

351.213(d)(1) of the Department's regulations, we are rescinding this review with respect to Jinan Yipin, Linshu Dading, Qingdao Titan, Shandong Wonderland, Shenzhen Xinboda, Taian Fook Huat, Weifang Hongqiao, Xuzhou Simple, and Omni Decor.

#### Assessment Rates

The Department will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on all appropriate entries. For those companies for which this review has been rescinded and which have a separate rate, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(2). The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of this notice. For those companies for which this review has been rescinded but do not have a separate rate at this time (and thus remain part of the PRC-wide entity), the Department will issue assessment instructions upon the completion of this administrative review.

#### Notification to Importers

This notice serves as a final reminder to importers for whom this review is being rescinded, as of the publication date of this notice, of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

#### Notification Regarding APOs

This notice also serves as a reminder to parties subject to administrative protective orders ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. 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 terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with section 777(i)(1) of the Act and 19 CFR 351.213(d)(4).

Dated: February 27, 2007.

**Stephen J. Claeys**

*Deputy Assistant Secretary for Import Administration*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-803]

#### Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Preliminary Results and Partial Rescission of the 2005-2006 Administrative Reviews

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

**SUMMARY:** The Department of Commerce (the Department) is currently conducting the 2005-2006 administrative review of the antidumping duty order on heavy forged hand tools, finished or unfinished, with or without handles, (heavy forged hand tools) from the People's Republic of China (PRC). We preliminarily determined to apply adverse facts available (AFA) with respect to four companies which failed to cooperate to the best of their ability and failed to demonstrate their eligibility for a separate rate, as follows: (a) Hammers/Sledges and Bars/Wedges exported by Shandong Machinery Import & Export Company (SMC); (b) Axes/Adzes, Bars/Wedges, Hammers/Sledges, and Picks/Mattocks ("all four classes or kinds") exported by Jafsam Metal Products (Jafsam); (c) Picks/Mattocks exported by Tianjin Machinery Import and Export Corporation (TMC); and (d) Picks/Mattocks and Hammers/Sledges exported by Shandong Huarong Machinery Co. (Huarong).

We are also preliminarily rescinding the following 2005-2006 administrative reviews: (a) Axes/Adzes and Picks/Mattocks, with regard to SMC; (b) Axes/Adzes, Hammers/Sledges, and Picks/Mattocks, with regard to Iron Bull Industrial Co., Ltd. (Iron Bull); and (c) all four classes or kinds with regard to Shanghai Xinike Trading Company (Xinike).

If these preliminary results are adopted in our final results of these reviews, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on entries of subject

merchandise during the period of review (POR) for which the importer-specific assessment rates are above *de minimis*. Interested parties are invited to comment on these preliminary results. We will issue the final results no later than 120 days from the date of publication of this notice.

**DATES:** *Effective Date:* March 8, 2007.

**FOR FURTHER INFORMATION CONTACT:** Mark Flessner or Robert James, AD/CVD Enforcement Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-6312 or (202) 482-0649, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On February 19, 1991, the Department published in the **Federal Register** four antidumping duty orders on heavy forged hand tools from the PRC. See *Antidumping Duty Orders: Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles From the People's Republic of China*, 56 FR 6622 (February 19, 1991). Imports covered by these orders comprise the following classes or kinds of merchandise: (1) Hammers and sledges with heads over 1.5 kg (3.33 pounds) (Hammers/Sledges); (2) bars over 18 inches in length, track tools, and wedges (Bars/Wedges); (3) Picks/Mattocks; and (4) Axes/Adzes. See "Scope of the Antidumping Duty Orders" section below for the complete description of subject merchandise.

On February 1, 2006, the Department published in the **Federal Register** a notice of "Opportunity to Request an Administrative Review" of the antidumping duty order on heavy forged hand tools from the PRC for the POR covering February 1, 2005, through January 31, 2006. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 71 FR 5239 (February 1, 2006). On February 24, 2006, respondents SMC and TMC requested administrative reviews. On February 27, 2006, respondents Shanghai Machinery Import & Export Corp. (Shanghai Machinery), Huarong, and Shandong Jinma Industrial Group Co., Ltd. (Jinma), requested administrative reviews. On February 28, 2006, petitioner Council Tool Company requested administrative reviews of Huarong, SMC, TMC, Xinike, Iron Bull, and Jafsam. Also on February 28, 2006, another petitioner, Ames True Temper, requested administrative reviews of Huarong, SMC, TMC, Iron

Bull, and Truper Herramientas S.A. de C.V. (Truper).

