

Civil Rights, that a conference call of the Maine Advisory Committee will convene at 11 a.m. and adjourn at 12 p.m., Wednesday, March 10, 2004. The purpose of the conference call is to conduct final planning steps for a community forum on post-9/11 civil rights in Maine.

This conference call is available to the public through the following call-in number: 1-800-473-6926, access code: 22181601. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls not initiated using the supplied call-in number or made over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls using the call-in number over land-line connections. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1-800-977-8339 and providing the Service with the conference call number and access code number.

To ensure that the Commission secures an appropriate number of lines for the public, persons are asked to register by contacting Aonghas St-Hilaire of the Eastern Regional Office, 202-376-7533 (TDD 202-376-8116), by 4 p.m. on Tuesday, March 9, 2004.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated in Washington, DC, February 24, 2004.

Dawn Sweet,  
Editor.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

(A-570-846)

#### Brake Rotors From the People's Republic of China: Preliminary Results and Partial Rescission of the Sixth Administrative Review and Preliminary Results and Final Partial Rescission of the Ninth New Shipper Review

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

**ACTION:** Notice of preliminary results and partial rescission of the sixth administrative review and preliminary results and final partial rescission of the ninth new shipper review.

**SUMMARY:** SUMMARY: The Department of Commerce ("the Department") is

currently conducting the sixth administrative review and ninth new shipper review of the antidumping duty order on brake rotors from the People's Republic of China ("PRC") covering the period April 1, 2002, through March 31, 2003. The administrative review examines 20 exporters, five of which are exporters included in five exporter/producer combinations. The new shipper review covers two exporters.<sup>1</sup>

We have preliminarily determined that no sales have been made below normal value ("NV") with respect to the exporters who participated fully in these reviews. If these preliminary results are adopted in our final results of these reviews, we will instruct Customs and Border Protection ("CBP") to assess antidumping duties on entries of subject merchandise during the period of review ("POR") for which the importer-specific assessment rates are above *de minimis*.

Interested parties are invited to comment on these preliminary results. We will issue the final results no later than 120 days from the date of publication of this notice.

**EFFECTIVE DATE:** March 5, 2004.

**FOR FURTHER INFORMATION CONTACT:**

Brian Smith, Terre Keaton and Margarita Panayi Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-1766, (202) 482-1280 and (202) 482-0049, respectively.

**SUPPLEMENTARY INFORMATION:**

#### Background

The Department received timely requests from Laizhou City Luqi Machinery Co., Ltd ("Luqi") on April 29, 2003, and from Qingdao Rotec Auto Parts Co., Ltd. ("Rotec") and Anda Industries Co., Ltd. ("Anda") on April 30, 2003, for new shipper reviews of this antidumping duty order in accordance with 19 CFR 351.214(c).

On April 30, 2003, the petitioner<sup>2</sup> requested an administrative review pursuant to 19 CFR 351.213(b) for 20 exporters,<sup>3</sup> five of which are included in

<sup>1</sup> The new shipper review originally covered three exporters but the Department rescinded the review with respect to one of these exporters on July 8, 2003, based upon its timely withdrawal from the review.

<sup>2</sup> The petitioner is the Coalition for the Preservation of American Brake Drum and Rotor Aftermarket Manufacturers.

<sup>3</sup> The names of these exporters are as follows: (1) China National Industrial Machinery Import & Export Corporation ("CNIM"); (2) Laizhou Automobile Brake Equipment Company, Ltd. ("LABEC"); (3) Longkou Haimeng Machinery Co., Ltd. ("Longkou Haimeng"); (4) Laizhou Hongda Auto Replacement Parts Co., Ltd. ("Hongda"); (5)

five exporter/producer combinations<sup>4</sup> that received zero rates in the less-than-fair-value ("LTFV") investigation and thus were excluded from the antidumping duty order only with respect to brake rotors sold through the specified exporter/producer combinations.

On May 16, 2003, Luqi, Rotec and Anda agreed to waive the time limits applicable to the new shipper review and to permit the Department to conduct the new shipper review concurrently with the administrative review.

On May 21, 2003, the Department initiated an administrative review covering the companies listed in the petitioner's April 30, 2003, request (*see Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 68 FR 27781 (May 21, 2003)).

On May 30, 2003, the Department initiated a new shipper review of Anda, Luqi and Rotec (*see Brake Rotors from the People's Republic of China: Initiation of the Ninth New Shipper Antidumping Duty Review*, 68 FR 33675 (June 5, 2003)).

On June 5, 2003, the Department issued a questionnaire to each company listed in the above-referenced initiation notices.

On June 17, 2003, the Department provided the parties an opportunity to submit publicly available information for consideration in these preliminary results. Also on June 17, 2003, Anda timely withdrew its request for a new shipper review. Accordingly, we rescinded the new shipper review with respect to Anda on July 8, 2003 (*see Brake Rotors from the People's Republic of China: Notice of Partial Rescission of*

