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**DEPARTMENT OF COMMERCE**
**International Trade Administration**

[A-570-914]

**Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances, in Part: Light-Walled Rectangular Pipe and Tube from the People's Republic of China**

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

**EFFECTIVE DATE:** June 24, 2008.

**SUMMARY:** The Department of Commerce (the Department) has determined that light-walled rectangular pipe and tube (LWR) from the People's Republic of China (PRC) is being, or is likely to be, sold in the United States at less than fair value (LTFV) as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The final dumping margins for this investigation are listed in the "Final Determination Margins" section below. The period covered by the investigation is October 1, 2006, through March 31, 2007 (the POI).

**FOR FURTHER INFORMATION CONTACT:** Jeff Pedersen or Drew Jackson, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-2769 and 482-4406, respectively.

**SUPPLEMENTARY INFORMATION:****Background**

The Department published its preliminary determination of sales at LTFV on January 30, 2008. See *Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances, in Part: Light-Walled Rectangular Pipe and Tube from the People's Republic of China*, 73 FR 5500 (January 30, 2008) (*Preliminary Determination*). Between February 18,

2008, and February 29, 2008, the Department conducted verifications of Zhangjiagang Zhongyuan Pipe-Making Co., Ltd. (ZZPC) and Kunshan Lets Win Steel Machinery Co. Ltd. (Lets Win). See the "Verification" section below for additional information.

In response to the Department's invitation to comment on the *Preliminary Determination*, on April 2, 2008, the petitioners,<sup>1</sup> ZZPC, and Lets Win filed case briefs. The petitioners and ZZPC filed rebuttal briefs on April 7, 2008.

**Analysis of Comments Received**

All of the issues that were raised in the case and rebuttal briefs that were submitted in this investigation are addressed in the "Issues and Decision Memorandum for the Final Determination in the Antidumping Duty Investigation of Light-Walled Rectangular Pipe and Tube from the People's Republic of China," dated June 13, 2008, which is hereby adopted by this notice (Issues and Decision Memorandum). Appendix I to this notice contains a list of the issues that are addressed in the Issues and Decision Memorandum. The Issues and Decision Memorandum, which is a public document, is on file in the Central Records Unit (CRU), at the Main Commerce Building, Room 1117, and is accessible on the Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the memorandum are identical in content.

**Changes Since the Preliminary Determination**

Based on our analysis of the comments received, we have revised ZZPC's and Lets Win's dumping margins to reflect the following changes:

1. We based ZZPC's dumping margin on total adverse facts available.
2. We used different surrogates to value certain steel inputs and packing materials.
3. We averaged one additional surrogate company's data with those surrogate companies' data used in the *Preliminary Determination* to calculate the surrogate financial ratios.
4. Since the release of the preliminary determination, more recent labor data for the PRC has become available, which we have used in calculating Lets Win's final margin.

<sup>1</sup> The petitioners in this investigation are Allied Tube and Conduit, Atlas Tube, Bull Moose Tube Company, California Steel and Tube, EXLTUBE, Hannibal Industries, Leavitt Tube Company, Maruichi American Corporation, Searing Industries, Southland Tube, Vest Inc., Welded Tube, and Western Tube and Conduit.

For a detailed analysis of the margin calculation for Lets Win, see "Final Determination in the Investigation of Light-Walled Rectangular Pipe and Tube from the People's Republic of China: Analysis Memorandum for Kunshan Lets Win Steel Machinery Co. Ltd.," dated June 13, 2008.

We assigned the separate rates applicants the dumping margin that we calculated for Lets Win.

### Scope of Investigation

The merchandise that is the subject of this investigation is certain welded carbon-quality light-walled steel pipe and tube, of rectangular (including square) cross section, having a wall thickness of less than 4 mm.

The term carbon-quality steel includes both carbon steel and alloy steel which contains only small amounts of alloying elements. Specifically, the term carbon-quality includes products in which none of the elements listed below exceeds the quantity by weight respectively indicated: 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.15 percent vanadium, or 0.15 percent of zirconium. The description of carbon-quality is intended to identify carbon-quality products within the scope. The welded carbon-quality rectangular pipe and tube subject to this investigation is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7306.61.50.00 and 7306.61.70.60. While HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of the investigation is dispositive.

### Critical Circumstances

In the *Preliminary Determination*, the Department found that there was reason to believe or suspect that critical circumstances existed for imports of subject merchandise from the PRC-wide entity, and that these imports were massive during a relatively short period. See sections 733(e)(1)(A)(ii) and (B) of the Act. However, the Department did not preliminarily find that there was reason to believe or suspect that critical circumstances existed for imports of subject merchandise from Lets Win, ZZPC, or the separate-rate companies. See *Preliminary Determination*. No parties commented on the Department's preliminary critical circumstances

determination and we find no reason to reconsider this determination.

Therefore, we determine that critical circumstances exist for the PRC-wide entity, but that critical circumstances do not exist for Lets Win, ZZPC, or the separate-rate companies.

### Facts Available and Adverse Facts Available

Section 776(a)(2)(D) of the Act provides that, if an interested party provides information that cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination. Additionally, section 776(b) of the Act permits the Department to use an adverse inference in selecting from among the facts otherwise available if it makes the additional finding that "an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information." The Department was not able to verify the steel consumption quantities reported or the type of steel used by ZZPC. Furthermore, we have determined that the use of adverse inferences is warranted because ZZPC did not act to the best of its ability in reporting the quantity of steel consumed and the type of steel used. Given the importance of the steel input, we have based ZZPC's dumping margin on total adverse facts available. Specifically, we based ZZPC's dumping margin on the highest rate calculated in this investigation, 264.64%. See the accompanying Issues and Decision memorandum at Comment 1 for details. We do not need to corroborate this rate because it is based on information obtained during the course of this investigation rather than secondary information.<sup>2</sup>

### Verification

As provided in section 782(i) of the Act, we conducted verifications of the respondents' information. See the Department's verification reports for ZZPC and Lets Win on file in the CRU. In conducting the verifications, we used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by the respondents.

<sup>2</sup> Section 776(c) of the Act requires the Department to corroborate secondary information, which the SAA describes as "information derived from the petition that gave rise to the investigation or review, the final determination concerning subject merchandise, or any previous review under section 751 concerning the subject merchandise." See SAA at 870.

### Surrogate Country

In the *Preliminary Determination*, we selected India as the appropriate surrogate country noting that India was on the Department's list of countries that are at a level of economic development comparable to the PRC and that: (1) India is a significant producer of merchandise comparable to subject merchandise; and, (2) reliable Indian data for valuing factors of production are readily available. See *Preliminary Determination*. While parties commented on this issue (see Issues and Decision Memorandum at Comment 2), for the final determination, we continue to find India to be the appropriate surrogate country.

### 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 assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an investigation in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. See *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 *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*); see also section 351.107(d) of the Department's regulations.

In the *Preliminary Determination*, the Department granted separate-rate status to ZZPC, Lets Win, and the separate rate applicants, Wuxi Baishun Steel Pipe Co., Ltd. (Baishun), Guangdong Walsall Steel Pipe Industrial Co., Ltd. (Walsall), Wuxi Worldunion Trading Co., Ltd. (Worldunion), Weifang East Steel Pipe Co., Ltd. (Weifang), and Jiangyin Jianye Metal Products Co., Ltd. (Jiangyin). However, the Department did not grant separate-rate status to Suns International Trading Limited, Liaoning Cold Forming Sectional Company Limited, or Dalian Brolo Steel Tubes Ltd. No parties commented on the Department's separate rate determinations. For the final determination, we continue to find that the evidence placed on the record of this investigation by ZZPC, Lets Win, Baishun, Walsall, Worldunion, Weifang, and Jiangyin demonstrate both a *de jure* and *de facto* absence of government

control, with respect to their respective exports of the merchandise under investigation and thus they are eligible for separate rate status.

**The PRC-Wide Rate**

In the *Preliminary Determination*, the Department considered certain non-responsive PRC producers/exporters to be part of the PRC-wide entity because they did not respond to our requests for information and did not demonstrate that they operated free of government control over their export activities. No additional information regarding these entities has been placed on the record after the *Preliminary Determination*. Since the PRC-wide entity did not provide the Department with requested information, pursuant to section 776(a)(2)(A) of the Act (which covers situations where an interested party withholds requested information), we continue to find it appropriate to base the PRC-wide rate on facts available. Moreover, given that the PRC-wide entity did not respond to our request for information, we continue to find that it failed to cooperate to the best of its ability to comply with a request for information. Thus, pursuant to section 776(b) of the Act, we have continued to use an adverse inference in selecting from among the facts otherwise available. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation*, 65 FR 5510, 5518 (February 4, 2000) (a case in which the Department applied an adverse inference in determining the Russia-wide rate); see also “*Statement of Administrative Action*” accompanying the URAA, H.R. Rep. No. 103-316, vol. 1, at 870 (1994) (SAA). Specifically, we have assigned the

highest margin calculated in this proceeding to the PRC-wide entity (as we have done for ZZPC). We do not need to corroborate this rate because it is based on information obtained during the course of this investigation rather than secondary information.

