

Dated: August 10, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

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[A-570-808]

Chrome-Plated Lug Nuts From The People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of Preliminary Results of the Antidumping Duty Administrative Review of Chrome-Plated Lug Nuts from the People's Republic of China.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on chrome-plated lug nuts (lug nuts) from the People's Republic of China (PRC) in response to a request by petitioner, Consolidated International Automotive, Inc. (Consolidated). This review covers shipments of this merchandise to the United States during the period September 1, 1993, through August 31, 1994.

We have preliminarily determined that sales have been made below foreign market value (FMV). If these preliminary results are adopted in our final results, we will instruct the U.S. Customs Service to assess antidumping duties equal to the difference between United States price (USP) and FMV.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: August 16, 1995.

FOR FURTHER INFORMATION CONTACT: Donald Little, Elisabeth Urfer, or Maureen Flannery, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone (202) 482-4733.

Background

The Department published in the **Federal Register** an antidumping duty order on lug nuts from the PRC on April 24, 1992 (57 FR 15052). On September 2, 1994, the Department published in the **Federal Register** (59 FR 45664) a notice of opportunity to request an administrative review of the antidumping duty order on lug nuts from the PRC covering the period September 1, 1993, through August 31, 1994.

On September 21, 1994, in accordance with 19 CFR 353.22(a), Consolidated requested that we conduct an administrative review of China National Automotive Industry I/E Corp., Nantong Branch (Nantong); China National Automobile Import and Export Corp., Yangzhou Branch (Yangzhou); Jiangsu Rudong Grease-Gun Factory (Rudong); Ningbo Knives & Scissors Factory (Ningbo); Shanghai Automobile Import & Export Corp. (Shanghai Automobile); Tianjin Automotive Import and Export Co. (Tianjin); China National Machinery & Equipment Import & Export Corp., Jiangsu Branch (Jiangsu); and China National Automotive Industry I/E Corp. (China National). We published a notice of initiation of this antidumping duty administrative review on October 13, 1994 (59 FR 51939). The Department is conducting this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Applicable Statute and Regulations

Unless otherwise stated, all citations to the statute and the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Scope of Review

On April 19, 1994, the Department issued its "Final Scope Clarifications on Chrome-Plated Lug Nuts from Taiwan and the PRC." The scope, as clarified, is described in the subsequent paragraph. All lug nuts covered by this review conform to the April 19, 1994, scope clarification.

Imports covered by this review are one-piece and two-piece chrome-plated lug nuts, finished or unfinished. The subject merchandise includes chrome-plated lug nuts, finished or unfinished, which are more than $1\frac{1}{16}$ inches (17.45 millimeters) in height and which have a hexagonal (hx) size of at least $\frac{3}{4}$ inches (19.05 millimeters) but not over one inch (25.4 millimeters), plus or minus $\frac{1}{16}$ of an inch (1.59 millimeters). The term "unfinished" refers to unplated and/or unassembled chrome-plated lug nuts. The subject merchandise is used for securing wheels to cars, vans, trucks, utility vehicles, and trailers. Zinc-plated lug nuts, finished or unfinished, and stainless-steel capped lug nuts are not included in the scope of this review. Chrome-plated lock nuts are also not subject to this review.

Chrome-plated lug nuts are currently classified under subheading 7318.16.00.00 of the Harmonized Tariff Schedule (HTS). Although the HTS subheading is provided for convenience and customs purposes, the written

description of the scope of this proceeding is dispositive.

This review covers the period September 1, 1993, through August 31, 1994, and eight producer/exporters of Chinese lug nuts.

Market-Oriented Industry

Rudong submitted, with its March 30, 1995 questionnaire response, a request that we treat the lug nuts industry as a market-oriented industry (MOI). Rudong claims that its material inputs are acquired at market prices and that, accordingly, we should find that the Chinese lug nuts industry is an MOI, and use Rudong's home market sales and/or costs as the basis of FMV.