Hongfa Machinery (Dalian) Co., Ltd. ("Hongfa"); (6) Qingdao Gren (Group) Co. ("GREN"); (7) Qingdao Meita Automotive Industry Company, Ltd. ("Meita"); (8) Shandong Huanri (Group) General Company ("Huanri General"); (9) Yantai Winhere Auto-Part Manufacturing Co., Ltd. ("Winhere"); (10) Zibo Luzhou Automobile Parts Co., Ltd. ("ZLAP"); (11) Longkou TLC Machinery Co., Ltd. ("LKTLC"); (12) Zibo Golden Harvest Machinery Limited Company ("Golden Harvest"); (13) Shanxi Fengkun Metallurgical Limited Company ("Shanxi Fengkun"); (14) Xianghe Xumingyuan Auto Parts Co. ("Xumingyuan"); (15) Xiangfen Hengtai Brake System Co., Ltd. ("Hengtai"); (16) China National Machinery and Equipment Import & Export (Xianjiang) Corporation ("Xianjiang"); (17) China National Automotive Industry Import & Export Corporation ("CAIEC"); (18) Laizhou CAPCO Machinery Co., Ltd. ("Laizhou CAPCO"); (19) Laizhou Luyuan Automobile Fittings Co. ("Laizhou Luyuan"); and (20) Shenyang Honbase Machinery Co., Ltd. ("Shenyang").

<sup>4</sup> The excluded exporter/producer combinations are: (1) Xianjiang/Zibo Botai Manufacturing Co., Ltd.; (2) CAIEC/Laizhou CAPCO; (3) Laizhou CAPCO/Laizhou CAPCO; (4) Laizhou Luyuan Luyuan or Shenyang; or (5) Shenyang/Laizhou Luyuan or Shenyang.

*the Ninth New Shipper Antidumping Duty Review*, 68 FR 41555 (July 14, 2003)), and sent appropriate instructions to CBP on July 31, 2003, terminating the bonding option on shipments of subject merchandise exported and produced by Anda and requiring a cash deposit on such shipments at the PRC-wide rate.

In July 2003, each of the exporters that received a zero rate in the LTFV investigation stated that during the POR, it did not make U.S. sales of brake rotors produced by companies other than those included in its respective excluded exporter/producer combination. Also in July 2003, we received responses to the Department's questionnaires from the remaining companies. Of these companies, Shanxi Fengkun, Hengtai, Golden Harvest and Xumingyuan each stated that it had no sales or shipments of subject merchandise to the United States during the POR.

On August 8, 2003, the petitioner submitted comments to the respondents' questionnaire responses. On August 15, 2003, the Department issued a supplemental questionnaire to each company which submitted a questionnaire response.

On August 25, 2003, the Department conducted a data query on brake rotor entries made during the POR from all exporters named in the excluded exporter/producer combinations and from the four exporters named above (*i.e.*, Shanxi Fengkun, Hengtai, Golden Harvest and Xumingyuan) in order to substantiate their claims that they made no shipments of subject merchandise during the POR. As a result of the data query, the Department requested that CBP confirm the actual manufacturer for 11 specific entries associated with the excluded exporter/producer combinations (*see* the September 29, 2003, memorandum from Irene Darzenta Tzafolias, Program Manager, to Michael S. Craig of the CBP ("September 29, 2003, memorandum")). Also on August 25, 2003, the petitioner and respondents submitted publicly available information.

In August and September 2003, the companies submitted their responses to the Department's supplemental questionnaires. In September 2003, the petitioner submitted comments on the supplemental questionnaire responses of several companies. On October 2, 2003, the Department issued a second supplemental questionnaire to 10 companies, and these companies submitted their second supplemental responses in October and November 2003. The petitioner submitted comments on the second supplemental

responses in October 2003. The Department issued GREN and Meita a third supplemental questionnaire in October 2003, to which responses were submitted in November 2003.

On October 8, 2003, the Department extended the time limit for completion of the preliminary results until February 2, 2004 (*see Brake Rotors from the People's Republic of China: Notice of Extension of Time Limit for Preliminary Results in Antidumping Duty Administrative and New Shipper Reviews*, 68 FR 59583 (October 16, 2003)).

On October 27, 2003, we notified Longkou Haimeng, LABEC, Luqi and Rotec of our intent to conduct verification of their responses to the antidumping duty questionnaire, and provided each respondent with a verification outline for purposes of familiarizing it with the verification process. The petitioner submitted comments on these verification outlines in October and November 2003.

On October 31, 2003, LABEC submitted corrections to its U.S. sales listing and factors of production listing. On November 3, 2003, Huanri General, Meita, Hongfa, Longkou Haimeng each submitted corrections to its factors of production listing. On November 6, 2003, the petitioner filed an objection to Huanri General's, Meita's and Hongfa's November 3, 2003, submissions.

On November 12, 2003, Rotec notified the Department that it was no longer able to participate in the new shipper review and subsequently withdrew its new shipper review request. From November 5 to November 21, 2003, the Department conducted verification of the information submitted by Longkou Haimeng, Luqi and LABEC in accordance with 19 CFR 351.307. On November 10, 14 and 21, 2003, respectively, these companies submitted the minor corrections to their responses that they presented to the Department verifiers at the start of verification. On November 17 and 25, 2003, the petitioner filed comments on the minor corrections submitted by Longkou Haimeng and LABEC, respectively, at verification. On December 10, 2003, we returned the revised U.S. sales listing submitted by LABEC on November 21, 2003, because we neither requested nor accepted this revised listing at verification. On December 15, 2003, LABEC resubmitted its minor corrections with the U.S. sales listing omitted. (*See* the Department's memo re: Issues Related to Preliminary Results, dated March 1, 2004.)

