

servicing means installation, maintenance, repair, modification or testing.

Third, that after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to Curic by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

Fourth, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

Fifth, that a copy of this Order shall be delivered to the United States Coast Guard ALJ Docketing Center, 40 Gay Street, Baltimore, Maryland 21202-4022, notifying that office that this case is withdrawn from adjudication, as provided by Section 766.18 of the Regulations.

Sixth, that the charging letter, the Settlement Agreement, and this Order shall be made available to the public.

This Order, which constitutes the final agency action in this matter, is effective upon the date of its publication in the **Federal Register**.

Entered this 16th day of April 2003.

**Dexter M. Price,**

*Acting Assistant Secretary of Commerce for Export Enforcement.*

[FR Doc. 03-10218 Filed 4-24-03; 8:45 am]

**BILLING CODE 3510-DT-M**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### Sensors and Instrumentation, Technical Advisory Committee; Notice of Partially Closed Meeting

The Sensors and Instrumentation Technical Advisory Committee will meet on May 13, 2003, 9:30 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Constitution and Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to sensors and instrumentation equipment and technology.

#### Agenda

##### Public Session

1. Opening remarks and introductions.

2. Update on Bureau of Industry and Security initiatives.

3. Discussion on proposed measures of military utility for thermal imaging products.

4. Presentation on Office of Export Enforcement issues.

5. Presentation of papers and comments by the public.

##### Closed Session

6. Discussion of matters properly classified under Executive Order 12958, dealing with the U.S. export control program and strategic criteria related thereto.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting date to the following address: Ms. Lee Ann Carpenter, OSIES/EA/BIS MS: 3876, U.S. Department of Commerce, 14th St. & Constitution Ave., NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on November 29, 2001, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and 10(a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

For more information contact Lee Ann Carpenter on (202) 482-2583.

Dated: April 22, 2003.

**Lee Ann Carpenter,**

*Committee Liaison Officer.*

[FR Doc. 03-10243 Filed 4-24-03; 8:45 am]

**BILLING CODE 3510-JT-M**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-877]

#### Notice of Final Determination of Sales at Less Than Fair Value: Lawn and Garden Steel Fence Posts From the People's Republic of China

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

**ACTION:** Notice of final determination of sales at less than fair value.

**SUMMARY:** We determine that lawn and garden steel fence posts (fence posts) from the People's Republic of China (PRC) are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are shown in the *Final Determination of Investigation* section of this notice.

**EFFECTIVE DATE:** April 25, 2003.

##### FOR FURTHER INFORMATION CONTACT:

Salim Bhabhrawala or Chris Welty, Group II, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-1784, (202) 482-0186, respectively.

##### SUPPLEMENTARY INFORMATION:

##### Case History

The preliminary determination in this investigation was published on December 4, 2002. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Lawn and Garden Steel Fence Posts from the People's Republic of China*, 67 FR 72141 (December 4, 2002) (*Preliminary Determination*). Since the preliminary determination, the following events have occurred.

We conducted verification of the questionnaire responses of Shanghai BaoSteel International Economic and Trading Corporation, Ltd. (BaoSteel),<sup>1</sup> Hebei Metals and Minerals Import and Export Corporation (Hebei), and China Nanyang Import & Export Corporation (Nanyang),<sup>2</sup> from January 13 through

<sup>1</sup> Hangzhou Hongyuan Sporting Goods Company, Ltd. was the producer of the subject merchandise sold by BaoSteel during the period of investigation (POI).

<sup>2</sup> Tianjin Shenyuan Steel Company, Ltd. and Tianjin Sunny Steel Products Company, Ltd. were the producers of the subject merchandise sold by Nanyang during the POI.

January 24, 2003. See *Verification of Sales and Factors of Production Data Submitted by Shanghai BaoSteel International Economic and Trading Corporation, Ltd.* (Feb. 20, 2003); *Verification of Sales and Factors of Production Data Submitted by Hebei Metals and Minerals Import and Export Corporation and its Suppliers*, (Mar. 4, 2003); and *Verification of Sales and Factor of Production Data Submitted by China Nanyang Import & Export Co., Ltd.* (Mar. 4, 2003).

On January 15, 2003, the petitioner<sup>3</sup> submitted information to support its contention that the price of BaoSteel's market-economy supplied input should not be included in the calculation of normal value. See *Issues and Decision Memorandum for the Final Determination of the Antidumping Duty Investigation of Lawn and Garden Steel Fence Posts from the People's Republic of China*, from Holly A. Kuga, Acting Deputy Assistant Secretary, Import Administration, to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration (*Decision Memorandum*) dated April 18, 2003, at Comment 2.

Respondents Hebei and Nanyang filed surrogate value information and data on January 21, 2003.

On February 23, 2003, the Department of Commerce (the Department) issued a correction to the *Preliminary Determination*, correcting the scope of the investigation to be consistent with the International Trade Commission's preliminary determination. See *Lawn and Garden Steel Fence Posts from China*, 67 FR 42581 (June 24, 2002). No other changes were made to the *Preliminary Determination*. See *Correction: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Lawn and Garden Steel Fence Posts from the People's Republic of China*, 68 FR 8737 (Feb. 25, 2003).

On March 13, 2003, Hebei, Nanyang, and the petitioner filed case briefs. BaoSteel did not file a case brief. On March 17, 2003, the Department filed a letter rejecting the petitioner's March 13, 2003, case brief because it contained untimely filed new information. We asked the petitioner to resubmit its case brief in compliance with the Department's specific redaction instructions contained within that letter. (See Letter from the Department to Steel City Corporation dated March 17, 2003). On March 18, 2003, the petitioner submitted a revised version of its case brief, complying with the Department's

instructions in the Department's March 17, 2003, letter. The petitioner also filed its rebuttal brief on March 18, 2003. All three respondents filed rebuttal briefs on March 24, 2003.

No hearing was requested by the interested parties in this proceeding.

#### Scope of Investigation

For purposes of this investigation, the products covered consist of all "U" shaped or "hat" shaped lawn and garden fence posts made of steel and/or any other metal, weighing 1 pound or less per foot, and produced in the PRC. The fence posts included within the scope of this investigation weigh up to 1 pound per foot and are made of steel and/or any other metal. Imports of these products are classified under the following categories: fence posts, studded with corrugations, knobs, studs, notches or similar protrusions with or without anchor posts and exclude round or square tubing or pipes.

These posts are normally made in two different classes, light and heavy duty. Light duty lawn and garden fence posts are normally made of 14 gauge steel (0.068 inches—0.082 inches thick), 1.75 inches wide, in 3, 4, 5, or 6 foot lengths. These posts normally weigh approximately 0.45 pounds per foot and are packaged in mini-bundles of 10 posts and master bundles of 400 posts. Heavy duty lawn and garden steel fence posts are normally made of 13 gauge steel (0.082 inches—0.095 inches thick), 3 inches wide, in 5, 6, 7, and 8 foot lengths. Heavy duty posts normally weigh approximately 0.90 pounds per foot and are packaged in mini-bundles of 5 and master bundles of 200. Both light duty and heavy duty posts are included within the scope of the investigation.

Imports of these products are classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 7326.90.85.35. Fence posts classified under subheading 7308.90 are also included within the scope of the investigation if the fence posts are made of steel and/or metal.

Specifically excluded from the scope are other posts made of steel and/or other metal including "tee" posts, farm posts, and sign posts, regardless of weight.<sup>4</sup> Although the HTSUS subheadings are provided for convenience and U.S. Customs Service (Customs) purposes, the written description of the merchandise under investigation is dispositive.

<sup>4</sup> Tee posts are made by rolling red hot steel into a "T" shape. These posts do not have tabs or holes to help secure fencing to them and have primarily farm and industrial uses.

#### Period of Investigation

The POI is October 1, 2001, through March 31, 2002.

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this proceeding and to which we have responded are listed in the *Appendix* to this notice and addressed in the *Decision Memorandum*, which is hereby adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit (CRU), room B-099 of the main Department building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the internet at <http://ia.ita.doc.gov>. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

#### Non-Market Economy

The Department has treated the PRC as a non-market economy (NME) country in all its past antidumping investigations. See e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Ferrovandium From the People's Republic of China*, 67 FR 71137, 71138 (Nov. 29, 2002); and *Notice of Final Determination of Sales at Less Than Fair Value: Certain Circular Welded Carbon-Quality Steel Pipe From the People's Republic of China*, 67 FR 36570, 36571 (May 24, 2002). An NME country designation remains in effect until it is revoked by the Department. See section 771(18)(C) of the Act. The respondents in this investigation have not requested revocation of the PRC's NME status. Therefore, we have continued to treat the PRC as an NME country in this investigation. For further details, see the *Preliminary Determination*.

#### Separate Rates

In our *Preliminary Determination*, we found that all three responding companies met the criteria for the application of separate, company-specific antidumping duty rates. We have not received any other information since the preliminary determination which would warrant reconsideration of our separate rates determination with respect to these companies. For a complete discussion of the Department's determination that the respondents are entitled to a separate rate, see the *Preliminary Determination*.

#### The PRC-Wide Rate

In the preliminary determination, we found that the use of adverse facts

<sup>3</sup> The petitioner in this investigation is Steel City Corporation.

available for the PRC-wide rate was appropriate for other exporters in the PRC based on our presumption that those respondents who failed to demonstrate entitlement to a separate rate constitute a single enterprise under common control by the Chinese government. The PRC-wide rate applies to all entries of the merchandise under investigation except for entries from Hebei, entries from Nanyang which were produced by Tianjin Shenyuan Steel Company, Ltd. or Tianjin Sunny Steel Products Company, Ltd., and entries from BaoSteel which were produced by Hangzhou Hongyuan Sporting Goods Company, Ltd.

When analyzing the petition for purposes of the initiation, the Department reviewed all of the data upon which the petitioners relied in calculating the estimated dumping margin and determined that the margin in the petition was appropriately calculated and supported by adequate evidence in accordance with the statutory requirements for initiation. In order to corroborate the petition margin for purposes of using it as adverse facts available, we examined the price and cost information provided in the petition in the context of our preliminary determination. For further details, see Memorandum from Christopher Smith to Gary Taverman, *Corroboration of Secondary Information*, dated November 27, 2002 (*Preliminary Corroboration Memorandum*). We received no comments on this decision and continue to find in this final determination that the rate contained in the petition, as recalculated, has probative value. We have continued to apply this rate in the final determination. For further discussion, see *Preliminary Determination*.

Since the preliminary determination, we have obtained new information regarding several surrogate values. In order to take into account the more recent information, we recalculated the petition margin using, where possible, revised surrogate values to value the petitioners' consumption rates. As a result of this recalculation, the PRC-wide rate is, for the final determination, 15.61 percent. See Memorandum from Christopher Smith to the File, *Corroboration of Secondary Information*, dated April 18, 2003.

### Surrogate Country

For purposes of the final determination, we continue to find that India remains the appropriate surrogate country for the PRC. For further discussion and analysis regarding the

surrogate country selection for the PRC, see the *Preliminary Determination*.

### Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondents for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondents. For changes from the *Preliminary Determination* as a result of verification, see the *Changes Since the Preliminary Determination* section below.

### Changes Since the Preliminary Determination

Based on our findings at verification and on our analysis of the comments received, we have made the following adjustments to the calculation methodologies used in the preliminary determination. These adjustments are discussed in detail in the *Decision Memorandum; Final Calculation of Antidumping Duty Investigation of Lawn and Garden Steel Fence Posts From the People's Republic of China for Shanghai BaoSteel International Economic and Trading Co., Ltd.* (Apr. 18, 2003) (*BaoSteel's Final Calculation Memorandum*); *Final Calculation of Antidumping Duty Investigation of Lawn and Garden Steel Fence Posts From the People's Republic of China for Hebei Metals and Minerals Import and Export Corporation* (Apr. 18, 2003) (*Hebei's Final Calculation Memorandum*); and *Final Calculation of Antidumping Duty Investigation of Lawn and Garden Steel Fence Posts From the People's Republic of China for China Nanyang Import & Export Corporation* (Apr. 18, 2003) (*Nanyang's Final Calculation Memorandum*).

#### BaoSteel

1. We revised our calculation of freight costs for the factors of production to include the revised distances identified during verification. See *BaoSteel's Final Calculation Memorandum*.

2. We revised the calculations for the following packing materials for BaoSteel as a result of changes discovered at verification: packing labels, plastic hanging ties, and plastic ties. See *id.*

#### Hebei

1. Hebei omitted certain bank fees from its reporting of U.S. sales. Accordingly, we have included these verified fees as adjustments to U.S. price. See *Hebei's Final Calculation Memorandum*.

2. We removed non-subject "T-posts" from Hebei's U.S. sales database. See *id.*

3. We revised our calculation of freight costs for the factors of production to include the revised distances identified during verification. See *id.*

4. We revised certain packing material weights to account for remeasurements conducted at verification. See *id.*

5. We revised the electricity factor for one of Hebei's suppliers in accordance with our verification findings. See *id.*

#### Nanyang

1. As reported by Nanyang during the company's presentation of minor corrections at verification, the company omitted certain bank fees from its reporting of U.S. sales. Accordingly, we have included these verified fees as adjustments to U.S. price. See *Nanyang's Final Calculation Memorandum*.

2. At verification, certain differences were found between reported transportation distances and remeasured distances. We have revised the transportation distances previously used to reflect the remeasured amounts. See *id.*

3. We revised our calculation for certain rivet costs to reflect changes in weight, loss rate, and consumption rates discovered at verification. See *id.*

4. We revised our acid bath and phosphate acid calculations to reflect changes in input allocations discovered at verification. See *id.*

5. At verification, certain differences were found between reported packing material weights and remeasured weights. We have revised the packing material weights previously used to reflect the remeasured amounts. See *id.*

6. We revised certain electricity calculations to reflect changes in electricity consumption discovered as a result of verification. See *id.*

7. We revised certain labor calculations to reflect changes in labor allocations discovered as a result of verification. See *id.*

8. We revised certain calculations for steel coil scrap production to reflect changes in steel allocations discovered as a result of verification. See *id.*

#### Surrogate Values

1. We adjusted the surrogate value for steel coil to reflect updated surrogate data. See *Decision Memorandum* at Comment 3.

2. We adjusted the surrogate values for the following packing materials to reflect updated surrogate data: steel screws, nails, wood pallets, wood, plastic sheet/strips, foam, plastic twine, and steel pallets. See *id.*

3. We revised the surrogate value for hydrochloric acid to reflect less aberrational data. See *Decision Memorandum* at Comment 4.

4. We revised the surrogate value for brokerage and handling to include a more representative and contemporaneous source of surrogate data. See *Decision Memorandum* at Comment 5.

5. We revised the surrogate value for labor to reflect the Department's updated wage rate regression calculation. See *Decision Memorandum* at Comment 6.

**Continuation of Suspension of Liquidation**

In accordance with section 735(c)(1)(B)(ii) of the Act, we are directing the Customs Service to continue suspension liquidation of entries of subject merchandise from the PRC, with the exception of merchandise exported by Shanghai BaoSteel International Economic and Trading Co., Ltd. which was produced by Hangzhou Hongyuan Sporting Goods Company, Ltd., and merchandise exported by China Nanyang Import & Export corporation which was produced by Tianjin Shenyuan Steel Company, Ltd. or Tianjin Sunny Steel Products Company, Ltd., that are entered, or withdrawn from warehouse, for consumption on or after December 4, 2002 (the date of publication of the *Preliminary Determination* in the **Federal Register**). We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which NV exceeds the U.S. price, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice.

**Final Determination**

We determine that the following weighted-average percentage margins exist for the period October 1, 2001, through March 31, 2002:

Manufacturer/Exporter	Weighted-average margin (percent)
Shanghai BaoSteel International Economic and Trading Co., Ltd .....	0.00
Hebei Metals and Minerals Imports and Export Corporation	6.60
China Nanyang Import & Export Corporation .....	1.42
PRC-Wide Rate .....	15.61

The PRC-wide rate applies to all entries of the merchandise under investigation except for entries from Hebei, entries from Nanyang which were produced by

Tianjin Shenyuan Steel company, Ltd. or Tianjin Sunny Steel Products Company, Ltd., and entries from BaoSteel which were produced by Hangzhou Hongyuan Sporting Goods Company, Ltd.

**International Trade Commission Notification**

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

**Notification Regarding Administrative Protective Order (APO)**

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

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: April 18, 2003.

**Joseph A. Spetrini,**  
*Acting Assistant Secretary for Import Administration.*

**Appendix—Decision Memorandum**

- Comment 1: Department's Acceptance of New Information
- Comment 2: Use of BaoSteel's Market Economy Steel Value
- Comment 3: Surrogate Value Selection for Steel Coil and Packing Materials
- Comment 4: Surrogate Value Selection for Powder Coating, Coal, and Hydrochloric Acid
- Comment 5: Surrogate Value Selection for Selection for Brokerage and Handling
- Comment 6: Surrogate Value Selection for Labor
- Comment 7: Exclusion of Labor Costs from Calculation of Surrogate Overhead and SG&A Ratios

Comment 8: Use of Gross, Rather Than Net, Material Costs in the Calculation of Surrogate Overhead and SG&A Ratios

[FR Doc. 03-10257 Filed 4-24-03; 8:45 am]

BILLING CODE 3510-DS-M

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

[I.D.041403I]

**Endangered and Threatened Wildlife; Sea Turtle Conservation Requirements**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of Issuance of permit.

**SUMMARY:** Notice is hereby given that shrimp fishermen in the Gulf and Atlantic Areas have been issued a permit to use Turtle Excluder Devices (TEDs) in accordance with allowable configurations under a final rule amending the TED regulations February 21, 2003, prior to the final rule taking effect. The permit allows fishermen to use the new TEDs to maximize shrimp retention and eliminate operational difficulties and facilitates fishermen's transition to the new TED configurations.

**ADDRESSES:** The permit and related documents are available for review upon written request or by appointment in the following office:

Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702-2432; phone (727)570-5301; fax (727)570-5320.

**FOR FURTHER INFORMATION CONTACT:** David Bernhart ([david.bernhart@noaa.gov](mailto:david.bernhart@noaa.gov)) or Robert Hoffman ([robert.hoffman@noaa.gov](mailto:robert.hoffman@noaa.gov)), (727)570-5312.

**SUPPLEMENTARY INFORMATION:** On February 21, 2003, NMFS published a final rule (68 FR 8456) amending the TED regulations affecting shrimp trawl fishermen. The final rule takes effect April 15, 2003, in the Atlantic Area and August 21, 2003, in the Gulf Area. The primary element of the final rule is the requirement for fishermen to modify the openings of their TEDs to allow the escape of large sea turtles.

On March 14, 2003, the NMFS Southeast Region, received an application for a permit from Mr. Noah Saunders, Jr., on behalf of shrimp trawl fishermen in the Gulf and South Atlantic. The request was for fishermen to be allowed to use the gear configurations specified in the final rule