The criteria for determining whether an MOI exists are: (1) For the merchandise under review, there must be virtually no government involvement in setting prices or amounts to be produced; (2) the industry producing the merchandise under review should be characterized by private or collective ownership; and (3) market-determined prices must be paid for all significant inputs, whether material or non-material (e.g., labor and overhead), and for all but an insignificant portion of all the inputs accounting for the total value of the merchandise under review. (See *Amendment to Final Determination of Sales at Less than Fair Value and Amendment to Antidumping Duty Order: Chrome-Plated Lug Nuts from the People's Republic of China* (57 FR 15054, April 24, 1992) (*Lug Nuts Redetermination*)).

As we found in the *Lug Nuts Redetermination*, in the original investigation of this case, the third criterion of the test, noted above, has not been met in this review. Rudong has not submitted any factual evidence that demonstrates that it pays market-determined prices for steel, a major input in lug nut production, or that the steel industry is not subject to significant state control and state-required production. Further, Rudong has not placed on the record any factual evidence that it pays market-determined prices for chemical inputs, or that the chemicals industry is not subject to significant state control. Rudong has not supplied any description of the supply and demand factors supporting a claim that the steel and chemicals industries in the PRC are market-driven. Based on the foregoing, we preliminarily determine that Rudong has not demonstrated the lug nut industry is an MOI and accordingly have calculated foreign market value in accordance with section 773(c) of the Act. For a further discussion of the Department's preliminary determination that the lug

nuts industry does not constitute an MOI, see *Decision Memorandum to Holly A. Kuga, Director of Antidumping Compliance*, dated July 31, 1995, "Market Oriented Industry Request in the Third Administrative Review of Chrome-Plated Lug Nuts from the People's Republic of China," which is on file in the Central Record Unit (room B099 of the Main Commerce Building).

Separate Rates

To establish whether a company operating in a state-controlled economy 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) (*Sparklers*), 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) (*Silicon Carbide*). Under this policy, exporters in non-market economies (NMEs) are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in law and in fact, with respect to exports. Evidence supporting, though not requiring, a finding of *de jure* absence of government control over export activities includes: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. *De facto* absence of government control over exports is based on four factors: (1) Whether each exporter sets its own export prices independently of the government and without the approval of a government authority; (2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) whether each exporter has the authority to negotiate and sign contracts and other agreements; and (4) whether each exporter has autonomy from the government regarding the selection of management.

Rudong and Nantong responded to the Department's request for information regarding separate rates; therefore, Rudong and Nantong were the only firms on which we made a determination of whether they should receive a separate rate. In the previous administrative review covering the period from September 1, 1992 through

August 31, 1993 (1992-93 review), we preliminarily determined that Nantong merited a separate rate. Because the results from the 1992-93 review are not final, we analyzed Nantong's submission in this review to determine whether Nantong merits a separate rate. We have made the determination of whether Rudong and Nantong should receive separate rates under the policy set forth in *Silicon Carbide* and *Sparklers*. In *Silicon Carbide*, we concluded that ownership by the people does not require the application of a single rate, and amplified the test set out in *Sparklers* by examining the management of an enterprise. With respect to the absence of *de jure* government control, evidence on the record indicates that Nantong is a local government-owned company, an independent entity. Further, several PRC laws establish that the responsibility for managing entities has been transferred from the central government to the enterprise. (See July 18, 1995 memorandum to the file, with attachments, "Chrome-Plated Lug Nuts from the People's Republic of China: laws and regulations governing various categories of companies in the PRC.") In particular, "The People's Republic of China All People's Ownership Business Law," enacted on April 13, 1988, indicates that branch companies have become legally and financially independent of centrally-controlled foreign trade companies. Additionally, lug nuts do not appear on the "Temporary Provisions for Administration of Export Commodities," approved on December 21, 1992, and are not, therefore, subject to the constraints of this provision.