On December 12, 2003, the petitioner submitted comments on the Department's September 29, 2003,

memorandum. On December 19, 2003, the Department issued a memorandum to the file in response to the petitioner's December 12, 2003, submission.<sup>5</sup>

On December 17 and 22, 2003, we issued verification reports for Longkou Haimeng, LABEC and Luqi. (*See* December 17 and 22, 2003, verification reports for Longkou Haimeng and LABEC, respectively, in the Sixth Antidumping Duty Administrative Review, and December 22, 2003, verification report for Luqi in the Ninth Antidumping Duty New Shipper Review.)

On December 22, 2003, the Department issued a memorandum to the file notifying parties of our intent to issue a final rescission decision with respect to Rotec in the context of these preliminary results and invited interested parties to comment on our intent to rescind the new shipper review with respect to Rotec (*see* December 22, 2003, memorandum to the file). No comments were filed.

On January 14, 2004, the petitioner submitted comments on the verification reports of Longkou Haimeng, LABEC and Luqi.

On January 30, 2004, the Department extended the time limit for completion of the preliminary results until March 3, 2004 (*see Brake Rotors from the People's Republic of China: Notice of Extension of Time Limit for Preliminary Results in Antidumping Duty Administrative and New Shipper Reviews*, 69 FR 6253 (February 10, 2004)).

On February 3, 2004, we requested additional clarification of LKTLC's responses. LKTLC submitted its response on February 13, 2004.

#### Scope of the Order

The products covered by this order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, ranging in diameter from 8 to 16 inches (20.32 to 40.64 centimeters) and in weight from 8 to 45 pounds (3.63 to 20.41 kilograms). The size parameters (weight and dimension) of the brake rotors limit their use to the following types of motor vehicles: automobiles, all-terrain vehicles, vans and recreational vehicles under "one ton and a half," and light trucks designated as "one ton and a half."

Finished brake rotors are those that are ready for sale and installation without any further operations. Semi-finished rotors are those on which the

<sup>5</sup> Also in the December 19, 2003, memorandum to the file, we informed the petitioner that we would consider for the preliminary results any comments submitted on the verification reports if such comments were submitted by January 20, 2004 (*see* December 19, 2003, memorandum to the file).

surface is not entirely smooth, and have undergone some drilling. Unfinished rotors are those which have undergone some grinding or turning.

These brake rotors are for motor vehicles, and do not contain in the casting a logo of an original equipment manufacturer ("OEM") which produces vehicles sold in the United States. (E.G., General Motors, Ford, Chrysler, Honda, Toyota, Volvo). Brake rotors covered in this order are not certified by OEM producers of vehicles sold in the United States. The scope also includes composite brake rotors that are made of gray cast iron, which contain a steel plate, but otherwise meet the above criteria. Excluded from the scope of this order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, with a diameter less than 8 inches or greater than 16 inches (less than 20.32 centimeters or greater than 40.64 centimeters) and a weight less than 8 pounds or greater than 45 pounds (less than 3.63 kilograms or greater than 20.41 kilograms).

Brake rotors are currently classifiable under subheading 8708.39.5010 of the *Harmonized Tariff Schedule of the United States* ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

#### Period of Review

The POR covers April 1, 2002, through March 31, 2003.

#### Verification

As provided in section 782(i) of the Act, we verified information provided by Longkou Haimeng, LABEC and Luqi. We used standard verification procedures, including on-site inspection of their facilities and examination of relevant sales and financial records. Our verification results are outlined in the verification report for each company (see December 17, 2003, verification report for Longkou Haimeng and December 22, 2003, verification reports for LABEC and Luqi for further discussion).

#### Preliminary Partial Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(3), we have preliminarily determined that the exporters which are part of the five exporter/producer combinations which received zero rates in the LTFV investigation and the four exporters that made no shipment claims did not make shipments of subject merchandise to the United States during the POR. Specifically, (1) Xinjiang did not export brake rotors to the United States that

were manufactured by producers other than Zibo Botai; (2) CAIEC did not export brake rotors to the United States that were manufactured by producers other than Laizhou CAPCO; (3) Laizhou CAPCO did not export brake rotors to the United States that were manufactured by producers other than Laizhou CAPCO; (4) Laizhou Luyuan did not export brake rotors to the United States that were manufactured by producers other than Shenyang or Laizhou Luyuan; (5) Shenyang did not export brake rotors to the United States that were manufactured by producers other than Laizhou Luyuan or Shenyang; and (6) Shanxi Fengkun, Hengtai, Golden Harvest or Xumingyuan made no shipments of subject merchandise to the United States during the POR.

In order to make this determination, we first examined PRC brake rotor shipment data maintained by CBP. We then selected certain entries associated with the exporter/producer combinations identified above and requested CBP to provide documentation which would enable the Department to determine who manufactured the brake rotors included in those entries. Based on the information obtained from CBP, we found no instances where the exporters included in the five exporter-producer combinations shipped brake rotors from the PRC to the U.S. market outside of their excluded export/producer combinations during the POR. (See March 1, 2004, memorandum to the file, Results of Request for Assistance from Customs and Border Protection to Further Examine U.S. Entries Made by Exporter/Producer Combinations - Preliminary Results.) With respect to Shanxi Fengkun, Hengtai, Golden Harvest and Xumingyuan, the results of the CBP data query indicated that there were no shipments of subject merchandise made by these companies during the POR (see March 1, 2004, memorandum to the file, Review of Customs and Border Protection Data on Brake Rotor Entries from Zibo Golden Harvest Machinery Limited Company, Shanxi Fengkun Metallurgical Limited Company, Xianghe Xumingyuan Auto Parts Co., and Xiangfen Hengtai Brake System Co., Ltd.).

