

duty exemptions on imported materials program. A full discussion of our decision to apply adverse facts available is presented in the *Preliminary Results* in the section “Application of Facts Available, Including the Application of Adverse Inferences,” which is unaffected by these final results. No party commented on our preliminary decision to apply facts available with adverse inferences.

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the Memorandum to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled “Issues and Decision Memorandum for the Final Results in the Countervailing Duty Review of Certain New Pneumatic Off-the-Road Tires from the People’s Republic of China,” dated concurrently with this notice (Decision Memorandum). Attached to this notice as an Appendix is a list of the issues that parties have raised, and to which we have responded in the Decision Memorandum. The Decision Memorandum is on file in the Department’s Central Records Unit (Room 7406 in the main Department of Commerce building). In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at <http://ia.ita.doc.gov/frn/>. The paper copy and electronic version of the Decision Memorandum are identical in content.

#### Final Results of Review

After reviewing comments from all parties, we have made no adjustments to our calculations, as explained in our Decision Memorandum. Consistent with the *Preliminary Results*, and in accordance with 19 CFR 351.221(b)(5), we have calculated an individual subsidy rate for Starbright for the POR. We determine the total countervailable subsidy to be 30.87 percent *ad valorem*.

| Manufacturer/Exporter                | Net subsidy rate (percent) |
|--------------------------------------|----------------------------|
| Hebei Starbright Tire Co., Ltd. .... | 30.87                      |

#### Assessment Rates/Cash Deposits

The Department intends to issue appropriate assessment instructions to U.S. Customs and Border Protection (CBP) 15 days after the date of publication of these final results of

review. The Department will instruct CBP to liquidate shipments of subject merchandise by Starbright entered, or withdrawn from warehouse, for consumption on or after December 17, 2007, through December 31, 2008, at the *ad valorem* rate listed above. Consistent with the requirements of section 703(d) of the Act, shipments entered, or withdrawn from warehouse, for consumption on or after April 15, 2008, and on or before September 4, 2008, the period between the expiration of “provisional measures” and the publication of the final affirmative injury determination of the U.S. International Trade Commission, will be liquidated without regard to countervailing duties. We will also instruct CBP to collect cash deposits for Starbright at the countervailing duty rate indicated above on all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results of review.

For all non-reviewed companies, the Department has instructed CBP to assess countervailing duties at the cash deposit rates in effect at the time of entry, for entries from December 17, 2007, through December 31, 2008. The cash deposit rates for all companies not covered by this review are not changed by the results of this review, and remain in effect until further notice.

#### Return or Destruction of Proprietary Information

This notice 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(a)(3). Timely written 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.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 18, 2011.

**Ronald K. Lorentzen,**  
Deputy Assistant Secretary for Import Administration.

#### Appendix

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

- Comment 1 Application of CVD Law to the People’s Republic of China, and Non-Market Economies
- Comment 2 Application of CVD Law and Double Remedies

Comment 3 Application of the CVD Law and the Administrative Procedures Act  
Comment 4 Starbright’s Creditworthiness for 2006

[FR Doc. 2011–9969 Filed 4–25–11; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–570–901]

#### Certain Lined Paper Products From the People’s Republic of China: Notice of Final Results of the Antidumping Duty Administrative Review and Partial Rescission

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

**SUMMARY:** On October 18, 2010, the U.S. Department of Commerce (“the Department”) published the preliminary results of the third administrative review of the antidumping duty order on certain lined paper products (“CLPP”) from the People’s Republic of China (“PRC”). See *Certain Lined Paper Products from the People’s Republic of China: Notice of Preliminary Results of the Antidumping Duty Administrative Review*, 75 FR 63814 (October 18, 2010) (“*Preliminary Results*”). We invited parties to comment on the *Preliminary Results*. This review covers the following exporters and/or producer/exporters: Shanghai Lian Li Paper Products Co. Ltd. (“Lian Li”); Hwa Fuh Plastics Co., Ltd./Li Teng Plastics (Shenzhen) Co., Ltd. (“Hwa Fuh/Li Teng”); Leo’s Quality Products Co., Ltd./Denmax Plastic Stationery Factory (“Leo/Denmax”); and the Watanabe Group (consisting of Watanabe Paper Products (Shanghai) Co., Ltd. (“Watanabe Shanghai”); Watanabe Paper Products (Linqing) Co., Ltd. (“Watanabe Linqing”); and Hotrock Stationery (Shenzhen) Co., Ltd. (“Hotrock Shenzhen”) (hereafter referred to as “Watanabe” or the “Watanabe Group” or “Respondent”). Based on our analysis of the information and comments we received from Watanabe and petitioner<sup>1</sup> after the *Preliminary Results*, we continue to apply adverse facts available (“AFA”) to Watanabe. Further, we are rescinding the review with respect to Lian Li, Hwa Fuh/Li Teng, and Leo/Denmax.