With respect to the absence of *de facto* control, although Nantong is a local government-owned company, such ownership does not preclude a determination that a separate rate is appropriate. Nantong's management is elected by company staff, and is responsible for all decisions such as determining export prices, allocation and retention of profit on export sales, and negotiating export sales contracts. Nantong stated that the PRC government does not become involved with its business activities.

With respect to the absence of *de jure* government control, evidence on the record indicates that Rudong is a collectively-owned enterprise. Rudong stated that it has always operated as a decentralized company. The "Regulations on Rural Collective Enterprises" identify rules and regulations pertaining to collectively-owned enterprises which give rural collective enterprises such rights as the

right to act on their own, adopt independent accounting, and assume the sole responsibility for their profits and losses. (See July 20, 1995 memorandum to the file, with attachments, "Chrome-Plated Lug Nuts from the People's Republic of China: laws and regulations governing various categories of companies in the PRC.")

With respect to the absence of *de facto* control, Rudong is a collectively-owned enterprise. Rudong's management is elected by Rudong's staff, and is responsible for all decisions such as determining its export prices, profit distribution, employment policy, marketing strategy, and negotiating contracts. During verification, we saw no evidence of government involvement in these decisions.

We have found that the evidence on the record demonstrates an absence of government control, both in law and in fact, with respect to Rudong and Nantong according to the criteria identified in *Sparklers* and *Silicon Carbide*. For further discussion of the Department's preliminary determination that Rudong and Nantong are each entitled to a separate rate, see *Decision Memorandum to Holly A. Kuga, Director of Antidumping Compliance*, dated July 31, 1995, "Separate Rate for Jiangsu Rudong Grease-Gun Factory in the Third Administrative Review of Chrome-Plated Lug Nuts from the People's Republic of China," and *Decision Memorandum to Holly A. Kuga, Director of Antidumping Compliance*, dated July 31, 1995, "Separate Rate for China National Machinery & Equipment Import & Export Corp., Nantong Company, in the Third Administrative Review of Chrome-Plated Lug Nuts from the People's Republic of China," which are on file in the Central Record Unit (room B099 of the Main Commerce Building).

Verification

We verified the information submitted by Rudong in the PRC from May 4 through May 6, 1995, and May 8 and May 9, 1995. We used standard verification procedures, including examination of relevant accounting and production records and original source documents provided by Rudong.

United States Price

For sales made by Rudong we based USP on purchase price, in accordance with section 772(b) of the Act, because the subject merchandise was sold to unrelated purchasers in the United States prior to importation into the United States.

We calculated purchase price based on the price to unrelated purchasers. We

made deductions, where appropriate, for brokerage and handling, foreign inland freight, marine insurance, and ocean freight. We valued brokerage and handling, foreign inland freight, marine insurance, and ocean freight deductions using surrogate data based on Indian freight costs. We selected India as the surrogate country for the reasons explained in the "Foreign Market Value" section of this notice.

Foreign Market Value

For all companies located in NME countries, section 773(c)(1) of the Act provides that the Department shall determine FMV using a factors-of-production methodology if (1) The merchandise is exported from an NME country, and (2) the information does not permit the calculation of FMV under section 773(a) of the Act.

In the amendment to the final determination of sales at less than fair value (LTFV), the Department treated the PRC as an NME country, and determined that the lug nuts industry is not a MOI (see *Lug Nuts Redetermination*). Rudong has argued that the lug nut industry is a MOI; however, as discussed above, we have preliminarily determined the lug nut industry not to be market-oriented. Accordingly, we are not able to determine FMV on the basis of Rudong's costs and prices, and have applied surrogate values to the factors of production to determine FMV.