Therefore, based on the results of our query, in accordance with 19 CFR 351.213(d)(3), we are preliminarily rescinding the administrative review with respect to all of the above-mentioned companies because we found no evidence that these companies made shipments of the subject merchandise during the POR.

#### Final Partial Rescission of New Shipper Review

The Department's regulations at 19 CFR 351.214(f)(1) provide that the Department may rescind a new shipper review "... if a party that requested a review withdraws its request no later than 60 days after the date of publication of notice of initiation of the requested review." Rotec withdrew its request for new shipper review on November 12, 2003. Although Rotec's withdrawal is more than 60 days from the date of initiation, consistent with the Department's past practice in the context of administrative reviews conducted under section 751(a) of the Act, the Department has discretion to extend the time period for withdrawal on a case-by-case basis. (See e.g. *Iron Construction Castings from Canada: Notice of Rescission of Antidumping Duty Administrative Review*, 63 FR 45797 (August 27, 1998).) In this case, the Department has determined to grant the request to rescind this new shipper review with respect to Rotec because rescission of this review would not prejudice any party in this proceeding, as Rotec would continue to be included in the PRC-wide rate to which it was subject at the time of its request for a new shipper review. (See *Silicon Metal from the People's Republic of China: Notice of Rescission of New Shipper Review*, 64 FR 40831 (July 28, 1999).)

#### Separate Rates

In proceedings involving non-market-economy ("NME") countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty deposit rate (i.e., a PRC-wide rate).

Of the 12 respondents participating in these reviews, three of the PRC companies (i.e., Hongfa, Meita and Winhere) are wholly foreign-owned. Thus, for these three companies, because we have no evidence indicating that they are under the control of the PRC government, a separate rates analysis is not necessary to determine whether they are independent from government control (see *Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People's Republic of China*, 64 FR 71104, 71105 (December 20, 1999); *Preliminary Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms from the People's Republic of China*, 65 FR 66703, 66705 (November 7, 2000); and *Notice of Final Determination of Sales at Less Than*

*Fair Value: Bicycles From the People's Republic of China*, 61 FR 19026 (April 30, 1996) (“*Bicycles*”).

The remaining nine respondents (*i.e.*, Longkou Haimeng, CNIM, LABEC, LKTLC, Luqi, GREN, Hongda, Huanri General and ZLAP) are either joint ventures between PRC and foreign companies, collectively-owned enterprises and/or limited liability companies in the PRC. Thus, for these nine respondents, a separate rates analysis is necessary to determine whether the exporters are independent from government control over export activities (*see Bicycles*, at 61 FR 56570). To establish whether a firm is sufficiently independent in its export activities from government control to be entitled to a separate rate, the Department utilizes a test arising from 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*”), and amplified in 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 the separate-rates criteria, the Department assigns separate rates in NME cases only if the respondent can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

### 1. De Jure Control

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 the 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.

Longkou Haimeng, CNIM, LABEC, LKTLC, Luqi, GREN, Hongda, Huanri General and ZLAP have each placed on the administrative record documents to demonstrate absence of *de jure* control (*e.g.*, the “Regulations of the PRC for Controlling the Registration of Enterprises as Legal Persons,” promulgated on June 3, 1988; the 1990 “The Regulations Governing the Rural Collective Owned Enterprises of the PRC;” and the 1994 “Foreign Trade Law of the People's Republic of China”).

As in prior cases, we have analyzed these laws and have found them to establish sufficiently an absence of *de jure* control of joint ventures between the PRC and foreign companies, collectively-owned enterprises and limited liability companies in the PRC.

*See, e.g., Final Determination of Sales at Less than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544 (May 8, 1995) (“*Furfuryl Alcohol*”), and *Preliminary Determination of Sales at Less Than Fair Value: Certain Partial-Extension Steel Drawer Slides with Rollers from the People's Republic of China*, 60 FR 29571 (June 5, 1995). We have no new information in this proceeding which would cause us to reconsider this determination with regard to Longkou Haimeng, CNIM, LABEC, LKTLC, Luqi, GREN, Hongda, Huanri General or ZLAP.

### 2. De Facto Control

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. *See Silicon Carbide* and *Furfuryl Alcohol*. Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether the respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) whether the export prices are set by, or subject to the approval of, a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses (*see Silicon Carbide* and *Furfuryl Alcohol*).

Longkou Haimeng, CNIM, LABEC, LKTLC, Luqi, GREN, Hongda, Huanri General and ZLAP have each asserted the following: (1) it establishes its own export prices; (2) it negotiates contracts without guidance from any governmental entities or organizations; (3) it makes its own personnel decisions; and (4) it retains the proceeds of its export sales, uses profits according to its business needs, and has the authority to sell its assets and to obtain loans. Additionally, each of these companies' questionnaire responses indicates that its pricing during the POR does not suggest coordination among exporters.

In this segment of the proceeding, the Department selected four respondents for verification, namely Longkou Haimeng, LABEC, Luqi and Rotec.<sup>6</sup> The Department did not select the other nine respondents (*i.e.*, CNIM, LKTLC, GREN, Hongda, Huanri General, Winhere, Hongfa, Meita and ZLAP) for verification.

For Longkou Haimeng, LABEC and Luqi, the Department found no evidence at verification of government involvement in their business operations. Specifically, Department officials examined sales documents that showed that each of these respondents negotiated its contracts and set its own sales prices with its customers. In addition, the Department reviewed sales documentation, bank statements and accounting documentation that demonstrated that each of these respondents received payment from its U.S. customers via bank wire transfer, which was deposited into its own bank account without government intervention. Finally, the Department examined internal company memoranda such as appointment notices, which demonstrated that each of these companies selected its own management. *See* pages 7 and 8 of the Department's verification report for Longkou Haimeng, pages 6 and 7 of the Department's verification report for LABEC and pages 4 through 7 of the Department's verification report for Luqi. This information, taken in its entirety, supports a finding that there is a *de facto* absence of governmental control of each of these companies' export functions.

With regard to CNIM, LKTLC, GREN, Hongda, Huanri General and ZLAP (*i.e.*, the other six respondents subject to the separate rates test in this review), the Department elected not to verify these companies' responses in accordance with section 351.307(b)(3) of the Department's regulations. Based on documentation contained in each company's responses, the Department also finds that each of these six respondents: (1) negotiated its own contracts; (2) set its own sales prices with its customers; (3) retained its profits and, where applicable, arranged its own financing; and (4) selected its own management (*see* each respondent's section A questionnaire responses submitted in July 2003).

Consequently, we have determined that Longkou Haimeng, CNIM, LABEC, LKTLC, Luqi, GREN, Hongda, Huanri

<sup>6</sup>Prior to its scheduled verification, Rotec notified the Department that it would no longer be participating in the new shipper review and subsequently withdrew its new shipper review request. Therefore, Rotec was not verified.

General and ZLAP have each met the criteria for the application of separate rates either through documentation submitted on the record subject to verification or through actual verification. See *Notice of Final Determination at Less Than Fair Value: Persulfates from the People's Republic of China*, 62 FR 27222 (May 19, 1997).

#### Normal Value Comparisons

To determine whether sales of the subject merchandise by CNIM, GREN, Longkou Haimeng, Huanri General, Hongda, Hongfa, LABEC, Meita, Winhere, LKTLC, Luqi and ZLAP to the United States were made at prices below normal value ("NV"), we compared each company's export prices ("EPs") to NV, as described in the "Export Price," "Constructed Export Price," and "Normal Value" sections of this notice, below.

#### Export Price

For each respondent, we used EP methodology in accordance with section 772(a) of the Act for sales in which the subject merchandise was first sold prior to importation by the exporter outside the United States directly to an unaffiliated purchaser in the United States, and constructed export price ("CEP") was not otherwise indicated.

##### 1. Hongfa, Luqi, LKTLC, Meita, Winhere and ZLAP

We calculated EP based on packed, FOB foreign port prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight and foreign brokerage and handling charges in the PRC in accordance with section 772(c) of the Act. Because foreign inland freight and foreign brokerage and handling fees were provided by PRC service providers or paid for in renminbi, we based those charges on surrogate rates from India (see "Surrogate Country" section below for further discussion of our surrogate-country selection). To value foreign inland trucking charges, we used truck freight rates published in *Indian Chemical Weekly* and distance information obtained from the following websites: <http://www.infreight.com>, <http://www.sitaindia.com/Packages/CityDistance.php>, <http://www.abcindia.com>, <http://www.eindiatourism.com>, and <http://www.mapsofindia.com>. To value foreign brokerage and handling expenses, we relied on 10/99-9/00 information reported in the public U.S. sales listing submitted by Essar Steel Ltd. in the antidumping investigation of

*Certain Hot-Rolled Carbon Steel Flat Products from India: Final Determination of Sales at Less Than Fair Value*, 67 FR 50406 (October 3, 2001).

##### 2. CNIM, GREN, Longkou Haimeng, Hongda, Huanri General and LABEC

We calculated EP based on packed, CIF, CFR, C&F or FOB foreign port prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight, foreign brokerage and handling charges in the PRC, marine insurance, U.S. import duties and fees (including harbor maintenance fees, merchandise processing fees, and brokerage and handling) and international freight, in accordance with section 772(c) of the Act. As all foreign inland freight and foreign brokerage and handling fees were provided by PRC service providers or paid for in renminbi, we valued these services using the Indian surrogate values discussed above. For all six respondents (except Longkou Haimeng<sup>7</sup>), we valued marine insurance based on a publicly available price quote from a marine insurance provider obtained from <http://www.rjgconsultants.com/insurance.html>, as used in the antidumping duty investigation of *Certain Malleable Iron Pipe Fittings from the People's Republic of China: Final Results of Antidumping Duty Investigation*, 68 FR 61395 (October 28, 2003). For international freight (i.e., ocean freight and U.S. inland freight expenses from the U.S. port to the warehouse (where applicable)), we used the reported expenses because each of these six respondents used market-economy freight carriers and paid for those expenses in a market-economy currency (see, e.g., *Brake Rotors from the People's Republic of China: Final Results of Antidumping Duty New Shipper Review*, 64 FR 9972, 9974 (March 1, 1999)).

For U.S. import duties incurred on GREN's sales, we revised the reported expenses because the per-unit amounts reported in GREN's U.S. sales database did not comport with the corresponding calculation worksheets in exhibit 17 of its July 21, 2003, response. To recalculate the U.S. import duties, we multiplied the U.S. duty percentage applicable to brake rotors (inclusive of harbor maintenance and merchandise processing fees) against the gross unit

<sup>7</sup> At Longkou Haimeng's verification, we found that its reported international freight cost is inclusive of marine insurance (see page 14 of the Department's verification report for Longkou Haimeng).

price (net of movement expenses as appropriate).

Based on our verification findings, we made the following revisions to the U.S. sales data reported by LABEC: (1) we included one sale not previously reported and excluded two sales incorrectly reported; (2) we adjusted the gross unit price for one model number/sale; (3) we adjusted the international freight expense for certain sales; and (4) we excluded sales determined to be made to third-country markets. (See pages 4, 5, 9, 11 and 12 of LABEC's verification report and the Department's memo re: Issues Related to Preliminary Results, dated March 1, 2004.)

#### Constructed Export Price

For GREN, we also calculated CEP in accordance with section 772(b) of the Act. We found that some of GREN's sales during the POR were CEP sales because the sales were made for the account of GREN by its subsidiary in the United States to unaffiliated purchasers. We based CEP on packed, delivered or ex-warehouse prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight and foreign brokerage and handling charges in the PRC, international freight (i.e., ocean freight and U.S. inland freight from the U.S. port to the warehouse), marine insurance, U.S. import duties, and U.S. inland freight expenses (i.e., freight from the plant to the customer). As all foreign inland freight, foreign brokerage and handling, and marine insurance expenses were provided by PRC service providers or paid for in renminbi, we valued these services using the Indian surrogate values discussed above. For international freight (where applicable), we used the reported expense because the respondent used a market-economy freight carrier and paid for those expenses in a market-economy currency.

As mentioned above, we revised the U.S. import duties calculation. In addition, we revised the U.S. inland freight expense applicable to those sales with "delivered" sales terms (i.e., freight from the warehouse to the customer) because the data in the U.S. sales database did not reflect the data reported in the corresponding calculation worksheet in exhibit 16 of the July 21, 2003, response. For the remaining sales in the U.S. sales database with "pick-up" sales terms,

we set this expense to zero as it was not applicable.

In accordance with section 772(d)(1) of the Act, we also deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (commissions and credit expenses), and indirect selling expenses (including inventory carrying costs) incurred in the United States. We also made an adjustment for profit in accordance with section 772(d)(3) of the Act.

## Normal Value

### A. Non-Market-Economy Status

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. Pursuant to section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority (see *Notice of Preliminary Results of Antidumping Duty Administrative Review and Preliminary Partial Rescission of Antidumping Duty Administrative Review: Freshwater Crawfish Tail Meat From the People's Republic of China*, 66 FR 52100, 52103 (October 12, 2001)). None of the parties to this proceeding has contested such treatment. Accordingly, we calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

### B. Surrogate Country

Section 773(c)(4) of the Act requires the Department to value an NME producer's factors of production, to the extent possible, in one or more market-economy countries that (1) are at a level of economic development comparable to that of the NME country, and (2) are significant producers of comparable merchandise. India was among the countries comparable to the PRC in terms of overall economic development (see Memorandum from the Office of Policy to Irene Darzenta Tzafolias, dated June 16, 2003). In addition, based on publicly available information placed on the record (e.g., Indian producer financial statements), India is a significant producer of the subject merchandise. Accordingly, we considered India the surrogate country for purposes of valuing the factors of production because it meets the Department's criteria for surrogate-country selection.

### C. Factors of Production

In accordance with section 773(c) of the Act, we calculated NV based on the factors of production which included,

but were 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 costs, including depreciation. We used the factors reported by each of the 12 respondents, which produced the brake rotors it exported to the United States during the POR. To calculate NV, we multiplied the reported unit factor quantities by publicly available Indian values.

Based on our verification findings at Longkou Haimeng, we revised the following data in its response: (1) the reported weights for plastic bags and plastic sheets; and (2) the reported method of delivery of firewood to Longkou Haimeng's facility (see pages 4, 18 and 20 of Longkou Haimeng's verification report).

Based on our verification findings at LABEC, we revised the reported per-unit weight for plastic bags for all models (see pages 4, 17 and 18 of LABEC's verification report). In addition, on October 31, 2003, LABEC revised its U.S. sales listing to include two invoices that were inadvertently omitted. One of these invoices related to a brake rotor model, the factors of production of which were not reported in LABEC's factors of production database. As a result, the Department applied the formulas in exhibit 14 of the July 16, 2003, response and exhibit 3 of the October 21, 2003, response to derive the model-specific consumption factors, with the exception of packing materials factors. For packing materials, we used the packing material consumption factors for the only brake rotor model with the same diameter, width and weight as the model excluded from the factors of production database.

Based on our verification findings at Luqi, we revised the following data in its response: (1) the reported per-unit weight for plastic sheet reported for five models; and (2) the reported per-unit consumption amounts for limestone for all models (see pages 3, 11, 12, 13 and 15 of Luqi's verification report).

The Department's selection of the surrogate values applied in this determination was based on the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. We added to Indian surrogate values surrogate freight costs using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corporation*

*v. United States*, 117 F. 3d 1401, 1407–08 (Fed. Cir. 1997). For those values not contemporaneous with the POR and quoted in a foreign currency, we adjusted for inflation using wholesale price indices published in the *International Monetary Fund's International Financial Statistics*. (See Preliminary Results Valuation Memorandum, dated March 1, 2004, for a detailed explanation of the methodology used to calculate surrogate values.)

