

maximum civil penalty that can be imposed against each Mr. Mangelsen and BiB is \$77,000. Despite the fact that the U.S. has since lifted the embargo against Libya, the maximum civil penalty against Mr. Mangelsen and BiB is deemed appropriate.

During the course of Mr. Mangelsen and BiB's violation of the regulations and as is apparent from Mr. Mangelsen's correspondence, Mr. Mangelsen has a blatant disregard for U.S. export laws and regulations. He appears to believe he is entitled to avail himself to privileges of exporting from the U.S., but acts as though he need not comply with its laws or regulations. To aggravate this, Mr. Mangelsen and BiB have demonstrated a propensity to disguise their efforts to evade U.S. export laws and regulations. The clear disregard for U.S. export laws and regulations combined with the propensity to disguise efforts to evade the same more than justifies issuing the maximum civil penalty against both Mr. Mangelsen and BiB.

#### VIII. Recommended Order

##### [Redacted Section]

Please be advised that under 15 CFR 766.17(b)(2) the administrative law judge shall immediately certify the record, including the original copy of the recommended decision and order, to the Under Secretary for review in accordance with 15 CFR 766.22. Please be further advised that 15 CFR 766.22 is included in Attachment A of this decision.

Done and dated May 23, 2006 at Norfolk, VA.

**Peter A. Fitzpatrick,**

*Administrative Law Judge, U.S. Coast Guard.*<sup>10</sup>

[FR Doc. 06-5778 Filed 6-28-06; 8:45 am]

**BILLING CODE 3510-33-M**

3701, the Agency adjusted the maximum civil penalty for inflation in 1997 from \$10,000 to \$11,000. 15 CFR 6.4(a)(1) (1997). In 2000, the Agency again adjusted it for inflation from \$11,000 to \$12,000. *Id.* at § 6.4(a)(6) (2000). It was not until 2003 that the Agency reduced maximum civil penalty from \$12,000 to \$11,000, where it has since remained. *Id.* at § 6.4(a)(6) (2003-06). While the conduct in question occurred from 2001 to 2003, BIS has indicated that it wishes to seek an \$11,000 "maximum civil penalty." The undersigned will therefore treat \$11,000 as the maximum civil penalty for the purpose of this action only.

<sup>10</sup> United States Coast Guard Administrative Law Judges perform adjudicatory functions for the Bureau of Industry and Security with approval from the Office of Personnel Management pursuant to a memorandum of understanding between the Coast Guard and the Bureau of Industry and Security.

## DEPARTMENT OF COMMERCE

### International Trade Administration

A-570-881

#### Malleable Iron Pipe Fittings From the People's Republic of China: Final Results of Antidumping Duty Administrative Review

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

**SUMMARY:** On December 23, 2005, the Department of Commerce published the preliminary results of the administrative review of the antidumping duty order on malleable iron pipe fittings from the People's Republic of China. The period of review is December 2, 2003, through November 30, 2004. The administrative review covers four exporters.

We invited interested parties to comment on our preliminary results. Based on our analysis of the comments received, we made certain changes to our calculations. The final dumping margins for this review are listed in the "Final Results of the Review" section, below.

**EFFECTIVE DATE:** June 29, 2006.

#### FOR FURTHER INFORMATION CONTACT:

Juanita H. Chen for Chengde Malleable Iron General Factory and Langfang PanNext Pipe Fitting Co., Ltd., Ryan A. Douglas for SCE Development (Canada) Co., Ltd., or Jennifer Moats for LDR Industries, Inc. and Beijing Sai Lin Ke Hardware Co., Ltd., AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, N.W., Washington, DC 20230; telephone: 202-482-1904, 202-482-1277 and 202-482-5047, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On December 23, 2005, the Department of Commerce ("Department") published the preliminary results of the administrative review of the antidumping duty order on malleable iron pipe fittings ("malleable pipe") from the People's Republic of China ("PRC"). *See Certain Malleable Iron Pipe Fittings From the People's Republic of China: Notice of Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 76234 (December 23, 2005) ("*Preliminary Results*"). In our *Preliminary Results*, the Department noted we would provide the respondents with additional opportunity to explain the methodology used and to correct certain deficiencies

noted in respondents' questionnaire responses and reported data.

