

DATES: The meeting will convene at 1 p.m. on Monday, August 24, 2009 and conclude no later than 1 p.m. on Friday, August 28, 2009.

ADDRESSES: The meeting will be held at the NMFS, 75 Virginia Beach Drive, Miami, FL 33149.

Council address: Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Steven Atran, Population Dynamic Statistician, Gulf of Mexico Fishery Management Council; telephone: (813) 348-1630.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico Fishery Management Council (Council) will convene the SEDAR Red Snapper Update Workshop (SEDAR) to conduct an update assessment of the SEDAR 7 red snapper benchmark stock assessment. An update assessment is a single workshop that utilizes the assessment models and input parameters from the previous full SEDAR benchmark assessment, with minor modifications if any, and updated data streams to update the results of the previous full assessment. The previous SEDAR 7 red snapper benchmark assessment was completed in 2004 with supplemental analyses in 2005. That assessment concluded that, as of 2003 (the final year of available catch data), the red snapper stock was overfished and was undergoing overfishing. In addition to updating the data streams previously used, the update assessment workshop will include a discussion on age distribution, growth and density dependent mortality of juvenile red snapper, and composition and changes of red snapper in shrimp trawl bycatch. The workshop will also include a review of the data inputs with respect to life history, indices of abundance, commercial and recreational fisheries statistics, and fishery independent data.

A copy of the agenda and related materials can be obtained by calling the Council office at (813) 348-1630.

Although other non-emergency issues not on the agendas may come before the SEDAR for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during this meeting. Actions of the SEDAR will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's

intent to take action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Tina O'Hern at the Council (see **ADDRESSES**) 5 working days prior to the meeting.

Dated: August 5, 2009.

William D. Chappell,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E9-19043 Filed 8-7-09; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-948]

Certain Steel Grating from the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation

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

FOR FURTHER INFORMATION CONTACT: Sean Carey or Justin Neuman, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 482-3964 and (202) 482-0486, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 18, 2009, the Department of Commerce (the Department) initiated the countervailing duty investigation of certain steel grating from the People's Republic of China. *See Certain Steel Grating From the People's Republic of China: Initiation of Countervailing Duty Investigation*, 74 FR 30278 (June 25, 2009). Currently, the preliminary determination is due no later than August 22, 2009.

Postponement of Due Date for the Preliminary Determination

Section 703(b)(1) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue the preliminary determination in a countervailing duty investigation within 65 days after the date on which the Department initiated the investigation. However, the Department may postpone making the preliminary determination until no later than 130 days after the date on which

the administering authority initiated the investigation if, among other reasons, the petitioner makes a timely request for an extension pursuant to section 703(c)(1)(A) of the Act. In the instant investigation, the petitioner made a timely request on July 22, 2009, requesting a postponement until 130 days from the initiation date. See 19 CFR 351.205(e) and the petitioner's July 22, 2009, letter requesting postponement of the preliminary determination. Therefore, pursuant to the discretion afforded the Department under 703(c)(1)(A) of the Act and because the Department does not find any compelling reason to deny the request, we are fully extending the due date for the preliminary determination. Therefore, the deadline for the completion of the preliminary determination is now October 26, 2009.

This notice is issued and published pursuant to section 703(c)(2) of the Act.

Dated: August 3, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

[FR Doc. E9-19086 Filed 8-7-09; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-849]

Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce ("Department") is currently conducting the 2007/2008 administrative review of the antidumping duty order on Certain Cut-to-Length Carbon Steel Plate ("CTL Plate") from the People's Republic of China ("PRC"). The period of review ("POR") is November 1, 2007, through October 31, 2008. We have preliminarily determined that Hunan Valin Xiangtan Iron & Steel Co. Ltd. ("Valin Xiangtan") did not make sales to the United States of the subject merchandise at prices below normal value. Furthermore, we are preliminarily rescinding the review with respect to Anshan Iron & Steel Group (AISCO/Anshan International/Sincerely Asia Ltd.) ("Anshan"), Baoshan (Bao/Baoshan International Trade Corp./Bao Steel Metals Trading Corp., Shanghai Baosteel Group Corporation and Baoshan Iron and Steel

Co., Ltd., Shanghai Pudong Steel & Iron Co.) ("Baoshan"), and Baosteel Group. If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on entries of subject merchandise from the POR, for which the importer-specific assessment rates are above *de minimis*.

Interested parties are invited to comment on these preliminary results 45 days after the publication of this notice. See "Preliminary Results of Review" section, below. We will issue the final results no later than 120 days from the date of publication of this notice.

EFFECTIVE DATE: August 10, 2009.