**DATES:** *Effective Date:* April 26, 2011.

**FOR FURTHER INFORMATION CONTACT:** Cindy Lai Robinson or Stephanie Moore, AD/CVD Operations, Office 3,

<sup>1</sup> The petitioner is the Association of American School Paper Suppliers (“AASPS”).

Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3797, or (202) 482-3692, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

In the *Preliminary Results* the Department found that there was credible evidence on the record that documents submitted by Watanabe at verification were either inaccurate, internally inconsistent, or were otherwise unreliable and therefore, applied an AFA rate of 258.21 percent to the PRC-wide entity, including Watanabe. Since the publication of *Preliminary Results*, the following events have occurred:

On October 22, 2010, Watanabe submitted a letter requesting clarification of how the Department plans to proceed in the final results following the Department's AFA decision with respect to Watanabe in the *Preliminary Results*. On October 28, 2010, petitioner provided comments on Watanabe's letter. On November 16, 2010, the Department issued a letter to Watanabe requesting further information in order to more fully evaluate the issues addressed in the *Preliminary Results*. Watanabe submitted its response on December 8, 2010.

On December 22, 2010, the Department informed interested parties of the due dates for filing case and rebuttal briefs.<sup>2</sup> On January 6, 2011, Watanabe and petitioner filed their case briefs. On January 13, 2011, Watanabe and petitioner submitted their rebuttal briefs.

In its January 13, 2011, rebuttal brief, Watanabe alleged that AASPS's January 6, 2011, case brief included business proprietary information ("BPI") for which AASPS failed to properly identify the person that originally submitted the BPI data, as required by 19 CFR 351.306(c). On January 21, 2011, in agreement with Watanabe's allegation, the Department rejected and removed from the record, AASPS's case brief dated January 6, 2011. The Department also granted a five-day extension to allow petitioner to revise and resubmit its case brief. On January 26, 2011, petitioner submitted its revised case brief. Watanabe resubmitted its rebuttal brief on February 2, 2011.

On February 4, 2011, the Department extended the time limits for the final results of this review until no later than April 18, 2011. *See Extension of Time Limits for the Final Results of Antidumping Duty Administrative Review: Certain Lined Paper Products from the People's Republic of China*, 76 FR 6397 (February 4, 2011).

##### Scope of the Antidumping Duty Order

The scope of this order includes certain lined paper products, typically school supplies (for purposes of this scope definition, the actual use of or labeling these products as school supplies or non-school supplies is not a defining characteristic) composed of or including paper that incorporates straight horizontal and/or vertical lines on ten or more paper sheets (there shall be no minimum page requirement for looseleaf filler paper) including but not limited to such products as single- and multi-subject notebooks, composition books, wireless notebooks, looseleaf or glued filler paper, graph paper, and laboratory notebooks, and with the smaller dimension of the paper measuring 6 inches to 15 inches (inclusive) and the larger dimension of the paper measuring 8¾ inches to 15 inches (inclusive). Page dimensions are measured size (not advertised, stated, or "tear-out" size), and are measured as they appear in the product (*i.e.*, stitched and folded pages in a notebook are measured by the size of the page as it appears in the notebook page, not the size of the unfolded paper). However, for measurement purposes, pages with tapered or rounded edges shall be measured at their longest and widest points. Subject lined paper products may be loose, packaged or bound using any binding method (other than case bound through the inclusion of binders board, a spine strip, and cover wrap). Subject merchandise may or may not contain any combination of a front cover, a rear cover, and/or backing of any composition, regardless of the inclusion of images or graphics on the cover, backing, or paper. Subject merchandise is within the scope of this order whether or not the lined paper and/or cover are hole punched, drilled, perforated, and/or reinforced. Subject merchandise may contain accessory or informational items including but not limited to pockets, tabs, dividers, closure devices, index cards, stencils, protractors, writing implements, reference materials such as mathematical tables, or printed items such as sticker sheets or miniature calendars, if such items are physically incorporated, included with, or attached

to the product, cover and/or backing thereto.

