

subzone status at the oil refinery of Conoco, Inc., in Lake Charles, Louisiana, in 1988, subject to conditions (Subzone 87A, Board Order 406, 53 FR 52455, 12/28/88);

Whereas, the Lake Charles Harbor and Terminal District, grantee of FTZ 87, has requested, pursuant to § 400.32(b)(1)(i), a revision (filed 1/24/96, A(32b1)-1-96; FTZ Doc. 18-96, assigned 3/6/96) of the grant of authority for FTZ Subzone 87A which would make its scope of authority identical to that recently granted for FTZ Subzone 199A at the refinery complex of Amoco Oil Company, Texas City, Texas (Board Order 731, 60 FR 13118, 3/10/95); and,

Whereas, the Assistant Secretary for Import Administration, acting for the Board pursuant to § 400.32(b)(1), concurring in the findings and recommendations of the FTZ Staff and Executive Secretary, approves the request;

Now therefore, subject to the Act and the Board's regulations, including § 400.28, Board Order 406 is revised to replace the two conditions currently listed in the Order with the following conditions:

1. Foreign status (19 CFR §§ 146.41, 146.42) products consumed as fuel for the refinery shall be subject to the applicable duty rate.
2. Privileged foreign status (19 CFR § 146.41) shall be elected on all foreign merchandise admitted to the subzone, except that non-privileged foreign (NPF) status (19 CFR § 146.42) may be elected on refinery inputs covered under HTSUS Subheadings # 2709.00.1000-# 2710.00.1050 and # 2710.00.2500 which are used in the production of:
 - petrochemical feedstocks and refinery by-products (FTZ staff report, Appendix B);
 - products for export; and,
 - products eligible for entry under HTSUS # 9808.00.30 and 9808.00.40 (U.S. Government purchases).
3. The authority with regard to the NPF option is initially granted until September 30, 2000, subject to extension.

Signed at Washington, DC, this 25th day of March 1996.

Susan G. Esserman,
Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

John J. Da Ponte, Jr.,
Executive Secretary.
[FR Doc. 96-8368 Filed 4-4-96; 8:45 am]

BILLING CODE 3510-DS-P

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 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 requests by the petitioner and two resellers of the subject merchandise, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on heavy forged hand tools, finished or unfinished, with or without handles, (HFHTs) from the People's Republic of China (PRC). The review covers four exporters of subject merchandise to the United States and the period February 1, 1994 through January 31, 1995. The review indicates the existence of dumping margins during the period of review.

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

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: April 5, 1996.

FOR FURTHER INFORMATION CONTACT: Tom Prosser, Rebecca Trainor or Maureen Flannery, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington D.C. 20230; telephone: (202) 482-4733.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

SUPPLEMENTARY INFORMATION:

Background

On February 19, 1991, the Department published in the Federal Register (56 FR 6622) the antidumping duty order on HFHTs from the PRC. On February 2, 1995, the Department published in the Federal Register (60 FR 6524) a notice of opportunity to request an administrative review of this antidumping duty order. On February 27, 1995, in accordance with 19 CFR 353.22(a), two exporters of the subject merchandise to the United States, Fujian Machinery & Equipment Import & Export Corporation (FMEC) and Shandong Machinery Import & Export Corporation (SMC), requested that the Department conduct an administrative review of their exports of subject merchandise to the United States. On February 28, 1995, the petitioner, Woodings-Verona Tool Works, Inc., requested that the Department conduct an administrative review of FMEC, SMC, Henan Machinery Import and Export Co. (Henan) and Tianjin Machinery Import and Export Co. (Tianjin). We published the notice of initiation of this review on March 15, 1995 (60 FR 13956).

The Department received no questionnaire responses from either Henan or Tianjin. Therefore, we have based our analysis of these two companies on facts otherwise available. The Department is conducting this administrative review in accordance with section 751 of the Act.

Scope of the Review

Imports covered by this review are shipments of HFHTs from the PRC comprising 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 and wedges); (3) picks/mattocks; and (4) axes/adzes.

HFHTs 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 woodsplitting wedges. HFHTs 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. HFHTs are currently provided for under the following Harmonized Tariff System (HTS) subheadings: 8205.20.60, 8205.59.30, 8201.30.00, and 8201.40.60. Specifically excluded 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.

This review covers four exporters of HFHTs from the PRC. The review period is February 1, 1994 through January 31, 1995.

Separate Rates

To establish whether a company 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 in *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-economy (NME) countries are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. Evidence supporting, though not requiring, a finding of *de jure* absence of government control 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 with respect to exports is based on four criteria: (1) whether the export prices are set by or subject to 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 and financing of losses; (3) whether each exporter has autonomy in making decisions regarding the selection of management; and (4) whether each exporter has the authority to negotiate and sign contracts. See *Silicon Carbide*, 59 FR at 22587.

In our final results of review for the 1992-1993 review period of this order, the Department determined that FMEC and SMC warranted company-specific dumping margins according to the criteria identified in *Sparklers* and *Silicon Carbide*. See *Preliminary Results of Antidumping Duty Administrative*

Review: Heavy Forged Hand Tools from the PRC 60 FR 19723, 19724 (April 20, 1995), and *Final Results of Antidumping Duty Administrative Review: Heavy Forged Hand Tools from the PRC*, 60 FR 49251 (September 22, 1995). Because there is no new evidence on the record, we preliminarily determine that these two companies continue to be entitled to separate rates.

Because Henan and Tianjin did not respond to our separate rates questionnaire, we preliminarily determine that they do not merit separate rates.

United States Price

The Department used export price (EP), in accordance with section 772(a) of the Act, in calculating U.S. price. We made deductions from EP, where appropriate, for brokerage and handling, foreign inland freight, ocean freight, and marine insurance. Ocean freight services were provided by both PRC-owned and non-PRC-owned companies. Where we knew that the company providing the ocean freight services was not a PRC-owned company, we used the actual rates charged; for ocean freight services provided by PRC-owned companies, we applied a weighted-average ocean freight rate derived from those sales for which we used actual ocean freight rates. Since marine insurance services were provided by PRC-owned companies, we based the deduction for marine insurance on surrogate values. We also used surrogate data to value foreign inland freight and brokerage and handling.

Normal Value

For companies located in NME countries, section 773(c)(1) of the Act provides that the Department shall determine normal value (NV) using a factors of production methodology if (1) the subject merchandise is exported from an NME country, and (2) available information does not permit the calculation of NV using home market prices or third country prices, in accordance with section 773(a) of the Act.

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. In accordance with section 771(18)(c)(i), any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. Accordingly, we calculated NV in accordance with section 773(c) of the Act and section 353.52 of the Department's regulations. In accordance with section 773(c)(3) of the Act, the factors of production utilized in producing HFHTs include, but are not

limited to—(A) hours of labor required, (B) quantities of raw materials employed, (C) amounts of energy and other utilities consumed, and (D) representative capital cost, including depreciation. In accordance with section 773(c)(4) of the Act, the Department valued the factors of production, to the extent possible, using the prices or costs of factors of production in a market economy country that is—(A) at a level of economic development comparable to that of the PRC, and (B) a significant producer of comparable merchandise. We determined that India is comparable to the PRC in terms of per capita gross national product (GNP), the growth rate in per capita income, and the national distribution of labor. Furthermore, India is a significant producer of comparable merchandise. For a further discussion of the Department's selection of India as the surrogate country, see File Memorandum, dated February 26, 1996, on file in Room B-099 of the Commerce Department.

In accordance with section 773(c) of the Act, for purposes of calculating NV, we valued PRC factors of production in the year in which production occurred as follows:

- To value all direct materials used in the production of HFHTs, including steel, resin glue, paint, varnish, wood for handles, iron wedges, anti-rust oil, scrap steel, and dilution, we used the rupee per metric ton, per kilogram, or per cubic meter value of imports into India during April-December 1993, for production in 1993, and during April 1994-January 1995, for production in 1994, obtained from the *Monthly Statistics of the Foreign Trade of India, Volume II—Imports*, January 1994 and January 1995 (*Indian Import Statistics*).

- For direct labor, we used the labor rates reported in the Economist Intelligence Unit's *Investing, Licensing & Trading Conditions Abroad: India*, released in November 1993 and November 1994. This source breaks out labor rates between skilled, unskilled, semi-skilled, and foreman labor, and provides information on the number of labor hours worked per week.

- For factory overhead, we used information reported in the April 1995 *Reserve Bank of India Bulletin*. From this information, we were able to determine factory overhead as a percentage of total cost of manufacture. We included steel pellets used to remove oxidization from the tool heads and detergent used to clean the tool heads in factory overhead as these materials are not physically incorporated into the subject merchandise.

- For selling, general and administrative (SG&A) expenses, we used information obtained from the April 1995 *Reserve Bank of India Bulletin*. We calculated an SG&A rate by dividing SG&A expenses by the cost of manufacture.

- To calculate a profit rate, we used information obtained from the April 1995 *Reserve Bank of India Bulletin*. We calculated a profit rate by dividing the before-tax profit by the sum of those components pertaining to the cost of manufacturing plus SG&A.

- To value the packing materials, including cartons, pallets, anti-rust paper, anti-damp paper, plastic and iron straps, plastic bags, iron buttons and knots, synthetic fiber, and iron wire, we used the rupee per metric ton, per kilogram, or per cubic meter value of imports into India during April–December 1993, for production in 1993, and during April 1994–January 1995, for production in 1994, obtained from the 1994 and 1995 *Indian Import Statistics*. We adjusted these values to include freight costs incurred between the suppliers and the HFHT factories.

- To value coal, we used the price of steam coal reported for 1990 in the International Energy Agency publication *Energy Prices and Taxes*, 2nd Quarter 1995. We adjusted the value of coal to reflect inflation, using wholesale price indices (WPI) of India as published in the *International Financial Statistics* by the International Monetary Fund (IMF).

- To value electricity, we used the price of electricity for India for 1990, reported in the Asian Development Bank publication *Energy Indicators of Developing Member Countries of the Asian Development Bank*, July 1992. We adjusted the value of electricity to reflect inflation, using the WPI published by the IMF.

- To value truck freight, we used the rates reported in a June 1992 cable from the U.S. Embassy in India submitted for the *Final Determination of Sales at Less Than Fair Value: Sulfanilic Acid from the People's Republic of China*, 57 FR 29705 (July 6, 1992) and an August 1993 cable from the U.S. Embassy 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 truck freight rates to reflect inflation, using the WPI published by the IMF.

- To value rail freight, we used the price reported in a December 1989 cable from the U.S. Embassy in India submitted for the *Final Results of Antidumping Duty Administrative Review: Shop Towels of Cotton from the People's Republic of China*, 56 FR 4040

(February 1, 1991). We adjusted rail freight rates to reflect inflation, using the WPI published by the IMF.

Currency Conversion

We made currency conversions based on the official exchange rates in effect on the date of the U.S. sales as certified by the Federal Reserve Bank.

Use of Facts Otherwise Available

On August 18, 1995, the Department sent to each respondent the Department's antidumping questionnaire. We established that all of the respondents received the questionnaires; however Henan and Tianjin failed to submit responses. See File Memorandum dated September 11, 1995, on file in Room B-099 of the Commerce Department. Because Henan and Tianjin have withheld the requested information, we must make our preliminary determination based on facts otherwise available, in accordance with section 776(a)(2)(A) of the Act.

The Department finds that, in not responding to the questionnaire, Henan and Tianjin failed to cooperate by not acting to the best of their abilities to comply with a request for information from the Department. Section 776(b) of the Act therefore authorizes the Department to use an inference adverse to the interests of that respondent in choosing the facts available. Section 776(b) also authorizes the Department to use as adverse facts available information derived from the petition, the final determination, a previous administrative review, or other information placed on the record. Because information from prior proceedings constitutes secondary information, section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate that secondary information from independent sources reasonably at its disposal. The Statement of Administrative Action (SAA) provides that "corroborate" means simply that the Department will satisfy itself that the secondary information to be used has probative value.

To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be 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 source for margins is administrative determinations. Thus, in an administrative review, if the Department chooses as total adverse facts available a calculated dumping margin from a

prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin (see, e.g., *Fresh Cut Flowers from Mexico; Preliminary Results of Antidumping Duty Administrative Review* (60 FR 49567)), where the Department disregarded the highest margin in that case as adverse BIA because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin). For these reviews, we have used the highest rate from any prior segment of each proceeding. These were 21.92 percent for axes/adzes, 66.32 percent for bars/wedges, 45.42 percent for hammers/sledges, and 108.20 percent for picks/mattocks.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following margins exist for the period February 1, 1994 through January 31, 1995:

Manufacturer/exporter	Margin (percent)
Fujian Machinery & Equipment Import & Export Corp:	
Axes/Adzes	0.34
Bars/Wedges	3.89
Hammers/Sledges	0.34
Picks/Mattocks	46.91
Shandong Machinery Import & Export Corp:	
Bars/Wedges	12.51
Hammers/Sledges	0.36
Picks/Mattocks	39.19
Henan Machinery Import & Export Co:	
Axes/Adzes	21.92
Bars/Wedges	66.32
Hammers/Sledges	45.42
Picks/Mattocks	108.20
Tianjin Machinery Import & Export Co:	
Axes/Adzes	21.92
Bars/Wedges	66.32
Hammers/Sledges	45.42
Picks/Mattocks	108.20

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. See section 353.38(d) of the Department's regulations. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument. The Department will publish a notice of final results of these administrative reviews, which will include the results of its analysis of issues raised in any such comments.

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

Furthermore, the following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of HFHTs 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) the cash deposit rates for the reviewed companies named above which have separate rates (FMEC and SMC) will be the rates for those firms established in the final results of this administrative review; (2) for all other PRC exporters, the cash deposit rates will be the PRC-wide rates established in the final results of this administrative review; and (3) the cash deposit rates for non-PRC exporters of subject merchandise from the PRC will be the rates applicable to the PRC supplier of that exporter. We preliminarily determine the PRC-wide rates to be: 21.92 percent for axes/adzes; 66.32 percent for bars/wedges; 44.41 percent for hammers/sledges; and 108.20 percent for picks/maddocks. These are the highest rates found for any respondent in the LTFV investigation or any review. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

The Department acknowledges a recent decision of the Court of International Trade, *UCF America Inc. v. United States*, Slip Op. 96-42 (CIT Feb. 27, 1996), in which the Court affirmed the Department's remand results for reinstatement of the relevant cash deposit rate, but expressed

disagreement with use of the "PRC-wide" rate as the underlying basis for reinstatement. The Court raised various concerns with the Department's application of a "PRC-wide" rate.

The Court suggested that the Department lacks authority for applying a "PRC-wide" rate in lieu of an "all others" rate. We note, however, that section 777A(c) requires the Department to determine individual dumping margins for each known exporter or producer. Pursuant to this authority, the Department implements a policy in NME cases whereby all exporters or producers are presumed to comprise a single entity, the "NME entity". The Court has upheld our NME policy in previous cases. See e.g., *UCF America, Inc. v. United States*, 870 F. Supp. 1120, 1126 (CIT 1994); *Sigma Corp. v. United States*, 841 F. Supp. 1255, 1266-67 (CIT 1993); *Tianjin Machinery Import & Export Corp. v. United States*, 806 F. Supp. 1008, 1013-15 (CIT 1992).

The "NME-wide" rate is consistent with section 735(c)(1)(B)(i)(I). This provision directs the agency to assign a dumping margin for each exporter or producer individually investigated. As discussed above, in NME cases, all producers and exporters comprise a single entity. Thus, we assign the NME rate to the NME entity just as we assign an individual rate to a single exporter or producer operating in a market economy. As a result, all exporters and producers that are part of the NME entity are assigned the "NME-wide" rate. Because the "NME-wide" rate is the equivalent of a company-specific rate, it changes only when we review the NME entity (i.e., all NME producers and exporters that have not qualified for a separate rate). To qualify for a separate rate, an NME exporter or producer must provide evidence showing both *de jure* and *de facto* absence of government control. See *Silicon Carbide*. Until such evidence is presented, a company is presumed to be part of the NME entity and receives the "NME-wide" rate. Consequently, whenever the NME enterprise has been investigated or reviewed, calculation of an "all others" rate under section 735(c)(1)(B)(i)(II) is unnecessary. All exporters or producers will either qualify for a separate company-specific rate, or be part of the NME enterprise, and receive the "NME-wide" rate. Thus, there can be no exporters or producers who have never been investigated or reviewed.

In this review, FMEC and SMC qualify for separate rates as discussed in the "Separate Rates" section of this notice. Because Henan and Tianjin do not qualify for separate rates, they remain representative of the NME

entity, which is subject to the new PRC-wide rate established in the final results of this administrative review.

Notification of Interested Parties

This notice serves as a preliminary reminder to importers of their responsibility under section 353.26 of the Department's regulations 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 section 353.22 of the Department's regulations.

Dated: March 27, 1996.

Susan G. Esserman,
Assistant Secretary for Import
Administration.

[FR Doc. 96-8364 Filed 4-4-96; 8:45 am]

BILLING CODE 3510-DS-P

[A-588-046]

Polychloroprene Rubber From Japan; Preliminary Results and Termination In-Part of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results and termination in-part of Antidumping Duty Administrative Review.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on polychloroprene rubber from Japan. Interested parties are invited to comment on these preliminary results and termination in-part. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument.

EFFECTIVE DATE: April 5, 1996.

FOR FURTHER INFORMATION CONTACT: Roy F. Unger, Jr. or Thomas Futtner, 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) 482-0651 or 482-3814.