

subject merchandise during the POI to be a part of the expedited review process and that a CVD new shipper review would have the same focus as a CVD expedited review—whether and to what extent a particular product benefitted from subsidies. Therefore, the petitioners assert that there is no reason for the Department to initiate a CVD new shipper review as the same result can be obtained through the expedited review process.

On December 19, 2002, La Pointe & Roy submitted rebuttal comments to the issues raised by the petitioners; the petitioners responded on December 24, 2002. Although on December 19, 2002, La Pointe & Roy stated that transfer of its allocated quota during the POI was done without the specific knowledge of what the ultimate use of the quota would be by the customer, on December 27, 2002, it corrected its statement to indicate that, in fact, it “was not allocated any quota by the Canadian government between April 1, 2000 and March 31, 2001,”<sup>5</sup> the POI.

In addition, on December 31, 2002, La Pointe and Roy clarified that the quota it received in 1998 and 1999 was transferred to other companies in 1998 and 1999 and was not carried over into the POI. Furthermore, the company stated that the transfers of quota described as occurring during the POI in its December 19, 2002, submission occurred prior to, not during, the POI.

After reviewing the submissions of all parties, we have determined that La Pointe & Roy’s certifications that during the POI (1) it did not export to the United States and (2) it did not receive any quota which would have allowed it to export to the United States, are sufficient, for purposes of initiation. Moreover, there is no conflict with any expedited review because La Pointe & Roy is withdrawing its request for expedited review on the grounds that it did not export during the POR, as stated in their November 26, 2002, submission. In sum, we have considered La Pointe & Roy’s requests and find that they meet the requirements set forth in the Department’s regulations. Therefore, in accordance with section 751(a)(2)(B)(ii) of the Act and 19 CFR 351.214(d)(1), we are initiating new shipper reviews of the AD and CVD orders on certain softwood lumber from Canada. We intend to issue the preliminary results of these new shipper reviews not later than 180 days after initiation of these reviews. In addition, we are granting La Pointe &

Roy’s request to rescind the ongoing expedited review.

New shipper review proceeding	Period to be reviewed
Scierie La Pointe & Roy Ltée.	05/22/02— 10/31/02 (AD) 01/01/02— 12/31/02 (CVD)

We will instruct the Customs Service to allow, at the option of the importer, the posting, until the completion of the reviews, of a bond or security in lieu of a cash deposit for each entry of the subject merchandise from the above-listed company in accordance with 19 CFR 351.214(e). Because La Pointe & Roy certified that it both produces and exports the subject merchandise, the sale of which was the basis for these new shipper review requests, we will apply the bonding privilege only to subject merchandise for which La Pointe & Roy is both the producer and exporter. Interested parties that need access to proprietary information in these new shipper reviews should submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.214(d).

Dated: December 31, 2002.

**Bernard T. Carreau,**

*Deputy Assistant Secretary, Group II, Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-846]

#### **Brake Rotors from the People’s Republic of China: Preliminary Results and Preliminary Partial Rescission of the Fifth Antidumping Duty Administrative Review and Preliminary Results of the Seventh New Shipper Review**

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

**ACTION:** Notice of preliminary results and preliminary partial rescission of the fifth antidumping duty administrative review and preliminary results of the seventh new shipper review.

**SUMMARY:** The Department of Commerce is currently conducting the fifth

administrative review and the seventh new shipper review of the antidumping duty order on brake rotors from the People’s Republic of China (“PRC”) covering the period April 1, 2001, through March 31, 2002. The administrative review examines 16 exporters, five of which are exporters included in three exporter/producer combinations. The new shipper review covers two exporters.

We have preliminarily determined that no sales have been made below normal value with respect to the exporters subject to these reviews, with the exception of one exporter determined to be part of the PRC non-market economy (“NME”) entity. If these preliminary results are adopted in our final results of these reviews, we will instruct the U.S. Customs Service to assess antidumping duties on entries of subject merchandise during the period of review, for which the importer-specific assessment rates are above *de minimis*. We are also preliminarily rescinding the administrative review with respect to five exporters included in the three exporter/producer combinations because none of those respondents made shipments of the subject merchandise during the period of review.

Interested parties are invited to comment on these preliminary results. We will issue the final results no later than 120 days from the date of publication of this notice.

**EFFECTIVE DATE:** January 8, 2003.

**FOR FURTHER INFORMATION CONTACT:** Terre Keaton or Brian Smith, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 482-1280, and (202) 482-1766, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On April 26, 2002, the petitioner<sup>1</sup> requested an administrative review pursuant to 19 CFR 351.213(b) for 15 exporters,<sup>2</sup> five of which are included in

<sup>1</sup> The petitioner is the Coalition for the Preservation of American Brake Drum and Rotor Aftermarket Manufacturers.

<sup>2</sup> The names of these exporters are as follows: (1) China National Industrial Machinery Import & Export Corporation (“CNIM”); (2) Laizhou Automobile Brake Equipment Company, Ltd. (“LABEC”); (3) Longkou Haimeng Machinery Co., Ltd. (“Haimeng”); (4) Laizhou Hongda Auto Replacement Parts Co., Ltd. (“Hongda”); (5) Hongfa Machinery (Dalian) Co., Ltd. (“Hongfa”); (6) Qingdao Gren (Group) Co. (“GREN”); (7) Qingdao Meita Automotive Industry Company, Ltd. (“Meita”); (8) Shandong Huanri (Group) General Company (“Huanri General”); (9) Yantai Winhere Auto-Part Manufacturing Co., Ltd. (“Winhere”); and

Continued

<sup>5</sup> See submission from Alston & Bird LLP to the Department on behalf of La Pointe & Roy, dated December 27, 2002.

three exporter/producer combinations<sup>3</sup> that received zero rates in the less-than-fair-value ("LTFV") investigation and thus were excluded from the antidumping duty order only with respect to brake rotors sold through the specified exporter/producer combinations.

On April 30, 2002, the Department received timely requests from Shanxi Fengkun Metallurgical Ltd. Co. ("Shanxi Fengkun") and Zibo Golden Harvest Machinery Limited Company ("Golden Harvest") for a new shipper review of this antidumping duty order in accordance with 19 CFR 351.214(c). On this same date, Beijing Concord Auto Technology Inc. ("Beijing Concord") requested that the Department conduct an administrative review of its exports of subject merchandise for the period April 1, 2001, through March 31, 2002.

On May 7, 2002, both Shanxi Fengkun and Golden Harvest agreed to waive the time limits applicable to the new shipper review and to permit the Department to conduct the new shipper review concurrently with the administrative review.

On May 23, 2002, the Department initiated an administrative review covering the companies listed in the petitioner's April 26, 2002, request, as well as Beijing Concord (*see Initiation or Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 67 FR 36148).

On May 24, 2002, the Department initiated a new shipper review of Shanxi Fengkun and Golden Harvest (*see Brake Rotors from the People's Republic of China: Initiation of New Shipper Antidumping Duty Reviews*, 67 FR 38642 (June, 5, 2002)).

On June 3, 2002, we issued a questionnaire to each company listed in the above-referenced initiation notices. Also on June 3, 2002, the Department provided the parties an opportunity to submit publicly available information for consideration in these preliminary results.

On June 19, 2002, each of the exporters that received a zero rate in the LTFV investigation stated that during the period of review ("POR") it did not

make U.S. sales of brake rotors produced by companies other than those included in its respective excluded exporter/producer combination.

We received responses to the Department's questionnaire in July and August 2002. We issued supplemental questionnaires in August 2002, and received responses in September, October, and November 2002.

Beijing Concord did not respond to the Department's June 3, 2002, antidumping questionnaire. Consequently, on October 16, 2002, we informed Beijing Concord that since the Department had not received a questionnaire response from it by the deadline granted to it, we would have to resort to facts available in accordance with section 776(b) of the Act (*see* "Facts Available" section of this notice below for further discussion).

On October 2, 2002, the Department conducted a data query on brake rotor entries made during the POR from all exporters named in the excluded exporter/producer combinations in order to substantiate their claims that they made no shipments of subject merchandise during the POR. As a result of the data query, the Department requested that the Customs Service confirm the actual manufacturer for 25 specific entries associated with the excluded exporter/producer combinations. On December 31, 2002, the Department issued a memorandum stating that it preliminarily found no evidence that shipments of merchandise subject to the order were made by the five exporters included in the three exporter/producer combinations during the POR. For further discussion, *see* the section of this notice entitled "Preliminary Partial Rescission of Administrative Review."

Also in October 2002, we issued verification outlines to Golden Harvest, GREN, and Shanxi Fengkun. We conducted verification of the responses submitted by Golden Harvest, GREN and its U.S. subsidiary, and Shanxi Fengkun during October and November 2002. We issued verification reports in December 2002. (*See* December 13, 2002, verification reports for Golden Harvest and Shanxi Fengkun in the Seventh Antidumping Duty New Shipper Review and December 20, 2002, verification report for GREN in the Fifth Antidumping Duty Administrative Review.)

On December 23, 2002, GREN submitted revised U.S. sales and factors of production listings, pursuant to the Department's instructions, reflecting data corrections based on verification findings.

## Scope of the Order

The products covered by this order 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. Semifinished 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 the order 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 order 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 currently classifiable under subheading 8708.39.5010 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

## Period of Review

The POR covers the period April 1, 2001, through March 31, 2002.