Accordingly, the Department received supplemental questionnaire responses after the *Preliminary Results* from Langfang PanNext Pipe Fittings Co., Ltd. and its U.S. affiliate, PanNext Fittings Corporation (collectively "Pannext"), on January 20, and March 27, 2006, from SCE Development (Canada) Co. Ltd. ("SCE") on March 7, 2006, from Chengde Malleable Iron General Factory ("Chengde") on March 14, 2006, and from LDR Industries Inc. and Beijing Sai Lin Ke Hardware Co., Ltd. (collectively "SLK") on March 15, May 23, and May 30, 2006.

On April 6, 2006, the Department published a notice extending the time limit for the completion of the final results of this review until June 21, 2006. *See Notice of Extension of Time Limit for Final Results of Antidumping Duty Administrative Review: Certain Malleable Iron Pipe Fittings From the People's Republic of China*, 71 FR 17439 (April 6, 2006); *see, also, Notice of Correction to Notice of Extension of Time Limit for Final Results of Antidumping Duty Administrative Review: Certain Malleable Iron Pipe Fittings From the People's Republic of China*, 71 FR 25148 (April 28, 2006).

On April 12, 2006, Anvil International, Inc. and Ward Manufacturing (collectively "the petitioners") submitted notice that they did not intend to request a hearing in this segment. As there were no requests for a hearing, the Department did not conduct a hearing in this review.

We invited interested parties to comment on our *Preliminary Results*. On May 1, 2006, the Department received case briefs from the petitioners, SLK, and Pannext. On May 8, 2006, we received rebuttal briefs from the petitioners, SLK, and Pannext. Chengde and SCE did not submit case or rebuttal briefs. On May 24, 2006, the petitioners submitted comments on SLK's May 23, 2006, submission; on May 25, 2006, SLK submitted rebuttal comments. The Department learned from the petitioners' case brief that Chengde failed to serve them the proprietary version of its revised March 16, 2006, supplemental questionnaire response or the electronic U.S. sales and factors-of-production ("FOP") databases. Upon learning of Chengde's lack of proper service, the Department instructed Chengde to serve the petitioners a complete copy of the proprietary version of its response, and provided all interested parties an additional briefing period to comment on this response. We did not receive any comments from

interested parties in response to this briefing opportunity.

We conducted this review in accordance with sections 751 and 777 of the Tariff Act of 1930, as amended (“Act”), and 19 CFR 351.213 and 351.221 (2005).

#### Period of Review

The period of review (“POR”) is December 2, 2003, through November 30, 2004.

#### Scope of the Order

For purposes of this order, the products covered are certain malleable iron pipe fittings, cast, other than grooved fittings, from the PRC. The merchandise is currently classifiable under item numbers 7307.19.90.30, 7307.19.90.60 and 7307.19.90.80 of the Harmonized Tariff Schedule of the United States (“HTSUS”). Excluded from the scope of this order are metal compression couplings, which are imported under HTSUS number 7307.19.90.80. A metal compression coupling consists of a coupling body, two gaskets, and two compression nuts. These products range in diameter from ½ inch to 2 inches and are carried only in galvanized finish. Although HTSUS subheadings are provided for convenience and customs purposes, the Department’s written description of the scope of this proceeding is dispositive.

#### Analysis of Comments Received

All issues raised in the post-preliminary comments by parties in this review are addressed in the “Issues and Decision Memorandum for the Administrative Review of Certain Malleable Iron Pipe Fittings From the People’s Republic of China,” dated June 21, 2006 (“*Issues and Decision Memorandum*”), which is hereby adopted by this notice. A list of the issues which parties raised and to which we respond in the *Issues and Decision Memorandum* follows as an appendix to this notice. The *Issues and Decision Memorandum* is a public document which is on file in the Central Records Unit (“CRU”) in room B-099 of the main Department building, and is accessible on the Web at <http://ia.ita.doc.gov/frn/>. The paper copy and electronic version of the *Issues and Decision Memorandum* are identical in content.

#### Separate Rates

In our *Preliminary Results*, we determined that SLK, Pannext, and SCE met the criteria for the application of a separate rate. We preliminarily found the information provided by Chengde to be unreliable; as a result, we

preliminarily found Chengde did not qualify for separate rate status and deemed it to be part of the PRC-wide entity. See *Preliminary Results*, 70 FR at 76235. However, we provided Chengde with an additional opportunity to correct deficiencies in its reported data following the *Preliminary Results*. See *Preliminary Results*, 70 FR at 76240. Because we find for these final results that Chengde provided reliable information, as requested by the Department, except as noted below in the “Facts Otherwise Available” section, we must establish whether Chengde has met the criteria for the application of a separate rate.

It is the Department’s standard policy to assign all exporters of subject merchandise subject to review in a non-market economy (“NME”) country a single rate unless an exporter can demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to its exports. See *Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries*, Policy Bulletin 05.1 (April 5, 2005) (“*Policy Bulletin 05.1*”). To establish whether an exporter is sufficiently independent of government control to be entitled to a separate rate, the Department analyzes the exporter in light of the criteria established in *Final Determination of Sales at Less Than Fair Value: Sparklers from the People’s Republic of China*, 56 FR 20588 (May 6, 1991), and accompanying Issues and Decision Memorandum at Comment 1; and *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People’s Republic of China*, 59 FR 22585, 22586–7 (May 2, 1994).

Chengde provided the requested separate rate information in its responses to our original and supplemental questionnaires. Accordingly, consistent with the *Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People’s Republic of China*, 61 FR 19026, 19027–8 (April 30, 1996), we performed a separate rates analysis to determine whether Chengde is independent from government control.

#### A. Absence of *de jure* Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter’s business and export licenses; and (2) any legislative enactments decentralizing control of companies.

One of the respondents placed on the record a number of documents to demonstrate absence of *de jure* control including the “Foreign Trade Law of the People’s Republic of China,” the “Administrative Regulations of the People’s Republic of China Governing the Registration of Legal Corporations,” and the “Law of the People’s Republic of China on Foreign Capital Enterprises.” See *Preliminary Results*, 70 FR at 76235. The Department has analyzed such PRC laws and found that they establish an absence of *de jure* control. See, e.g., *Preliminary Results of New Shipper Review: Certain Preserved Mushrooms From the People’s Republic of China*, 66 FR 30695, 30696 (June 7, 2001) (unchanged in the final determination See *Final Results of New Shipper Review: Certain Preserved Mushrooms From the People’s Republic of China*, 66 FR 45006 (August 27, 2001)). We have no information in this proceeding that would cause us to reconsider this determination. Thus, we believe that the evidence on the record supports a preliminary finding of an absence of *de jure* government control based on: (1) an absence of restrictive stipulations associated with the exporter’s business license; and (2) the legal authority on the record decentralizing control over the respondent.

#### B. Absence of *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 *Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People’s Republic of China*, 63 FR 72255 (December 31, 1998). Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control 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* government control of its export functions: (1) whether the exporter sets its own export prices independent of the government and without the approval of a government authority; (2) whether the respondent has the 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 its management; and (4) whether the respondent retains the proceeds of its

export sales and makes independent decisions regarding disposition of profits or financing of losses. See *Policy Bulletin 05.1* at p. 2.

Chengde reports that it is a privately owned company controlled by its board of directors, with no relationship to the national, provincial, or local governments. Chengde also reports: (1) There is no government participation in the setting of its export prices; (2) authorized employees and representatives have the authority to negotiate and bind the company to sell merchandise; (3) the owners select the management of Chengde; and (4) there are no restrictions on the use of Chengde's export revenue, which is reinvested in capital or distributed to the owners, or on its use of foreign currency. Chengde's questionnaire responses do not suggest that pricing is coordinated among exporters. During our analysis of the information on the record, we found no information indicating the existence of government control. Consequently, we determine for these final results that Chengde has met the criteria for the application of a separate rate.

#### The PRC-Wide Rate and Use of Facts Otherwise Available

Section 776(a)(2) of the Act provides that if an interested party or any other person: (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority shall, subject to section 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Section 782(d) of the Act provides that, if the Department determines that a response to a request for information does not comply with the request, the Department shall promptly inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person with an opportunity to remedy or explain the deficiency in light of the time limits established for the completion of the review.

In this administrative review, the Department issued antidumping questionnaires to all respondents on March 14, 2005. We rejected Chengde's questionnaire response on April 29, 2005, because of certain filing format

and service deficiencies but provided Chengde with an opportunity to correct the deficiencies and resubmit its response, which it did on

May 18, 2005. In addition, before the *Preliminary Results*, we issued supplemental questionnaires to Chengde on July 20, August 4, and November 23, 2005. We issued a supplemental questionnaire to SLK before the *Preliminary Results* on July 12, 2005, and allowed SLK to provide corrections to its database on September 12, 2005. As discussed in our *Preliminary Results*, we noted that we would provide Chengde and SLK with an additional opportunity to cure deficiencies after the *Preliminary Results*, and would revisit the facts-available determinations made in the *Preliminary Results* for our final results of review. See *Preliminary Results*, 70 FR at 76238-76240. Thereafter, Chengde provided supplemental responses on December 20, 2005, and March 14, 2006; SLK provided supplemental responses and corrections to its database on March 15, May 23, and May 30, 2006. Accordingly, and pursuant to section 782(d) of the Act, the Department provided Chengde and SLK with opportunities to remedy or explain deficiencies on the record.

The Department has concluded that, within the meaning of section 776(a)(2) of the Act, Chengde and SLK failed to provide certain necessary information in response to the Department's questionnaires and various requests for information. More specifically, we find that Chengde and SLK withheld information or did not provide information to the Department pertaining to various factors of production in the form and manner requested by the Department as discussed further below. See section 776(a)(2)(B) of the Act. The lack of these necessary data impeded the conduct of the administrative review consistent with section 776(a)(2)(c) of the Act. A portion of the data provided by these respondents are not reliable or usable and the use of partial facts otherwise available is appropriate.

Section 776(b) of the Act provides that the Department may use an inference adverse to the interests of a party that has failed to cooperate by not acting to the best of its ability to comply with the Department's request for information. See, also, Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H. Doc. No. 103-316 at 870 (1994); and *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003) (instructing that Commerce should make a showing that "it is reasonable to

conclude that less than full cooperation has been shown"). In determining if the application of adverse facts available ("AFA") is warranted, the Department may also draw some inferences from a pattern of behavior. See *Reiner Branch GmbH & Co KG v. U.S.*, 2026 F.Supp. 2d 1323, 1337 (CIT 2002). Furthermore, to determine whether the respondent "cooperated" by "acting to the best of its ability" under section 776(b) of the Act, the Department also considers the accuracy and completeness of submitted information, and whether the respondent has hindered the calculation of accurate dumping margins. *Certain Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review*, 62 FR 53808, 53819-53820 (October 16, 1997).

In applying an adverse inference, the Department must consider that a respondent may not be rewarded for failing to cooperate and providing the agency with "flawed" information. See *NSM Ltd. v. United States*, 170 F. Supp. 2d 1280, 1312 (C.I.T. 2001). We believe that an adverse inference, applied to Chengde's and SLK's FOP data, would satisfactorily address their insufficient submissions and provide for a result that "would not benefit [these companies] from [their] lack of cooperation" in the review. *Id.* at 1312. Accordingly, as discussed further below, we assigned Chengde partial AFA for water and assigned SLK partial AFA for missing packing FOPs for certain reported control numbers ("CONNUMs").

We conclude that, within the meaning of section 776(b) of the Act, Chengde and SLK failed to cooperate by not acting to the best of their abilities in complying with the Department's requests for information for certain FOPs and that the use of partial AFA is appropriate. After repeated opportunities to provide information, Chengde's and SLK's responses to the Department's questions concerning water and packing FOPs, respectively, contained significant omissions, and overall lack of clarity.

For SLK, we determine it is appropriate to use facts available for certain CONNUMs for which it reported contradictory packing information by reporting different packing FOP usage rates for the same product. For those CONNUMs, we applied, as facts available, the highest usage rate reported for each packing input of that CONNUM to calculate the packing expense for these CONNUMs for the final results. Because SLK's response to our request for a revised packing database remains inadequate with

respect to those CONNUMs for which there are no reported packing FOPs, we determine that it is appropriate to apply facts available with an adverse inference for these CONNUMs. For those CONNUMs for which SLK did not provide any packing FOP information, we applied, as AFA, the highest usage rate reported for each packing input in SLK's response to replace the missing packing FOPs for these CONNUMs in SLK's margin calculations for the final results. See Memorandum to the File entitled, "Analysis for the Final Results of the Administrative Review of the Antidumping Duty Order on Malleable Pipe Iron Fittings from the People's Republic of China: LDR Industries, Inc. and Beijing Sai Lin Ke Hardware Co., Ltd.," dated June 21, 2006 ("SLK Final Analysis Memorandum").

For Chengde, we find that it did not cooperate to the best of its ability to report the water used in its production of subject merchandise. In Chengde's May 14, 2006, submission, it reported all the requested information except for water, which had been consistently reported in its previous submissions. Thus, as a result, the Department applied the highest reported water value from Chengde's previous databases to all reported CONNUMs it sold to the United States during the POR as partial AFA for the final results. See *Issues and Decision Memorandum*, at Comment 18; and Memorandum to the File entitled, "Analysis Memorandum for the Final Results in the 2003–2004 Administrative Review of the Antidumping Duty Order on Malleable Iron Pipe Fittings from the People's Republic of China: Chengde Malleable Iron General Factory Chengde Final Analysis Memorandum," dated June 21, 2006 ("Chengde Final Analysis Memorandum").

Finally, consistent with the *Preliminary Results*, we continued to apply neutral facts available for one of SLK's suppliers which was unable to provide the Department with FOP information due to extraordinary circumstances. See *Preliminary Results*, 70 FR at 76238. Because of the proprietary nature of this discussion, we can not provide full detail in this notice.<sup>1</sup> We note, however, that for future reviews of this proceeding, all respondents, including SLK, must comply with all requests for information

<sup>1</sup> For further information, see *Issues and Decision Memorandum* at Comment 1; see, also, the proprietary Memorandum from Jennifer Moats to the File entitled, "Beijing Sai Lin Ke Hardware Co., Ltd.'s Missing Factors of Production Information from Supplier A," dated June 21, 2006, and Exhibit SD6-4 of SLK's August 10, 2005, response (collectively, "Supplier A Support").

by the Department and, therefore, should maintain the appropriate books and records to comply with these requests. If respondents are unable to comply with such requests, the Department may resort to the use of AFA absent the information on the record that is required by the Department to conduct its proceedings in accordance with section 776(b) the Act.

Section 776(c) of the Act provides that, when the Department relies on facts otherwise available and relies on "secondary information," the Department shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. In the instant review, the Department is not relying on secondary information, but rather on primary information because the Department is calculating a dumping margin on the basis of the actual FOP experience of the respondents. Therefore, this provision does not apply.

In addition, because we preliminarily determined that Chengde was not entitled to a separate rate and was part of the PRC-wide entity, the PRC-wide entity was under review in the *Preliminary Results*. Because the PRC-wide entity failed to provide requested information in the administrative review, the Department preliminarily determined a dumping margin for the PRC-wide entity using the facts otherwise available on the record, pursuant to section 776(a) of the Act. Furthermore, because we determined that the PRC-wide entity failed to cooperate to the best of its ability, we used an adverse inference in making our decision, pursuant to section 776(b) of the Act.

For the *Preliminary Results*, we revised the PRC-wide rate to 200.24 percent based on SCE's calculated margin in the *Preliminary Results*, as SCE's preliminary margin was the highest margin in this proceeding. For the final results, because all companies for which this review was initiated qualify for separate rates, the PRC-wide entity is not covered by this review. Accordingly, the PRC-wide rate will remain 111.36 percent. See *Final Determination of Sales at Less Than Fair Value and Critical Circumstances: Certain Malleable Iron Pipe Fittings From the People's Republic of China*, 68 FR 61395 (October 28, 2003).

#### Export Price

For all sales made by Chengde, we based the U.S. price on export price ("EP"), in accordance with section 772(a) of the Act, because the first sale

to an unaffiliated purchaser was made prior to importation, and constructed export price ("CEP") was not otherwise warranted by the facts on the record. We calculated EP based on the packed price from the exporter to the first unaffiliated customer in the United States. We deducted foreign brokerage and handling, foreign inland freight, marine insurance, ocean freight, and U.S. inland freight expenses, where appropriate, from the gross unit price, in accordance with section 772(c) of the Act.

#### Normal Value

Section 773(c)(1) of the Act provides that, in the case of an NME, the Department shall determine normal value ("NV") using an FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. Because information on the record does not permit the calculation of NV using home-market prices, third-country prices, or constructed value and no party has argued otherwise, we calculated NV based on FOP in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c).

#### Other Changes Since the Preliminary Results

Based on our analysis of comments received from interested parties and information on the record of this review, we made changes to the margin calculations for all respondents.

#### Pannext:

Prior to the *Preliminary Results*, Pannext erroneously reported entered value based on a percentage discount of the U.S. gross price, and not as the absolute entered value. After the *Preliminary Results*, Pannext provided, in response to the Department's supplemental questionnaire, a revised U.S. sales database reporting entered value, where known, on a per-unit (piece) basis. Because we find Pannext's revised entered values to be reliable, for the final results we adjusted Pannext's margin calculation program to use its reported entered values, where appropriate, in accordance with 19 CFR 351.212(b)(1). See Memorandum to the File entitled, "Analysis Memorandum for the Final Results in the 2003–2004 Administrative Review of the Antidumping Duty Order on Malleable Iron Pipe Fittings from the People's Republic of China: Langfang PanNext Pipe Fitting Co., Ltd.," dated June 21,

2006 ("Pannext Final Analysis Memorandum").

#### SLK:

We corrected certain clerical errors identified by SLK and the petitioners in their briefs for the final results. See *Issues and Decision Memorandum* at Comments 5, 7, 9, and 19 and SLK Final Analysis Memorandum.

For other respondent-specific calculation changes, see *Issues and Decision Memorandum*; Chengde Final Analysis Memorandum; Pannext Final Analysis Memorandum; "SLK Final Analysis Memorandum"; and Memorandum to the File entitled, "Analysis Memorandum for the Final Results of the 2003-2004 Administrative Review of Antidumping Duty Order on Certain Malleable Iron Pipe Fittings from the People's Republic of China: SCE Development (Canada) Co., Ltd.," dated June 21, 2006 ("SCE Final Analysis Memorandum"). Public versions of these memoranda are on file in the CRU.

#### Surrogate Values:

We revalued several surrogate values used in the *Preliminary Results* due to some minor inadvertent data entry errors. These surrogate values include brokerage and handling, limestone and the limestone inflater, cast-iron scrap, steel scrap, corrugated boxes, tape, wooden pallets (discussed further below), nails, plastic bags, zinc dust, and coal. For a detailed discussion on the revaluation of these surrogate values, see Memorandum to the File entitled, "2003-2004 Administrative Review of the Antidumping Duty Order on Certain Malleable Iron Pipe Fittings from the People's Republic of China: Factors Valuations for the Final Results of the Administrative Review," dated June 21, 2006.

For the *Preliminary Results*, we incorrectly calculated the surrogate value for wooden pallets in kilograms, rather than in pieces for certain respondents. For the final results, we calculated the surrogate value for wooden pallets in pieces where appropriate. See *Issues and Decision Memorandum* at Comment 19; Chengde Final Analysis Memorandum; SLK Final Analysis Memorandum; and SCE Final Analysis Memorandum.

#### Final Results of the Review

The Department determined that the following final dumping margins exist for the period December 2, 2003, through November 30, 2004:

Exporter	Weighted-average percentage margin
Chengde Malleable Iron General Factory .....	81.64
Langfang Pannext Pipe Fitting Co., Ltd. ....	6.95
LDR Industries, Inc. and Beijing Sai Lin Ke Hardware Co., Ltd. ....	14.69
SCE Development (Canada) Co., Ltd. ....	53.64
PRC-wide rate .....	111.36

The Department will disclose calculations performed for the final results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

#### Assessment Rates

The Department will determine, and U.S. Customs and Border Protection ("CBP") shall assess, antidumping duties on all appropriate entries. The Department will issue, as appropriate, appraisement instructions directly to CBP within 15 days of publication of these final results of administrative review. In accordance with 19 CFR 351.212(b)(1), we calculated an exporter/importer (or customer)-specific assessment rate for the merchandise subject to this review. Where the respondent has reported reliable entered values, we calculated importer (or customer)-specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer). Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis*, we will apply the assessment rate to the entered value of the importer's/customer's entries during the review period. Where we do not have entered values for all U.S. sales, we calculated a per-unit assessment rate by aggregating the antidumping duties due for all U.S. sales to each importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer). To determine whether the duty assessment rates are *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer (or customer)-specific *ad valorem* ratios based on the estimated entered value. Where an importer (or customer)-specific *ad valorem* rate is zero or *de minimis*, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.

#### Cash-Deposit Requirements

The following cash deposit rates will be effective upon publication of this

notice of final results for all shipments of malleable pipe from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) For the above listed respondents, which each have a separate rate, the cash deposit rate will be the company-specific rate indicated above; (2) the cash deposit rates for any other companies that have separate rates established in the investigation, but were not reviewed in this segment, will not change; (3) for all other PRC exporters, the cash deposit rate will be 111.36 percent, the PRC-wide rate established in the *See Final Determination of Sales at Less Than Fair Value and Critical Circumstances: Certain Malleable Iron Pipe Fittings From the People's Republic of China*, 68 FR 61395 (October 28, 2003); and (4) for non-PRC exporters of malleable iron pipe fittings from the PRC, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that exporter. These deposit rates, 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 final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Pursuant to 19 CFR 351.402(f)(3), failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO, in accordance with 19 CFR 351.305 and as explained in the APO itself. Timely written notification of the 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 notice of final results of administrative review is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 21, 2006.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

## Appendix

### List of Comments and Issues in the Decision Memorandum

- Comment 1. SLK: Partial Facts Available for Missing Factors of Production
- Comment 2. SLK: Partial Facts Available for Missing Purchase Quantities
- Comment 3. SLK: By-product Offset for Scrap
- Comment 4. SLK: By-Product Offset for SLK's Supplier
- Comment 5. SLK: Double Counting of Steel Scrap and Pig Iron
- Comment 6. SLK: Application of Average Packing FOP
- Comment 7. SLK: Calculation of Total U.S. Price
- Comment 8. SLK: Use of Most Recently Submitted Data
- Comment 9. SLK: Treatment of U.S. Warehousing Expense
- Comment 10. Pannext: FOP Data
- Comment 11. Pannext: Treatment of Ocean Freight
- Comment 12. Pannext: Calculation of Entered Value
- Comment 13. Pannext: Calculation of Normal Value Using Facts Available
- Comment 14. Chengde: Adverse Facts Available
- Comment 15. Chengde: Recycled Scrap
- Comment 16. Treatment of Steel Sand, Woven Bags, Cooling Liquid, Clay, Firewood, and Silicon Sand
- Comment 17. Freight: Application of Sigma Rule
- Comment 18. Valuation of Water
- Comment 19. Wooden Pallet Clerical Error

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## DEPARTMENT OF COMMERCE

### International Trade Administration

(C-507-501)

### Certain In-shell Pistachios from the Islamic Republic of Iran: Final Results of Countervailing Duty Administrative Review

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

**SUMMARY:** On February 22, 2006, the Department of Commerce (the Department) published in the **Federal Register** its preliminary results in the countervailing duty (CVD) administrative review of certain in-shell pistachios from Iran. See *Certain In-shell Pistachios from the Islamic*

*Republic of Iran: Preliminary Results of Countervailing Duty Administrative Review*, 71 FR 9091 (*Preliminary Results*). The Department has now completed this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Based on information received since the *Preliminary Results* and our analysis of the comments received, the Department has not revised the net subsidy rate for Tehran Negah Nima Trading Company, Inc., trading as Nima Trading Company (Nima), the respondent company in this proceeding. For further discussion of our positions, see the "Issues and Decision Memorandum" from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, concerning the "Final Results of Countervailing Duty Administrative Review: Certain In-shell Pistachios from the Islamic Republic of Iran" (Decision Memorandum) dated June 22, 2006. The final net subsidy rate for the reviewed company is listed below in the section entitled "Final Results of Review."

**EFFECTIVE DATE:** June 29, 2006.

#### FOR FURTHER INFORMATION CONTACT:

Darla Brown, AD/CVD Operations, Office 3, Import Administration, U.S. Department of Commerce, Room 4014, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2786.

#### SUPPLEMENTARY INFORMATION:

#### Background

On November 7, 2005, the Department published in the **Federal Register** its *Preliminary Results*. We invited interested parties to comment on these results. Since the preliminary results, we received case briefs from petitioners<sup>1</sup> on March 24, 2006. Neither Nima nor the Government of Iran (GOI) submitted a brief.

In accordance with 19 CFR 351.213(b), this administrative review covers only those producers or exporters for which a review was specifically requested. Accordingly, this administrative review covers Nima for the period of review (POR) January 1, 2004, through December 31, 2004.

#### Scope of the Order

For purposes of this order, the product covered is in-shell pistachio nuts from which the hulls have been removed, leaving the inner hard shells and edible meat, as currently

<sup>1</sup> Petitioners include the California Pistachio Commission (CPC) and its members and a domestic interested party, Cal Pure Pistachios, Inc. (Cal Pure).

classifiable in the Harmonized Tariff Schedules of the United States (HTSUS) under item number 0802.50.20.00. The HTSUS subheading is provided for convenience and customs purposes. The written description of the scope is dispositive.

#### Analysis of Comments Received

For a discussion of the programs and the issues raised in the briefs by parties to this review, see the Decision Memorandum, which is hereby adopted by this notice. A listing of the issues which parties raised and to which we have responded, which are in the Decision Memorandum, is attached to this notice as Appendix I. Parties can find a complete discussion of the issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit (CRU), room B-099 of the main Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the World Wide Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the Decision Memorandum are identical in content.

#### Use of Facts Available

The Department has concluded that the GOI and Nima did not act to the best of their abilities in providing responses to the Department, in accordance with sections 776(a) and 776(b) of the Act. Specifically, neither the GOI nor Nima submitted questionnaire responses to the Department. By failing to respond to our questionnaire, Nima and the GOI have failed to provide information regarding subsidy programs in Iran, as well as Nima's sales, in the manner explicitly requested by the Department. Therefore, we must resort to the facts otherwise available pursuant to section 776(a) of the Act. Furthermore, in selecting from among the facts available, the Department has determined that an adverse inference is warranted, pursuant to section 776(b) of the Act because, despite the Department's efforts, Nima and the GOI did not respond to our questionnaires.

In the instant case, the Department is relying on information from *Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: In-shell Pistachios from Iran*, 51 FR 8344 (March 11, 1986) (*In-shell Pistachios*); *Certain In-Shell Pistachios and Certain Roasted In-Shell Pistachios from the Islamic Republic of Iran: Final Results of New Shipper Countervailing Duty Reviews*, 68 FR 4997 (January 31, 2003) (*Pistachios New Shipper Reviews*); and *Certain In-shell Pistachios from the Islamic Republic of Iran: Final Results*