Specifically excluded from the scope of this order are:

- Unlined copy machine paper;
  - Writing pads with a backing (including but not limited to products commonly known as "tablets," "note pads," "legal pads," and "quadrille pads"), provided that they do not have a front cover (whether permanent or removable). This exclusion does not apply to such writing pads if they consist of hole-punched or drilled filler paper;
  - Three-ring or multiple-ring binders, or notebook organizers incorporating such a ring binder provided that they do not include subject paper;
  - Index cards;
  - Printed books and other books that are case bound through the inclusion of binders board, a spine strip, and cover wrap;
  - Newspapers;
  - Pictures and photographs;
  - Desk and wall calendars and organizers (including but not limited to such products generally known as "office planners," "time books," and "appointment books");
  - Telephone logs;
  - Address books;
  - Columnar pads & tablets, with or without covers, primarily suited for the recording of written numerical business data;
  - Lined business or office forms, including but not limited to: pre-printed business forms, lined invoice pads and paper, mailing and address labels, manifests, and shipping log books;
  - Lined continuous computer paper;
  - Boxed or packaged writing stationary (including but not limited to products commonly known as "fine business paper," "parchment paper", and "letterhead"), whether or not containing a lined header or decorative lines;
  - Stenographic pads ("steno pads"), Gregg ruled ("Gregg ruling" consists of a single- or double-margin vertical ruling line down the center of the page. For a six-inch by nine-inch stenographic pad, the ruling would be located approximately three inches from the left of the book), measuring 6 inches by 9 inches.
- Also excluded from the scope of this order are the following trademarked products:
- Fly™ lined paper products: A notebook, notebook organizer, loose or glued note paper, with papers that are printed with infrared reflective inks and readable only by a Fly™ pen-top computer. The product must bear the valid trademark Fly™ (products found

<sup>2</sup> See Memorandum to the File, through James Terpstra, Program Manager, AD/CVD Operations, Office 3, from Cindy Robinson, Case Analyst, titled "Certain Lined Paper Products from the People's Republic of China," dated December 22, 2010.

to be bearing an invalidly licensed or used trademark are not excluded from the scope).

- **Zwipes™**: A notebook or notebook organizer made with a blended polyolefin writing surface as the cover and pocket surfaces of the notebook, suitable for writing using a specially-developed permanent marker and erase system (known as a Zwipes™ pen). This system allows the marker portion to mark the writing surface with a permanent ink. The eraser portion of the marker dispenses a solvent capable of solubilizing the permanent ink allowing the ink to be removed. The product must bear the valid trademark Zwipes™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

- **FiveStar®Advance™**: A notebook or notebook organizer bound by a continuous spiral, or helical, wire and with plastic front and rear covers made of a blended polyolefin plastic material joined by 300 denier polyester, coated on the backside with PVC (poly vinyl chloride) coating, and extending the entire length of the spiral or helical wire. The polyolefin plastic covers are of specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). Integral with the stitching that attaches the polyester spine covering, is captured both ends of a 1" wide elastic fabric band. This band is located 2 3/8" from the top of the front plastic cover and provides pen or pencil storage. Both ends of the spiral wire are cut and then bent backwards to overlap with the previous coil but specifically outside the coil diameter but inside the polyester covering. During construction, the polyester covering is sewn to the front and rear covers face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. The flexible polyester material forms a covering over the spiral wire to protect it and provide a comfortable grip on the product. The product must bear the valid trademarks FiveStar®Advance™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

- **FiveStar Flex™**: A notebook, a notebook organizer, or binder with plastic polyolefin front and rear covers joined by 300 denier polyester spine cover extending the entire length of the spine and bound by a 3-ring plastic fixture. The polyolefin plastic covers are of a specific thickness; front cover is

0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). During construction, the polyester covering is sewn to the front cover face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. During construction, the polyester cover is sewn to the back cover with the outside of the polyester spine cover to the inside back cover. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. Each ring within the fixture is comprised of a flexible strap portion that snaps into a stationary post which forms a closed binding ring. The ring fixture is riveted with six metal rivets and sewn to the back plastic cover and is specifically positioned on the outside back cover. The product must bear the valid trademark FiveStar Flex™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

Merchandise subject to this order is typically imported under headings 4820.10.2050, 4810.22.5044, 4811.90.9090, 4820.10.2010, 4820.10.2020 of the Harmonized Tariff Schedule of the United States ("HTSUS"). The HTSUS headings are provided for convenience and customs purposes; however, the written description of the scope of this order is dispositive.

