**EFFECTIVE DATE:** December 1, 2008.

**FOR FURTHER INFORMATION CONTACT:** The Department official identified in the Initiation of Review section below at AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Ave., NW, Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205-3193.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3 *Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders: Policy Bulletin*, 63 FR 18871 (April 16, 1998).

**Initiation of Review**

In accordance with 19 CFR 351.218(c), we are initiating the Sunset Review of the following antidumping duty orders:

DOC Case No.	ITC Case No.	Country	Product	Department Contact
A-351-837 .....	731-TA-1024	Brazil	Prestressed Concrete Steel Wire Strand	Dana Mermelstein (202) 482-1391
A-533-828 .....	731-TA-1025	India	Prestressed Concrete Steel Wire Strand	Dana Mermelstein (202) 482-1391
A-580-852 .....	731-TA-1026	South Korea	Prestressed Concrete Steel Wire Strand	Dana Mermelstein (202) 482-1391
A-201-831 .....	731-TA-1027	Mexico	Prestressed Concrete Steel Wire Strand	Dana Mermelstein (202) 482-1391
A-549-820 .....	731-TA-1028	Thailand	Prestressed Concrete Steel Wire Strand	Dana Mermelstein (202) 482-1391
A-588-068 .....	AA1921-188	Japan	Prestressed Concrete Steel Wire Strand	Dana Mermelstein (202) 482-1391
C-533-829 .....	701-TA-432	India	Prestressed Concrete Steel Wire Strand	Brandon Farlander (202) 482-0182