Since we begin with the presumption that all companies within a NME country are subject to government control and only the exporters listed under the “Final Determination Margins” section below have overcome that presumption, we are applying a single antidumping rate (i.e., the PRC-wide rate) to all exporters of subject merchandise from the PRC, other than the exporters listed in the “Final Determination Margins” sections. See, e.g., *Synthetic Indigo from the People’s Republic of China: Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 25706 (May 3, 2000) (applying the PRC-wide rate to all exporters of subject merchandise in the PRC based on the presumption that the export activities of the companies that failed to respond to the Department’s questionnaire were controlled by the PRC government). Thus, the PRC-wide rate will apply to all entries of subject merchandise except for entries of subject merchandise from the exporters that are listed in the “Final Determination Margins” section below (except as noted).

**Combination Rates**

In *Initiation of Antidumping Duty Investigation: Light-Walled Rectangular Pipe and Tube from Republic of Korea, Mexico, Turkey, and the People’s Republic of China*, 72 FR 40274 (July 24, 2007) (*Initiation Notice*), the Department stated that it would calculate combination rates for respondents that are eligible for a

separate rate in this investigation. See *Initiation Notice*. This change in practice is described in Policy Bulletin 05.1, available at <http://ia.ita.doc.gov/>. *Policy Bulletin 05.1*, states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of “combination rates” because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.

See *Policy Bulletin 05.1*, “Separate Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries.”

**Final Determination Margins**

We determine that the following weighted-average dumping margins exist for the period October 1, 2006, through March 31, 2007:

Exporter / Producer	Weighted-Average Margin
Zhangjiagang Zhongyuan Pipe-Making Co., Ltd./ Zhangjiagang Zhongyuan Pipe-Making Co., Ltd. ....	264.64%
Kunshan Lets Win Steel Machinery Co., Ltd./ Kunshan Lets Win Steel Machinery Co., Ltd. ....	249.12%
Wuxi Baishun Steel Pipe Co., Ltd./ Wuxi Baishun Steel Pipe Co., Ltd. ....	249.12%
Guangdong Walsall Steel Pipe Industrial Co., Ltd./ Guangdong Walsall Steel Pipe Industrial Co., Ltd. ....	249.12%
Wuxi Worldunion Trading Co., Ltd./ Wuxi Hongcheng Bicycle Material Co., Ltd. ....	249.12%
Weifang East Steel Pipe Co., Ltd./ Weifang East Steel Pipe Co., Ltd. ....	249.12%
Jiangyin Jianye Metal Products Co., Ltd./ Jiangyin Jianye Metal Products Co., Ltd. ....	249.12%
PRC-Wide Rate .....	264.64%

**Disclosure**

We will disclose to parties the calculations performed within five days of the date of public announcement of this determination in accordance with 19 CFR 351.224(b).

**Continuation of Suspension of Liquidation**

In accordance with section 735(c)(1)(B) of the Act, we are directing U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all imports of subject merchandise entered or withdrawn from

warehouse, for consumption on or after the following dates: (1) for ZZPC, Lets Win, and the separate rate companies, on or after January 30, 2008, the date of publication of the preliminary determination in the **Federal Register**, (2) for the PRC-wide entity, on or after November 1, 2007, which is 90 days prior to the publication of the

preliminary determination (consistent with our finding that critical circumstances exist for the PRC-wide entity). We will instruct CBP to continue to require a cash deposit or the posting of a bond for all companies based on the estimated weighted-average dumping margins shown above. The suspension of liquidation instructions will remain in effect until further notice.

#### **ITC Notification**

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our final determination of sales at LTFV. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will determine whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise within 45 days of this final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess upon further instruction by the Department antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

#### **Notification Regarding APO**

This notice also serves as a reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation. This determination and notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: June 13, 2008.

**David M. Spooner,**  
*Assistant Secretary for Import Administration.*

#### **Appendix I**

##### *Parties' Comments*

*Comment 1: Whether ZZPC's Dumping Margin Should be Based on Adverse Facts Available*

*Comment 2: The Appropriate Surrogate Country*

*Comment 3: The Appropriate Surrogate Financial Ratios*

*Comment 4: The Appropriate Surrogate Values for Steel Inputs Used by Lets Win*

*Comment 5: The Appropriate Surrogate Value for Hot-Rolled Steel*

*Comment 6: The Appropriate Surrogate Value for Certain Packing Materials*

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