To value pig iron, steel scrap, ferrosilicon, ferromanganese, limestone, lug nuts, ball bearing cups, lubrication oil, coking coal, and firewood, we used April 2002–March 2003 average import values downloaded from the *World Trade Atlas Trade Information System (Internet Version 4.3e) (WTA)*. We relied on the factor specification data submitted by the respondents for the above-mentioned inputs in their questionnaire and supplemental questionnaire responses, as verified by the Department, where applicable, for purposes of selecting surrogate values from WTA. Certain respondents (i.e., Luqi, Longkou Haimeng, Huanri General, LABEC, CNIM, LKTLC and ZLAP) stated in their responses that they did not incur an expense for ball bearing cups and lug nuts because their U.S. customer provided these items to them free of charge. In support of their claim that they incurred no expense for these items, each of these respondents provided customer correspondence. We also examined inventory and accounting records relevant to these items during the verification of the questionnaire responses of Longkou Haimeng, LABEC and Luqi. Therefore, for the preliminary results, we have not valued these items for those respondents. (See the Department's memo re: Issues Related to Preliminary Results, dated March 1, 2004.)

We also added an amount for loading and additional transportation charges associated with delivering coal to the factory based on June 1999 Indian price data contained in the periodical *Business Line*.

We based our surrogate value for electricity on 2001 data from the International Energy Agency's ("IEA") report, "Electricity Prices for Industry," contained in the *2002 Key World Energy Statistics from the IEA*.

We valued labor based on a regression-based wage rate, in accordance with 19 CFR 351.408(c)(3).

To value selling, general, and administrative ("SG&A") expenses, factory overhead and profit, we used the 2000–2001 financial data of Kalyani Brakes Limited ("Kalyani") and Rico

Auto Industries Limited (“Rico”), and the 2001–2002 financial data of Mando Brake Systems India Limited (“Mando”). Where appropriate, we removed from the surrogate overhead and SG&A calculations the excise duty amount listed in the financial reports.

To value corrugated paper cartons, nails, plastic bags, plastic sheets/covers, paper sheet, steel strip and straps/buckles, tape and pallet wood, we used April 2002–March 2003 average import values from WTA. Because there was no Indian import data available for tin clamps/buckles during the period April 2002–March 2003, we used April 2001–March 2002 import values from WTA to value this input, and we adjusted the average value calculated for inflation. All respondents (with the exception of LKTLC) included the weight of the straps/buckles in their reported steel strip weights since the material of both inputs was the same. Therefore, we valued these factors using the combined weight reported by the respondents.

All inputs were shipped by truck. Therefore, to value PRC inland freight, we used freight rates published in *Indian Chemical Weekly* and distance information obtained from the following websites: <http://www.infreight.com>, <http://www.sitaindia.com/Packages/CityDistance.php>, <http://www.abcindia.com>, <http://eindiatourism.com>, and <http://www.mapsofindia.com>.

**Preliminary Results of the Review**

We preliminarily determine that the following margins exist during the period April 1, 2002, through March 31, 2003:

Manufacturer/producer/exporter	Margin percent
China National Industrial Machinery Import & Export Corporation .....	0.09 (de minimis)
Hongfa Machinery (Dalian) Co., Ltd. ....	0.00
Laizhou Automobile Brake Equipment Company, Ltd. ....	0.18 (de minimis)
Laizhou City Luqi Machinery Co., Ltd. ....	0.00
Laizhou Hongda Auto Replacement Parts Co., Ltd. ....	0.00
Longkou Haimeng Machinery Co., Ltd. ....	0.00
Longkou TLC Machinery Co., Ltd. ....	0.00
Qingdao Gren (Group) Co. ....	0.03 (de minimis)
Qingdao Meita Automotive Industry Company, Ltd. ....	0.11 (de minimis)
Shandong Huanri (Group) General Company .....	0.00

Manufacturer/producer/exporter	Margin percent
Yantai Winhere Auto-Part Manufacturing Co., Ltd. ....	0.01 (de minimis)
Zibo Luzhou Automobile Parts Co., Ltd. ....	0.00

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the date of publication of this notice. Any interested party may request a hearing within 30 days of publication of this notice. Any hearing, if requested, will be held on May 24, 2004.

Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room B–099, within 30 days of the date of publication of this notice. Requests should contain: (1) the party’s name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. See 19 CFR 351.310(c).

Issues raised in the hearing will be limited to those raised in case briefs and rebuttal briefs. Case briefs from interested parties may be submitted no later than May 10, 2004. Rebuttal briefs, limited to issues raised in the case briefs, will be due no later than May 17, 2004. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue; and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

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

**Assessment Rates**

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate appraisement instructions for the companies subject to this review directly to CBP within 15 days of publication of the final results of this review. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer- or customer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. Where the respondent did not report actual entered

value, we will calculate individual importer- or customer-specific assessment rates by aggregating the dumping margins calculated for all of the U.S. sales examined and dividing that amount by the total quantity of the sales examined. To determine whether the per-unit duty assessment rates are *de minimis* (i.e., less than 0.50 percent), in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we have calculated importer- or customer-specific *ad valorem* ratios based on export prices. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer or customer-specific assessment rate calculated in the final results of this review is above *de minimis*.

**Cash Deposit Requirements**

Upon completion of these reviews, for entries from CNIM, Hongfa, LABEC, Luqi, Hongda, Longkou Haimeng, LKTLC, GREN, Meita, Huanri General, Winhere and ZLAP, we will require cash deposits at the rate established in the final results as further described below.

Bonding will no longer be permitted to fulfill security requirements for shipments of brake rotors from the PRC produced and exported by Luqi that are entered, or withdrawn from warehouse, for consumption on or after the publication date of the final result of the new shipper review. The following cash deposit requirements will be effective upon publication of the final results of the new shipper review for all shipments of subject merchandise from Luqi entered, or withdrawn from warehouse, for consumption on or after the publication date: (1) for subject merchandise manufactured and exported by Luqi, no cash deposit will be required if the cash deposit rate calculated in the final results is zero or *de minimis*; and (2) for subject merchandise exported by Luqi but not manufactured by Luqi, the cash deposit rate will continue to be the PRC countrywide rate (i.e., 43.32 percent).

The following deposit requirements will be effective upon publication of the final results of the administrative review for all shipments of brake rotors from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) the cash deposit rates for CNIM, Hongfa, LABEC, Hongda, Longkou Haimeng, LKTLC, GREN, Meita, Huanri General, Winhere, and ZLAP will be the rates determined in the final results of review (except that if a rate is *de minimis*, i.e., less than 0.50 percent, no cash deposit will be



required); (2) the cash deposit rate for PRC exporters who received a separate rate in a prior segment of the proceeding will continue to be the rate assigned in that segment of the proceeding; (3) the cash deposit rate for the PRC NME entity (e.g., which includes Rotec) will continue to be 43.32 percent; and (4) the cash deposit rate for non-PRC exporters of subject merchandise from the PRC will be the rate applicable to the PRC exporter that supplied that exporter.

With respect to Rotec, bonding will no longer be permitted to fulfill security requirements for shipments of brake rotors from the PRC produced and exported by Rotec that are entered, or withdrawn from warehouse, for consumption in the United States on or after the publication of this partial final rescission determination in the **Federal Register**.

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

#### Notification to Importers

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

These administrative and new shipper reviews and notice are in accordance with sections 751(a)(1) of the Act and 19 CFR 351.214.

Dated: March 1, 2004.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

[FR Doc. 04-5005 Filed 3-4-04; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-533-809]

#### Certain Forged Stainless Steel Flanges From India; Final Results of Antidumping Duty Administrative Review

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

**ACTION:** Notice of Final Results of Antidumping Duty Administrative Review.

**SUMMARY:** On November 10, 2003, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results and partial rescission of its administrative review of the antidumping duty order on certain forged stainless steel flanges (flanges) from India (68 FR 63758). The review covers flanges manufactured by Chandan Steel Ltd. (Chandan), Isibars Ltd. (Isibars), and Viraj Forgings Ltd. (Viraj). The period of review (POR) is February 1, 2002 through January 31, 2003. We gave interested parties an opportunity to comment on the preliminary results. We received no comments. We have made no changes from the preliminary results for the final results. Therefore, the final results do not differ from the preliminary results. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled "Final Results of Review."

**EFFECTIVE DATE:** March 5, 2004.

**FOR FURTHER INFORMATION CONTACT:** Thomas Killiam or Robert James, AD/CVD Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230, telephone: (202) 482-5222 or (202) 482-0649, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

We published the preliminary results on November 10, 2003 (68 FR 63758), and received no comments. In the same notice, we rescinded the review with respect to Shree Ganesh Forgings Ltd.

##### Scope of Review

The products under review are certain forged stainless steel flanges from India, both finished and not finished, generally manufactured to specification ASTM A-182, and made in alloys such as 304, 304L, 316, and 316L. The scope includes five general types of flanges. They are weld neck, used for butt-weld line connection; threaded, used for threaded line connections; slip-on and lap joint, used with stub-ends/butt-weld line connections; socket weld, used to fit pipe into a machined recession; and blind, used to seal off a line. The sizes of the flanges within the scope range generally from one to six inches; however, all sizes of the above-described merchandise are included in the scope. Specifically excluded from the scope of this order are cast stainless steel flanges. Cast stainless steel flanges

generally are manufactured to specification ASTM A-351. The flanges subject to this order are currently classifiable under subheadings 7307.21.1000 and 7307.21.5000 of the HTSUS. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under review is dispositive of whether or not the merchandise is covered by the review.

#### Final Results of the Review

We made no changes from the preliminary results. For the reasons stated in our preliminary results, we determine that the following percentage weighted-average margins exists for the period February 1, 2002, through January 31, 2003:

#### CERTAIN FORGED STAINLESS STEEL FLANGES FROM INDIA

Producer/manufacturer/ exporter	Weighted-average margin (percent)
Chandan .....	0
Isibars .....	0
Viraj .....	0.04 (de minimis)

The Department will determine, and Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. We have calculated importer-specific duty assessment rates for the merchandise in question by aggregating the dumping margins calculated for all U.S. sales to each importer and dividing this amount by the total quantity of those sales. To determine whether the duty assessment rates were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer-specific *ad valorem* ratios based on export prices. We will direct CBP to assess the resulting assessment rates uniformly on all entries of that particular customer made during the period of review. Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis*. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of these final results of review.

The following deposit requirements will be effective upon publication of this notice for all shipments of stainless steel flanges from India entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) For the companies reviewed, including Viraj,