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the accompanying Issues and Decision Memorandum, which is hereby adopted by this notice. A list of the issues which parties have raised, and to which we have responded in the Issues and Decision Memorandum, is attached to this notice as an Appendix. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the Issues and Decision Memorandum are identical in content.

#### Final Partial Rescission

In the *Preliminary Results*, the Department preliminary rescinded this review with respect to HwaFu/Li Teng because the Department was unable to directly serve its original questionnaire to HwaFu/Li Teng.<sup>3</sup> Consistent with the

<sup>3</sup> See Memorandum to the File from Cindy Robinson, Senior International Trade Analyst, AD/CVD Operations, Office 3, regarding "Antidumping

Department's decision in *Silicon Metal from PRC*,<sup>4</sup> the Department is rescinding the review with respect to Hwa Fu/Li Teng. See also *Certain Steel Concrete Reinforcing Bars from Turkey: Final Results and Rescission of Antidumping Duty Administrative Review in Part*, 71 FR 65082, 65083 (November 7, 2006).

In addition, in the *Preliminary Results*, the Department applied the reseller policy with respect to the following two respondents: Lian Li and Leo/Denmax.<sup>5</sup> Lian Li and Leo/Denmax reported that they had no shipments of subject merchandise to the United States during the period of review ("POR"). As we stated in the *Preliminary Results*, our examination of shipment data from U.S. Customs and Border Protection ("CBP") for these two companies confirmed that there were no entries of subject merchandise from them during the POR. Further, we also sent an inquiry to CBP to confirm the claims made by Lian Li and Leo/Denmax.<sup>6</sup> In the *Preliminary Results*, we determined not to rescind the review in part in these circumstances but, rather, to complete the review with respect to Lian Li and Leo/Denmax and issue appropriate instructions to CBP based on the final results of the review.<sup>7</sup>

See *id.* However, in practice, the Department to date has not applied the

*Duty Administrative Review of Certain Lined Paper Products from the People's Republic of China: Proof of Non-Delivery to Hwa Fu/Li Teng*, dated October 7, 2010.

<sup>4</sup> See, e.g., *Silicon Metal from the People's Republic of China: Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 12378 (March 7, 2008) (*Silicon Metal from PRC*), unchanged in *Final Results and Final Partial Rescission of Antidumping Duty Administrative Review: Silicon Metal From the People's Republic of China*, 73 FR 46587 (August 11, 2008).

<sup>5</sup> We applied the reseller policy stated in our May 6, 2003, "automatic assessment" clarification. We explained that, where respondents in an administrative review demonstrate that they had no knowledge of sales through resellers to the United States, we would instruct CBP to liquidate such entries at the all-others rate applicable to the proceeding. See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) ("May 2003 automatic assessment clarification").

<sup>6</sup> See *Preliminary Results* and CBP Message No. 0028302, dated January 28, 2010.

<sup>7</sup> In addition, we stated that because "as entered" liquidation instructions do not alleviate the concerns which the May 2003 clarification was intended to address, we find it appropriate in this case to instruct CBP to liquidate any existing entries of merchandise produced by Lian Li and Leo/Denmax and exported by other parties at the PRC-wide entity rate should we continue to find at the time of our final results that Lian Li and Leo/Denmax had no shipments of subject merchandise from the PRC. In support of our decision, we cited our practice in *Certain Frozen Warmwater Shrimp from India: Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 77610, 77612 (December 19, 2008).

reseller policy in non-market economy (“NME”) cases.

The Department’s practice concerning “no-shipment” respondents in NME cases has been to rescind the administrative review if the respondent certifies that it had no shipments and the Department has confirmed through its examination of data from CBP that there were no shipments of subject merchandise during the POR. *See Certain Frozen Warmwater Shrimp From the People’s Republic of China: Preliminary Results and Preliminary Partial Rescission of Fifth Antidumping Duty Administrative Review*, 76 FR 8338 (February 14, 2011). *See also Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Notice of Preliminary Results and Partial Rescission of the Third Antidumping Duty Administrative Review*, 72 FR 53527, 53530 (September 19, 2007), unchanged in *Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Partial Rescission*, 73 FR 15479, 15480 (March 24, 2008).

In this case, as stated above, both Lian Li and Leo/Denmax certified that they had no shipments and the Department has confirmed through its examination of data from CBP that there were no shipments of subject merchandise during the POR by Lian Li and/or Leo/Denmax. Therefore, consistent with the Department’s current practice in NME cases, we are rescinding this administrative review with respect to Lian Li and Leo/Denmax.

#### Application of Adverse Facts Available

Section 776(a) of the Act provides that, the Department shall apply “facts otherwise available” if (1) necessary information is not on the record, or (2) an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable

time limits and subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department “shall not decline to consider information that is submitted

by an interested party and is necessary to the determination but does not meet all applicable requirements established by the administering authority” if the information is timely, can be verified, is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information supplied if it can do so without undue difficulties.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Such an adverse inference may include reliance on information derived from the petition, the final determination, a previous administrative review, or other information placed on the record. *See, e.g., Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023, 54025–26 (September 13, 2005); *Statement of Administrative Action*, reprinted in H.R. Doc. No. 103–216, at 870 (1994) (“SAA”). 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 (Fed. Cir. 2003) (“*Nippon Steel*”).

In *Nippon Steel*, the Court set out two requirements for drawing an adverse inference under section 776(b) of the Act. First, the Department “must make an objective showing that a reasonable and responsible importer would have known that the requested information was required to be kept and maintained under the applicable statutes, rules, and regulations.” Next the Department must “make a subjective showing that the respondent \* \* \* has failed to promptly produce the requested information” and that “failure to fully respond is the result of the respondent’s lack of cooperation in either: (a) Failing to keep and maintain all required records, or (b) failing to put forth its maximum efforts to investigate and obtain the requested information from its records.” The Court clarifies further that “[a]n adverse

inference may not be drawn merely from a failure to respond, but only under circumstances in which it is reasonable for Commerce to expect that more forthcoming responses should have been made.” *See Nippon Steel*, at 1382–83.

#### Watanabe

As discussed in the *Preliminary Results*, the Department determined that facts available with an adverse inference was warranted for Watanabe because there was credible evidence on the record that certain documents submitted by Watanabe at verification were either inaccurate, internally inconsistent, and/or were otherwise unreliable. Further, Watanabe was unable to explain the discrepancies between documents collected by the Department at verification and documents provided by petitioner that implicated the veracity of Watanabe’s questionnaire response.

Subsequent to the *Preliminary Results*, the Department requested that Watanabe provide an explanation for the numerous discrepancies identified as a result of information provided by petitioner prior to the *Preliminary Results*. As discussed more fully in the Issue and Decision Memorandum accompanying this notice, among other things, Watanabe attempted to explain away the discrepancies by claiming any discrepancy was merely caused by the fact that, for each sale, there are actually two separate entries—revenue and payment. Because of the nature of the issue, see Memorandum to the File, through James Terpstra, Program Manager, AD/CVD Operations, Office 3, Import Administration, from Cindy Robinson, Financial Analyst, titled “Certain Lined Paper Products from People’s Republic of China: Certain Business Proprietary Information (“BPI”) in the Issues and Decision Memorandum with Respect to the Watanabe Group,” dated concurrently with this notice (“Watanabe BPI Memo”) for a complete discussion.

We continue to find that the factual record in this review supports the conclusion that Watanabe’s official books and records do not accurately reflect its actual commercial practice. The existence of two sets of invoices (one for revenue and one for payment) undermines the credibility of the Department’s verification as well as the reliability of Watanabe’s books and records and questionnaire response. Watanabe owns and generates its own accounting records and was aware that its sales reconciliation was based on records that did not accurately reflect the amounts charged to or received from its customers, yet it chose to not

voluntarily explain this to the Department. Because Watanabe did not disclose this information to the Department prior to or at verification, the Department was prevented from conducting verification based on accurate documentation. Rather, the Department conducted verification on the basis of documents that did not reflect the true selling prices and total sales values charged and payments received with respect to third country sales, which renders the "Completeness Test" and "Quantity and Value Reconciliation" futile. Consequently, the accuracy and completeness of Watanabe's sales and factors of production records, and its accounting system is called into question.

Furthermore, as noted above, Watanabe had participated in the original investigation and the second administrative review and received an AFA rate in the second review. Accordingly, it should have known that it is responsible for demonstrating the reliability of its own data.

Because Watanabe withheld information, significantly impeded the proceeding and provided information that could not be verified, we find that application of facts available is appropriate under sections 776(a)(2)(A), (B), and (C) of the Act. We further find that application of AFA is appropriate under section 776(b) because Watanabe failed to cooperate to the best of its ability in responding to the Department's requests for information.

#### Separate Rates

In proceedings involving NME countries, there is a rebuttable presumption that all companies within that country are subject to government control and thus should be assessed a single antidumping duty rate. It is the Department's policy to assign all exporters of subject merchandise in an NME country this single rate unless an exporter demonstrates that it is sufficiently independent so as to be entitled to a separate rate. Exporters can demonstrate this independence through the absence of both de jure and de facto governmental control over export activities. *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), as further developed in *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). It is the Department's practice to require a party to submit evidence that it operates independently of the State-controlled entity in each segment of a proceeding

in which it requests separate rate status. The process requires exporters to submit a separate-rate status application. *See Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the People's Republic of China: Final Results of 2005–2006 Administrative Review and Partial Rescission of Review*, 72 FR 56724 (October 4, 2007), and *Peer Bearing Co. Changshan v. United States*, 587 F.Supp. 2d 1319, 1324–25 (CIT 2008) (affirming the Department's determination in that review). As discussed in the *Preliminary Results*, and the Issues and Decision Memorandum accompanying this notice, in light of the credible evidence placed on the record by petitioner and the lack of an adequate explanation for the discrepancies by Watanabe, we continue to conclude that the information in Watanabe's questionnaire response is not reliable for purposes of this review. Therefore, Watanabe has not demonstrated that it operates free from government control. As a result, the Department continues to find that Watanabe is part of the PRC-wide entity.

#### The PRC-Wide Entity

Because we determined that Watanabe is part of the PRC-wide entity, the PRC-wide entity is under review. Pursuant to section 776(a) of the Act, we further find that because the PRC entity (including Watanabe) failed to respond to the Department's questionnaires, withheld or failed to provide information in a timely manner or in the form or manner requested by the Department, submitted information that cannot be verified, or otherwise impeded the proceeding, it is appropriate to apply a dumping margin for the PRC-wide entity using the facts otherwise available on the record. Moreover, by failing to respond to the Department's requests for information, withholding or failing to provide information in a timely manner or in the form or manner requested by the Department, submitting information that cannot be verified, or otherwise impeding the proceeding, we find that the PRC-wide entity has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information in this proceeding, within the meaning of section 776(b) of the Act. Therefore, an adverse inference is warranted in selecting from the facts otherwise available. *See Nippon Steel*, 337 F.3d at 1382–83.

#### Selection of Adverse Facts Available Rate

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) provide that the Department may rely on information derived from (1) the petition, (2) a final determination in the investigation, (3) any previous review or determination, or (4) any other information placed on the record. In selecting a rate for AFA, the Department selects a rate that is sufficiently adverse "as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner." *See Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 4913 (January 28, 2009).

Generally, the Department finds that selecting the highest rate from any segment of the proceeding as AFA is appropriate. *See, e.g., Certain Cased Pencils from the People's Republic of China; Notice of Preliminary Results of Antidumping Duty Administrative Review and Intent to Rescind in Part*, 70 FR 76755, 76761 (December 28, 2005). The CIT and the Court of Appeals for the Federal Circuit have affirmed decisions to select the highest margin from any prior segment of the proceeding as the AFA rate on numerous occasions. *See Rhone Poulenc, Inc. v. United States*, 899 F.2d 1185, 1190 (Fed. Cir. 1990) (*Rhone Poulenc*); *NSK Ltd. v. United States*, 346 F. Supp. 2d 1312, 1335 (CIT 2004) (upholding the application of an AFA rate which was the highest available dumping margin from a different respondent in an investigation).

As AFA, we have assigned to the PRC-wide entity, including Watanabe, a rate of 258.21 percent, from the investigation of CLPP from the PRC, which is the highest rate on the record of all segments of this proceeding. *See Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from the People's Republic of China; Notice of Antidumping Duty Orders: Certain Lined Paper Products from India, Indonesia and the People's Republic of China; and Notice of Countervailing Duty Orders: Certain Lined Paper Products from India and Indonesia*, 71 FR 56949 (September 28, 2006). As explained below, this rate has been corroborated.

### Corroboration of Secondary Information

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. 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 of the Act concerning the subject merchandise. *See SAA* at 870.