We calculated FMV based on factors of production in accordance with section 773(c) of the Act and section 353.52 of our regulations. We determined that India is comparable to the PRC in terms of: (1) Per capita gross national product (GNP), (2) the growth rate in per capita GNP, and (3) the national distribution of labor. In addition, India is a significant producer of comparable merchandise. Therefore, for this review, we chose India as the most comparable surrogate on the basis of the above criteria, and have used publicly available information relating to India to value the various factors of production. (See *Memorandum to Laurie Parkhill from David Mueller*, dated June 9, 1995, "Chrome-Plated Lug Nuts from the People's Republic of China: Non-market Economy Status and Surrogate Country Selection," and *Memorandum to the File from Donald Little*, dated July 20, 1995, "India: Significant Production of Comparable Merchandise," which are on file in the Central Record Unit (room B099 of the Main Commerce Building).)

We valued the factors of production as follows:

- For steel wire rods, we used a per kilogram value obtained from the March 1994 *Monthly Statistics of Foreign Trade of India (Indian Import Statistics)* for the period April 1993 through March 1994. Using wholesale price indices (WPI) obtained from the *International Financial Statistics*, published by the International Monetary Fund (IMF), we adjusted these values to reflect inflation through the period of review (POR). We made further adjustments to include freight costs incurred between the supplier and Rudong.

- For chemicals used in the production and plating of lug nuts, we used per kilogram values obtained from the *Indian Import Statistics*. We adjusted these rates to reflect inflation through the POR using WPI published by the IMF. We made further adjustments to include freight costs incurred between the supplier and Rudong.

- For hydrochloric acid, we based the value on an Indian price quote used in the *Final Determination of Sales at Less Than Fair Value: Coumarin from the People's Republic of China* (59 FR 66895, December 28, 1994) (*Coumarin*), because the Indian Import Statistics for hydrochloric acid were found to be aberrational. We adjusted the value used in *Coumarin* to reflect inflation through the POR using WPI published by the IMF.

- For direct labor, we used the labor rates reported in the Business International Corporation report *IL&T India*, released November 1993. This source breaks out labor rates between skilled and unskilled labor for 1993 and provides information on the number of labor hours worked per week. We adjusted these rates to reflect inflation through the POR using WPI published by the IMF.

- For factory overhead, we used information reported in the September 1994 *Reserve Bank of India Bulletin* for the Indian metals and chemicals industries. From this information, we were able to determine factory overhead as a percentage of the total cost of manufacture.

- For selling, general and administrative (SG&A) expenses, we used information obtained from the September 1994 *Reserve Bank of India Bulletin* for the Indian metals and chemicals industries. We calculated an SG&A rate by dividing SG&A expenses by the cost of manufacture. Since the calculated SG&A expense rate is less than 10 percent of the cost of manufacture, we used the statutory minimum of 10 percent.

- To calculate a profit rate, we used information obtained from the

September 1994 *Reserve Bank of India Bulletin* for the Indian metals and chemicals industries. We calculated a profit rate by dividing the before-tax profit by the cost of manufacturing plus SG&A. Since the calculated profit rate is less than eight percent, we used the statutory minimum of eight percent to calculate profit.

- For packing materials, we used per kilogram values obtained from the *Indian Import Statistics*. We adjusted these values to reflect inflation through the POR using WPI published by the IMF.

- To value electricity, we used the price of electricity for 1993 reported in the *Confederation of Indian Industries Handbook of Statistics*. We adjusted the value of electricity to reflect inflation through the POR using WPI published by the IMF.

- To value truck freight, we used the rates reported in an August 1993 cable from the U.S. Consulate in India submitted for the *Final Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers From the People's Republic of China* (58 FR 48833, September 20, 1993). We adjusted the rates to reflect inflation through the POR using WPI published by the IMF.

Currency Conversion

We made currency conversions in accordance with 19 CFR 353.60(a). Currency conversions were made at the rates certified by the Federal Reserve Bank.

Best Information Available

We preliminarily determine, in accordance with section 776(c) of the Act, that the use of best information available (BIA) is appropriate for Yangzhou, Ningbo, Jiangsu, China National, Tianjin, and Shanghai Automobile because these firms did not respond to the Department's antidumping questionnaire.

In deciding what to use as BIA, 19 CFR 353.37(b) provides that the Department may take into account whether a party refused to provide requested information. Thus, the Department determines on a case-by-case basis what is BIA. When a company refuses to provide the information requested in the form required, or otherwise significantly impedes the Department's review, the Department will normally assign to that company the higher of (1) The highest rate for any firm in the investigation or prior administrative reviews of sales of subject merchandise from that same country; or (2) the highest rate found in the current review for any firm. When

a company has cooperated with the Department's request for information but fails to provide the information requested in a timely manner or in the form required, the Department will normally assign to that company the higher of (1) the highest margin calculated for that company in any previous review or the original investigation; or (2) the highest calculated margin for any respondent that supplied an adequate response for the current review. (See *Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany, et al.; Final Results of Administrative Review* (56 FR 31705, July 11, 1991).)

We have applied BIA to sales made by China National, Jiangsu, Yangzhou, Ningbo, Shanghai Automobile, and Tianjin. Because these firms did not respond to our questionnaire, as BIA we have applied the highest margin ever in the LTFV investigation or in this or prior administrative reviews. The highest rate in this proceeding is 42.42 percent, which the Department determined in the LTFV investigation. If the publication of the final results of the 1992-93 review occurs prior to the final results for this review, we will consider those results in our final BIA determination. These firms form the basis of the PRC country-wide rate, which is therefore also based on non-cooperative BIA.

Non-Shipper

Nantong submitted a questionnaire response to the Department stating that it did not ship lug nuts to the United States during the period of review. There is no evidence on the record to demonstrate that Nantong shipped subject merchandise to the United States during the period of review. We have preliminarily determined that Nantong merits a separate rate for this review period, as discussed in the separates rates section above. Assuming that we determine, in the final results of review for the 1992-93 period, that Nantong merits a separate rate for that period, we will assign to Nantong for this period its own rate we determine in the final results of the 1992-93 period.

Preliminary Results of the Review

We preliminarily determine that the following dumping margin exists:

Manufacturer/Exporter	Time Period	Margin (percent)
Jiangsu Rudong Grease-Gun Factory.	09/01/93-08/31/94	20.59

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish a notice of final results of this administrative review, which will include the results of its analysis of issues raised in any such comments.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between U.S. price and FMV may vary from the percentage stated above. The Department will issue appraisement instructions directly to the U.S. Customs Service.

Furthermore, the following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of lug nuts from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) For Rudong, which has a separate rate, the cash deposit rate will be the company-specific rate established in the final results of this administrative review; (2) for Nantong, which had no shipments to the United States during this review period and which has a separate rate, the cash deposit rate will be the company-specific rate established for the last period in which it was reviewed, *i.e.*, the 1992-93 period; (3) for the companies named above which were not found to have separate rates, China National, Jiangsu, Yangzhou, Ningbo, Shanghai Automobile, and Tianjin, as well as for all other PRC exporters, the cash deposit rate will be the highest margin ever in the LTFV investigation or in this or prior administrative reviews, the PRC rate; and (4) for non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter.

These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 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.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: August 8, 1995.

Susan G. Esserman,
Assistant Secretary for Import Administration.

[FR Doc. 95-20211 Filed 8-15-95; 8:45 am]

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[A-602-803]

Certain Corrosion-Resistant Carbon Steel Flat Products from Australia: Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: In response to a request by one respondent, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on *Certain Corrosion-Resistant Carbon Steel Flat Products from Australia* (A-602-803). This review covers one manufacturer/exporter of the subject merchandise to the United States during the period of review (POR) February 4, 1993, through July 31, 1994.

We have preliminarily determined that sales to the United States have been made below the foreign market value (FMV). If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs to assess antidumping duties equal to the difference between the United States Price (USP) and the FMV.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: August 16, 1995.

FOR FURTHER INFORMATION CONTACT: Bob Bolling or Sally Gannon, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482-3793.

SUPPLEMENTARY INFORMATION: