

Health and Human Services, Department of Agriculture, National Institutes of Health, Food and Drug Administration, National Institute of Standards and Technology, etc.). The goal of each of these groups is to assess the impact of the OIG's recommendations and to address concerns raised by the regulated communities.

BIS has also increased its enforcement focus on deemed exports. A number of cases involving violations of deemed export requirements have been concluded with criminal and civil penalties and BIS will continue to pursue violations of the EAR's deemed export requirements to ensure U.S. national security is not compromised by unauthorized technology transfers to foreign nationals. In addition, BIS is collaborating with the Federal Bureau of Investigation on related enforcement issues through the National Security Higher Education Advisory Board.

Finally, BIS received funding in the FY2006 budget to implement an Enhanced Deemed Export Control Initiative. This initiative has two components—licensing and enforcement. The initiative will enable BIS to: (1) Process an increased volume of license applications in a timely manner, in order to ensure that U.S. entities are able to gain access to the expertise of foreign nationals who do not pose security concerns; and (2) ensure that U.S. entities are aware of and comply with U.S. deemed export license requirements through expanded outreach and enforcement activities. Both aspects are necessary to enhance U.S. national and economic security.

Dated: May 17, 2006.

**Matthew Borman,**

*Deputy Assistant Secretary of Commerce for Export Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-900]

#### **Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China**

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

**EFFECTIVE DATE:** May 22, 2006.

**SUMMARY:** On December 29, 2005, the Department of Commerce ("the Department") published its preliminary determination of sales at less than fair value ("LTFV") and preliminary determination of partial affirmative critical circumstances in the antidumping investigation of certain diamond sawblades and parts thereof ("diamond sawblades") from the People's Republic of China ("PRC"). The period of investigation ("POI") is October 1, 2004, through March 31, 2005. The investigation covers four manufacturers/exporters which are mandatory respondents and twenty-one separate rate applicants. We invited interested parties to comment on our preliminary determination of sales at LTFV and partial affirmative critical circumstances. Based on our analysis of the comments we received, we have made changes to our calculations for certain of the mandatory respondents and the weight-averaged margins for the separate rate applicants.<sup>1</sup> We have also granted a separate rate to four additional applicants. The final dumping margins for this investigation are listed in the "Final Determination Margins" section below.

#### **FOR FURTHER INFORMATION CONTACT:**

Anya Naschak or Carrie Blozy, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-6375 or 482-5403, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Final Determination**

We determine that diamond sawblades from the PRC are being, or are likely to be, sold in the United States at LTFV as provided in section 735 of

<sup>1</sup>Danyang NYCL Tools Manufacturing Co., Ltd., Danyang Youhe Manufacturing Co. Ltd., Fujian Quanzhou Wanlong Stone Co. Ltd., Guilin Tebon Superhard Material Co. Ltd., Huzhou Gu Import & Export Co., Ltd., Jiangsu Fengtai Diamond Tools Manufacturing Co. Ltd., Jiangyin LIKN Industry Co. Ltd., Quanzhou Zhongzhi Diamond Tool Co., Ltd., Rizhao Hein Saw Co. Ltd., Shanghai Deda Industry & Trading Co. Ltd., Sichuan Huili Tools Co., Weihai Xiangguang Mechanical Industrail Co., Ltd., Wuhan Wanbang Laser Diamond Tools Company, Ltd., Xiamen ZL Diamond Tools Co. Ltd., Zhejiang Tea Import & Export Co. Ltd., Zhejiang Wanli Tools Group Co., Ltd. ("Wanli"), Zhenjiang Inter-China Import & Export Co., Ltd., (collectively, "preliminary separate rate applicants"), as well as four additional separate rate companies, Qingdao Shinhan Diamond Industrial Co., Ltd. ("Qingdao Shinhan"), Shijiazhuang Global New Century Tools Co., Ltd. ("Global"), Shanghai Robtol Tool Manufacturing Co., Ltd. ("Robtol"), and Huachang Diamond Tools Manufacturing Co., Ltd. ("Huachang") (collectively with preliminary separate rate applicants, "final separate rate companies").

the Tariff Act of 1930, as amended ("the Act"). The estimated margins of sales at LTFV are shown in the "Final Determination Margins" section of this notice.

#### **Case History**

The Department published its preliminary determination of sales at LTFV on December 29, 2005. See *Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Preliminary Partial Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 70 FR 77121 (December 29, 2005) ("Preliminary Determination"). The Department conducted verification of Bosun Tools Group Co., Ltd. ("Bosun"), Beijing Gang Yan Diamond Product Company ("BGY"), and Hebei Jikai Industrial Group Co. Ltd. ("Hebei Jikai") (collectively, "respondents"), the three mandatory respondents participating in this investigation<sup>2</sup> in both the PRC and the United States (where applicable), and Shanghai Deda Industry & Trading Co. Ltd. ("Shanghai Deda"), one of the separate rate applicants. See the "Verification" section below for additional information.

On February 6, 2006, the Department solicited comments from all interested parties regarding changes to its calculation of financial ratios. On February 7, 2006, Bosun and Petitioner submitted additional comments on the valuation of factors of production ("FOPs") for the final determination. On February 13, 2006, BGY also submitted additional comments on the valuation of FOPs for the final determination. On February 21, 2006, Bosun submitted a rebuttal to Petitioner's February 7, 2006, comments.

On February 1, 2006, the Department received a separate rate application from Qingdao Shinhan. The Department determined on February 24, 2006, that Qingdao Shinhan's separate rate application was timely filed. See Memorandum to the File from Catherine Bertrand dated February 24, 2006. On March 22, 2006, the Department preliminarily determined that the information contained in Qingdao Shinhan's separate rate application demonstrated that it qualified for a separate rate in this investigation.