## Verification

As provided in section 782(i)(2) of the Act, we verified information provided by GREN, Golden Harvest, and Shanxi Fengkun. We used standard verification procedures, including on-site inspection of the manufacturer's facilities and examination of relevant sales and financial records. Our verification

(10) Zibo Luzhou Automobile Parts Co., Ltd. ("ZLAP"); (11) China National Machinery and Equipment Import & Export (Xianjiang) Corporation ("Xianjiang"); (12) China National Automotive Industry Import & Export Corporation ("CAIEC"); (13) Laizhou CAPCO Machinery Co., Ltd. ("Laizhou CAPCO"); (14) Laizhou Luyuan Automobile Fittings Co. ("Laizhou Luyuan"); and (15) Shenyang Honbase Machinery Co., Ltd. ("Shenyang").

<sup>3</sup> The excluded exporter/producer combinations are: (1) Xianjiang/Zibo Botai; (2) CAIEC or Laizhou CAPCO/Laizhou CAPCO; and (3) Laizhou Luyuan or Shenyang/Laizhou Luyuan or Shenyang.

results are outlined in the verification report for each of these companies (see December 2002 verification reports for Golden Harvest, Shanxi Fengkun and GREN for further discussion).

#### **Preliminary Partial Rescission of Administrative Review**

Pursuant to 19 CFR 351.213(d)(3), we have preliminarily determined that the exporters which are part of the three exporter/producer combinations which received zero rates in the LTFV investigation did not make shipments of subject merchandise to the United States during the POR. Specifically, (1) neither Laizhou CAPCO nor CAIEC exported brake rotors to the United States that were manufactured by producers other than Laizhou CAPCO; (2) Xinjiang did not export brake rotors to the United States that were manufactured by producers other than Zibo Botai, (3) Shenyang did not export brake rotors to the United States that were manufactured by producers other than Shenyang or Laizhou Luyuan, and (4) Laizhou Luyuan did not export brake rotors to the United States that were manufactured by producers other than Laizhou Luyuan or Shenyang.

In order to make this determination, we first examined PRC brake rotor shipment data maintained by the Customs Service. We then selected entries associated with each exporter and requested the Customs Service to provide documentation which would enable the Department to determine who manufactured the brake rotors included in those entries. On December 31, 2002, we placed on the record of this review a memorandum which summarized the data provided by the Customs Service in response to our query. Based on the results of our query, in accordance with 19 CFR 351.213(d)(3), we are preliminarily rescinding the administrative review because we found no evidence that the exporters in question made U.S. shipments of the subject merchandise during the POR. Although we still have not received manufacturer confirmation on some of the entries we selected in our sample, we will continue to pursue this matter with the Customs Service and seek to obtain the necessary data for consideration in our final results.

#### **Facts Available**

We issued Beijing Concord the Department's antidumping duty questionnaire on June 3, 2002. Although we provided Beijing Concord with three extensions of time for submitting its questionnaire response, it failed to provide its response by the final extended deadline date of August 9,

2002. As a result of not receiving a questionnaire response from it and in light of its counsel withdrawing its appearance on its behalf (see letter from counsel dated August 9, 2002), we issued Beijing Concord a letter on August 22, 2002, which informed the company that we assumed that it did not intend to participate in this review. On September 3, and 16, 2002, Beijing Concord stated that it would not be able to participate in this review based on its decision to no longer retain counsel, particularly given its alleged lack of experience with our administrative process. However, in those same letters, Beijing Concord stated that it was willing to respond to the questionnaire if the Department wanted it to do so. In response to the September 3, and 16, 2002, letters submitted by Beijing Concord, we informed the company on October 16, 2002, that the deadline (which had been extended three times pursuant to its request) for submitting a response to the Department's June 3, 2002, antidumping questionnaire had long passed and that we would not be able to provide it with another opportunity to respond to the questionnaire in this review. In addition, we informed Beijing Concord that we would have to apply facts available to it in accordance with section 776(b) of the Act.

Under section 782(c) of the Act, a respondent has a responsibility not only to notify the Department if it is unable to provide requested information, but also to provide a "full explanation and suggested alternative forms." Beijing Concord's September 3, and 16, 2002, letters documented for the record the company's decision not to provide this information in a timely manner and it has otherwise failed to respond to our requests for information, thereby failing to comply with this provision of the statute. Therefore, we determine that Beijing Concord failed to cooperate to the best of its ability, making the use of an adverse inference appropriate. Consequently, Beijing Concord is not eligible to receive a separate rate and continues to be part of the PRC NME entity, subject to the PRC-wide rate.

In this segment of the proceeding, in accordance with Department practice (see, e.g., *Rescission of Second New Shipper Review and Final Results and Partial Rescission of First Antidumping Duty Administrative Review of Brake Rotors from the People's Republic of China*, 64 FR 61581, 61584 (November 12, 1999)), as adverse facts available, we have assigned to exports of the subject merchandise by Beijing Concord the PRC-wide rate of 43.32 percent, a rate that was calculated based on

information contained in the petition. The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse "as to effectuate the purpose of the facts available rule to induce a respondent to provide the Department with complete and accurate information in a timely manner." See *Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932, February 23, 1998.

Section 776 of the Act provides that where the Department selects from among the facts otherwise available and relies on "secondary information," the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. Secondary information is described in the SAA as "[i]nformation derived from the petition that gave rise to the investigation or review under section 751 concerning the subject merchandise."

With respect to the relevance aspect of corroboration, the Department stated in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996) ("TRBs"), that it will "consider information reasonably at its disposal as to whether there are circumstances that would render a margin irrelevant. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin." See also *Fresh Cut Flowers from Mexico; Preliminary Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (February 22, 1996) (disregarding the highest margin in the case as best information available because the margin was based on another company's uncharacteristic business expense resulting in an extremely high margin).

We corroborated the petition information in subsequent reviews to the extent that we noted the history of corroboration and found that we had not received any information that warranted revisiting the issue. See *Fresh Garlic from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Administrative Review*, 65 FR 48464 (August 8, 2000). Similarly, no information has been presented in

the current review that calls into question the reliability or the relevance of the information contained in the petition. We thus find that the information is reliable; therefore, we have applied, as adverse facts available, the PRC-wide rate from prior administrative reviews of this order and have satisfied the corroboration requirements under section 776(c) of the Act. See *Persulfates from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 66 FR 18439, 18441 (April 9, 2001) (employing a petition rate used as adverse facts available in a previous segment as the adverse facts available in the current review). We have determined that this rate has probative value and, therefore, is an appropriate rate to be applied in this review to exports of subject merchandise by Beijing Concord as facts otherwise available.

### Separate Rates

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty deposit rate (*i.e.*, a PRC-wide rate).

Of the 12 respondents that submitted questionnaire responses, three of the PRC companies (*i.e.*, Hongfa, Meita, and Winhere) are wholly foreign-owned. Thus, for these three companies, because we have no evidence indicating that they are under the control of the PRC government, a separate rates analysis is not necessary to determine whether they are independent from government control (*see Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People's Republic of China*, 64 FR 71104, 71105 (December 20, 1999); *Preliminary Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms from the People's Republic of China*, 65 FR 66703, 66705 (November 7, 2000); and *Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China ("Bicycles")* 61 FR 19026 (April 30, 1996)).

The remaining nine respondents (*i.e.*, Golden Harvest, Haimeng, Hongda, ZLAP, CNIM, GREN, Huanri General, LABEC and Shanxi Fengkun) are either joint ventures between PRC and foreign companies, collectively-owned enterprises and/or limited liability companies in the PRC. Thus, for these nine respondents, a separate rates analysis is necessary to determine whether the exporters are independent

from government control (see *Bicycles* at 61 FR 56570). To establish whether a firm is sufficiently independent in its export activities from government control to be entitled to a separate rate, the Department utilizes 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"), and amplified 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*"). Under the separate-rates criteria, the Department assigns separate rates in NME 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

CNIM, Golden Harvest, GREN, Haimeng, Hongda, Huanri General, LABEC, Shanxi Fengkun, and ZLAP have each placed on the administrative record documents to demonstrate absence of *de jure* control, including the "The Enterprise Legal Person Registration Administrative Regulations," promulgated on June 3, 1988; the 1990 "Regulation Governing Rural Collectively-Owned Enterprises of PRC;" and the 1994 "Foreign Trade Law of the People's Republic of China."

As in prior cases, we have analyzed these laws and have found them to establish sufficiently an absence of *de jure* control of collectively-owned enterprises, joint ventures between PRC and foreign companies, and/or limited liability companies. *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*, 60 FR 29571 (June 5, 1995). We have no new information in this proceeding which would cause us to reconsider this determination with regard to CNIM, Golden Harvest, GREN, Haimeng, Huanri General, Hongda, LABEC, Shanxi Fengkun, and ZLAP.

#### 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 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 the disposition of profits or financing of losses (*see Silicon Carbide and Furfuryl Alcohol*).

CNIM, Golden Harvest, GREN, Haimeng, Hongda, Huanri General, LABEC, Shanxi Fengkun, and ZLAP have each asserted the following: (1) it establishes its own export prices; (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. Additionally, each of these companies' questionnaire responses indicates that its pricing during the POR does not suggest coordination among exporters.

In this segment of the proceeding, the Department selected three of the 12 respondents for verification, namely Golden Harvest, GREN, and Shanxi Fengkun. The Department did not select the other nine respondents (*i.e.*, CNIM, Haimeng, Hongda, Huanri General, LABEC, Meita, Winhere, and ZLAP) for verification.

For Golden Harvest, GREN, and Shanxi Fengkun, the Department found no evidence at verification of government involvement in any of these companies' business operations. Specifically, Department officials examined sales documents that showed that each of these three respondents 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 of these three respondents 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 election results, which demonstrated that each of these three companies selected its own management. See pages five through seven of the Department's verification report for Golden Harvest; pages 10 through 12 of the Department's verification report for GREN; and pages six and seven of the Department's verification report for Shanxi Fengkun. This information, taken in its entirety, supports a finding that there is a *de facto* absence of governmental control of each of these companies' export functions.

With regard to CNIM, Haimeng, Hongda, Huanri General, LABEC, and ZLAP (*i.e.*, the other six respondents subject to the separate rates test in this review), the Department elected not to verify these companies' responses in accordance with section 351.307(b)(3). Based on documentation contained in each company's response, the Department also finds that each of these six respondents (1) negotiated its contracts and set its own sales prices with its customers; (2) received payment from its U.S. customers via bank wire transfer, which was deposited into its own bank account without government intervention; (3) retained its profits and, where applicable, arranged its own financing; and (4) selected its own management (see each respondent's questionnaire responses).

Consequently, we have determined that CNIM, Golden Harvest, GREN, Haimeng, Hongda, Huanri General, LABEC, Shanxi Fengkun and ZLAP have each met the criteria for the application of separate rates either through documentation submitted on the record subject to verification or through actual verification. See *Notice of Final Determination at Less Than Fair Value: Persulfates from the People's Republic of China*, 62 FR 27222 (May 19, 1997).

### Normal Value Comparisons

To determine whether sales of the subject merchandise by CNIM, Golden Harvest, GREN, Haimeng, Huanri General, Hongda, Hongfa, LABEC, Meita, Shanxi Fengkun, Winhere, and ZLAP to the United States were made at prices below normal value ("NV"), we compared each company's export prices to NV, as described in the "Export Price," "Constructed Export Price," and "Normal Value" sections of this notice, below.

### Export Price

For 11 of the 12 respondents (*i.e.*, CNIM, Golden Harvest, Haimeng,

Huanri General, Hongda, Hongfa, LABEC, Meita, Shanxi Fengkun, Winhere, and ZLAP), we used export price methodology in accordance with section 772(a) of the Act because the subject merchandise was first sold prior to importation by the exporter outside the United States directly to an unaffiliated purchaser in the United States, and constructed export price was not otherwise indicated.

1. CNIM, Golden Harvest, Hongfa, Meita, Shanxi Fengkun, Winhere, and ZLAP

We calculated EP based on packed, FOB foreign port prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight and foreign brokerage and handling charges in the PRC, in accordance with section 772(c) of the Act. Because foreign inland freight and foreign brokerage and handling fees were provided by NME service providers or paid for in an NME currency, we based those charges on surrogate rates from India (*see* "Surrogate Country" section below). To value foreign inland trucking charges, we used a November 1999 average truck freight value based on price quotes from Indian trucking companies. Based on our verification findings, we revised the reported distance from Golden Harvest to the port of exportation (*see* page 13 of the Golden Harvest verification report). To value foreign brokerage and handling expenses, we relied on public information reported in the 1997-1998 new shipper review of the antidumping duty order on stainless steel wire rod from India.

2. Haimeng, Hongda, Huanri General, and LABEC

We calculated EP based on packed, CIF, CFR or FOB foreign port prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight and foreign brokerage and handling charges in the PRC, marine insurance and international freight, in accordance with section 772(c) of the Act. As all foreign inland freight and foreign brokerage and handling fees were provided by NME service providers or paid for in an NME currency, we valued these services using the Indian surrogate values discussed above. For marine insurance, we used public information that was used in the 2000-2001 administrative review of the antidumping duty order on tapered roller bearings and parts thereof, finished and unfinished, from

the People's Republic of China. For international freight (*i.e.*, ocean freight and U.S. inland freight expenses from the U.S. port to the warehouse (where applicable)), we used the reported expense because each of these four respondents used market-economy freight carriers and paid for those expenses in a market-economy currency (*see, e.g., Brake Rotors from the People's Republic of China: Final Results of Antidumping Duty New Shipper Review*, 64 FR 9972, 9974 (March 1, 1999)).

### Constructed Export Price

For GREN, we calculated constructed export price ("CEP") in accordance with section 772(b) of the Act. We found that GREN made CEP sales during the POR because the sales were made for the account of GREN by the respondent's subsidiary in the United States to unaffiliated purchasers. We based CEP on packed, delivered or ex-warehouse prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight and foreign brokerage and handling charges in the PRC, international freight (*i.e.*, ocean freight and U.S. inland freight from the U.S. port to the warehouse), marine insurance, U.S. customs duties and fees (including harbor maintenance fees, merchandise processing fees, and brokerage and handling), and U.S. inland freight expenses (*i.e.*, freight from the plant to the customer). As all foreign inland freight, foreign brokerage and handling, and marine insurance expenses were provided by NME service providers or paid for in an NME currency, we valued these services using the Indian surrogate values discussed above. For international freight (*i.e.*, ocean freight and U.S. inland freight expenses from the U.S. port to the warehouse (where applicable)), we used the reported expense because the respondent used a market-economy freight carrier and paid for those expenses in a market-economy currency.

In accordance with section 772(d)(1) of the Act, we also deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (commissions and credit expenses), and indirect selling expenses (including inventory carrying costs) incurred in the United States. We also made an adjustment for profit in accordance with section 772(d)(3) of the Act.

## Normal Value

### A. Non-Market Economy Status

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. Pursuant to section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority (see *Notice of Preliminary Results of Antidumping Duty Administrative Review and Preliminary Partial Rescission of Antidumping Duty Administrative Review: Freshwater Crawfish Tail Meat From the People's Republic of China*, 66 FR 52100, 52103 (October 12, 2001)). None of the parties to this proceeding has contested such treatment. Accordingly, we calculated normal value 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 an 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. India and Indonesia are among the countries comparable to the PRC in terms of overall economic development (see Memorandum from the Office of Policy to Irene Darzenta Tzafolias, dated May 29, 2002). In addition, based on publicly available information placed on the record, 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 because it meets the Department's criteria for surrogate country selection. Where we could not find surrogate values from India, we used values from Indonesia.

### 3. Factors of Production

In accordance with section 773(c) of the Act, we calculated NV based on the factors of production which included, but were not limited to: (A) hours of labor required; (B) quantities of raw materials employed; (C) amounts of energy and other utilities consumed; and (D) representative capital costs, including depreciation. We used the factors reported by each of the 12 respondents which produced the brake rotors it exported to the United States during the POR. To calculate NV, we multiplied the reported unit factor quantities by publicly available Indian or Indonesian values.

Based on our verification findings at Golden Harvest, we revised the following data in its response: (1) the reported per-unit weight for tin clamps and steel strap for all models; (2) the reported per-unit weight for corrugated paper cartons reported for two models; (3) the per-unit factor amounts for direct labor for all models; and (4) the distances from Golden Harvest to three of its suppliers (see pages 17, 19, and 20 of the Golden Harvest verification report). Based on our verification findings at Shanxi Fengkun, we revised the reported per-unit weight for five of its packing materials (*i.e.*, corrugated paper cartons, nails, plastic bags, tape, and steel strap) (see page 18 of the Shanxi Fengkun verification report). Based on our verification findings at GREN, we revised the distances reported from GREN to four of its suppliers (see page 7 of the GREN verification report).

The Department's 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 or in U.S. dollars, we made adjustments for inflation using wholesale price indices published in the International Monetary Fund's *International Financial Statistics*.

To value pig iron, steel scrap, ferrosilicon, ferromanganese, limestone, lubrication oil, ball bearing cups, coking coal and firewood, we used April 2001-December 2001 average import values from *Monthly Statistics of the Foreign Trade of India* ("*Monthly Statistics*"). We relied on the factor specification data submitted by the respondents for the above-mentioned inputs in their questionnaire and supplemental questionnaire responses for purposes of selecting surrogate values from *Monthly Statistics*. Because we could not obtain a product-specific price from India to value lug bolts, we used a January-November 1999 product-specific import value from the Indonesian government publication *Indonesian Foreign Trade Statistical Bulletin* (see *Bicycles*, 61 FR at 19040 (Comment 17)). Certain respondents (*i.e.*, Golden Harvest, Haimeng, Huanri General, LABEC, and ZLAP) stated in their responses they did not incur an expense for bearing cups and lug bolts because their U.S. customer provided these items to them free of charge. In support of their claim that they incurred no expense for these items, the respondents provided either the sales agreement or purchase order from their U.S. customers. Therefore, for

the preliminary results, we have not valued these items for those respondents.

We also added an amount for loading and additional transportation charges associated with delivering coal to the factory based on June 1999 Indian price data contained in the periodical *Business Line*.

We based our surrogate value for electricity on data obtained from *Energy Data Directory & Yearbook (1999-2000)*.

We valued labor based on a regression-based wage rate, in accordance with 19 CFR 351.408(c)(3).

To value selling, general, and administrative ("SG&A") expenses, factory overhead and profit, we used the 2000-2001 financial data of Kalyani Brakes Limited ("Kalyani") and Rico Auto Industries Limited ("Rico").

Where appropriate, we removed from the surrogate overhead and SG&A calculations the excise duty amount listed in the financial reports. We made certain adjustments to the ratios calculated as a result of reclassifying certain expenses contained in the financial reports. For further discussion of the adjustments made, see the Preliminary Results Valuation Memorandum, dated December 31, 2002.

All inputs were shipped by truck. Therefore, to value PRC inland freight, we used a November 1999 average truck freight value based on price quotes from Indian trucking companies.

In accordance with the decision of the Court of Appeals for the Federal Circuit in *Sigma Corp. v. United States*, 117 F. 3d 1401 (1997), we revised our methodology for calculating source-to-factory surrogate freight for those material inputs that are valued based on CIF import values in the surrogate country. We have added to CIF surrogate values from India a surrogate freight cost using the shorter of the reported distances from either the closest PRC port of importation to the factory, or from the domestic supplier to the factory on an input-specific basis.

To value corrugated paper cartons, nails, plastic bags and sheets/covers, steel strip, tape, clamps, and labels, we used April 2001-December 2001 average import values from *Monthly Statistics*. All respondents included the weight of the clamp in their reported steel strip weights. With the exception of one respondent (*i.e.*, Golden Harvest), because the material of the clamp and steel strip was the same for both inputs, we valued these factors using the combined weight reported by those respondents. For Golden Harvest, we separately valued the two packing

material inputs since the clamps were made out of tin.

To value pallet wood, we used a January 1999-November 1999 pallet wood value from the Indonesian publication *Indonesian Foreign Trade Statistical Bulletin* because we consider the value for this input from Monthly Statistics to be unreliable (see *Tapered Roller Bearings and Parts Thereof*,

*Finished and Unfinished, From the People's Republic of China: Final Results of 1998-1999 Administrative Review, Partial Rescission of Review, and Determination Not To Revoke Order in Part*, 66 FR 1953, 1955 (January 10, 2001) and accompanying decision memorandum at Comment 10, and *Persulfates from the People's Republic of China: Final Results of Antidumping*

*Duty Administrative Review and Partial Rescission of Administrative Review*, 65 FR 46691 (July 31, 2000)).

**Preliminary Results of the Review**

We preliminarily determine that the following margins exist during the period April 1, 2001, through March 31, 2002:

Manufacturer/producer/exporter	Margin Percent
PRC NME entity (which includes Beijing Concord) .....	43.32
China National Industrial Machinery Import & Export Corporation .....	0.43 ( <i>de minimis</i> )
Hongfa Machinery (Dalian) Co., Ltd. ....	0.00
Laizhou Automobile Brake Equipment Company, Ltd. ....	0.18 ( <i>de minimis</i> )
Longkou Haimeng Machinery Co., Ltd. ....	0.07 ( <i>de minimis</i> )
Laizhou Hongda Auto Replacement Parts Co., Ltd. ....	0.00
Qingdao Gren (Group) Co. ....	0.09 ( <i>de minimis</i> )
Qingdao Meita Automotive Industry Company, Ltd. ....	0.12 ( <i>de minimis</i> )
Shanxi Fengkun Metallurgical Ltd. Co. ....	0.00
Shandong Huanri (Group) General Company .....	0.03 ( <i>de minimis</i> )
Yantai Winhere Auto-Part Manufacturing Co., Ltd. ....	0.00
Zibo Golden Harvest Machinery Limited Company .....	0.00
Zibo Luzhou Automobile Parts Co., Ltd. ....	0.16 ( <i>de minimis</i> )

We will disclose the calculations used in our analysis to the parties to this proceeding within five days of the date of publication of this notice. Any interested party may request a hearing within 30 days of publication of this notice. Any hearing, if requested, will be held on March 31, 2003.

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, Room B-099, 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. See 19 CFR 351.310(c).

Issues raised in the hearing will be limited to those raised in case briefs and rebuttal briefs. Case briefs from interested parties may be submitted not later than February 21, 2003. Rebuttal briefs, limited to issues raised in the case briefs, will be due not later than February 28, 2003. Parties who submit case briefs 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 administrative review, including the results of its analysis of issues raised in any such written briefs or at the hearing, if held, not later than 120 days after the date of publication of this notice.

**Assessment Rates**

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. In order to estimate the entered value for those sales where this information was unavailable, we will subtract applicable movement expenses from the gross sales value. In accordance with 19 CFR 351.106(c)(2), we will instruct the Customs Service to liquidate without regard to antidumping duties all entries of subject merchandise during the POR for which the importer-specific assessment rate is zero or *de minimis* (i.e., less than 0.50 percent). The Department will issue appropriate appraisal instructions for the companies subject to this review directly to the Customs Service upon completion of this review. For entries of the subject merchandise during the POR from companies not subject to this review, we will instruct the Customs Service to liquidate them at the cash deposit rate in effect at the time of entry.

**Cash Deposit Requirements**

Upon completion of these reviews, for entries from CNIM, Golden Harvest, GREN, Haimeng, Hongda, Hongfa, Huanri General, LABEC, Meita, Shanxi Fengkun, Winhere, and ZLAP, we will require cash deposits at the rate

established in the final results as further described below.

The following deposit requirements will be effective upon publication of the final results of these administrative and new shipper reviews for all shipments of brake rotors from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for CNIM, Golden Harvest, GREN, Haimeng, Hongda, Hongfa, Huanri General, LABEC, Meita, Shanxi Fengkun, Winhere, and ZLAP will be the rate determined in the final results of review (except that if the rate is *de minimis*, i.e., less than 0.50 percent within the meaning of 19 CFR 351.106(c)(1), a cash deposit rate of zero will be required); (2) the cash deposit rate for PRC exporters who received a separate rate in a prior segment of the proceeding will continue to be the rate assigned in that segment of the proceeding; (3) the cash deposit rate for the PRC NME entity (e.g., which includes Beijing Concord) will continue to be 43.32 percent; 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 requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

**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.

These administrative and new shipper reviews and notice are in accordance with sections 751(a)(1) and (2)(B) of the Act.

Dated: December 31, 2002.

**Susan Kuhbach,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 03-346 Filed 1-7-03; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-849; A-821-808; A-791-804]

#### **Cut-to-Length Carbon Steel Plate From the People's Republic of China, the Russian Federation, and South Africa; Final Results of Expedited Sunset Review of Suspended Antidumping Duty Investigations**

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

**ACTION:** Notice of final results of expedited sunset review: cut-to-length carbon steel plate from the People's Republic of China, the Russian Federation, and South Africa.

**SUMMARY:** On September 3, 2002, the Department of Commerce ("the Department") published the notice of initiation of sunset reviews of the suspended antidumping duty investigations on cut-to-length carbon steel plate from the People's Republic of China (the "PRC"), the Russian Federation ("Russia"), and South Africa ("Africa"). On the basis of notices of intent to participate and adequate substantive comments filed on behalf of domestic interested parties and inadequate response (in these cases, no response) from respondent interested parties, we determined to conduct expedited (120-day) reviews. As a result of these reviews, we find that termination of the suspended antidumping duty investigations would be likely to lead to continuation or recurrence of dumping at the levels listed below in the section entitled "Final Results of Reviews."

**EFFECTIVE DATE:** January 8, 2003.

**FOR FURTHER INFORMATION CONTACT:** Martha V. Douthit or James P. Maeder, Jr., Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-5050 or (202) 482-3330, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On September 3, 2002, the Department published the notice of initiation of the sunset reviews of the suspended antidumping duty investigations on cut-to-length carbon steel plate ("CTL Steel Plate") from the PRC, Russia, and South Africa (67 FR 56268). The Department received Notices of Intent to Participate on behalf of Bethlehem Steel Corporation, United States Steel Corporation, IPSCO Steel Inc., and Nucor Corporation (collectively "domestic interested parties"), within the deadline specified in section 351.218(d)(1)(i) of the Sunset Regulations. The domestic interested parties claimed interested party status under Section 771(9)(C) of the Tariff Act of 1930 (the "Act"), as U.S. manufacturers and producers of a domestic like product. We received complete substantive responses, in the Chinese, Russian, and South African reviews, from the domestic interested parties, within the 30-day deadline specified in the Sunset Regulations under section 351.218(d)(3)(i). Bethlehem Steel Corporation and the United States Steel Corporation have been active participants in the Russian and South African proceedings since the petition was filed. IPSCO participated in the original investigation through questionnaire responses to the International Trade Commission. Nucor did not participate in the initial investigation. The domestic interested parties are committed to full participation in this five-year review.

We did not receive a substantive response from any respondent interested party to these proceedings. As a result, pursuant to Section 751(c)(3)(B) of the Tariff Act of 1930, as amended ("the Act") and 19 CFR 351.218(e)(1)(ii)(C) of the Department's Regulations, the Department conducted expedited, 120-day, reviews of these suspended investigations.

##### **Scope of Reviews**

The products covered under the suspension agreements are hot-rolled iron and non-alloy steel universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not

exceeding 1250 mm and of a thickness of not less than 4 mm, 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 iron and non-alloy steel flat-rolled products not in coils, 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 mm or more in thickness and of a width which exceeds 150 mm and measures at least twice the thickness. Included as subject merchandise in this petition are flat-rolled products of nonrectangular 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. This merchandise is currently classified in the Harmonized Tariff Schedule of the United States (HTS) 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, 7212.50.0000. Excluded from the subject merchandise within the scope of the petition is grade X-70 plate. Although the HTS subheadings are provided for convenience and Customs purposes, our written description of the scope of this investigation is dispositive.

These reviews cover all imports from all manufacturers, producers, and exporters of CTL Steel Plate from the PRC, Russia, and South Africa.

##### **Analysis of Comments Received**

All issues raised in these cases by parties to these sunset reviews are addressed in the "Issues and Decision Memorandum" ("Decision Memo") from Jeffrey A. May, Director, Office of Policy, Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated January 2, 2003, which is hereby adopted by this notice. The issues discussed in the Decision Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the margin likely to prevail were the suspended investigation be terminated. Parties can find a complete discussion of all issues raised in these reviews and the corresponding recommendations in this public memorandum, which is on file in