On April 5, 2006, the Department initiated an administrative review of the antidumping duty orders listed below covering the POR, February 1, 2005, through January 31, 2006, with respect to the listed companies:

*Axes/Adzes A-570-803*

Iron Bull Industrial Co., Ltd.  
Jafsam Metal Products  
Shanghai Machinery Import & Export Corp.  
Shanghai Xinike Trading Company  
Shandong Huarong Machinery Co., Ltd.  
Shandong Jinma Industrial Group Co., Ltd.  
Shandong Machinery Import and Export Corporation  
Tianjin Machinery Import and Export Corporation  
Truper Herramientas S.A. de C.V.

*Bars/Wedges A-570-803*

Iron Bull Industrial Co., Ltd.  
Jafsam Metal Products  
Shanghai Machinery Import & Export Corp.  
Shanghai Xinike Trading Company  
Shandong Huarong Machinery Co., Ltd.  
Shandong Jinma Industrial Group Co., Ltd.  
Shandong Machinery Import and Export Corporation  
Tianjin Machinery Import and Export Corporation  
Truper Herramientas S.A. de C.V.

*Hammers/Sledges A-570-803*

Iron Bull Industrial Co., Ltd.  
Jafsam Metal Products  
Shanghai Machinery Import & Export Corp.  
Shanghai Xinike Trading Company  
Shandong Huarong Machinery Co., Ltd.  
Shandong Jinma Industrial Group Co., Ltd.  
Shandong Machinery Import and Export Corporation  
Tianjin Machinery Import and Export Corporation

*Picks/Mattocks A-570-803*

Iron Bull Industrial Co., Ltd.  
Jafsam Metal Products  
Shanghai Machinery Import & Export Corp.  
Shanghai Xinike Trading Company  
Shandong Huarong Machinery Co., Ltd.  
Shandong Jinma Industrial Group Co., Ltd.  
Shandong Machinery Import and Export Corporation

*See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Deferral of Administrative Reviews*, 71 FR 17077 (April 5, 2006) (*Initiation Notice*).

**Partial Rescission of Review**

During the period specified in the Department's regulations, we received multiple withdrawals of requests for review by petitioners and respondents. See Memorandum from Mark Flessner to the Record entitled "Administrative Review (02/01/2005-01/31/2006) of Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, from the People's Republic of China: Adverse Facts Available and Corroboration," (*AFA and Corroboration Memo*), dated February 28, 2007. On September 11, 2006, we published a notice rescinding the administrative review, in accordance with 19 CFR 351.213(d)(1), with respect to Jinma (all four classes or kinds); Shanghai Machinery (all four classes or kinds); Truper (all four classes or kinds); TMC (Axes/Adzes, Hammers/Sledges, and Bars/Wedges); Huarong (Axes/Adzes and Bars/Wedges); and Iron Bull (Bars/Wedges). See *Administrative Review (02/01/2005-01/31/2006) of Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, from the People's Republic of China: Notice of Rescission of Antidumping Duty Administrative Reviews*, 71 FR 53403 (September 11, 2006) (Rescission Notice).

**Preliminary Partial Rescission of 2005-2006 Administrative Review**

We are preliminarily rescinding the review with respect to SMC for Axes/Adzes and Picks/Mattocks. SMC reported that it made no shipments of subject Axes/Adzes or Picks/Mattocks during the POR and the Department was able to review CBP data which support the claim that SMC did not export Axes/Adzes and/or Picks/Mattocks during the POR. Furthermore, no party has placed evidence on the record demonstrating that SMC exported the merchandise identified above during the POR. Therefore, in accordance with 19 CFR 351.213(d)(3) and consistent with the Department's practice, we are preliminarily rescinding the administrative reviews on Axes/Adzes and Picks/Mattocks with respect to SMC.

In addition, we are preliminarily rescinding the review with respect to Iron Bull for Axes/Adzes, Hammers/Sledges, and Picks/Mattocks for the same reason described above.

The questionnaires sent to Xinike were returned to the Department as undeliverable. Given that petitioners had requested this review, we requested that they provide an alternate address for this company, but they were unable to do so. See Memorandum to the File

from Mark Flessner entitled, "Administrative Review (02/01/2005-01/31/2006) of Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, from the People's Republic of China: Attempts to Contact Party Shanghai Xinike Trading Company," dated May 22, 2006.

Because the Department was unable to locate Xinike, we are also preliminarily rescinding the administrative review with respect to this company in all four classes or kinds.

**Scope of Orders**

The products covered by these orders are heavy forged hand tools from the PRC, comprising the following classes or kinds of merchandise: (1) Hammers and sledges with heads over 1.5 kg (3.33 pounds); (2) bars over 18 inches in length, track tools and wedges; (3) picks and mattocks; and (4) axes, adzes and similar hewing tools. Heavy forged hand tools include heads for drilling hammers, sledges, axes, mauls, picks and mattocks, which may or may not be painted, which may or may not be finished, or which may or may not be imported with handles; assorted bar products and track tools including wrecking bars, digging bars and tampers; and steel wood splitting wedges. Heavy forged hand tools are manufactured through a hot forge operation in which steel is sheared to required length, heated to forging temperature, and formed to final shape on forging equipment using dies specific to the desired product shape and size. Depending on the product, finishing operations may include shot blasting, grinding, polishing and painting, and the insertion of handles for handled products. Heavy forged hand tools are currently provided for under the following Harmonized Tariff System of the United States (HTSUS) subheadings: 8205.20.60, 8205.59.30, 8201.30.00 and 8201.40.60. Specifically excluded from these orders are hammers and sledges with heads 1.5 kg (3.33 pounds) in weight and under, hoes and rakes, and bars 18 inches in length and under. The HTSUS subheadings are provided for convenience and Customs purposes. The written description remains dispositive.

The Department has issued eight conclusive scope rulings regarding the merchandise covered by these orders: (1) On August 16, 1993, the Department found the "Max Multi-Purpose Axe," imported by the Forrest Tool Company, to be within the scope of the Axes/Adzes order; (2) on March 8, 2001, the Department found "18-inch" and "24-inch" pry bars, produced without dies, imported by Olympia Industrial, Inc.

and SMC Pacific Tools, Inc., to be within the scope of the Bars/Wedges order; (3) on March 8, 2001, the Department found the "Pulaski" tool, produced without dies by TMC, to be within the scope of the Axes/Adzes order; (4) on March 8, 2001, the Department found the "skinning axe," imported by Import Traders, Inc., to be within the scope of the Axes/Adzes order; (5) on December 9, 2004, the Department found the "MUTT," imported by Olympia Industrial, Inc., under HTSUS 8205.59.5510, to be within the scope of the Axes/Adzes order; (6) on May 23, 2005, the Department found 8-inch by 8-inch and 10-inch by 10-inch cast tampers, imported by Olympia Industrial, Inc. to be outside the scope of the orders; (7) on September 22, 2005, following remand, the U.S. Court of International Trade affirmed the Department's determination that cast picks are outside the scope of the order; and (8) on October 14, 2005, the Department found the Mean Green Splitting Machine, imported by Avalanche Industries, under HTSUS 8201.40.60, to be within the scope of the Bars/Wedges order.

#### TMC, Jafsam, and Huarong

We issued our request for quantity and value data (Q&V), and sections A, C, and D antidumping questionnaire<sup>1</sup> to all respondents for which an administrative review had been requested. Although the Department confirmed delivery of the questionnaires and extended to each company another opportunity to respond, Jafsam did not submit a response. See Letter from Robert James, Program Manager, entitled "Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, from the People's Republic of China: 02/01/2005-01/31/2006 Administrative Review," dated May 23, 2006.

As noted above, the administrative review with regard to TMC was rescinded for Axes/Adzes, Hammers/Sledges, and Bars/Wedges, leaving TMC subject to review for Picks/Mattocks. Nevertheless, TMC failed to submit a questionnaire response with respect to its exports of Picks/Mattocks. See *Rescission Notice*. Likewise, the administrative review with regard to Huarong was rescinded only for Axes/Adzes and Bars/Wedges, leaving

Huarong subject to review for Hammers/Sledges and Picks/Mattocks. However, Huarong failed to submit a response with respect to the two remaining classes or kinds of merchandise. See *Rescission Notice*.

#### SMC

With respect to SMC, from April 2006 through January 2007, the Department issued its initial and supplemental questionnaires. Responses were received over the course of this period. In addition, parties were invited to submit comments on surrogate country selection and factors of production information. Parties submitted information with respect to these issues as well.

#### Non-Market Economy Country

In every case conducted by the Department involving the PRC, the PRC has been treated as a non-market economy (NME) country. Pursuant to section 771(18)(C)(i) of the Act, any determination that a foreign country is a NME country shall remain in effect until revoked by the administering authority. See, e.g., *Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Final Results of Antidumping Duty Administrative Reviews and Final Rescission and Partial Rescission of Antidumping Duty Administrative Reviews*, 71 FR 54269 (September 14, 2006) (*Final Results of 14th Review*). None of the parties to this proceeding has contested such treatment.

#### Separate Rates

As discussed below, SMC (with respect to Hammers/Sledges and Bars/Wedges) failed to adequately respond to the Department's requests for information. TMC (with respect to the class or kind of merchandise Picks/Mattocks), Huarong (with respect to Hammers/Sledges and Picks/Mattocks), and Jafsam (with respect to all four classes or kinds) failed to respond to the Department's requests for information. See *AFA and Corroboration Memo*; see also *Facts Available* section below.

To establish whether a company operating in a NME is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991), as amplified by the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994).

Under the separate-rates criteria, the Department assigns separate rates in NME cases only if the respondent can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

In the *Initiation Notice*, the Department stated, "If one of the above-named companies does not qualify for a separate rate, all other exporters of Heavy Forged Hand Tools from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part." See *Initiation Notice*, n.6.

By failing to adequately respond to the Department's requests for information, SMC, TMC, Huarong, and Jafsam (pertaining to the classes or kinds identified above) have not demonstrated they are free of government control, are therefore not eligible to receive a separate rate, and are accordingly being treated as part of the PRC-wide entity. See *AFA and Corroboration Memo*.

The PRC-wide entity including SMC, TMC, Huarong, and Jafsam (pertaining to the classes or kinds identified above) failed to adequately respond to the Department's requests for information. Because the PRC-wide entity did not cooperate to the best of its ability in the proceeding, the Department finds it appropriate, pursuant to sections 776(a)(2) and 776(b) of the Act, to use AFA as the basis for these preliminary results of review for the PRC-wide entity.

#### Adverse Facts Available

##### 1. Application of Adverse Facts Available

For the reasons outlined below, we have applied total adverse facts available to the PRC-wide entity, which includes SMC (with respect to Hammers/Sledges and Bars/Wedges), TMC (with respect to Picks/Mattocks), Huarong (with respect to Hammers/Sledges and Picks/Mattocks), and Jafsam (with respect to all four classes or kinds). Section 776(a)(2) of the Act provides that, if an interested party: (A) Withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested subject to sections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to section 782(d) of the

<sup>1</sup> Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under review that it sells, and the manner in which it sells that merchandise in all of its markets. Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production of the foreign like product and the constructed value of the merchandise under review.

Act, use facts otherwise available in reaching the applicable determination.

According to section 776(b) of the Act, if the Department finds that an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information, the Department may use an inference that is adverse to the interests of that party in selecting from the facts otherwise available. *See also Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023, 54025–26 (September 13, 2005); and *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794–96 (August 30, 2002). Adverse inferences are appropriate “to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.” *See SAA* at 870. Furthermore, “affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.” *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27340 (May 19, 1997); *see also Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382–83 (Fed. Cir. 2003) (*Nippon*).

We preliminarily find that SMC (with respect to Hammers/Sledges and Bars/Wedges), TMC (with respect to Picks/Mattocks), Huarong (with respect to Hammers/Sledges and Picks/Mattocks), and Jafsam (with respect to all four classes or kinds) did not act to the best of their abilities in this proceeding, within the meaning of section 776(b) of the Act, because they failed to respond to the Department’s requests for information. Therefore, an adverse inference is warranted in selecting from the facts otherwise available with respect to these companies. *See Nippon*, 337 F.3d at 1382–83.

#### SMC

From the start of this review, SMC has significantly impeded the Department’s proceeding. SMC repeatedly either failed to answer, or provided contradictory answers to, many of the questions asked by the Department, calling into question the usability and reliability of the responses as a whole. For example, the May 11, 23, and 30, 2006, section A, C, and D responses were significantly deficient (with regard to all three sections), requiring the Department to issue an extensive first supplemental questionnaire. Likewise, SMC’s September 15, 2006, responses were also deficient with regard to all three sections (A, C, and D), requiring

the Department to issue another extensive supplemental questionnaire. SMC’s January 22 and 24, 2007, responses also failed to provide adequate answers which would enable the Department (a) to understand the company’s structure and ownership, (b) to compare the prices at which SMC’s subject merchandise was sold in or to the United States with a constructed value, and (c) to value the factors of production necessary to calculate export price, constructed export price, or normal value. *See AFA and Corroboration Memo*.

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department’s policy to assign all exporters of merchandise subject to 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. SMC did not adequately answer the questions posed by the Department regarding its eligibility for receiving a separate rate in this proceeding. Under the heading of “Separate Rates” in the original questionnaire, the Department asked SMC, among other things, three questions which are crucial to the separate rates determination. SMC was asked to describe and explain: (i) Who owns your company, (ii) who controls your company, and (iii) your company’s relationship with the national, provincial, and local governments. Throughout three separate sets of responses, SMC never clearly answered these questions. *See AFA and Corroboration Memo*.

SMC’s section D response also had multiple deficiencies which prevented the Department from being able to calculate a surrogate normal value. For example, in the original section D questionnaire response, the entirety of SMC’s section D data was based on activity prior to the beginning of the instant POR. *See SMC’s section D response* dated May 30, 2006. In the first supplemental questionnaire, SMC was asked to provide a detailed text explanation. SMC stated that all its sales to the United States during this POR were filled from stock from production for the previous POR (2004–2005). *See SMC’s 1st supplemental questionnaire responses* dated September 15, 2006. The Department, in its second supplemental questionnaire, asked SMC to provide source documents which would show that the entirety of the

stocks of subject merchandise SMC sold during the POR was acquired by SMC during the previous POR. SMC did not provide the requested documentation, rendering its entire section D database unreliable and unusable. *See SMC’s Second Supplemental Questionnaire response*, dated January 24, 2007; *see also AFA and Corroboration Memo*.

SMC’s section C database is also rendered unusable as a result of SMC’s continued and repeated failure to provide data on U.S. sales. For example, SMC failed to report any expenses paid in market economy currencies. SMC reported in the original section C questionnaire response that it had incurred some, but not all, of its freight expenses in market economy currencies but failed to provide any details or documentation. *See SMC’s Section C Questionnaire Response*, dated May 23, 2006. In its first supplemental questionnaire response, SMC stated it had no market economy expenses on U.S. sales. *See SMC’s Section C Questionnaire Response*, dated May 23, 2006. In its second supplemental questionnaire response, SMC stated that it incurred some freight expenses in market economy currencies, but continued to fail to provide any details or documentation. *See SMC’s 2nd supplemental A and C questionnaire responses* dated January 22, 2007; *see also AFA and Corroboration Memo*. The Department was unable to evaluate any of the market economy inputs which are a critical portion of the NME section C questionnaire.

As demonstrated above, SMC withheld requested information, failed to provide reliable and usable responses to the Department’s questionnaires, and significantly impeded this proceeding, warranting the use of facts available under sections 776(a)(2)(A), (B), and (C) of the Act. Given that its own records (which, for example, would at a minimum have reflected any remaining stocks from the previous POR) were reasonably available to SMC, we preliminarily find that SMC has failed to cooperate by not acting to the best of its ability to comply with the Department’s requests for information. Accordingly, we have preliminarily applied adverse facts available. *See Section 776(b) of the Act*.

Jafsam, TMC, and Huarong

Although the Department confirmed delivery of the questionnaires and extended another opportunity to respond, Jafsam did not submit a response to any section of the Department’s questionnaires. *See Letter from Robert James, Program Manager, entitled “Heavy Forged Hand Tools,*

Finished or Unfinished, With or Without Handles, from the People's Republic of China: 02/01/2005–01/31/2006 Administrative Review," dated May 23, 2006. The administrative review with regard to TMC was rescinded only in Axes/Adzes, Hammers/Sledges, and Bars/Wedges. See *Rescission Notice*.

The administrative review with regard to Huarong was rescinded only with respect to Axes/Adzes and Bars/Wedges. See *Rescission Notice*. Despite having requested these reviews, TMC and Huarong did not submit responses to the Department's Q&V or section A, C, and D questionnaires in their respective classes or kinds.

By not responding to the Department's request for information, Jafsam, TMC, and Huarong each withheld information that had been requested by the administering authority (*i.e.*, the Department), failed to provide such information by the deadline for submission of the information and in the form and manner requested, and significantly impeded the review.

Therefore, pursuant to sections 776(a)(2)(A), (B), and (C) of the Tariff Act, the Department shall apply facts available to all three of these companies. Further, as the information was reasonably available to Jafsam, TMC, and Huarong, we preliminarily find that Jafsam, TMC, and Huarong have failed to cooperate by not acting to the best of their ability to comply with the Department's requests for information. Accordingly, we have preliminarily applied adverse facts available to these three companies. See section 776(b) of the Act.

## 2. Selection of AFA Rate

Section 776(b) of the Act provides that the Department may use as AFA, information derived from: (1) The petition; (2) the final determination in the investigation; (3) any previous review; or (4) any other information placed on the record.

In administrative reviews, the Department normally selects, as AFA, the highest rate determined for any respondent in any segment of the proceeding. See, *e.g.*, *Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results of Antidumping Duty Administrative Review*, 68 FR 19504 (April 21, 2003); see also *Stainless Steel Plate in Coils from Taiwan: Preliminary Results and Rescission in part of Antidumping Duty Administrative Review*, 67 FR 5789 (February 7, 2002). The U.S. Court of International Trade (CIT) and the Court of Appeals for the

Federal Circuit have consistently upheld the Department's practice in several cases. See *Rhone Poulenc, Inc. v. United States*, 899 F. 2d 1185, 1190 (Fed. Cir. 1990) (*Rhone Poulenc*); see also *NSK Ltd. v. United States*, 346 F.Supp. 2d 1312, 1335 (CIT 2004) (upholding a 73.55 percent total AFA rate, the highest available dumping margin from a different respondent in a LTFV investigation); see also *Kompass Food Trading Int'l v. United States*, 24 CIT 678, 689 (2000) (upholding a 51.16 percent total AFA rate, the highest available dumping margin from a different, fully cooperative respondent); see also *Shanghai Taoen International Trading Co., Ltd. v. United States*, Slip Op. 05–22, at 16 (CIT 2005) (upholding a 223.01 percent total AFA rate, the highest available dumping margin from a different respondent in a previous administrative review).

The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse so "as to effectuate the purpose of the facts available role to induce respondents to provide the Department with complete and accurate information in a timely manner." See *Static Random Access Memory Semiconductors from Taiwan; Final Determination of Sales at Less than Fair Value*, 63 FR 8909, 8932 (February 23, 1998); see also *Certain Steel Concrete Reinforcing Bars from Turkey; Final Results and Rescission of Antidumping Duty Administrative Review in Part*, 71 FR 65082, 65084 (November 7, 2006). The Department's practice is to ensure "that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." See SAA at 870; see also *D&L Supply Co. v. United States*, 113 F. 3d 1220, 1223 (Fed. Cir. 1997) (*D&L Supply*); see also *Final Determination of Sales at Less than Fair Value: Certain Frozen and Canned Warmwater Shrimp from Brazil*, 69 FR 76910 (December 23, 2004). In choosing the appropriate balance between providing respondents with an incentive to respond accurately and imposing a rate that is reasonably related to the respondent's prior commercial activity, selecting the highest prior margin "reflects a common sense inference that the highest prior margin is the most probative evidence of current margins, because, if it were not so, the importer, knowing of the rule, would have produced current information showing the margin to be less." *Rhone Poulenc*, 899 F. 2d at 1190.

As AFA, we are preliminarily assigning to the PRC-wide entity's sales of Axes/Adzes, Bars/Wedges, Hammers/

Sledges, and Picks/Mattocks the rates of 189.37, 139.31, 45.42, and 98.77 percent, respectively. See *AFA and Corroboration Memo*.

## 3. Corroboration

Section 776(c) of the Act requires that the Department corroborate, to the extent practicable, secondary information used as facts available. Secondary information is defined as "information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise." See SAA at 870; 19 CFR 351.308(d). Under section 776(c) of the Act, the Department is granted a wide discretion in its selection of secondary information, *i.e.*, the AFA rate, as long as the Department can determine, to the extent practicable, that the AFA rate has probative value. See SAA at 870.

The SAA further provides that the term "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value. See SAA at 870. Thus, to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used. However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. The only sources for calculated margins are administrative determinations. The rate selected as AFA for the PRC-wide entity's sales of Axes/Adzes is the highest calculated rate of any segment in this proceeding, which was calculated in the 14th administrative review. See *Final Results of 14th Review*. The rate selected as AFA for Bars/Wedges was calculated during the 1998–1999 administrative review, and was corroborated and used as the PRC-wide and AFA rate in the most recently completed administrative review. See *Final Results of 14th Review*. The AFA rate we are applying for the order on Hammers/Sledges was applied as "best information available" (the predecessor to AFA) during the LTFV investigation for the sole respondent China National Machinery Import & Export Corporation, and was again corroborated and used as the PRC-wide and AFA rate in the 14th review. *Id.* The AFA rate we are applying for the order on Picks/Mattocks was calculated in the fifth review, became the PRC-wide and AFA rate in the seventh review, and has been used since. *Id.* These rates are applied to the PRC-wide entity, *i.e.*, those companies not eligible

for a separate rate with regard to the individual class or kind of merchandise. No information has been presented in the current review that calls into question the reliability of the information used for these AFA rates. Thus, the Department finds that the information is reliable.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin and determine an appropriate margin. *See Fresh Cut Flowers from Mexico: Final Results of Antidumping Administrative Review*, 61 FR 6812 (February 22, 1996) (where the Department disregarded the highest margin in that case as adverse best information available (the predecessor to facts available) because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin). Similarly, the Department does not apply a margin that has been discredited. *See D&L Supply*, 113 F.3d at 1221 (the Department will not use a margin that has been judicially invalidated). None of these unusual circumstances are present with respect to the rates being used here.

The 139.31 percent rate for Bars/Wedges calculated in the eighth review was affirmed by the Court of Appeals for Federal Circuit, and is therefore a final margin. *See Shandong Huarong General Corp v. United States*, 159 F.Supp.2d 714 (CIT 2001) (remanding final results); *see also Shandong Huarong General Corp v. United States*, 177 F.Supp.2d 1304 (CIT 2001) (sustaining remand), *aff'd* 60 Fed. Appx. 797 (Fed. Cir. 2003). This rate is also the PRC-wide rate for Bars/Wedges published in the most recently completed administrative review of this antidumping order. *See Final Results of 14th Review*. Thus, this

rate is the highest rate in the proceeding and was calculated using verified information provided by TMC during the 8th administrative review of the Bars/Wedges order. Accordingly, we continue to find that this rate, instead of other recently calculated rates, is an appropriate AFA rate for the PRC-wide entity because it offers a more adequate incentive to induce the PRC-wide entity, including SMC, Jafsam, and Huarong, to cooperate in this proceeding. We note that this rate has been applied in the 11th, 12th, 13th, and 14th reviews as an AFA rate. *See Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review of the Order on Bars and Wedges*, 68 FR 10690 (March 6, 2003); *see also Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Final Results of Antidumping Duty Administrative Reviews, Final Partial Rescission of Antidumping Duty Administrative Reviews, and Determination Not To Revoke in Part*, 69 FR 55581 (September 15, 2004); *see also Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Notice of Amended Final Results of Antidumping Duty Administrative Reviews*, 69 FR 69892 (December 1, 2004); *see also Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Final Results of Antidumping Duty Administrative Reviews and Final Rescission and Partial Rescission of Antidumping Duty Administrative Reviews*, 70 FR 54897 (September 19, 2005); *see also Final Results of 14th Review*.

As stated above, the rates selected for Axes/Adzes, Bars/Wedges, Hammers/Sledges, and Picks/Mattocks are the rates currently applicable to the PRC-wide entity and they are not being

applied to companies which have demonstrated their eligibility for a separate rate. The Department assumes that if an uncooperative respondent could have demonstrated a lower rate, it would have cooperated. *See Rhone Poulenc*, 899 F. 2d at 1190; *cf. Ta Chen Stainless Steel Pipe, Inc. v. United States*, 24 CIT 841 (2000) (respondents should not benefit from failure to cooperate).

The information used in calculating these margins was based on sales and production data of respondents in a prior review, together with the most appropriate surrogate value information available to the Department, chosen from submissions by the parties in that review, as well as gathered by the Department itself, or on "best information available" from the LTFV investigation. Furthermore, the calculations were subject to comment from interested parties in the proceeding. *See Final Results of 14th Review* at page 54270. Moreover, as there is no information on the record of this review that demonstrates that these rates are not appropriate to use as AFA, we determine that these rates have relevance. As these rates are both reliable and relevant, we determine that they have probative value. Accordingly, the selected rates of 189.37 percent for Axes/Adzes, 139.31 percent for Bars/Wedges, 45.42 percent for Hammers/Sledges, and 98.77 percent for Picks/Mattocks, the highest rates from any segment of this administrative proceeding (*i.e.*, the calculated and current PRC-wide rate for each order) have been corroborated, to the extent practicable and as necessary, in accordance with section 776(c) of the Act.

**Preliminary Results of the Review**

As a result of our reviews, we preliminarily find that the following margins exist for the period February 1, 2005, through January 31, 2006:

| Manufacturer/exporter<br>(percent)                    | Weighted-average<br>margin |
|---|----------------------------|
| Heavy Forged Hand Tools from the PRC: Axes/Adzes      |                            |
| PRC-Wide Rate .....                                   | <sup>2</sup> 189.37        |
| Heavy Forged Hand Tools from the PRC: Bars/Wedges     |                            |
| PRC-Wide Rate .....                                   | <sup>3</sup> 139.31        |
| Heavy Forged Hand Tools from the PRC: Hammers/Sledges |                            |
| PRC-Wide Rate .....                                   | <sup>4</sup> 45.42         |

| Manufacturer/exporter<br>(percent)                   | Weighted-average<br>margin |
|--|----------------------------|
| Heavy Forged Hand Tools from the PRC: Picks/Mattocks |                            |
| PRC-Wide Rate .....                                  | <sup>5</sup> 98.77         |

Case briefs from interested parties may be submitted not later than 30 days of the date of publication of this notice, pursuant to 19 CFR 351.309(c). Rebuttal briefs, limited to issues raised in the case briefs, will be due five days later, pursuant to 19 CFR 351.309(d). Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument not to exceed five pages. Parties are also encouraged to provide a table of statutes, regulations, and cases cited, and a diskette containing the electronic version.

Any interested party may request a hearing within 30 days of publication of this notice. Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. See 19 CFR 351.310(c). Issues raised in the hearing will be limited to those raised in the briefs. Any hearing will normally be held 37 days after the publication of this notice, or the first business day thereafter, unless the Department alters the date per 19 CFR 351.310(d).

The Department will issue the final results of these reviews, including the results of its analysis of issues raised in any such written briefs or at the hearing, if held, not later than 120 days after the date of publication of this notice.

#### Assessment Rates

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue appropriate appraisal instructions for the companies subject to these reviews directly to CBP within 15 days of publication of the final results of these reviews. However, the final results of this review shall be the basis for the

<sup>2</sup> The PRC-wide entity for Axes/Adzes includes Jafsam.

<sup>3</sup> The PRC-wide entity for Bars/Wedges includes SMC and Jafsam.

<sup>4</sup> The PRC-wide entity for Hammers/Sledges includes SMC, Jafsam, and Huarong.

<sup>5</sup> The PRC-wide entity for Picks/Mattocks includes Jafsam, TMC, and Huarong.

assessment of antidumping duties on entries of merchandise covered by the final results of these reviews and for future deposits of estimated duties, where applicable.

#### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of these reviews for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be that established in the final results of this review (except, if the rate is zero or *de minimis*, no cash deposit will be required); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed review; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate for each class or kind of merchandise as follows: (a) Axes/Adzes, 189.37 percent; (b) Hammers/Sledges, 45.42 percent; (c) Picks/Mattocks, 98.77 percent; and (d) Bars/Wedges, 139.31 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These administrative reviews and notice are in accordance with sections

751(a)(1), 751(a)(2)(B), and 777(i) of the Act and 19 CFR 351.213 and 351.214.

Dated: February 28, 2007.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E7-4166 Filed 3-7-07; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-588-857, A-201-828]

#### Certain Welded Large Diameter Line Pipe from Japan and Mexico; Notice of Final Results of Five-year ("Sunset") Reviews of Antidumping Duty Orders

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

**SUMMARY:** On November 1, 2006, the Department of Commerce ("the Department") initiated the first sunset reviews of the antidumping duty orders on certain welded large diameter line pipe ("welded large diameter pipe") from Japan and Mexico, pursuant to section 751(c) of the Tariff Act of 1930, as amended, ("the Act"). On the basis of notices of intent to participate and adequate substantive responses filed on behalf of the domestic interested parties and no response from respondent interested parties, the Department has conducted expedited sunset reviews of these antidumping duty orders. As a result of these sunset reviews, the Department finds that revocation of the antidumping duty orders would likely lead to continuation or recurrence of dumping at the level indicated in the "Final Results of Reviews" section of this notice.

**EFFECTIVE DATE:** March 8, 2007.

**FOR FURTHER INFORMATION CONTACT:** Dena Crossland or Dana Mermelstein, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-3362 or (202) 482-1391, respectively.

**SUPPLEMENTARY INFORMATION:**