Corroborate means that the Department will satisfy itself that the secondary information to be used has probative value. *Id.* To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. *See Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews: Tapered Roller Bearings and Parts Thereof, Finished and Unfinished from Japan, and Tapered Roller Bearings Four Inches or Less in Outside Diameter, and Components Thereof, from Japan*, 61 FR 57391, 57392 (November 6, 1996) (unchanged in the final determination), *Final Results of Antidumping Duty Administrative Reviews and Termination in Part: Tapered Roller Bearings and Parts Thereof, Finished and Unfinished from Japan, and Tapered Roller Bearings Four Inches or Less in Outside Diameter, and Components Thereof, from Japan*, 62 FR 11825 (March 13, 1997). Independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: High and Ultra-High Voltage Ceramic Station Post Insulators from Japan*, 68 FR 35627 (June 16, 2003) (unchanged in final determination), *Notice of Final Determination of Sales at Less Than Fair Value: High and Ultra High Voltage Ceramic Station Post Insulators from Japan*, 68 FR 62560 (November 5, 2003); and *Notice of Final Determination of Sales at Less Than Fair Value: Live Swine From Canada*, 70 FR 12181, 12183–84 (March 11, 2005).

The AFA rate selected here is from the investigation and was applied to Watanabe in the second administrative

review. This rate was calculated based on information contained in the petition, which was corroborated for the final determination. *See Certain Lined Paper Products from the People's Republic of China: Notice of Final Results of the Antidumping Duty Administrative Review*, 74 FR 17160 (April 14, 2009). No additional information has been presented in the current review which calls into question the reliability of the information. Therefore, the Department finds that the information continues to be reliable. In addition, the AFA rate we are applying is the rate currently in effect for the PRC-wide entity.

Furthermore, in this case, the PRC-wide rate which was applied to Watanabe was corroborated and upheld by the CIT in its recent decision *Watanabe v. United States* (Slip Op. 10–139 Court No. 09–00520) (CIT December 22, 2010), where the CIT found that the Department need not corroborate the PRC wide rate with regards to that specific respondent. Specifically, the CIT states: “[w]here Commerce has found the respondent part of the PRC-wide entity based on adverse inferences, Commerce need not corroborate the PRC-wide rate with respect to information specific to that respondent because there is ‘no requirement that the PRC-wide entity rate based on AFA relate specifically to the individual company.’” *See also Peer Bearing Co.-Changshan v. United States*, 587 F. Supp. 2d 1319, 1327 (CIT 2008); *Shandong Mach. Imp. & Exp. Co. v. United States*, Slip Op. 09–64, 2009 WL 2017042, (CIT June 24, 2009) (Commerce has no obligation to corroborate the PRC-wide rate as to an individual party where that party has failed to qualify for a separate rate). Commerce’s permissible determination that Watanabe is part of the PRC-wide entity means that inquiring into Watanabe’s separate sales behavior ceases to be meaningful.

### Changes since the Preliminary Results

We have made no changes from the *Preliminary Results* in the final results.

### Final Results of Review

The Department has determined that the following dumping margin exists for the period September 1, 2008, through August 31, 2009:

| Producer/Manufacturer                              | Weighted-Average Margin |
|--|-------------------------|
| PRC-Wide Rate (which includes the Watanabe Group). | 258.21%                 |

### Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review.

### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of these final results of this administrative review 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 previously reviewed or investigated PRC exporters who received a separate rate in a prior segment of the proceeding, but were not reviewed in this review, the cash deposit rate will continue to be the rate assigned in that segment of the proceeding; (2) for all other PRC exporters of subject merchandise that have not been found to be entitled to a separate rate the cash deposit rate will be the PRC-wide rate of 258.21 percent; and (3) for all non-PRC exporters of subject merchandise the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

### Notification to Interested Parties

This notice serves as the 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. Failure to comply with this requirement could result in the Secretary’s presumption that reimbursement of antidumping duties occurred and in the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (“APO”) of their responsibility concerning the

return/destruction or conversion to judicial protective order of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This administrative review and this notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 18, 2011.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

## Appendix I

List of Comments in the Accompanying Issues and Decision Memorandum

Comment 1: Alleged Procedural Irregularities

Comment 2: Timeliness of Petitioner's New Factual Information Submission

Comment 3: Application of Adverse Inferences to Petitioner

Comment 4: Watanabe's Inability to Respond Based on Bracketing of Information

Comment 5: Petitioner's Case Brief Was Properly Rejected but Should Not Have Been Allowed To Be Resubmitted

Comment 6: Application of Adverse Inferences With Respect to Watanabe

Comment 7: Factors of Production and Surrogate Values

[FR Doc. 2011-10073 Filed 4-25-11; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-973]

### Certain Steel Wheels From the People's Republic of China: Initiation of Antidumping Duty Investigation

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

**DATES:** *Effective Date:* April 26, 2011.

**FOR FURTHER INFORMATION CONTACT:** Brendan Quinn or Bobby Wong, AD/CVD Operations, Office 8, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482-5848 and (202) 482-0409, respectively.