FOR FURTHER INFORMATION CONTACT: Demitrios Kalogeropoulos and Trisha Tran, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2623 and (202) 482-4852, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department received a timely request from two domestic interested parties, Nucor Corporation ("Nucor") and ArcelorMittal USA, Inc. ("ArcelorMittal"), in accordance with 19 CFR 351.213(b), for an administrative review of the antidumping duty order on CTL Plate from the PRC for four companies: Anshan, Baoshan, Baosteel Group, and Valin Xiangtan (collectively, "Respondents"). On December 24, 2008, the Department published a notice of initiation of an antidumping duty administrative review ("AR") on CTL Plate from the PRC, in which it initiated a review of these Respondents. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 73 FR 79055 (December 24, 2008) ("Initiation Notice").

On January 9, 2009, Valin Xiangtan reported that it had no exports or sales of subject merchandise to the United States during the POR. On January 12, 2009, Baoshan and Baosteel Group certified that they had no sales of subject merchandise during the POR. On February 2, 2009, Anshan certified that it did not have any exports, sales, or entries of subject merchandise during the POR. On January 22, 2009, the Department released CBP data for entries of the subject merchandise during the POR under administrative protective order ("APO") to all interested parties having an APO. On

March 18, 2009, ArcelorMittal withdrew its review request for Anshan, Baoshan, and Baosteel Group. On April 9, 2009, the Department rescinded the November 1, 2006, through October 31, 2007, ("2006–2007 POR") new shipper review ("NSR CTL Plate") of Valin Xiangtan pursuant to 351.214(j)(1) of the Department's regulations, stating that we would review Valin Xiangtan's entry in the current AR, because while Valin Xiangtan's sale was covered by the new shipper review, the entry fell within the POR of the instant AR. See *Cut-to-Length Carbon Steel Plate from the People's Republic of China: Notice of Rescission of Antidumping Duty New Shipper Review*, 74 FR 15930 (April 8, 2009) ("NSR Rescission"). On April 24, 2009, the Department provided all parties with the opportunity to transfer certain information from the rescinded 2006–2007 NSR CTL Plate to the instant AR. On May 6, 2009, Valin Xiangtan, Nucor, and IPSCO Steel Inc., transferred certain documents from the NSR CTL Plate to the AR. On May 7, 2009, the Department issued a Sections A and D supplemental questionnaire to Valin Xiangtan. On May 15, 2009, Nucor and Valin Xiangtan submitted new factual information. On May 21, 2009, we requested comments on surrogate country selection. On May 22, 2009, Nucor requested that the Department review Valin Xiangtan's entry using information contemporaneous with the current AR. On May 26, 2009, Valin Xiangtan provided rebuttal comments to Nucor's May 15, 2009 new factual information submission. On June 4, 2009, Valin Xiangtan submitted responses to the Department's Sections A and D supplemental questionnaire regarding its sales during the 2006–2007 POR. On July 1, 2009, the Department issued a separate rate supplemental questionnaire to Valin Xiangtan. On July 13, 2009, Valin Xiangtan submitted its response to the separate rate supplemental questionnaire.

Partial Rescission of 2007/2008 Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if a party who requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. ArcelorMittal's request was submitted within the 90-day period, and thus, is timely. Because ArcelorMittal's withdrawal of requests for review is timely and because no other party requested a review of the aforementioned companies, in accordance with 19 CFR 351.213(d)(1), we are rescinding this review with

respect to Anshan, Baoshan, and Baosteel Group.

Collapsing of Affiliated Producers

After reviewing the record, we have determined not to collapse Valin Xiangtan with any of its affiliates. We have determined that record evidence does not support a finding that any of these affiliates are producers of subject merchandise.¹ Further, we have determined that two of Valin Xiangtan's affiliates which do produce steel do not own a rolling mill.² Additionally, we find that VX's affiliates produce steel products, such as wire rod, with production processes that are dissimilar to Valin Xiangtan's production of the subject merchandise. Thus, it would require substantial retooling to build a rolling mill capable of producing subject merchandise. Accordingly, the collapsing criteria under 19 CFR 351.401(f)(1) are not satisfied. In determining whether there is a significant potential for manipulation, as contemplated by 19 CFR 351.401(f)(2), the Department considers the totality of the circumstances of the situation and may place more reliance on some factors than others. In the instant case, because Valin Xiangtan's affiliates do not produce subject merchandise and do not have the capability to produce subject merchandise without a substantial retooling, the totality of the circumstances here shows that there is not a significant potential for the manipulation of price or production. Therefore, for the preliminary results, we have not collapsed Valin Xiangtan with its affiliates.

Period of Review

The POR is November 1, 2007, through October 31, 2008. Valin had only one entry during this POR, and the sale associated with that entry was made during the period November 1, 2006, through October 31, 2007. Accordingly, after rescinding the NSR covering the 2006–2007 period,³ we requested that interested parties transfer all information relevant to that sale from the record of the 2006–2007 NSR to the record of this 2007–2008 AR. Accordingly, when we issued supplemental questionnaires in this AR, we requested information with respect to the 2006–2007 period, to reflect the data already on the record with respect to the sale under review in the

¹ See Valin Xiangtan's supplemental submission dated June 9, 2009, at Exhibits 2.1 and 2.2. See also Valin Xiangtan's October 17, 2008, supplemental response at 3-9.

² See id. at 3 and 8.

³ See *NSR Rescission*.

administrative review. Nucor, in its May 22, 2009 submission, argued that the data transferred from the 2006–2007 NSR CTL Plate was based on older versions of the Department's questionnaire, in response to a NSR questionnaire, as opposed to an AR questionnaire, and based on a different POR. With respect to Section A of the Department's questionnaire, Nucor was concerned that since Valin Xiangtan does not already have separate rate status, the Department should not use the prior information to determine Valin Xiangtan's separate rate eligibility. In addition, for Section C of the Department's questionnaire, Nucor argued that since Valin Xiangtan had no further shipments to the United States during the current POR, it only need update its answers where the AR questionnaire differs from the NSR questionnaire. With respect to Section D, Nucor argued that the Department has few exceptions in its practice where a respondent may report factors of production ("FOP") data from a prior period, and avers that the Department has historically required that respondents report market–economy inputs and by–product offsets for the current POR.

With respect to Nucor's argument that Valin Xiangtan does not currently have a separate rate and the information from the 2006–2007 POR is insufficient for the Department to make a separate rate determination, the Department issued a supplemental questionnaire specific to Valin Xiangtan's separate rate eligibility during the current POR.⁴ With respect to Section C information, because Valin Xiangtan certified that it had no subsequent shipments during the current POR, and since we find there were no material differences between the NSR and AR questionnaire, we determined that it was not necessary for Valin Xiangtan to submit revised Section C information for the current POR.

With respect to Nucor's argument that the Department requires that respondents report current FOP data, including market–economy inputs, and by–product offsets, we note that the Department has in previous cases allowed a respondent to report prior period cost data, under similar circumstances. See *Certain Hot-Rolled Carbon Steel Flat Products from Romania: Final Results of Antidumping Duty Administrative Review*, 72 FR 18204 (April 11, 2007) ("*Hot-Rolled Carbon Steel Flat Products from Romania*"), and accompanying Issues

and Decision Memorandum at Comment 2. See also *Stainless Steel Wire Rods from India: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind Antidumping Duty Administrative Review in Part*, 72 FR 52079, 52081 (September 12, 2007) unchanged in *Stainless Steel Wire Rods from India: Final Results of Antidumping Duty Administrative Review and Notice of Rescission of Antidumping Duty Administrative Review in Part*, 72 FR 68123 (December 4, 2007) ("*Wire Rods from India*").

In *Hot-Rolled Carbon Steel Flat Products from Romania*, the respondent had sales during one POR that did not enter the United States until the POR of the next segment, and the Department found it appropriate to use cost data from the POR during which the sale occurred. Similarly, in *Wire Rods from India*, the Department used prior POR cost data because the only entry of subject merchandise during the POR occurred early in the POR and the merchandise was sold and shipped during the prior POR. We find that the case cited by Nucor, *Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Preliminary Partial Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China* ("*Diamond Sawblades*"), 70 FR 77121 (December 29, 2005), is factually distinguishable from the instant case, *Wire Rods from India*, and *Hot-Rolled Carbon Steel Flat Products from Romania*. In *Diamond Sawblades*, the respondent did not have period of investigation ("POI") production of all types of merchandise for which it had sales and the Department used pre–POI FOP data valued with POI surrogate values ("SVs"). Here, Valin Xiangtan did not have any sales of subject merchandise during the current AR. In the instant case, we find that because Valin Xiangtan's sale occurred during the 2006–2007 POR, but the entry occurred at the beginning of the current POR, and Valin Xiangtan had no subsequent sales to the United States, consistent with *Hot-Rolled Carbon Steel Flat Products from Romania* and *Wire Rods from India*, we are using FOP data from the 2006–2007 POR, valued with SVs from the 2006–2007 POR.

Scope of the Order

The products covered by the order include hot-rolled carbon steel universal mill plates (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding

150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot-rolled carbon steel flat-rolled products in straight lengths, of rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule of the United States ("HTSUS") under item numbers 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Included in the order are flat-rolled products of non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (i.e., products which have been "worked after rolling") – for example, products which have been beveled or rounded at the edges. Excluded from the order is grade X–70 plate. Also excluded from the order is certain carbon cut-to-length steel plate with a maximum thickness of 80 mm in steel grades BS 7191, 355 EM, and 355 EMZ, as amended by Sable Offshore Energy Project specification XB MOO Y 15 0001, types 1 and 2. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.

Non-Market-Economy Status

In every case conducted by the Department involving the PRC, the PRC has been treated as a non-market economy ("NME") country.⁵ 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, e.g., *Brake Rotors from the People's Republic of China: Final Results and Partial Rescission of the 2004/2005*

⁴ See Valin Xiangtan's July 13, 2009, supplemental questionnaire response.

⁵ See, e.g., *Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 3987 (January 22, 2009).

Administrative Review and Notice of Rescission of 2004/2005 New Shipper Review, 71 FR 66304 (November 14, 2006). No party to this proceeding has contested such treatment. Accordingly, we calculated normal value (“NV”) in accordance with section 773(c) of the Act, which applies to NME countries.

Surrogate Country

Section 773(c)(1) of the Act directs the Department to base NV on the NME producer’s FOPs, valued in a surrogate market economy (“ME”) 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 use, to the extent possible, the prices or costs of the FOPs in one or more ME countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise. For a detailed discussion of the SVs used in this proceeding, see the “Factor Valuations” section below and the Department’s memorandum to the file entitled, “New Shipper Review of Certain Cut-to-Length Carbon Steel Plate from the People’s Republic of China: Factor Valuations for the Preliminary Determination,” dated concurrently with this notice (“Factor Valuation Memorandum”), dated August 3, 2009.

Because we are valuing FOPs from the prior period (11/1/06–10/31/07) (see “Period of Review” section above), we asked interested parties to submit surrogate country comments based on the list of the five countries determined to be economically comparable to the PRC during the 2006–2007 POR. See the Department’s Letter to Interested Parties entitled “2007–2008 Administrative Review of the Antidumping Duty Order on Certain Cut-to-Length Carbon Steel Plate from the People’s Republic of China: Surrogate Country Selection,” dated May 21, 2009. While Valin Xiangtan submitted comments on February 6, 2008 (transferred to the record of the current AR), offering evidence of significant CTL steel production in Indonesia, Thailand, and India, no new comments on the selection of a surrogate country were submitted by an interested party in response to the Department’s May 21, 2009, request for comments. As we determined for the 2006–2007 POR, we find that India is at a level of economic development comparable to that of the PRC; is a significant producer of comparable merchandise (i.e., CTL Steel Plate); and has publicly available and

reliable data.⁶ Accordingly, we are continuing to select India as the primary surrogate country for purposes of valuing the FOPs in the calculation of NV for these preliminary results because it meets the Department’s criteria for surrogate country selection.⁷

In accordance with 19 CFR 351.301(c)(3)(ii), for the final results of an antidumping administrative review, interested parties may submit publicly available information to value the FOPs within 20 days after the date of publication of the preliminary results.⁸

Separate Rates

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and thus should be assigned a single antidumping duty rate. It is the Department’s policy to assign all exporters of merchandise subject to review 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. Exporters can demonstrate this independence through the absence of both *de jure* and *de facto* government control over export activities. The Department analyzes each entity exporting the subject merchandise under a test arising from 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 further developed in the *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*”). However, if the

Department determines that a company is wholly foreign-owned or located in a market economy, then a separate-rate analysis is not necessary to determine whether it is independent from government control.

a. Absence of *De Jure* Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter’s business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies. See *Sparklers*, 56 FR at 20589.

The evidence provided by Valin Xiangtan supports a preliminary finding of absence of *de jure* government control based on the following: (1) an absence of restrictive stipulations associated with Valin Xiangtan’s business⁹ and export licenses¹⁰; (2) applicable legislative enactments decentralizing control of the company¹¹; and (3) formal measures by the government decentralizing control of the company¹². However, notwithstanding our preliminary finding that there is an absence of restrictive stipulations associated with Valin Xiangtan’s export license, the Department is opening the record for additional factual information regarding the implementation of the export license mechanism. Parties will have 10 days from the publication of this notice to provide such information. Rebuttal information will be due 5 days later.

b. Absence of *De Facto* Control

Typically the Department considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a government 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

⁶ See the Department’s Memorandum to the File dated August 3, 2009, attaching the Department’s memorandum from the 2006–2007 POR entitled, “New Shipper Review of the Antidumping Duty Order of Cut-To-Length Steel Plate from the People’s Republic of China: Selection of a Surrogate Country,” dated February 11, 2008 (“Surrogate Country Memorandum”).

⁷ See Surrogate Country Memorandum.

⁸ In accordance with 19 CFR 351.301(c)(1), for the final determination 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 will not accept the submission of additional, previously absent-from-the-record alternative surrogate value information pursuant to 19 CFR 351.301(c)(1). See *Glycine from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part*, 72 FR 58809 (October 17, 2007), and accompanying Issues and Decision Memorandum at Comment 2.

⁹ See Valin Xiangtan’s supplemental submission dated July 13, 2009 at Exhibit 1.

¹⁰ See Valin Xiangtan’s supplemental submission dated June 9, 2009 at page 1 and Exhibit 1.

¹¹ See, e.g., Company Law of the People’s Republic of China, at Valin Xiangtan’s supplemental submission dated April 28, 2008 at Exhibit A-23.

¹² See Id.

independent decisions regarding disposition of profits or financing of losses. *See Silicon Carbide*, 59 FR at 22586–87; *see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

The Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control over export activities which would preclude the Department from assigning them separate rates. We determine for Valin Xiangtan that the evidence on the record supports a preliminary finding of *de facto* absence of government control based on record statements and supporting documentation showing the following: (1) Valin Xiangtan sets its own export prices independent of the government and without the approval of a government authority¹³; (2) Valin Xiangtan retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses¹⁴; (3) Valin Xiangtan has the authority to negotiate and sign contracts and other agreements¹⁵; and (4) Valin Xiangtan has autonomy from the government regarding the selection of management.¹⁶ *See, e.g.,* Valin Xiangtan's July 13, 2009, supplemental response.

The evidence placed on the record of this review by Valin Xiangtan 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*. Therefore, we are preliminarily granting Valin Xiangtan a separate rate.

Fair Value Comparisons

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

U.S. Price

For Valin Xiangtan, we based U.S. price on export price ("EP") in accordance with section 772(a) of the

Act, because the first sale to an unaffiliated purchaser was made prior to importation, and reliance upon constructed export price was not otherwise warranted by the facts on the record. We calculated EP based on the packed price from the exporter to the first unaffiliated customer in the United States.

Normal Value

We compared NV to individual EP transactions in accordance with section 777A(d)(2) of the Act. Section 773(c)(1) of the Act provides that the Department shall determine NV using an FOP 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. When determining NV in an NME context, the Department will base NV on FOPs because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our normal methodologies. Under section 773(c)(3) of the Act, FOPs include but are not limited to: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. The Department used FOPs reported by the respondent for materials, energy, labor and packing.

In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to find an appropriate SV to value FOPs, but when a producer sources an input from a market economy and pays for it in market-economy currency, the Department may value the factor using the actual price paid for the input. *See* 19 CFR 351.408(c)(1); *see also Shakeproof Assembly Components Div of Ill v. United States*, 268 F.3d 1376, 1382–1383 (Fed. Cir. 2001) (affirming the Department's use of market-based prices to value certain FOPs).

With regard to both the Indian import-based surrogate values and the market economy input values, the Department has disregarded prices that the Department has reason to believe or suspect may be subsidized. The Department has reason to believe or suspect that prices of inputs from India, Indonesia, South Korea, and Thailand may have been subsidized. The Department has found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies and,

therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized.¹⁷ The Department is also guided by the statute's legislative history that explains that it is not necessary to conduct a formal investigation to ensure that such prices are not subsidized. *See Omnibus Trade and Competitiveness Act of 1988*, Conference Report to accompany H.R. Rep. 100–576 at 590 (1988) reprinted in 1988 U.S.C.C.A.N. 1547, 1623–24; *see also Preliminary Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 30758, 30763 n.6 (June 4, 2007) unchanged in *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 60632 (October 25, 2007) ("Coated Free Sheet"). Rather, the Department bases its decision on information that is available to it at the time it makes its determination. *See Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value*, 73 FR 24552, 24559 (May 5, 2008), unchanged in *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 55039 (September 24, 2008) ("PRC PET Film"). Therefore, the Department has not used prices from these countries in calculating the Indian import-based surrogate values. Additionally, the Department disregarded prices from NME countries. Finally, we also excluded from the average value imports that were labeled as originating from an "unspecified" country, as the Department could not be certain that they were not from either an NME country or a country with general export subsidies. *See id.*

Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on the FOPs reported by Valin Xiangtan for the 2006–2007 POR. To calculate NV, we multiplied the reported per-unit factor-consumption rates by publicly available Indian SVs, except where noted below. In selecting the SVs, we considered the quality, specificity, and

¹³ *See* Valin Xiangtan's supplemental submission dated April 28, 2008, at Exhibits A-24, and A-25.

¹⁴ *See* Valin Xiangtan's Section A response at 15.

¹⁵ *See* Valin Xiangtan's supplemental submission dated April 28, 2008, at Exhibits A-24, and A-25.

¹⁶ *See* Valin Xiangtan's Section A response at 13. *See also* Valin Xiangtan's supplemental submission dated April 28, 2008, at 1 and Exhibit A-15.

¹⁷ *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Notice of Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review*, 70 FR 54007, 54011 (September 13, 2005) (unchanged in the final results); *China National Machinery Import & Export Corporation v. United States*, 293 F. Supp. 2d 1334 (CIT 2003), as affirmed by the Federal Circuit, 104 Fed. Appx. 183 (Fed. Cir. 2004).

contemporaneity of the data.¹⁸ As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, where appropriate we added to Indian import SVs 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, where appropriate. This adjustment is in accordance with the U.S. Court of Appeals for the Federal Circuit decision in *Sigma Corp. v. United States*, 117 F.3d 1401, 1407–1408 (Fed. Cir. 1997). In those instances where we could not obtain publicly available information contemporaneous with the 2006–2007 POR with which to value FOPs, we adjusted the SVs using, where appropriate, the Indian Wholesale Price Index (“WPI”), as published in the *International Financial Statistics* of the International Monetary Fund. For a detailed description of all SVs used for Valin Xiangtan, see the Factor Valuation Memorandum.

Except where discussed below, we valued raw material inputs using November 2006 through October 2007, weighted-average unit import values derived from the Monthly Statistics of the Foreign Trade of India, as published by the Directorate General of Commercial Intelligence and Statistics of the Ministry of Commerce and Industry, Government of India and compiled by the World Trade Atlas (“WTA”), available at <http://www.gtis.com/wta.htm>. The Indian WTA import data is reported in rupees and dollars and is contemporaneous with the 2006–2007 POR.¹⁹ Indian SVs denominated in Indian rupees were converted to U.S. dollars using the applicable daily exchange rate for India for the POR. See <http://www.ia.ita.doc.gov/exchange/index.html>.

Consistent with the Department’s valuation of gas inputs in *Pure Magnesium from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 73 FR 76336 (December 16, 2008) (“*Pure Magnesium*”), we valued Valin Xiangtan’s gas inputs using WTA import data of natural gas from Thailand. Additionally, we valued ferric mill/slag using Indonesian import data from WTA. For more details, see Factor Valuation Memorandum.

Valin Xiangtan reported that certain of its reported raw material inputs were sourced from an ME country and paid for in ME currencies. Pursuant to 19 CFR 351.408(c)(1), when a respondent sources inputs from an ME supplier in meaningful quantities (*i.e.*, not insignificant quantities), we use the actual price paid by respondent for those inputs, except when prices may have been distorted by findings of dumping by the PRC and/or subsidies.²⁰ Valin Xiangtan’s reported information demonstrates that it has both significant and insignificant quantities of certain raw materials purchased from ME suppliers. Where we found ME purchases to be of significant quantities (*i.e.*, 33 percent or more), in accordance with our statement of policy as outlined in *Antidumping Methodologies: Market Economy Inputs*,²¹ we used the actual purchases of these inputs to value the inputs. Accordingly, we valued Valin Xiangtan’s inputs using the ME prices paid for in ME currencies for the inputs where the total volume of the input purchased from all ME sources during the POR exceeds or is equal to 33 percent of the total volume of the input purchased from all sources during the period.²² Where the quantity of the reported input purchased from ME suppliers was below 33 percent of the total volume of the input purchased from all sources during the POR, and were otherwise valid, we weight averaged the ME input’s purchase price with the appropriate surrogate value for the input according to their respective shares of the reported total volume of purchases.²³ Where appropriate, we added freight to the ME prices of inputs. For a detailed description of the actual values used for the ME inputs reported, see the Department’s Memorandum to the File entitled, “2007–2008 Administrative Review of Certain Cut-to-Length Carbon Steel Plate from the People’s Republic of China: Valin Xiangtan Preliminary Analysis Memorandum,” dated August 3, 2009.

Where we could not obtain publicly available information contemporaneous with the 2006–2007 POR with which to value factors, where applicable we adjusted the SVs for inflation using the

WPI for India. See Factor Valuation Memorandum.

We used Indian transport information to value the inland truck, rail, and waterway freight cost of the raw materials. The Department determined the best available information for valuing truck freight to be from the following website: www.infobanc.com/logistics/logtruck.htm. The logistics section of this source contains inland truck freight rates from four major points of origin to 25 destinations in India. The Department obtained inland truck freight rates updated through September 2008 from each point of origin to each destination and averaged the data accordingly. Since this value is not contemporaneous with the 2006–2007 POR, we deflated the rate using the WPI. See Factor Valuation Memorandum. The Department determined the best available information for valuing rail freight to be from the Indian Ministry of Railways (<http://www.indianrailways.gov.in>). To value waterway freight, we used pricing information from a study on inland water transportation in India placed on the record by Valin Xiangtan. For data that were not contemporaneous with the 2006–2007 POR, we adjusted the rates for inflation using WPI, where applicable.

We valued electricity using price data for small, medium, and large industries, as published by the Central Electricity Authority of the Government of India in its publication titled *Electricity Tariff & Duty and Average Rates of Electricity Supply in India*, dated July 2006. These electricity rates represent actual country-wide, publicly available information on tax-exclusive electricity rates charged to industries in India. See Factor Valuation Memorandum.

The Department valued water using data from the Maharashtra Industrial Development Corporation (www.midcindia.org) because it includes a wide range of industrial water tariffs. This source provides 386 industrial water rates within the Maharashtra province from June 2003: 193 for the “inside industrial areas” usage category and 193 for the “outside industrial areas” usage category. Because the value was not contemporaneous with the 2006–2007 POR, we adjusted the rate for inflation. See Factor Valuation Memorandum.

For direct and indirect labor, consistent with 19 CFR 351.408(c)(3), we used the PRC regression-based wage rate as reported on Import Administration’s home page, Import Library, Expected Wages of Selected NME Countries, revised in May 2008, available at <http://www.trade.gov/ia/>.

¹⁸ See, e.g., *Folding Metal Tables and Chairs from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 71 FR 71509 (December 11, 2006), and accompanying Issues and Decision Memorandum at Comment 9.

¹⁹ See Factor Valuation Memorandum at Attachments 1 and 3.

²⁰ See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27366 (May 19, 1997).

²¹ See *Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments*, 71 FR 61716, 61717 (October 19, 2006) (“*Antidumping Methodologies: Market Economy Inputs*”).

²² See Valin Xiangtan’s May 28, 2008, supplemental D submission at Exhibit D-8.

²³ See *Antidumping Methodologies: Market Economy Inputs*, 71 FR at 61718.

Because this regression-based wage rate does not separate the labor rates into different skill levels or types of labor, we have applied the same wage rate to all skill levels and types of labor reported by the respondent. For further details on the labor calculation, see Factor Valuation Memorandum.

Interested parties submitted financial statements for the 2007–2008 fiscal year covering the period of April 1, 2007, through March 31, 2008, from Essar Steel Limited (“Essar”), Tata Steel Limited’s (“Tata”), Steel Authority of India Limited (“SAIL”), and Ispat Industries Limited (“Ispat”). For the preliminary results, we find Essar’s 2007–2008 fiscal year financial statements to be the best available information to calculate surrogate financial ratios because they are complete, legible, publicly-available, contemporaneous with the 2006–2007 POR, from a producer of identical merchandise, and at a similar level of integration as Valin Xiangtan.

It is the Department’s practice to disregard financial statements where we have reason to suspect that the company has received actionable subsidies and where there is other usable data on the record.²⁴ All four companies identified above received subsidies and there are no other financial statements on the record of this review. We determine that Essar’s financial statements are the best available information on the record for the reasons discussed below. *See, e.g., PRC PET Film* accompanying Issues and Decision Memorandum at Comment 3. Specifically, we have determined that Essar’s 2007–2008 fiscal year financial statements are contemporaneous with the 2006–2007 POR because they cover seven months of the 2006–2007 POR. Additionally, we have determined that Essar is at the same level of integration as Valin Xiangtan.

In contrast, Tata and SAIL are more integrated than Valin Xiangtan because they are Indian steel companies that mine their own inputs, such as coal and iron ore. According to pages 6 and 132 of Tata’s 2007–2008 fiscal year financial statements, Tata is 100 percent self-sufficient in its current requirement of iron ore for its Jamshedpur operations and 60 percent of its coal requirement from its own mines. With respect to SAIL, page 12 of SAIL’s 2007–2008

fiscal year financial statements indicate that SAIL leases its mining land and that it owns mines for dolomite, limestone, and iron-ore. We find the level of vertical integration to be an important distinction among the four steel companies because of the effect that mining operations have on surrogate financial ratios. *See, e.g., Electrolytic Manganese Dioxide From the People’s Republic of China: Final Determination of Sales at Less than Fair Value*, 73 FR 48195 (August 18, 2008), and accompanying Issue and Decision Memorandum at Comment 3.

Finally, although both Ispat and Essar are at the same level of integration as Valin Xiangtan and have similar production processes, we have determined to use Essar’s financial statements because Essar is a producer of identical rather than comparable merchandise. *See, e.g., Persulfates from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 68 FR 6712 (February 10, 2003), and accompanying Issues and Decision Memorandum at Comment 8. Therefore, for factory overhead, selling, general, and administrative expenses, and profit, consistent with 19 CFR 351.408(c)(4), we used the public information from Essar’s 2007–2008 fiscal year financial statements. For a full discussion of the calculation of these ratios, *see* Factor Valuation Memorandum.

Valin Xiangtan has requested offsets for certain byproducts. When the Department considers the appropriateness of granting a by-product offset, the Department’s practice is to determine whether the by-product quantity is clearly produced from the quantity of FOPs reported and/or whether any income for the byproducts was realized by the company during the POR. *See, e.g., Chlorinated Isocyanurates from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 73 FR 52645 (September 10, 2008), and accompanying Issues and Decision Memorandum at Comment 6. We find that Valin Xiangtan has appropriately reported its byproducts, and therefore, we have granted Valin Xiangtan’s offsets for the quantities of these byproducts valued using Indian WTA data. Valin Xiangtan has represented that certain inputs are self-produced in the production of subject merchandise, and requests that the Department not value these inputs in calculating normal value, because the Department is already valuing the raw materials to product these inputs. Consistent with Department practice, we find it

appropriate not to value these self-produced inputs when reintroduced into the production of subject merchandise, because we have valued the raw materials to produce these inputs. *See, e.g., Coated Free Sheet*, and accompanying Issues and Decision Memorandum at Comment 8. *See also Laizhou Auto Brake Equipment Co. v. United States*, 580 F. Supp. 2d 1381, (CIT, November 5, 2008) affirming Final Results of Redetermination Pursuant to Court Remand (at 4) (“We note that the Department does not value recycled scrap reintroduced into the same production process that produced the scrap, because the reintroduction of recycled scrap into the production process represents the re-use of purchased raw materials for which the Department has already accounted.”)

Valin Xiangtan has certain materials in its production process that it collects and reintroduces (recycles). Valin Xiangtan requested that the Department not value these recycled inputs, when these inputs are recycled from materials that the Department has already valued in its normal value calculation. Because Valin Xiangtan has demonstrated the quantities of these materials that were recycled, and has demonstrated that the Department is already valuing them as initial inputs in the production of subject merchandise, we are not valuing them again when these recycled inputs are reintroduced into the production process. *See, e.g., Coated Free Sheet* at Comment 8.

We recently stated in *Silicon Metal from the People’s Republic of China: Preliminary Results and Preliminary Rescission, in Part, of Antidumping Duty Administrative Review*, 74 FR 32885–02 (July 9, 2009) that the Department was changing its practice of granting byproduct offsets for NME cases. The Department will now grant byproduct offsets based on total production rather than using the “lower of” the quantity of byproduct produced or sold/consumed in each POR. As this change in Department practice occurred shortly before these preliminary results, we will give Valin Xiangtan the opportunity to revise its reported byproduct offset claim for the final results. Moreover, the Department notes that, while Valin Xiangtan has requested that we (1) grant byproduct offsets for 6.4 Steel Scrap, 6.14 Steel Scrap, and 6.15 Steel Scrap and (2) not value 6.3 Iron Powder and 6.13 Steel Scrap because these are reintroduced inputs for which the Department has already valued the raw materials, Valin Xiangtan did not report these fields in its most recently submitted FOP database. Therefore, we will provide

²⁴ *See, e.g., Certain New Pneumatic Off-The-Road Tires from the People’s Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40485 (July 15, 2008) (“Tires”), and accompanying Issues and Decision Memorandum at Comment 17A. *See also Pure Magnesium*, and accompanying Issues and Decision Memorandum at Comment 6.

Valin Xiangtan with the opportunity to resubmit its FOP database to correct its data with respect to these items after the preliminary results.

Currency Conversion

Where applicable, 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. See <http://www.ia.ita.doc.gov/exchange/index.html>.

Preliminary Results of Review

We preliminarily determine that the following dumping margin exists for the period November 1, 2007, through October 31, 2008:

CERTAIN CUT-TO-LENGTH CARBON STEEL PLATE FROM THE PRC

Exporter	Ad Valorem Margin
Hunan Valin Xiangtan Iron & Steel Co. Ltd.	0.00 percent

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). Any interested party may request a hearing within 30 days of publication of this notice. 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 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 case and rebuttal briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. See 19 CFR 351.310(c).

In order to allow parties time to comment on the export license scheme discussed above and to submit publicly-available information to value FOPs, case briefs from interested parties may be submitted not later than 45 days after the date of publication of this notice, pursuant to 19 CFR 351.309(c). Rebuttal briefs, limited to issues raised in the case briefs, will be due five days later, pursuant to 19 CFR 351.309(d). Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument (1) a

statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

The Department will issue the final results of this review, including the results of its analysis of issues raised in any such written briefs, not later than 120 days after the date of publication of this notice.

Assessment Rates

The Department will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. For assessment purposes, we calculated exporter/importer- (or customer) -specific assessment rates for merchandise subject to this review. Where appropriate, we calculated an *ad valorem* rate for each importer (or customer) by dividing the total dumping margins for reviewed sales to that party by the total entered values associated with those transactions. For duty-assessment rates calculated on this basis, we will direct CBP to assess the resulting *ad valorem* rate against the entered customs values for the subject merchandise. Where appropriate, we calculated a per-unit rate for each importer (or customer) by dividing the total dumping margins for reviewed sales to that party by the total sales quantity associated with those transactions. For duty-assessment rates calculated on this basis, we will direct CBP to assess the resulting per-unit rate against the entered quantity of the subject merchandise. Where an importer- (or customer) -specific assessment rate is *de minimis* (i.e., less than 0.50 percent), the Department will instruct CBP to assess that importer (or customer's) entries of subject merchandise without regard to antidumping duties. We intend to instruct CBP to liquidate entries containing subject merchandise exported by the PRC-wide entity at the PRC-wide rate we determine in the final results of this review. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this review.

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 from the PRC entered, or withdrawn from warehouse, for consumption on or after the

publication date, as provided by section 751(a)(2)(C) of the Act: (1) for Valin Xiangtan, the cash deposit rate will be that established in the final results of this review, except if the rate is zero or *de minimis* no cash deposit will be required; (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 which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 128.59 percent; 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 exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice 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 notice are in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.213.

Dated: August 3, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-549-821]

Polyethylene Retail Carrier Bags from Thailand: Preliminary Results of Antidumping Duty Administrative Review

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

SUMMARY: In response to requests from interested parties, the Department of Commerce (the Department) is conducting an administrative review of