We invited parties to comment on the *Preliminary Determination*. We received comments from the Diamond Sawblade Manufacturers' Coalition ("Petitioner"),

<sup>2</sup>One mandatory respondent, Saint-Gobain Abrasives (Shanghai) Co., Ltd. ("Saint Gobain") did not participate in this investigation.

the mandatory respondents, Quanzhou Shuangyang Diamond Tool Co., Ltd. ("QSY"), Global, Robtol, Electrolux Construction Products (Xiamen) Co., Ltd. ("Electrolux"), and Huachang.

On April 3, 2006, parties submitted case briefs. On April 10, 2006, parties submitted rebuttal briefs. On April 14, 2006, the Department rejected the case brief of Petitioner and the rebuttal briefs of Petitioner and BGY, because they contained unsolicited new factual information. Petitioner and BGY resubmitted their respective briefs on April 18, 2006.

On January 6, 2006, Bosun requested that the Department hold a public hearing in this proceeding. On January 19, 2006, Petitioner requested the Department hold a public hearing in this proceeding. On April 3, 2006, Petitioner requested that the hearing held by the Department be a closed hearing. On April 25, 2006, the Department held a hearing in this proceeding.

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the *Issues and Decision Memorandum for the Final Determination in the Investigation of Diamond Sawblades and parts thereof from the People's Republic of China*, dated May 15, 2006, which is hereby adopted by this notice ("Issues and Decision Memorandum"). A list of the issues which parties raised and to which we respond in the *Issues and Decision Memorandum* is attached to this notice as an Appendix. The Decision Memorandum is a public document and is on file in the Central Records Unit ("CRU"), Main Commerce Building, Room B-099, and is accessible on the Web at <http://ia.ita.doc.gov>. The paper copy and electronic version of the memorandum are identical in content.

#### Changes Since the Preliminary Results

Based on our analysis of comments received, we have made changes in the margin calculation for Bosun, BGY, and Hebei Jikai as follows:

The Department has revised the surrogate financial ratios to utilize a source placed on the record by Petitioner after the *Preliminary Determination*. See *Issues and Decision Memorandum*, at Comment 1 for a discussion of this issue. See also Memorandum to the File: Antidumping Duty Investigation of Diamond Sawblades and Parts Thereof from the People's Republic of China: Recalculation of Surrogate Financial Ratios for the Final Determination, dated May 15, 2006.

#### Bosun

The Department made corrections to Bosun's factors of production ("FOP") database based on the minor corrections submitted by Bosun on the first day of the PRC verification, and changes to Bosun's constructed export price ("CEP") database based on the minor corrections submitted by Bosun on the first day of the U.S. sales verification. See Memorandum to the File: Verification of the Sales and Factors Response of Bosun Tools Group Co., Ltd. in the Antidumping Investigation of Diamond Saw Blades and Parts Thereof from the People's Republic of China dated March 24, 2006 ("Bosun PRC Verification Report"), at Exhibit 2; Memorandum to the File: Verification of the U.S. CEP Sales Response of Bosun Tools Group Co., Ltd. in the Antidumping Investigation of Diamond Saw Blades and Parts Thereof from the People's Republic of China dated March 27, 2006 ("Bosun US Verification Report") at Exhibit 1 for a list of the corrections submitted by Bosun. For a description of how these changes were incorporated, see Memorandum to the File: Bosun Tools Group Co., Ltd. Program Analysis for the Final Determination dated May 15, 2006 ("Bosun Final Analysis Memo"). The Department has also corrected three clerical errors identified by Bosun after the *Preliminary Determination*. See, e.g., *Issues and Decision Memorandum* at Comment 33; Bosun Final Analysis Memo.

In addition, the Department made changes to Bosun's FOP and CEP databases based on comments received by Bosun and Petitioner. For a description of these changes, see *Issues and Decision Memorandum*, and Bosun Final Analysis Memo.

#### BGY

Based on the Department's determination in the Preliminary Determination to treat as a single entity with BGY, Advanced Technology & Materials Co., Ltd. ("AT&M"), and Yichang HXF Circular Saw Industrial Co., Ltd. ("HXF"), the Department requested U.S. sales and FOP databases from the AT&M single entity.<sup>3</sup> The AT&M single entity certified that BGY and HXF were the only entities within the AT&M single entity to have exported, or sold for export, subject merchandise to the United States during the POI, and submitted complete U.S. sales and FOP information with respect to HXF. The Department has continued to find that BGY, AT&M, and HXF

<sup>3</sup> As discussed below under "Affiliation," the AT&M entity includes BGY and HXF.

should be treated as a single entity for purposes of this final determination and, therefore, has incorporated HXF's and BGY's U.S. sales and FOP information in the calculation of a margin for the AT&M single entity. See "Affiliation" section below, and Memorandum to the File: Advanced Technology & Materials Co., Ltd. Entity Program Analysis for the Final Determination, dated May 15, 2006 ("AT&M Final Analysis Memo"), for a more detailed explanation of these changes.

The Department made corrections to BGY's FOP database based on the minor corrections submitted by BGY on the first day of the PRC verification, and changes to BGY's CEP database based on the minor corrections submitted by BGY on the first day of the U.S. sales verification. See Memorandum to the File: Verification of the Sales and Factors Response of Beijing Gang Yan Diamond Product Company in the Antidumping Duty Investigation on Diamond Sawblades and Parts Thereof from the People's Republic of China, dated March 27, 2006 ("BGY Verification Report") at Exhibit 3; Memorandum to the File: Verification of the Sales and Factors Response of Gang Yan Diamond Products, Inc. in the Antidumping Duty Investigation on Diamond Sawblades and Parts Thereof from the People's Republic of China, dated March 27, 2006 ("GYDP Verification Report"). For a complete description of how these changes were made see AT&M Final Analysis Memo. See also *Issues and Decision Memorandum* at Comment 19.

In addition, the Department made changes to the AT&M entity's FOP and U.S. sales databases based on comments received by parties. For a description of these changes see *Issues and Decision Memorandum*, and AT&M Final Analysis Memo.

#### Hebei Jikai

The Department made corrections to Hebei Jikai's FOP database based on the minor corrections submitted by Hebei Jikai on the first day of the verification. See Memorandum to the File: Verification of the Sales and Factors Response of Hebei Jikai Industrial Group Co. Ltd. in the Antidumping Investigation of Diamond Saw Blades and Parts Thereof from the People's Republic of China dated March 23, 2006 ("Hebei Jikai Verification Report"), at Exhibit 1. The Department also made corrections to the gross weight in Hebei Jikai's U.S. sales database based on information collected at the verification of Hebei Jikai. See Hebei Jikai Verification Report at 3. For a

description of how these changes were incorporated in the final margin program, see Memorandum to the File: Hebei Jikai Industrial Group Co. Ltd. ("Hebei Jikai") Program Analysis for the Final Determination, dated May 15, 2006 ("Hebei Jikai Final Analysis Memo").

In addition, the Department made changes to Hebei Jikai's FOP and U.S. sales databases based on comments received by Hebei Jikai and Petitioner. For a description of these changes see *Issues and Decision Memorandum*, and Hebei Jikai Final Analysis Memo.

### Scope of Investigation

The products covered by this investigation are all finished circular sawblades, whether slotted or not, with a working part that is comprised of a diamond segment or segments, and parts thereof, regardless of specification or size, except as specifically excluded below. Within the scope of this investigation are semifinished diamond sawblades, including diamond sawblade cores and diamond sawblade segments. Diamond sawblade cores are circular steel plates, whether or not attached to non-steel plates, with slots. Diamond sawblade cores are manufactured principally, but not exclusively, from alloy steel. A diamond sawblade segment consists of a mixture of diamonds (whether natural or synthetic, and regardless of the quantity of diamonds) and metal powders (including, but not limited to, iron, cobalt, nickel, tungsten carbide) that are formed together into a solid shape (from generally, but not limited to, a heating and pressing process).

Sawblades with diamonds directly attached to the core with a resin or electroplated bond, which thereby do not contain a diamond segment, are not included within the scope of the investigation. Diamond sawblades and/or sawblade cores with a thickness of less than 0.025 inches, or with a thickness greater than 1.1 inches, are excluded from the scope of the investigation. Circular steel plates that have a cutting edge of non-diamond material, such as external teeth that protrude from the outer diameter of the plate, whether or not finished, are excluded from the scope of this investigation. Diamond sawblade cores with a Rockwell C hardness of less than 25 are excluded from the scope of the investigation. Diamond sawblades and/or diamond segment(s) with diamonds that predominantly have a mesh size number greater than 240 (such as 250 or 260) are excluded from the scope of the investigation.

Merchandise subject to this investigation is typically imported under heading 8202.39.00.00 of the Harmonized Tariff Schedule of the United States ("HTSUS"). When packaged together as a set for retail sale with an item that is separately classified under headings 8202 to 8205 of the HTSUS, diamond sawblades or parts thereof may be imported under heading 8206.00.00.00 of the HTSUS. The tariff classifications are provided for convenience and U.S. Customs and Border Protection purposes; however, the written description of the scope of this investigation is dispositive.

### Scope Rulings

During the course of this investigation, the Department issued several scope rulings, all of which are affirmed through this final determination. Specifically, in the *Preliminary Determination*, the Department ruled that concave and convex cores, and finished diamond sawblades produced from such cores, are within the scope of this investigation. See Memorandum from Maisha Cryor, Senior International Trade Compliance Analyst, to Thomas F. Futtner, Acting Office Director, "Consideration of Scope Exclusion and Clarification Requests," dated December 20, 2005, at page 8. The Department also ruled that metal-bonded 1A1R grinding wheels are within the scope of this investigation. *Id.* at 11. On April 7, 2006, the Department found granite contour diamond sawblades within the scope of the investigation. See Memorandum from Maisha Cryor, Senior International Trade Compliance Analyst, to Thomas F. Futtner, Acting Office Director, "Consideration of Scope Exclusion Request," dated April 7, 2006. In this decision, the Department confirmed that the Rockwell C hardness threshold contained in the scope of the investigation applies only to cores, and not to finished diamond sawblades. *Id.* at 7. Lastly, the term "sawblade" is defined as those products that meet the 1A1R specification, where the segment thickness is larger than the thickness of the core. See Petitioner's May 3, 2005, submission at Exhibit I-10 ("The segment or rim is slightly wider than the steel blade to allow the attacking edge to penetrate the material without the steel blade rubbing against it"); Petitioner's May 10, 2005, submission, at page 14 ("the segment or rim is slightly wider than the steel blade to allow the attacking edge to penetrate the material without the steel blade rubbing against it"); Transcript to April 25, 2006, Public Hearing in the companion investigation of diamond sawblades

from the People's Republic of China (statement by the petitioner that the "international codes for sawblades are 1A1R, 1A1RS, and 1A1RSS, where the R means recessed. And that refers to the core, {where} the core is thinner than the segments"); and ITC Investigation No. 731-TA-1093, August 2005 ("The segment, or rim, is slightly wider than the steel blade to permit the leading edge to penetrate the material without the steel blade rubbing against it and to discourage blade binding"). For this final determination, the Department has determined not to revise the scope of the investigation. See also *Issues and Decision Memorandum* at Comment 3.

### Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondents and one separate rate applicant for use in our final determination. See the Department's verification reports on the record of this investigation in the CRU with respect to Bosun, BGY, Hebei Jikai, and Shanghai Deda. For all verified companies, we used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by respondents.

### Critical Circumstances

On November 21, 2005, Petitioner alleged that there is a reasonable basis to believe or suspect critical circumstances exist with respect to the antidumping investigations of diamond sawblades and parts thereof from the PRC. In the *Preliminary Determination*, the Department found that critical circumstances exist for imports of diamond sawblades from Bosun and the PRC-wide entity, but that critical circumstances did not exist for the preliminary separate rate applicants, BGY, or Hebei Jikai. See Memorandum to Stephen J. Claeys: Antidumping Duty Investigation of Diamond Sawblades and Parts Thereof from the People's Republic of China: Preliminary Partial Affirmative Determination of Critical Circumstances, dated December 20, 2005 ("Prelim Critical Circumstances Memo"). Based on the changes made to Bosun, BGY, Hebei Jikai, and the final separate rate companies' margins, and as discussed further in the *Issues and Decision Memorandum* at Comment 10, the Department has re-examined its preliminary finding that critical circumstances exist for imports of diamond sawblades from Bosun, and Hebei Jikai, and the PRC-wide entity, but that critical circumstances did not exist for the AT&M entity. In addition,

the Department has examined the final separate rate companies.

Section 735(2)(3) of the Act provides that a final critical circumstances determination will include a finding that: (A)(i) There is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise; or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales; and (B) there have been massive imports of the subject merchandise over a relatively short period. Section 351.206(h)(1) of the Department's regulations provides that, in determining whether imports of the subject merchandise have been "massive," the Department normally will examine: (i) the volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, section 351.206(h)(2) of the Department's regulations provides that an increase in imports of 15 percent during the "relatively short period" of time may be considered "massive."

As discussed in detail in the *Issues and Decision Memorandum* at Comment 10, the Department continues to find that there is a reasonable basis to believe or suspect that the importer knew or should have known that there was likely to be material injury by means of sales at LTFV of subject merchandise from the PRC. In the *Preliminary Determination*, the Department found that (1) Bosun and the PRC-wide entity had margins of more than 25 percent for export price sales and more than 15 percent for constructed export price sales, and (2) BGY, Hebei Jikai, and the preliminary separate rate applicants did not have margins of more than 25 percent for export price sales and more than 15 percent for constructed export price sales. See *Prelim Critical Circumstances Memo* at Attachment II. For this final determination, Bosun, Hebei Jikai, and the PRC-wide entity each have margins of more than 25 percent for export price sales and more than 15 percent for constructed export price sales, while the AT&M single entity and the final separate rate companies have margins less than 25 percent for export price sales and more than 15 percent for constructed export price sales. Therefore, the Department finds, for this final determination, that Bosun, Hebei Jikai, and the PRC-wide entity have sufficient margins to impute importer knowledge of sales at less than fair value. See, e.g., *Carbon and Alloy*

*Steel Wire Rod From Germany, Mexico, Moldova, Trinidad and Tobago, and Ukraine: Notice of Preliminary Determination of Critical Circumstances*, 67 FR 6224, 6225 (February 11, 2002); *Issues and Decision Memorandum* at Comment 10. However, the AT&M single entity and the final separate rate companies' margins are insufficient to impute importer knowledge of sales at less than fair value. In addition, as no party in this proceeding has called into question the Department's preliminary determination of massive imports with respect to Bosun, BGY, Hebei Jikai, the final separate rate companies, and the PRC-wide entity, the Department also continues to find that there have been massive imports of the subject merchandise over a relatively short period for Bosun, the AT&M single entity, Hebei Jikai, the final separate rate companies, and the PRC-wide entity. See *Issues and Decision Memorandum* at Comment 10 and *Prelim Critical Circumstances Memo* at Attachment I.

Therefore, given the analysis summarized above, and described in more detail in the *Issues and Decision Memorandum* at Comment 10, we determine that critical circumstances exist for imports of diamond sawblades from Bosun, Hebei Jikai, and the PRC-wide entity. However, we do not find that critical circumstances exist for the AT&M single entity or the final separate rate companies.

#### Surrogate Country

In the *Preliminary Determination*, we stated that we had selected India as the appropriate surrogate country to use in this investigation for the following reasons: (1) It is a significant producer of comparable merchandise; (2) it is at a similar level of economic development pursuant to 773(c)(4) of the Act; and (3) we have reliable data from India that we can use to value the factors of production. See *Preliminary Determination*, 70 FR at 77124-77125. For the final determination, we made no changes to our findings with respect to the selection of a surrogate country.

#### Affiliation

In the *Preliminary Determination*, based on the evidence on the record, we preliminarily found that BGY was affiliated with AT&M and HXF pursuant to sections 771(33)(E), (F), and (G) of the Act. In addition, based on the evidence presented in BGY's questionnaire responses, we preliminarily found that BGY, HXF, and AT&M should be treated as a single entity for the purposes of the antidumping duty investigation of diamond sawblades from the PRC. See

Memorandum to the File from Anya Naschak: Affiliation and Treatment as a Single Entity of Beijing Gang Yan Diamond Product Company, Advanced Technology & Materials Co., Ltd., and Yichang HXF Circular Saw Industrial Co., Ltd.; Affiliation of Gang Yan Diamond Products, Inc. and Beijing Gang Yan Diamond Product Company; and Affiliation of Gang Yan Diamond Products, Inc., SANC Materials, Inc., and Cliff (Tianjin) International, Ltd., dated December 20, 2005 ("AT&M Affiliation Memo"). This finding was based on the determination that BGY, HXF, and AT&M are affiliated, that BGY and HXF have production facilities for "identical products," and no substantial retooling of either facility would be necessary in order to "restructure manufacturing priorities." See 19 CFR 351.401(f)(1). Additionally, based on levels of common ownership and control, and intertwined operations, the Department found that there is significant potential for manipulation of price or production between the parties. See 19 CFR 351.401(f)(2). Accordingly, the Department requested after the Preliminary Determination that the AT&M single entity provide complete responses to sections C and D of the Department's questionnaire with respect to all of the AT&M single entity's sales to the first U.S. unaffiliated customer and factors of production for these sales. See Letter from Carrie Blozy to BGY dated December 23, 2005. On January 26, 2006, the AT&M Group submitted the requested information. Based on the information contained in the AT&M single entity's responses to date, and based on information collected at verification (see BGY Verification Report), the Department finds no evidence to countermand the Department's finding in the *Preliminary Determination* that BGY, HXF, and AT&M are affiliated pursuant to sections 771(33)(E), (F), and (G) of the Act, and that these companies should be treated as a single entity for the purposes of the antidumping duty investigation of diamond sawblades from the PRC, in accordance with 19 CFR 351.401(f)(1) and (2). Therefore, the Department continues to find, for this final determination, that BGY, HXF, and AT&M are a single entity, and will calculate a single antidumping margin for the AT&M entity.

In addition, the Department also found in its *Preliminary Determination* that Gang Yan Diamond Products, Inc. ("GYDP"), is affiliated with BGY, pursuant to section 771(33)(E) of the Act, and that GYDP, SANC Materials, Inc. ("SANC"), and Cliff (Tianjin)

International, Ltd. ("Cliff") are affiliated with each other pursuant to sections 771(33)(B), (E), and (F) of the Act. See BGY Affiliation Memo. Since the *Preliminary Determination*, the Department has found no information that would rebut this determination. Therefore, the Department continues to find GYDP, SANC, and Cliff to be affiliated with each other pursuant to sections 771(33)(B), (E), and (F) of the Act, and that BGY and GYDP are affiliated with each other pursuant to section 771(33)(E) of the Act, for this final determination.

### 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 assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an investigation in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. See *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("*Sparklers*"), as amplified by *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) ("*Silicon Carbide*"), and Section 351.107(d) of the Department's regulations.

In the *Preliminary Determination*, we found that BGY, Bosun, Hebei Jikai, and the Separate Rate Applicants demonstrated their eligibility for separate-rate status. For the final determination, we continue to find that the evidence placed on the record of this investigation by the AT&M entity, Bosun, Hebei Jikai, and the Separate Rate Applicants demonstrate both a *de jure* and *de facto* absence of government control, with respect to their respective exports of the merchandise under investigation, and, thus are eligible for separate rate status.

### The AT&M Single Entity

With respect to the AT&M single entity, in the *Preliminary Determination*, based on the evidence on the record, we preliminarily found that BGY had both *de jure* and *de facto* control over its export activities, but noted that the Department would further examine this issue for the final determination. In light of the Department's decision in the *Preliminary Determination* that BGY

was affiliated with AT&M and HXF, and that BGY, AT&M, and HXF should be treated as a single entity, the Department further examined AT&M, BGY, and HXF's claim to a separate rate.

The Department finds, based on information submitted on the record of this proceeding after the *Preliminary Determination*, that the AT&M single entity has demonstrated both a *de jure* and *de facto* absence of government control and should be granted a separate rate. As discussed further in the *Issues and Decision Memorandum* at Comment 16, the evidence provided by HXF and AT&M after the *Preliminary Determination* supports a finding of *de jure* absence of governmental control based on the following: (1) An absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) the applicable legislative enactments decentralizing control of the companies; and (3) any other formal measures by the government decentralizing control of companies.<sup>4</sup> The evidence on the record with respect to HXF also supports a finding of *de facto* absence of governmental control based on record statements and supporting documentation showing the following: (1) It sets its own export prices independent of the government and without the approval of a government authority; (2) it retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses; (3) it has the authority to negotiate and sign contracts and other agreements; and (4) it has autonomy from the government regarding the selection of management. See *Silicon Carbide*, 59 FR at 22586-87. Therefore, because the Department found no evidence that AT&M made shipments of subject merchandise to the United States during the POI, and because AT&M is a single entity including BGY and HXF, and BGY and HXF have demonstrated a *de facto* independence from government control, we find that the AT&M single entity has demonstrated a *de facto* independence from government control with respect to its export activities. See *Issues and Decision Memorandum*, at Comment 16.

### Other Separate Rate Applicants

Additionally, in the *Preliminary Determination*, the Department considered for a separate rate only the seventeen applicants whose applications were considered complete by the sixty-day deadline established by the application, and these companies,

the Separate Rate Applicants, were granted a separate rate. For the final determination, we continue to find that the evidence placed on the record of this investigation for the Separate Rate Applicants that we granted a separate rate to in the *Preliminary Determination* demonstrates a *de jure* and *de facto* absence of government control, with respect to their respective exports of the merchandise under investigation, and, thus are eligible for separate rate status. Therefore, for the final determination we are continuing to grant these seventeen applicants a separate rate.

On February 1, 2006, the Department received a separate rate application from Qingdao Shinhan, and determined that Qingdao Shinhan's separate rate application was timely filed. See Memorandum to the File from Catherine Bertrand dated February 24, 2006. On March 22, 2006, the Department preliminarily determined that the information contained in Qingdao Shinhan's separate rate application demonstrated that it qualified for a separate rate in this investigation. See Memorandum to the File from Catherine Bertrand: Separate Rates Application of Qingdao Shinhan Diamond Industrial Co., Ltd. dated March 22, 2006. For the final determination, we continue to find that the evidence placed on the record of this investigation by Qingdao Shinhan demonstrates an absence of government control, both in law and in fact, with respect to its exports of the merchandise under investigation, and, thus is eligible for separate rate status. For a further discussion of this issue See *Issues and Decision Memo* at Comment 15.

In addition, the Department received case briefs from QSY, Global, Robtol, Electrolux, and Huachang, arguing that the Department should grant these companies a separate rate. These companies had been denied a separate rate in the *Preliminary Determination* because the Department determined these applications were not filed in a complete manner by the deadline. See Memorandum to James C. Doyle from Carrie Blozy: Antidumping Investigation of Diamond Sawblades and Parts Thereof from the People's Republic of China: Deficient Separate Rate Applications, dated October 12, 2005.

With respect to Global, Robtol, and Huachang the Department finds that, after analyzing their separate rates applications, these companies have demonstrated both a *de jure* and *de facto* absence of government control and should be granted a separate rate. The evidence provided by these companies in their respective separate rates applications supports a finding of *de*

<sup>4</sup> See *Sparklers* 56 FR 20588 and *Silicon Carbide* 59 FR 22585.

*jure* absence of governmental control based on the following: (1) An absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) the applicable legislative enactments decentralizing control of the companies; and (3) any other formal measures by the government decentralizing control of companies. *See, e.g., Sparklers*, 56 FR 20588 and *Silicon Carbide*, 59 FR 22586–87. The evidence on the record with respect to these companies also supports a finding of *de facto* absence of governmental control based on record statements and supporting documentation showing the following for each company: (1) It sets its own export prices independent of the government and without the approval of a government authority; (2) it retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses; (3) it has the authority to negotiate and sign contracts and other agreements; and (4) it has autonomy from the government regarding the selection of management. *See Sparklers*, 56 FR 20589; *Silicon Carbide*, 59 FR 22586–87. Therefore, the Department is granting Global, Robol, and Huachang a separate rate. *See Issues and Decision Memorandum*, at Comment 13 and 14 for a further discussion of this issue.

Further, the Department is continuing to deny a separate rate to QSY and Electrolux because the Department still finds that the separate rate applications of QSY and Electrolux are deficient. Therefore, the Department will not conduct a separate rates analysis for these two companies. *See Issues and Decision Memorandum* at Comment 12 and 14.

### The PRC-Wide Rate

In the *Preliminary Determination*, the Department found that certain companies and the PRC-wide entity did not respond to our request for Q&V information and Saint Gobain, one of the largest exporters of the merchandise under investigation,<sup>5</sup> did not respond to the Department's questionnaire. In the *Preliminary Determination* we treated these PRC producers/exporters as part of the PRC-wide entity because they did not demonstrate that they operate free of government control. No additional information has been placed on the record with respect to these entities after the *Preliminary Determination*. The PRC-wide entity, including Saint Gobain, has not provided the Department with the requested information. Therefore, pursuant to

section 776(a)(2)(A) of the Act, the Department continues to find that the use of facts available is appropriate to determine the PRC-wide rate. Section 776(b) of the Act provides that, in selecting from among the facts otherwise available, the Department may employ an adverse inference if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information. *See Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation*, 65 FR 5510, 5518 (February 4, 2000). *See also "Statement of Administrative Action"* accompanying the URAA, H.R. Rep. No. 103–316, 870 (1994) ("SAA"). We find that, because the PRC-wide entity did not respond to our request for information, it has failed to cooperate to the best of its ability. Therefore, the Department finds that, in selecting from among the facts otherwise available, an adverse inference is appropriate.

Because we begin with the presumption that all companies within a NME country are subject to government control and because only the companies listed under the "Final Determination Margins" section below have overcome that presumption, we are applying a single antidumping rate—the PRC-wide rate—to all other exporters of subject merchandise from the PRC. Such companies did not demonstrate entitlement to a separate rate. *See, e.g., Final Determination of Sales at Less Than Fair Value: Synthetic Indigo from the People's Republic of China*, 65 FR 25706 (May 3, 2000). The PRC-wide rate applies to all entries of subject merchandise except for entries from the respondents which are listed in the "Final Determination Margins" section below (except as noted).

### Corroboration

At the *Preliminary Determination*, in accordance with section 776(c) of the Act, we corroborated our adverse facts available ("AFA") margin using information submitted by certain respondents. *See Memorandum to the File: Corroboration of the PRC-Wide Facts Available Rate for the Preliminary Determination in the Antidumping Duty Investigation of Diamond Sawblades and Parts Thereof from the People's Republic of China*, dated December 20, 2005 ("Corroboration Memo"). The *Statement of Administration Action* also clarifies that "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value, *i.e.*, reliable and relevant. *See "Statement of Administrative Action"* accompanying

the URAA, H.R. Rep. No. 103–316, 870 (1994) ("SAA") at 870.

To assess the probative value of the total AFA rate it has chosen for Saint Gobain and the PRC-wide entity, the Department compared the final margin calculations of certain respondents in this investigation with the rate of 164.09 percent from the petition. We find that the rate is within the range of the highest margins we have determined in this investigation. *See Memorandum to the File: Corroboration of the PRC-Wide Facts Available Rate for the Final Determination in the Antidumping Duty Investigation of Diamond Sawblades and Parts Thereof from the People's Republic of China*, dated May 15, 2006 ("Final Corroboration Memo"). Since the record of this investigation contains margins within the range of the petition margin, we determine that the rate from the petition continues to be relevant for use in this investigation. As discussed therein, we found that the margin of 164.09 percent has probative value. *See Final Corroboration Memo*. Accordingly, we find that the rate of 164.09 percent is corroborated within the meaning of section 776(c) of the Act.

### Combination Rates

In the *Initiation Notice*, the Department stated that it would calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. *See Initiation Notice*, 70 FR 35625, 35629. This change in practice is described in *Policy Bulletin 05.1*, available at <http://www.trade.gov/ia/>. The *Policy Bulletin 05.1* states:

"[w]hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise

<sup>5</sup> See Respondent Selection Memo.

both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.” See *Policy Bulletin 05.1*, at page 6. Therefore, for the final determination, we have assigned a combination rate to respondents that are eligible for a separate rate.

As discussed in the *Issues and Decision Memorandum* at Comment 18, the Department will continue to not

issue a combination rate for exports made by Cliff and manufactured by BGY, as these sales were made by BGY. Further, the Department continues to find that BGY should be treated as a single entity with AT&M and HXF, and the AT&M single entity has demonstrated its eligibility for a separate rate in this case. Therefore, the Department will apply a single combination rate for the AT&M single entity as the producer and exporter.

However, exports where Cliff acted as a facilitator for the AT&M single entity are eligible to claim AT&M’s antidumping duty cash deposit rate. For a further discussion of this issue, see *Issues and Decision Memorandum*, at Comments 16–18.

**Final Determination Margins**

We determine that the following percentage weighted–average margins exist for the POI:

Exporter	Producer	Weighted–Average Deposit Rate
Advanced Technology & Materials Co., Ltd. ....	Advanced Technology & Materials Co., Ltd.	62.50%
Bosun Tools Group Co., Ltd. ....	Bosun Tools Group Co., Ltd.	34.19%
Danyang Huachang Diamond Tools Manufacturing Co., Ltd.	Danyang Huachang Diamond Tools Manufacturing Co., Ltd.	20.72%
Danyang NYCL Tools Manufacturing Co., Ltd. ....	Danyang NYCL Tools Manufacturing Co., Ltd.	20.72%
Danyang Youhe Tool Manufacturer Co., Ltd. ....	Danyang Youhe Tool Manufacturer Co., Ltd.	20.72%
Fujian Quanzhou Wanlong Stone Co., Ltd. ....	Fujian Quanzhou Wanlong Stone Co., Ltd.	20.72%
Guilin Tebon Superhard Material Co., Ltd. ....	Guilin Tebon Superhard Material Co., Ltd.	20.72%
Hebei Jikai Industrial Group Co., Ltd. ....	Hebei Jikai Industrial Group Co., Ltd.	48.50%
Huzhou Gu’s Import & Export Co., Ltd. ....	Danyang Aurui Hardware Products Co., Ltd.	20.72%
Huzhou Gu’s Import & Export Co., Ltd. ....	Danyang Huachang Diamond Tools Manufacturing Co., Ltd.	20.72%
Jiangsu Fengtai Diamond Tool Manufacture Co., Ltd. ....	Jiangsu Fengtai Diamond Tool Manufacture Co., Ltd.	20.72%
Jiangyin Likn Industry Co., Ltd. ....	Jiangsu Fengtai Diamond Tool Manufacture Co., Ltd.	20.72%
Jiangyin Likn Industry Co., Ltd. ....	Wuhan Wanbang Laser Diamond Tools Co.	20.72%
Qingdao Shinhan Diamond Industrial Co., Ltd. ....	Qingdao Shinhan Diamond Industrial Co., Ltd.	20.72%
Quanzhou Zhongzhi Diamond Tool Co., Ltd. ....	Quanzhou Zhongzhi Diamond Tool Co., Ltd.	20.72%
Rizhao Hein Saw Co., Ltd. ....	Rizhao Hein Saw Co., Ltd.	20.72%
Shanghai Deda Industry & Trading Co., Ltd. ....	Hua Da Superabrasive Tools Technology Co., Ltd.	20.72%
Shanghai Robtol Tool Manufacturing Co., Ltd. ....	Shanghai Robtol Tool Manufacturing Co., Ltd.	20.72%
Shijiazhuang Global New Century Tools Co., Ltd. ....	Shijiazhuang Global New Century Tools Co., Ltd.	20.72%
Sichuan Huili Tools Co. ....	Chengdu Huifeng Diamond Tools Co., Ltd.	20.72%
Sichuan Huili Tools Co. ....	Sichuan Huili Tools Co.	20.72%
Weihai Xiangguang Mechanical Industrial Co., Ltd. ....	Weihai Xiangguang Mechanical Industrial Co., Ltd.	20.72%
Wuhan Wanbang Laser Diamond Tools Co. ....	Wuhan Wanbang Laser Diamond Tools Co.	20.72%
Xiamen ZL Diamond Tools Co., Ltd. ....	Xiamen ZL Diamond Tools Co., Ltd.	20.72%
Zhejiang Tea Import & Export Co., Ltd. ....	Danyang Dida Diamond Tools Manufacturing Co., Ltd.	20.72%
Zhejiang Tea Import & Export Co., Ltd. ....	Danyang Tsunda Diamond Tools Co., Ltd.	20.72%
Zhejiang Tea Import & Export Co., Ltd. ....	Wuxi Lianhua Superhard Material Tools Co., Ltd.	20.72%
Zhejiang Wanli Tools Group Co., Ltd. ....	Zhejiang Wanli Super–hard Materials Co., Ltd.	20.72%
Zhenjiang Inter–China Import & Export Co., Ltd. ....	Danyang Weiwang Tools Manufacturing Co., Ltd.	20.72%
PRC–Wide Rate .....		164.09%

<sup>6</sup> Including Beijing Gang Yan Diamond Products Company as an exporter when merchandise was also produced by Beijing Gang Yan Diamond Products Company, and Yichang HXF Circular Saw Industrial Co., Ltd. as an exporter when merchandise was also produced by Yichang HXF Circular Saw Industrial Co., Ltd.

**Disclosure**

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

**Continuation of Suspension of Liquidation**

Pursuant to section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (“CBP”) to suspend liquidation of all entries of subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption as follows: for the final separate rate companies, on or after the date of publication of the *Preliminary Determination* in the **Federal Register**, December 29, 2005; for Bosun, Hebei

Jikai, and the PRC–wide entity, on or after the date which is 90 days prior to the date of publication of the *Preliminary Determination*, September 30, 2005, due to the final determination of critical circumstances. See *e.g.*, *Preliminary Determination; Issues and Decision Memorandum* at Comment 10. CBP shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown above. In addition, with respect to the AT&M single entity, in the *Preliminary Determination*, due to BGY’s *de minimus* preliminary margin, the Department did not require any cash deposit or posting of a bond. However, based on this final determination that the AT&M single entity does not have a *de minimus* margin rate, the Department

will instruct CBP to suspend liquidation of all entries of subject merchandise from the AT&M single entity<sup>7</sup> entered, or withdrawn from warehouse, for consumption, on or after the date of publication of the *Final Determination* in the **Federal Register**. These instructions suspending liquidation will remain in effect until further notice.

**ITC Notification**

In accordance with section 735(d) of the Act, we have notified the ITC of our final determination of sales at LTFV. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, within 45 days the ITC will determine whether the domestic industry in the United States is

<sup>7</sup> Including BGY and HXF.



materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. 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 canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

#### Notification Regarding APO

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 351.305. Timely notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

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

Dated: May 15, 2006.

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

#### List of Issues

##### General Issues

*Comment 1:* Whether The Department Should Revise Its Selection of Surrogate Financial Ratios

*Comment 2:* Whether Process Materials and Energy Inputs Should Be Valued As Factors of Production

*Comment 3:* Preliminary Scope Determinations

*Comment 4:* Country of Origin Determination

*Comment 5:* Whether the Department Should Revise the Physical Characteristics and Model Match Criteria

*Comment 6:* Whether Employee Benefits Should Be Moved from Direct Labor To Manufacturing Overhead

*Comment 7:* Treatment of Negative Margins

*Comment 8:* Application of Sigma Cap

*Comment 9:* Treatment of Packing Costs and Byproducts

*Comment 10:* Whether the Department Should Reevaluate its Preliminary Partial Determination of Critical Circumstances

*Comment 11:* Surrogate Value Issues

- A. Cores
- B. Oxygen
- C. Graphite and Steel Molds
- D. Copper Powder
- E. Diamonds
- F. Steel Sheet 5

#### Separate Rate Applicant-Specific Issues

*Comment 12:* Separate Rate Status of Electrolux

*Comment 13:* Separate Rate Status of Huachang

*Comment 14:* Separate Rate Status of QSY, Robtol, and Global

*Comment 15:* Separate Rate Status of Qingdao Shinhan

#### Company-Specific Issues

BGY Issues:

*Comment 16:* Whether the Department should Deny a Separate Rate to BGY, Yichang HXF Circular Saw Industrial Co., Ltd. ("HXF"), and Advanced Technology & Materials Co., Ltd. ("AT&M")

*Comment 17:* Whether BGY was the Seller of Sawblades to the United States

*Comment 18:* Whether the Department Should Revise the Combination Rates for BGY

*Comment 19:* Whether the Department should Apply Total Adverse Facts Available to BGY

*Comment 20:* Whether the Department should Calculate CEP Profit Based on BGY's U.S. and Third Country Sales

*Comment 21:* Whether the Department Should Adjust BGY's Reported Electricity and Labor FOPs.

*Comment 22:* Whether to Modify the Steel Surrogate Values for BGY

*Comment 23:* Whether to Continue to Apply an Inflater to Market Economy ("ME") Purchases of Diamond Powder Made Prior to the POI

*Comment 24:* Whether the Department Should Revise the Surrogate Value for Gasoline

*Comment 25:* Whether to Deduct BGY's Reported Interest Revenue from Gross Unit Price

*Comment 26:* Whether BGY's Reported Billing Adjustments Should Be Considered Direct Selling Expenses

*Comment 27:* Whether the Department Erred in Certain Statements in the BGY and GYDP Verification Reports

Bosun Issues:

*Comment 28:* Whether Returns Should Be Treated As A Selling Expense

*Comment 29:* Whether Bosun's U.S. Indirect Selling Expenses Should Be Revised

*Comment 30:* Whether Movement Expenses and Repacking Expenses

Should Be Included In The Calculation of CEP Profit

*Comment 31:* Surrogate Value for Tape

*Comment 32:* Surrogate Value for Acrylic Lacquer and Pallet Lacquer

*Comment 33:* Whether The Department Should Correct Certain Ministerial Errors

*Comment 34:* Whether The Surrogate Value For International Freight Should Be Revised

*Comment 35:* Whether The Department Should Make Additional Adjustments to Bosun's U.S. Sales Data and Supplier Databases

Hebei Jikai Issues:

*Comment 36:* Whether to apply AFA to Hebei Jikai's Process Materials

*Comment 37:* Whether International Freight to Two U.S. Customers Should Be Deducted

*Comment 38:* Whether Labor and Electricity Should Be Adjusted For Certain Product Codes

*Comment 39:* Surrogate Value for Nickel

*Comment 40:* Surrogate Value for Copper Plate

*Comment 41:* Surrogate Value Packaging Film

*Comment 42:* Valuation of Steel

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-580-855]

#### Notice of Final Determination of Sales at Less Than Fair Value and Final Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the Republic of Korea

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

**EFFECTIVE DATE:** May 22, 2006.

**SUMMARY:** On December 29, 2005, the Department of Commerce (the Department) published its preliminary determination of sales at less than fair value (LTFV) in the antidumping duty investigation of diamond sawblades and parts thereof from the Republic of Korea (Korea). The period of investigation (POI) is April 1, 2004, through March 31, 2005.

Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final determination differs from the preliminary determination. The final weighted-average dumping margins for the investigated companies are listed below