### SUPPLEMENTARY INFORMATION:

#### The Petition

On March 30, 2011, the Department of Commerce ("Department") received an antidumping duty ("AD") petition concerning imports of certain steel wheels ("steel wheels") from the People's Republic of China ("PRC") filed in proper form by Accuride Corporation ("Accuride") and Hayes Lemmerz

International, Inc. (collectively, "Petitioners").<sup>1</sup> On April 6, 2011, the Department issued supplemental questions to Petitioners regarding certain issues in the Petition.<sup>2</sup> Petitioners responded to the questions with supplemental responses on April 11, 2011.<sup>3</sup> On April 12, 2011, the Department requested additional information on certain issues.<sup>4</sup> On April 14, 2011, Petitioners provided a response to the Department's requests.<sup>5</sup> On April 14, 2011, the Department requested further clarification with respect to the Petition, which Petitioners submitted on April 15, 2011.<sup>6</sup> On April 18, 2011, the Department further clarified the scope of the Petition with Petitioners.<sup>7</sup>

In accordance with section 732(b) of the Tariff Act of 1930, as amended ("the Act"), Petitioners allege that imports of steel wheels from the PRC are being, or are likely to be, sold in the United States at less than fair value, within the meaning of section 731 of the Act, and that such imports materially injure, or threaten material injury to, an industry in the United States.

The Department finds that Petitioners filed the Petition on behalf of the domestic industry because Petitioners are interested parties as defined in section 771(9)(C) of the Act, and they have demonstrated sufficient industry support with respect to the investigation that they are requesting the Department to initiate (see "Determination of Industry Support for the Petition" below). The Department also notes that, pursuant to section 732(b)(1) of the Act, the Petition is accompanied by

<sup>1</sup> See the Petition for the Imposition of Antidumping and Countervailing Duties Pursuant to Sections 701 and 731 of the Tariff Act of 1930, as amended ("Petition"), filed on March 30, 2011.

<sup>2</sup> See April 6, 2011, Petition for the Imposition of Antidumping Duties on Steel Wheels from the People's Republic of China: Supplemental Questions.

<sup>3</sup> See Supplement to the AD/CVD Petitions dated April 11, 2011 ("First Supplement to the AD/CVD Petitions"). See also April 11, 2011, Petition for the Imposition of Antidumping Duties on Steel Wheels from the People's Republic of China: PRC AD Supplemental Questionnaire Response ("PRC AD Supplement to the Petitions").

<sup>4</sup> See April 12, 2011, Memorandum to the File, regarding "Phone Conference with and Request for Further Information from Petitioners."

<sup>5</sup> See Supplement to the AD/CVD Petitions dated April 14, 2011 ("Second Supplement to the AD/CVD Petitions").

<sup>6</sup> See Supplement to the AD/CVD Petitions dated April 15, 2011 ("Third Supplement to the AD/CVD Petitions").

<sup>7</sup> See April 18, 2011, Memorandum to the File RE: Petitions for the Imposition of Antidumping ("AD") and Countervailing Duties ("CVD") on Steel Wheels from the People's Republic of China ("PRC"). Clarification of Scope Language, on file in the Central Records Unit ("CRU"), Room 7046 of the main Department of Commerce building.

information reasonably available to Petitioners supporting their allegations.

### Scope of the Investigation

The products covered by this investigation are steel wheels from the PRC. For a full description of the scope of the investigation, see "Scope of the Investigation," in Appendix I of this notice.

### Comments on Scope of the Investigation

During our review of the Petition, we discussed the scope with Petitioners to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages interested parties to submit such comments by Monday, May 9, 2011, twenty calendar days from the signature date of this notice. Comments should be addressed to Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination.

### Comments on Product Characteristics for Antidumping Duty Questionnaires

We are requesting comments from interested parties regarding the appropriate physical characteristics of steel wheels to be reported in response to the Department's antidumping questionnaires. This information will be used to identify the key physical characteristics of the merchandise under investigation in order to more accurately report the relevant factors and costs of production, as well as to develop appropriate product comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate listing of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) General product characteristics; and (2) the product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences