domestic parties. Also, note that the Department's information requirements are distinct from the International Trade Commission's information requirements. Please consult the *Sunset Regulations* for information regarding the Department's conduct of sunset reviews.[1] Please consult the Department's regulations at 19 CFR part 351 (1998) 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: February 23, 1999.

Holly A. Kuga,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–5023 Filed 2–26–99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–846]

Brake Rotors From the People's Republic of China: Final Results of Antidumping Duty New Shipper Administrative Review

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

SUMMARY: On September 29, 1998, the U.S. Department of Commerce published the preliminary results of the new shipper administrative review of the antidumping duty order on brake rotors from the People's Republic of China (''PRC'') (''*preliminary results*'') (63 FR 51895). This review covers six exporters[1] of the subject merchandise to the United States. The period of review is April 1, 1997, through September 30, 1997. We gave interested parties an opportunity to comment on our preliminary results.

We have determined that U.S. sales of brake rotors have not been made below the normal value, and we will instruct the U.S. Customs Service not to assess antidumping duties for the six PRC exporters subject to this review.

EFFECTIVE DATE: March 1, 1999.

FOR FURTHER INFORMATION CONTACT: Brian C. Smith or Barbara Wojcik-Betancourt, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–1766 or (202) 482–0629, respectively.

SUPPLEMENTARY INFORMATION: 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 U.S. Department of Commerce (''the Department'') regulations are to the regulations at 19 CFR part 351 (1998).

Background

On September 29, 1998, the Department published in the **Federal Register** the preliminary results of its new shipper administrative review of the antidumping duty order on brake rotors from the PRC (*see preliminary results*). In October and November 1998, the Department conducted verification of the questionnaire responses of the six respondents. On November 10, 1998, the Department published in the **Federal Register** a notice of postponement of the final results until no later than February 23, 1999 (63 FR 63025). On December 1, 1998, the petitioner[2] withdrew its request for a hearing in this proceeding. Since the six respondents never requested a hearing and the petitioner withdrew its original request for one, no hearing was held in this case. From December 4, 1998, through January 7, 1999, the Department issued its verification reports. On January 21, 1999, the petitioner submitted its case brief. CNIM, LABEF, Haimeng, GREN, Winhere, and ZLAP (hereafter referred to as the six respondents) did not submit case briefs. On January 28, 1999, the six respondents submitted rebuttal briefs.

Scope of Order

The products covered by this review are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, ranging in diameter from 8 to 16 inches (20.32 to 40.64 centimeters) and in weight from 8 to 45 pounds (3.63 to 20.41 kilograms). The size parameters (weight and dimension) of the brake rotors limit their use to the following types of motor vehicles: automobiles, all-terrain vehicles, vans and recreational vehicles under ''one ton and a half,'' and light trucks designated as ''one ton and a half.''

Finished brake rotors are those that are ready for sale and installation without any further operations. Semi-finished rotors are those on which the surface is not entirely smooth, and have undergone some drilling. Unfinished rotors are those which have undergone some grinding or turning.

These brake rotors are for motor vehicles, and do not contain in the casting a logo of an original equipment manufacturer (''OEM'') which produces vehicles sold in the United States (*e.g.*, General Motors, Ford, Chrysler, Honda, Toyota, Volvo). Brake rotors covered in this investigation are not certified by OEM producers of vehicles sold in the United States. The scope also includes composite brake rotors that are made of gray cast iron, which contain a steel plate, but otherwise meet the above criteria. Excluded from the scope of the review are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, with a diameter less than 8 inches or greater than 16 inches (less than 20.32 centimeters or greater than 40.64 centimeters) and a weight less than 8 pounds or greater than 45 pounds (less than 3.63 kilograms or greater than 20.41 kilograms).

Brake rotors are classifiable under subheading 8708.39.5010 of the HTSUS. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this review is dispositive.

Period of Review

The period of review (''POR'') covers the period April 1, 1997, through September 30, 1997.

Separate Rates

In proceedings involving non-market-economy (''NME'') countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty deposit rate. One of the respondents, Winhere, is located in the PRC and is wholly-owned by private individuals. Two respondents (*i.e.*, Haimeng, ZLAP) are joint ventures between PRC and foreign companies. The three other respondents are either wholly owned by all the people (*i.e.*, CNIM) or collectively owned (*i.e.*, GREN, LABEF). Thus, for all six respondents, a separate rates analysis is

[1] A number of parties commented that these interim-final regulations provided insufficient time for rebuttals to substantive responses to a notice of initiation (Sunset Regulations, 19 CFR 351.218(d)(4)). As provided in 19 CFR 351.302(b) (1998), the Department will consider individual requests for extension of that five-day deadline based upon a showing of good cause.

[1] The six exporters are China National Machinery Import & Export Company (CNIM), Laizhou Auto Brake Equipments Factory (LABEF), Longkou Haimeng Machinery Co., Ltd. (Haimeng), Qingdao Gren Co. (GREN), Yantai Winhere Auto-Part Manufacturing Co., Ltd. (Winhere), and Zibo Luzhou Automobile Parts Co., Ltd. (ZLAP).

[2] The petitioner is the Coalition for the Preservation of American Brake Drum and Rotor Aftermarket Manufacturers.

necessary to determine whether the exporters are independent from government control (*see Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China* (''*Bicycles*''), 61 FR 56570 (April 30, 1996)).

To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity 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) and amplified in *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*''). Under the separate rates criteria, the Department assigns separate rates in nonmarket economy cases only if the respondent can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

1. De Jure Control

Each respondent has placed on the administrative record documents to demonstrate absence of *de jure* control, including the ''Law of the People's Republic of China on Industrial Enterprises Owned by the Whole People,'' adopted on April 13, 1988, (''the Industrial Enterprises Law''); ''the Enterprise Legal Person Registration Administrative Regulations,'' promulgated on June 13, 1988 (''the Enterprise Registration Regulations;'' the 1990 ''Regulation Governing Rural Collectively-Owned Enterprises of PRC''; the 1992 ''Regulations for Transformation of Operational Mechanisms of State-Owned Industrial Enterprises'' (''Business Operation Provisions''); and the 1994 ''Foreign Trade Law of the People's Republic of China.''

In prior cases, we have analyzed these laws and have found them to sufficiently establish an absence of *de jure* control of companies ''owned by the whole people,'' joint ventures, privately owned enterprises or collectively owned enterprises. *See, e.g., Final Determination of Sales at Less than Fair Value: Furfuryl Alcohol from the People's Republic of China* (''*Furfuryl Alcohol*''), 60 FR 22544 (May 8, 1995), and *Preliminary Determination of Sales at Less Than Fair Value: Certain Partial-Extension Steel Drawer Slides with Rollers from the People's Republic of China* (''*Drawer Slides*''), 60 FR 29571–29576 (June 5, 1995). We have no new information in this proceeding which would cause us to reconsider this determination with regard to the six respondents mentioned above. *See* Comment 1 in the ''Interested Party Comments'' section of this notice for further discussion.

2. De Facto Control

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* and *Furfuryl Alcohol*. Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether the respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

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 (''EPs'') are set by or subject to the approval of a governmental 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 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 and Furfuryl Alcohol*).

Each respondent asserted the following: (1) It establishes its own EPs; (2) it negotiates contracts without guidance from any governmental entities or organizations; (3) it makes its own personnel decisions; and (4) it retains the proceeds of its export sales, uses profits according to its business needs, and has the authority to sell its assets and to obtain loans.

As explained below, at verification, the Department found no evidence of government involvement in each respondent's business operations. *See* Comment 2 in the ''Interested Party Comments'' section of this notice for further discussion.

Specifically, at verification, Department officials examined sales documents that showed that each respondent negotiated its contracts and set its own sales prices with its customers. In addition, the Department reviewed sales payments, bank statements and accounting documentation that demonstrated that each respondent received payment from its U.S. customers via bank wire transfer, which was deposited into its own bank account without government intervention. Finally, the Department examined internal company memoranda such as appointment notices and notes on company meetings which demonstrated that each respondent selected its own management. *See* Department verification reports for CNIM at pages 5–7 and exhibits 1–6 and 16; for LABEF at pages 6–7 and exhibits 2–5; for Haimeng at pages 5–6 and exhibits 1–5, 7 and 17; for GREN at pages 5–6 and exhibits 3–4, 6, 9 and 19; for Winhere at pages 4–6 and exhibits 1–6 and 16; and for ZLAP at pages 5–7 and exhibits 18, 19 and 24. This information, taken in its entirety, supports a finding that there is a *de facto* absence of governmental control of export functions. Consequently, we have determined that the six respondents have each met the criteria for the application of separate rates. *See Notice of Final Determination at Less Than Fair Value: Persulfates from the Peoples Republic of China*, 62 FR 27222 (May 19, 1997).

Fair Value Comparisons

To determine whether sales of the subject merchandise by each respondent to the United States were made at less than fair value (''LTFV''), we compared the EP to the normal value (''NV''), as described in the ''Export Price'' and ''Normal Value'' sections of this notice, below.

Export Price

We calculated EP in accordance with section 772(a) of the Act, because the subject merchandise was sold directly by the PRC exporter to unaffiliated parties in the United States prior to importation into the United States and constructed export price methodology was not warranted based on the facts of record. We calculated EP based on the same methodology used in the preliminary results with the following exceptions: (1) we revised our surrogate value calculations for marine insurance and foreign brokerage and handling fees to reflect correction of mathematical errors (*see* Comment 4 in the ''Interested Party Comments'' section of this notice for further discussion); and (2) we used the verified foreign inland freight distances to value freight expenses incurred for transporting the subject merchandise to the port of exportation (*see* Comment 5 in the ''Interested Party Comments'' section of this notice for further discussion).

Normal Value

A. Non-Market Economy Status

In every case conducted by the Department involving the PRC, the PRC has been treated as a NME country. None of the parties to this proceeding has contested such treatment. Accordingly, we calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

B. Surrogate Country

Section 773(c)(4) of the Act requires the Department to value the NME producer's factors of production, to the extent possible, in one or more market economy countries that (1) are at a level of economic development comparable to that of the NME country, and (2) are significant producers of comparable merchandise. We determined that India is a country comparable to the PRC in terms of overall economic development (*see* Memorandum from Office of Policy to Louis Apple, dated January 22, 1998). In addition, based on publicly available information placed on the record, we determined that India is a significant producer of the subject merchandise. Accordingly, we considered India the primary surrogate country for purposes of valuing the factors of production as the basis for NV because it meets the Department's criteria for surrogate country selection.

C. Factors of Production

In accordance with section 773(c) of the Act, we calculated NV based on the factors of production reported by the companies in the PRC which produced the subject merchandise for the exporters which sold the subject merchandise to the United States during the POR. To calculate NV, the reported unit factor quantities were multiplied by publicly available Indian or Indonesian values.

The selection of the surrogate values applied in this determination was based on the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices to make them delivered prices. For those values not contemporaneous with the POR and quoted in a foreign currency, we adjusted for inflation using wholesale price indices published in the International Monetary Fund's *International Financial Statistics*. For a complete analysis of surrogate values, *see* the Final Results Valuation Memorandum from the Team to the File, dated February 23, 1999 (''*Final Results Valuation Memorandum*'').

We calculated surrogate values based on the same methodology used in the preliminary results with the following exceptions: (1) we revised our calculation for factory overhead, selling, general and administration expenses (''SG&A''), and profit to correct for mathematical errors (*see* Comment 4 in the ''Interested Party Comments'' section of this notice for further discussion); (2) we corrected, where appropriate, clerical errors found at verification; (3) we assigned an additional freight amount to ZLAP for using an unaffiliated transportation company to move the unfinished castings from the casting workshop to the processing workshop which had not been accounted for in our preliminary results; and (4) we used the verified supplier distances to value freight expenses incurred for the transportation of materials to the factory (*see* Comment 5 in the ''Interested Party Comments'' section of this notice for further discussion).

Currency Conversion

We made currency conversions pursuant to section 773A(a) of the Act and section 351.415 of the Department's regulations based on the rates certified by the Federal Reserve Bank.

Interested Party Comments

We gave interested parties an opportunity to comment on the preliminary results. We received comments only from the petitioner. We received rebuttal comments only from the six respondents.

General Issues

Comment 1: Procedure for Renewing Business Licenses As Evidence of PRC Government Control

The petitioner contends that the six respondents have not met the *de jure* and *de facto* absence of government control criteria because the procedure by which PRC companies renew their business licenses with provincial administrations for industry and commerce in the PRC (''administration bureaus'') is evidence of *de jure* control. Specifically, the petitioner argues that the record shows that the renewal of each respondent's business license is conditioned on providing the administration bureau in each respondent's respective province relevant documentation such as balance sheets, profit and loss statement, articles of association and feasibility reports. For example, the petitioner alleges that both Haimeng and Winhere are controlled by the PRC government because each respondent provided the administration bureau a copy of its feasibility report and/or articles of association. Specifically, the petitioner contends that Winhere's articles of association state that in order for the articles to take effect, they must be approved by the Administrative Committee of Yantai Economic and Technical Development Zone (''YETDZ''). The petitioner contends that because YETDZ is a PRC government agency, the need for it to approve Winhere's articles of association or review Winhere's feasibility report is evidence of government control over the operation and management of Winhere. With regard to Haimeng, the petitioner contends that because Haimeng filed a feasibility report with the Longkou Foreign Economics and Trade Committee (''LFETC'') (*i.e.*, a PRC government entity), this act is further evidence of government control over the operations and management of Haimeng. The petitioner maintains that although the respondents did not specify in their submissions or questionnaire responses all of the documentation they provided to provincial administration bureaus, the Department should consider the existence of this PRC government requirement for business license issuance or renewal to indicate PRC government *de jure* control.

The six respondents maintain that the submission of financial data to PRC administration bureaus is not proof of PRC government control. Citing the Department's verification reports, the respondents maintain that the Department reviewed the documents submitted by all respondents at verification and that these documents establish an absence of *de jure* control. The respondents further state that under the Enterprise Registration Regulations, PRC companies are required to submit annual financial data and to report the list of names of the company board of directors to PRC administration bureaus in order to maintain their business licenses. According to the respondents, providing such information is a regulatory requirement and by no means indicates government control of a PRC company's export activities. The respondents also state that the petitioner has provided no rational explanation for why the Department should suspect that there is hidden PRC government control behind each respondent's basic regulatory filing requirement. Finally, the respondents state that the Court of International Trade (''CIT'') has approved of the Department's separate rate analysis, particularly the Department's review of PRC exporters' business licenses, articles of association, and other corporate documentation as

evidence of *de jure* independence from government control. Therefore, the respondents contend that in light of the substantial evidence on the record of this proceeding demonstrating each respondent's *de jure* independence from government control, the Department should reject the petitioner's argument. In support of their arguments, the respondents cite to *Writing Instrument Mfrs Ass'n.* v. *United States Department of Commerce,* 984 F. Supp. 629, 642–43 (CIT 1997); *Sigma Corp.* v. *United States,* 841 F. Supp. 1255, 1266 (CIT 1993); and *Tianjin Machinery Import & Export Corp.* v. *United States*, 806 F. Supp.1088, 1014 (CIT 1992). *DOC Position.*

We agree with the six respondents based on the Department's past practice in analyzing the existence or absence of *de jure* government control over PRC exporters' business activities. We find that the petitioner has misapplied the separate rates test as articulated in *Silicon Carbide.* With regard to the issue of business licenses, in prior cases, we have analyzed the Enterprise Registration Regulations, which outlines the requirements PRC companies must follow in order to receive or renew a business license. Specifically, articles 5 and 15 of this PRC law state that a PRC company applying for a business license with a state or provincial industrial and commercial bureau must provide a copy of its organizational rules and regulations, capital credits certificate, capital verification certificate and capital guarantee, and other related documents and proofs. Since *Silicon Carbide,* we have interpreted this article to mean that PRC companies, upon applying or renewing their business license, must demonstrate to the business license issuing authority that they are incorporated and have the capital to conduct business within the scope of their operation. *See, e.g., Silicon Carbide,* 61 FR 22588, 22589. For some companies, the documents they have been required to provide to administration bureaus to show that they qualify for a business license have included a copy of the financial statement (which shows the company's capital) and articles of association or feasibility report (*i.e.,* business plan) (especially if the company is a start-up company). *See, e.g.,* article 15 of the Enterprise Registration Regulations.

With regard to Winhere, verification exhibits (*i.e.,* exhibits 1, 3 and 4) show that the feasibility report and articles of association are documents which note the company's investment capital situation, business plan, organizational structure, and general profit projections. This type of documentation, which Winhere provided YETDZ for receiving its business license, is consistent with article 15 of the Enterprise Registration Regulations and, as such, is a routine regulatory requirement and not evidence of *de jure* government control over export activities. With regard to Haimeng, verification exhibits (*i.e.,* exhibits 1 through 3) show that Haimeng's feasibility report notes the investment capital, scope of production, foreign and domestic investment equipment, joint-venture agreement, general sales and market plan, organizational structure, and general profit projections. This feasibility report along with the articles of incorporation, provided by Haimeng to the LFETC for receiving its business license, is consistent with article 15 of the Enterprise Registration Regulations and, as such, is a routine regulatory requirement and not evidence of *de jure* government control over export activities. We have also found that this business license requirement applies not only to PRC companies that are ''owned by the whole people,'' but also to other types of ownership such as joint ventures or collectively owned enterprises. *See, e.g.,* article 2 of the Enterprise Registration Regulations.

Based on the foregoing discussion, we find the petitioner's claim that the procedure by which PRC companies must renew their business licenses is evidence of *de jure* control over export activities to be without merit and inconsistent with our analysis of this issue in previous PRC cases. As stated in the ''Separate Rates'' section above, we have found the PRC law referred to above, along with other PRC laws such as the Industrial Enterprises Law, the 1990 Regulation Governing Rural Collectively-Owned Enterprises of PRC, the 1992 Business Operation Provisions, and the 1994 Foreign Trade Law of the People's Republic of China, to sufficiently establish an absence of *de jure* control of companies ''owned by the whole people,'' joint ventures, privately owned enterprises or collectively owned enterprises.

Comment 2: Lack of Detail Contained in the Verification Reports

The petitioner claims that the Department's verification reports are not sufficiently detailed in order for the petitioner to evaluate the comprehensiveness and accuracy of the verification process, and whether the respondents have demonstrated *de jure* and *de facto* absence of government control over their export activities. The petitioner states, among other things, that the verification reports in general contain vague, broad statements and conclusions. Specifically, the petitioner points to the sections of each respondent's verification report where the Department discusses its examination of (1) the business licenses and articles of incorporation; (2) the restrictions on how export revenue is used; and (3) the sales terms, prices and contractual correspondence for pre-selected sales, in particular, as sections lacking detail. The petitioner states that the lack of detail in the verification reports indicates that the Department did not sufficiently examine the separate rates issue at verification. Finally, the petitioner contends that the lack of content in the verification reports has injured petitioner's right to a fair administrative procedure and sets a poor precedent for future cases.

The six respondents contend that the Department's verification procedures were consistent with the verification procedures conducted in other PRC antidumping cases. Furthermore, the respondents suggest that the petitioner's complaints about the vagueness of and lack of detail in the Department's verification reports result from the petitioner's unfamiliarity with the respondents' submissions and the procedures described in the Department's verification outlines. Finally, the six respondents contend that the petitioner has offered no record evidence and only speculative theories to contradict the substantial evidence supporting a finding of *de jure* and *de facto* absence of government control. Therefore, the six respondents maintain that the Department should reject all of the petitioner's arguments challenging the Department's verification procedures.

DOC Position

We agree with the six respondents. In conducting our verification of each respondent's response, we examined substantial documentation the respondent maintained in the ordinary course of business such as financial statements, sales records, sales negotiation documentation, payment and bank deposit documentation, and bank account activity records to determine if the respondent met the criteria for *de jure* and *de facto* absence of government control based on the separate rates criteria specified in the verification outline. The petitioner claims that because the Department did not provide a detailed description in the verification reports of all information contained in the documents examined at verification that the Department did not sufficiently examine the separate rates issue at verification. The petitioner's claim is without merit. We

examined each respondent's available documentation and specifically requested copies of all examined documentation as verification exhibits on the separate rates issue. See verification reports for the six respondents at sections entitled ''De Jure Absence of Government Control,'' and ''De Facto Absence of Government Control.'' Based on our corroboration of the statements each respondent made regarding an absence of *de jure* and *de facto* government control in its questionnaire response with information contained in the relevant verification exhibits for each respondent, and based on the Department's review of the applicable PRC laws regarding separate rates in previous NME cases, we find that there is substantial evidence supporting a finding of *de jure* and *de facto* absence of government control for each respondent in this proceeding.

Comment 3: Visit to PRC Ministry of Machinery Industry (''MMI'') and Ministry of Foreign Trade and Economic Cooperation (''MOFTEC'')

The petitioner contends that the Department should have visited the PRC government offices of MMI and MOFTEC as requested in its December 23, 1998, letter for purposes of examining the separate rates issue. The petitioner contends that the Department's failure to visit MMI and MOFTEC has made it impossible to verify completely the extent of PRC government control over the export activities of each respondent. The petitioner asserts that when Department officials visited these two PRC government entities in the LTFV investigation, the Department was denied access to important information and, as a result, the Department used facts available in the final determination for certain companies. The petitioner alleges that in this review, all six respondents have withheld information demonstrating that the PRC government, through MMI and MOFTEC, exercise control over their operations. Therefore, the petitioner contends that none of the six respondents should be entitled to a separate rate. As evidence that at least one respondent is controlled by PRC government entities, the petitioner points to a Department official's handwritten note on CNIM's articles of association, claiming that this notation indicates that CNIM is required by MOFTEC to furnish its sales volumes to MOFTEC and thus is controlled by MOFTEC. In addition, the petitioner suggests that evidence gathered during the LTFV proceeding indicates that dealings with trading companies were handled by MOFTEC and that this connection is evidence of PRC government control. The petitioner states that because the Department did not and does not plan to conduct a visit of MMI and MOFTEC in the context of this review, the Department should resort to the use of facts available in the final results.

The six respondents argue that the petitioner's allegations concerning the relationship of the respondents with MOFTEC and the MMI are based on unsubstantiated speculation. The six respondents also contend that the petitioner's allegation that the respondents withheld relevant and material information about their relationship with MMI and MOFTEC is unfounded. The six respondents assert they have had no communications or relationship with MMI and MOFTEC officials. With regard to the petitioner's specific allegation that CNIM furnished MOFTEC with its sales volumes, CNIM states that the handwritten note in CNIM's articles of association is the reply of CNIM officials to the Department official's question concerning the reference to MOFTEC in CNIM's articles of association. Specifically, CNIM's reply reflects that CNIM furnished MOFTEC with this information for statistical purposes (see exhibit 20A of the verification report). The respondent also states that the Department examined relevant documents and asked probative questions of CNIM personnel regarding all aspects of the issue of government control and found no evidence of such control. Therefore, the respondents maintain that based on a thorough examination by Department officials of documentation and statements furnished by the respondents at verification, the Department should find an absence of *de jure* and *de facto* government control for all six respondents.

DOC Position

We agree with the six respondents. There is nothing on the record of this proceeding that suggests that a Department visit to MMI or MOFTEC is warranted. In the LTFV investigation, the petitioner provided us with documentary evidence in support of its claim that two respondents were still controlled by the PRC government, which prompted the Department to visit MMI. Thus, in the LTFV investigation, documentation submitted by the petitioner justified the Department's visit to MMI in order to examine in greater depth the relationship between MMI and two respondents in the LTFV proceeding. However, on the record of this administrative review, we have no evidence of a similar relationship between any of the six respondents and MMI or MOFTEC. Therefore, we determined that there was no basis on which to visit MMI or MOFTEC.

Furthermore, the petitioner incorrectly claims that the same situation with regard to the two respondents in the LTFV investigation applies to all six respondents in this review by placing on the record from the LTFV proceeding the Department's verification report at MMI. We find that the information in that report has no bearing on our findings in this segment of the proceeding. Specifically, the information in the MMI verification report from the LTFV investigation contained information on government control specific to two PRC companies which are not part of this review. In contrast, in this review, there is substantial evidence on the record which indicates that none of the six respondents are subject to government control. There is no evidence on this record to the contrary, and we find that the petitioner's claim that the six respondents have withheld information on the separate rates issue to be without merit. With regard to the petitioner's specific allegation that CNIM furnished MOFTEC with its sales volumes and that this event constitutes government control, we find that CNIM's explanation contained in the verification exhibit in response to our question on this matter is acceptable and does not indicate government control over export activities. Moreover, it is not unusual for CNIM or any other PRC company to provide MOFTEC with sales statistics. For example, in numerous antidumping cases involving products from the PRC, the Department has sent initial antidumping questionnaire surveys (*i.e.*, mini-section A questionnaires) to MOFTEC to gather information from which we could select mandatory respondents, and these questionnaires have requested total sales quantity and value data from each PRC exporter of the subject merchandise. *See, e.g., Notice of Preliminary Determinations of Sales at Less Than Fair Value and Postponement of Final Determinations: Brake Drums and Brake Rotors from the People's Republic of China*, 61 FR 53190, 53192 (October 10, 1996).

Comment 4: Calculation of Foreign Brokerage and Handling and Marine Insurance Values, and Factory Overhead, SG&A and Profit Percentages

The petitioner contends that in the preliminary results, the Department made mathematical errors in calculating

the foreign brokerage and handling and marine insurance values. Specifically, the petitioner contends that since the Department used the financial data of five Indian producers of the subject merchandise to calculate the surrogate value percentages for factory overhead, SG&A and profit, the Department erred in calculating the surrogate percentages because it calculated average percentages using a denominator of seven instead of a denominator of five. The petitioner requests that the Department correct these errors for the final results.

The six respondents agree that the arithmetic errors made in the Department's calculation of the surrogate values mentioned above should be corrected for the final results.

Doc Position

We agree with both the petitioner and the respondents and have made the appropriate corrections in our final results. *See Final Results Valuation Memorandum* for further details.

Comment 5: Application of Facts Available to Respondents' Reported Distances For Foreign Inland Freight and Suppliers

The petitioner maintains that at verification the Department did not examine all of the transportation distances (*i.e.*, foreign inland freight and supplier distances) reported by the respondents because the Department's verification reports did not note that all reported distances were examined. Therefore, the petitioner contends that because the Department's verification reports noted errors in the transportation distances that five respondents (*i.e.*, CNIM, LABEF, GREN, Winhere, and ZLAP) reported in their responses, the Department should find the distances reported by the companies to be unreliable and thus resort to facts available.

The six respondents state that there is no basis for the application of either facts available or adverse inferences to the reported transportation distances. Specifically, the six respondents maintain that the petitioner has failed to demonstrate that application of facts available is warranted under the statute, because (1) all necessary information for transportation distances is on the record; (2) no respondent withheld or failed to provide information requested in a timely manner and in the form required; (3) no respondent impeded the review proceeding; and (4) the Department was able to verify all of the respondent's submitted transportation distances. With regard to the petitioner's allegation that because the Department's verification reports did not state that all distances reported by each respondent were examined even though some errors in reported transportation distances were noted in the reports, the six respondents assert that the Department clearly noted in the verification reports for all respondents that it checked all of the distances reported by the respondents. Moreover, the six respondents state that if the petitioner had compared the distances reported in the Department's verification reports with the distances reported in each respondent's Section D submission, the petitioner would discover that the Department did in fact verify all of the reported distance information. Additionally, the six respondents assert that even if the Department had elected not to examine all of the reported distances, the Department has the discretion not to verify all reported information. Furthermore, the six respondents note, contrary to the petitioner's assertions, that the errors in the reported transportation distances noted in the verification reports were either minor in nature or were to the detriment of the affected respondent. Finally, the six respondents point out that the Department verified the correct distances and thus should use them in the final results.

Doc Position

We agree with the six respondents. At verification, we examined all of the distances reported by each respondent using maps to check each respondent's reported distances (see ''Distances'' section of verification reports for the six respondents). As noted in the verification reports, we found several minor errors. In addition, the respondents informed the Department of some minor clerical errors they found in preparation for verification at the commencement of verification. However, these errors did not affect the overall integrity of each respondent's data. Hence, we find the application of facts available is unwarranted in this case and have used the corrected transportation distance information noted in the verification reports for each respondent in the final results.

Company-Specific Issues

Comment 6: Duties and Responsibilities of GREN's General Manager

The petitioner argues that verification exhibit documentation does not support a finding that GREN's general manager has autonomy from the government in making decisions regarding the selection of management. Therefore, because the respondent did not demonstrate *de facto* absence of government control, the petitioner argues that the Department should use facts available and deny GREN a separate rate.

GREN states that the petitioner's argument is without merit. First, the respondent points out that a specific verification exhibit (*i.e.*, exhibit four referred to in the GREN verification report) explains the selection process for GREN's factory general manager. In addition, the respondent maintains that all responses to the Department's questions and all documents reviewed at verification concerning personnel and management selection were consistent with information provided in GREN's questionnaire responses and fully support a determination that GREN's personnel and management selection decisions are free from government involvement. The respondent contends that the petitioner is merely asserting that the absence of additional documentation renders the findings of the Department's verification report and exhibits insufficient to prove the absence of government control over management regarding the hiring or firing of employees. Because, in its opinion, the petitioner's conclusory allegation is illogical and contradicted by the substantial evidence in the GREN verification reports and exhibits, the respondent maintains that the Department should reject petitioner's argument and conclude that substantial record evidence supports a finding of GREN's independence from government control.

DOC Position

We agree with the respondent. In conducting our verification of this issue at GREN, we examined all documentation such as management appointment notices issued and approved by GREN's board of directors and meeting minutes for the election of the general manager (*see* verification exhibit 4 and exhibit 2 of GREN's April 7, 1998, submission). We discussed with GREN the selection process for the general manager. Based on our examination of statements in GREN's response and documentation provided by GREN at verification, we found no evidence that refuted or contradicted GREN's statements in its response regarding whether its management selected its personnel without government interference. Therefore, we find that the petitioner's claim of *de facto* government control in the case of GREN is unsubstantiated by any evidence on the record.

Comment 7: Relationship Between CNIM and its Supplier of the Subject Merchandise and the PRC Government

The petitioner argues that the Department's verification report did not provide sufficient information on whether CNIM met the separate rates criteria. First, the petitioner claims that the separate rate test should apply to CNIM's supplier of the subject merchandise, Hanting, because Hanting did not provide sufficient evidence that it is unaffiliated with CNIM. The petitioner further adds that there is a reason to suspect that CNIM and Hanting are affiliated parties because CNIM supplied control numbers in its sales response which are identical to the control numbers Hanting provided in its factors of production (''FOP'') response. Second, the petitioner argues that there is no documentary evidence in the verification report that supports a finding that CNIM does not coordinate its selling and pricing activities with other PRC exporters of the subject merchandise or with the China Chamber of Commerce (''CCC''). Moreover, the petitioner adds that the items the Department routinely examines to determine whether a respondent meets the separate rates criteria (*i.e.*, sales records, bank records and accounting ledgers) are not likely to reveal activities of price or selling coordination among PRC entities and the government or the PRC government's role in setting prices. Furthermore, the petitioner argues that the Department did not fully examine this issue at verification because there is no mention in the verification report that documentation such as letters, facsimiles, emails, phone logs, memoranda of phone conversations, and travel and expense records were examined, or that the Department officials visited the CCC. Finally, the petitioner argues that there is no documentary evidence in the verification report that supports a finding that no PRC government entity had a role in setting prices for CNIM. To determine whether CNIM was subject to PRC government control, the petitioner argues that the Department should have examined letters, facsimiles, emails, phone logs, memoranda of phone conversations, and travel and expense records of CNIM.

The respondent states that the fact that CNIM and Hanting reported the same control numbers simply reflects good communication between the two companies in preparing their antidumping response, which is consistent with the Department's questionnaire requirements, and has nothing to do with the affiliation issue or the separate rates issue. With regard to the sales documentation which the Department examined at verification, the respondent states that the Department's thorough examination of such documentation demonstrated that CNIM personnel were, in fact, solely involved in the sales and pricing activities, and that the sales records did not identify any other PRC exporter or the CCC as a party to CNIM's sales transactions. Finally, the respondent maintains that all documentation reviewed by the Department at verification represents substantial evidence which supports a finding that there is no coordination of selling or pricing activities between CNIM and other PRC exporters or the CCC.

DOC Position

We agree with the respondent. The petitioner's claim that CNIM and Hanting are affiliated parties is without merit. At verification, we examined CNIM's long-term and short-term investments in its affiliates by examining investment entries in CNIM's short-term and long-term investment subledgers (*see* verification exhibit 19 of the Department's verification report for CNIM). We also tied these subledgers to CNIM's financial statements. We also examined at verification Hanting's short-term and long-term investments. As a result of our examination, we found no evidence that CNIM made investments in Hanting (or *vice versa*) or that CNIM is otherwise affiliated with Hanting. The petitioner erroneously concludes that, because CNIM supplied the same control numbers as Hanting supplied in its FOP response, CNIM and Hanting must be affiliated parties. In issuing the antidumping questionnaire, the Department instructed CNIM to furnish, by control number, for each of its sales to the U.S. market, the factors used by its supplier to produce the merchandise sold by CNIM. This reporting requirement applies to both affiliated and unaffiliated suppliers of the subject merchandise and is separate from the affiliation issue.

We also disagree with the petitioner's claim that CNIM coordinated its selling and pricing activities with other PRC exporters of the subject merchandise or with the CCC, and that a PRC government entity had a role in setting prices for CNIM. At verification, we extensively examined CNIM's accounting records and sales documentation and found no evidence to support these claims. Although we did not examine the additional types of documentation suggested by the petitioner for the first time in its case brief (*i.e.*, letters, facsimiles, emails, phone logs, memoranda of phone conversations, and travel and expense records), we did examine the type of documentary evidence (including sales documentation and records, bank records and accounting ledgers) that we normally rely on in NME cases. The Department considers such evidence to be sufficient to establish whether there is a *de facto* absence of government control in selling and pricing activities of the respondent or whether the respondent is coordinating with other PRC exporters in selling the subject merchandise. In this case, we find that the substantial evidence on this record supports a finding that CNIM did not coordinate its selling and pricing activities with other PRC exporters of the subject merchandise or with the CCC, and that no PRC government entity had a role in setting prices for CNIM.

Final Results of the Review

As a result of our comparison of EP and NV, we determine that the following weighted-average margins exist for the period April 1, 1997, through September 30, 1997:

Manufacturer/producer/exporter	Margin (percent)
China National Machinery Import & Export Company (CNIM)	0.00
Laizhou Auto Brake Equipments Factory (LABEF)	0.00
Longkou Haimeng Machinery Co., Ltd. (Haimeng)	0.00
Qingdao Gren Co. (GREN)	0.00
Yantai Winhere Auto-Part Manufacturing Co., Ltd. (Winhere)	0.00
Zibo Luzhou Automobile Parts Co., Ltd. (ZLAP)	0.00

We will instruct the U.S. Customs Service not to assess antidumping duties on entries of the subject merchandise from the above-referenced PRC exporters made during the POR.

Furthermore, the following deposit rates shall be required for merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of administrative review, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rates for CNIM, LABEF, Haimeng, GREN, Winhere, and ZLAP will be the rates indicated above; (2) the cash deposit rate for PRC exporters who received a separate rate in the LTFV investigation will continue to be the rate assigned in that investigation; (3) the cash deposit rate for all other PRC exporters will continue to be 43.32 percent, the PRC-wide rate established in the LTFV investigation; and (4) the cash deposit rate for non-PRC exporters of subject merchandise from the PRC will be the rate applicable to the PRC supplier of that exporter. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as the final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the 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 notice also 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 353.34(d). Timely written notification or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of the APO is a sanctionable violation.

This new shipper administrative review and notice are in accordance with section 751(a)(2)(B) of the Act (19 U.S.C. 1675(a)(2)(B)) and 19 CFR 351.214(d).

Dated: February 23, 1999.

Holly A. Kuga,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

[A–403–801]

Fresh and Chilled Atlantic Salmon From Norway; Final Results of Changed Circumstances Antidumping Duty Administrative Review

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

ACTION: Notice of final results of changed circumstances antidumping duty administrative review.

SUMMARY: On September 23, 1998, the Department of Commerce (''the Department'') published the notice of initiation and preliminary results of its changed circumstances administrative review concerning whether Kinn Salmon A/S (''Kinn'') is the successor firm to Skaarfish Group A/S (''Skaarfish''). We have now completed that review. We have determined that Kinn is the successor firm to Skaarfish.

EFFECTIVE DATE: March 1, 1999.

FOR FURTHER INFORMATION CONTACT: Todd Peterson or Thomas Futtner, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–4195.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreement Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (1998).

Background

In a letter dated March 2, 1998, Kinn advised the Department that on July 1, 1997, the former Skaarfish reorganized to form two firms, Skaarfish Pelagisk AS and Kinn Salmon. Kinn requested that the Department conduct a changed circumstances administrative review pursuant to section 751(b) of the Act to determine whether Kinn should properly be considered the successor firm to Skaarfish. Kinn stated that the salmon activities of Skaarfish including processing, marketing and exporting were transferred to Kinn Salmon AS. Skaarfish Pelagisk AS oversees the processing, marketing and exporting activities of all other types of fish. Kinn stated that its operations are a direct continuation of the salmon related activities performed by Skaarfish. While the board of directors has changed, the officers and management of Kinn are virtually identical to the officers and management of Skaarfish. Kinn stated that the address, telephone numbers and telefax numbers are the same as those of Skaarfish. Furthermore, it operates the same facilities in Floro, Norway that were operated by Skaarfish for the processing of salmon and conducts business operations at the same executive offices used by Skaarfish. It provided documentation showing that the customer list for Kinn and the supplier list to Kinn is the same as the customer and supplier lists for Skaarfish. Kinn submitted a copy of The Certificates of Registration of Skaarfish, Skaarfish Pelagisk AS, and Kinn Salmon AS that it filed with the Register of Business Enterprises in Norway.

On September 23, 1998, the Department published in the **Federal Register** (63 FR 50880) the notice of initiation and preliminary results of its changed circumstances antidumping duty administrative review of fresh and chilled Atlantic salmon from Norway. We have now completed this changed circumstances review in accordance with section 751(b) of the Act.

Scope of the Review

The merchandise covered by this review is fresh and chilled Atlantic salmon (''salmon''). It encompasses the species of Atlantic salmon (''Salmo salar'') marketed as specified herein; the subject merchandise excludes all other species of salmon: Danube salmon; Chinook (also called ''king'' or ''quinnat''); Coho (''silver''); Sockeye (''redfish'' or ''blueback''); Humpback (''pink''); and Chum (''dog''). Atlantic salmon is whole or nearly whole fish, typically (but not necessarily) marketed gutted, bled, and cleaned, with the head on. The subject merchandise is typically packed in fresh water ice (''chilled''). Excluded from the subject merchandise are fillets, steaks, and other cuts of Atlantic salmon. Also excluded are frozen, canned, smoked or otherwise processed Atlantic salmon. Fresh and chilled Atlantic salmon is currently provided for under Harmonized Tariff Schedule (HTS) subheading 0302.12.00.02.09. The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

Successorship

In considering questions involving successorship, the Department examines several factors including, but not