

FINAL RESULTS OF REDETERMINATION PURSUANT TO REMAND ORDER

Advanced Technology & Materials Co., Ltd., Beijing Gang Yan Diamond Products Company, and Gang Yan Diamond Products, Inc. with Bosun Tools Group Co. Ltd. v. United States and Diamond Sawblades Manufacturers Coalition, Weihai Xiangguang Mechanical Industrial Co., Ltd., and Qingdao Shinhan Diamond Industrial Co., Ltd., Consol. Court No. 09-00511, Slip op. 11-122 (October 12, 2011)

Summary

The Department of Commerce (“Department”) has prepared these final results of redetermination pursuant to the U.S. Court of International Trade’s (“Court”) remand order in *Advanced Technology & Materials Co., Ltd., Beijing Gang Yan Diamond Products Company, and Gang Yan Diamond Products, Inc. with Bosun Tools Group Co. Ltd. v. United States and Diamond Sawblades Manufacturers Coalition, Weihai Xiangguang Mechanical Industrial Co., Ltd., and Qingdao Shinhan Diamond Industrial Co., Ltd.*, Slip Op. 11-122 (October 12, 2011) (“*Sawblades Remand*”). These results address the Department’s final less-than-fair-value (“LTFV”) determination issued in the antidumping duty investigation of diamond sawblades and parts thereof (“diamond sawblades”) from the People’s Republic of China (“PRC”).¹

In the *Sawblades Remand*, the Court remanded two aspects of the Department’s *Final Determination*. First, the Court found that the Department’s determination to grant the Advanced Technology & Materials Co., Ltd. (“ATM”) Entity² (“Respondent”) a separate rate, as challenged by the Diamond Sawblades Manufacturers Coalition (“Petitioner” or “DSMC”), required further explanation.³ Specifically, the Court ordered the Department to explain why the ATM Entity was granted a separate rate despite evidence of possible government control and

¹ See *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People’s Republic of China*, 71 FR 29303 (May 22, 2006) (“*Final Determination*”).

² Although the original respondent was Beijing Gang Yan Diamond Products Company, it came to the Department’s attention that this respondent was related to ATM, who was part owner of another exporter of diamond sawblades. In order to tie the two related exporters together under the same separate rate, we found all three companies to be affiliated and collapsed them as a single entity, the ATM Entity.

³ See *Sawblades Remand* at 11-26.

why the Department did not follow its determination set forth in *Cased Pencils*.⁴ Second, the Court granted the Department's request for a voluntary remand to reevaluate the surrogate values ("SVs") for steel plate used to make diamond sawblade cores.⁵

For these final results, the Department has provided additional explanation regarding its determination to grant the ATM Entity a separate rate. The Department has also reevaluated its selection of SVs for steel plate. The Department continues to find that the ATM Entity is eligible for a separate rate. The Department has also determined to use only Harmonized Tariff Schedule ("HTS") categories 7225.40.20 and 7225.40.30 to value the 30CrMo steel plate input used to make diamond sawblade cores.

Separate-Rate Status for the ATM Entity

a. Background

Initially, during the LTFV investigation, the Department selected Beijing Gang Yan Diamond Products Company ("BGY") as a mandatory respondent. Through the course of the LTFV investigation, the Department determined that BGY was affiliated with ATM, which was also affiliated with Yichang HXF Circular Saw Industrial Co., Ltd., and collapsed the three companies.⁶ The three companies were then treated as a single entity, the ATM Entity, to which a separate rate was granted.⁷

⁴ See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cased Pencils From the People's Republic of China*, 59 FR 55625 (November 8, 1994) ("*Cased Pencils*").

⁵ See *Sawblades Remand at 2*.

⁶ See Memorandum to James C. Doyle, Office Director, from Anya Naschak, Case Analyst, through Carrie Blozy, Program Manager, Regarding the Antidumping Duty Investigation of Diamond Sawblades and Parts Thereof from the People's Republic of China on the subject of Affiliation and Treatment as a Single Entity of Beijing Gang Yan Diamond Products Company, Advanced Technology & Materials Co., Ltd., and Yichang HXF Circular Saw Industrial Co., Ltd.; Affiliation of Beijing Gang Yan Diamond Products Company and Gang Yan Diamond Products Inc.; and Affiliation of Gang Yan Diamond Products, Inc., SANC Materials, Inc., and Cliff (Tianjin) International, Ltd., dated December 20, 2005.

⁷ See *Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Preliminary Partial Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 70 FR 77121 (December 29, 2005), unchanged in *Final Determination*.

However, as cited by the Court, Petitioner noted information on the record, which indicated that: (i) the Central Iron and Steel Research Institute (“CISRI”) held a majority share in ATM and was the only shareholder able to nominate candidates for ATM’s board of directors; (ii) CISRI and ATM shared board members; (iii) CISRI was subject to government control as it was wholly vested by the State Owned Assets Supervision and Administration Commission (“SASAC”); and (iv) ATM’s President and Vice Chairman of the Board was also a member of CISRI’s board of directors as well as the Chairman of the Board and legal representative of BGY.⁸ The Court remanded the matter for the Department to address the concern arising from the possibility of the PRC government extending control over the ATM Entity through the shareholder ownership chain involving SASAC and CISRI and to further explain the decision to grant the ATM Entity a separate rate.⁹

b. Analysis

i. Separate-Rate Analysis Applied to the ATM Entity, not CISRI

Record evidence demonstrates that CISRI operates under a management structure that is “owned by all the people”.¹⁰ In other words, the government, while owning the company’s shares, has devolved control of the company to the enterprise itself.¹¹ In CISRI’s case, the employees elect the President and actively participate in decisions regarding business operations

⁸ See BGY’s submission titled “Diamond Sawblades and Parts Thereof from china – Section A Supplemental Response”, dated September 20, 2005; see also BGY’s submission titled “Diamond Sawblades and Parts Thereof from China – Supplemental Questionnaire Response”, dated December 5, 2005; see also Memorandum to the File from James Doyle, Anya L. Naschak, Taija Slaughter, and Marisa Goldstein on the subject of Verification of the Sales and Factors Response of Beijing Gang Yan Diamond Product Company in the Antidumping Duty Investigation on Diamond Sawblades and Parts Thereof from the People’s Republic of China, dated March 27, 2006 (“Verification Report”).

⁹ See *Sawblades Remand* at 20.

¹⁰ See BGY’s supplemental response titled “Diamond Sawblades and Parts Thereof from China – Section A Supplemental Response” dated September 20, 2005, at Exhibit 10-2.

¹¹ See *id.*

through a democratic process.¹² As stated in CISRI's Articles of Association, the company retains control over its profits/losses, capital and assets.¹³ The company also conducts its own business operations without input from any level of the PRC government or the SASAC.¹⁴ CISRI has adopted the President Responsibility System, under which the President is responsible for business operations, production, research and development, and human resources.¹⁵ The President is elected by the Employee Representatives' Meeting, which is described as "the organization for the employees to implement their democratic management rights," without input or influence from the PRC government or SASAC, the state-owned enterprise that owns CISRI.¹⁶ Moreover, in the diamond sawblades LTFV investigation, BGY placed on the record the "Company Law of the People's Republic of China (1999 Amended)" and the "Code of Corporate Governance for Listed Companies."¹⁷ The Department notes that these and similar laws have previously been accepted as evidence of absence of *de jure* government control.¹⁸ Based upon record evidence, the Department finds that because the employees of CISRI retained control of its business operations and democratically elected its management, CISRI was managed as a company that is "owned by all the people," despite being fully financed by

¹² See *id.*

¹³ See *id.*

¹⁴ See *id.*

¹⁵ See *id.*

¹⁶ See *id.*

¹⁷ See BGY's September 20, 2005 Submission at Exhibit SA-4.

¹⁸ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China*, 59 FR 22585, 22587 (May 2, 1994) ("Silicon Carbide"); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Paper Clips From the People's Republic of China*, 59 FR 51168, 51169 (October 7, 1994) ("Paper Clips"); *Cased Pencils*, 59 FR at 55627; *Notice of Preliminary Determination of Sales at Less Than Fair Value: Foundry Coke From the People's Republic of China*, 66 FR 13885, 13886 (March 8, 2001) ("Foundry Coke"), unchanged in *Final Determination of Sales at Less Than Fair Value: Foundry Coke Products From The People's Republic of China*, 66 FR 39487 (July 31, 2001); *Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From the People's Republic of China*, 66 FR 22183, 22188 (May 3, 2001) ("Hot-Rolled Carbon Steel"), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From the People's Republic of China*, 66 FR 49632 (September 28, 2001); *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Structural Steel Beams From The People's Republic of China*, 66 FR 67197, 67199 (December 28, 2001) ("Steel Beams"), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams From the People's Republic of China*, 67 FR 35479 (May 20, 2002).

SASAC. Therefore, because the PRC government has devolved its control of CISRI to the employees, it cannot pass on such control through CISRI's majority shareholder ownership of ATM.

Furthermore, in previous cases, the Department has determined that the type of management described as "owned by all the people" is not automatically indicative of governmental control or influence, but rather the respondent has the right to demonstrate the absence of *de jure* and *de facto* government control originally established in *Sparklers*.¹⁹ For example, in *Silicon Carbide*, the Department granted separate rates to respondents who were "owned by all the people."²⁰ In that case, the Department determined that "ownership by all the people" indicated that the government had devolved its control of the company to the employees and that the respondent was eligible for a separate rate so long as it was able to demonstrate absence of *de jure* and *de facto* control.²¹ In determining whether the respondent had shown the absence of such control, the Department modified the separate-rate test set out in *Sparklers*.²² Since *Silicon Carbide*, the Department has had a long-standing practice of upholding the decision that "owned by all the people" indicates that the PRC government has devolved its control over the company to the employees and that the respondent is eligible for a separate rate so long as it can demonstrate an absence of *de jure* and *de facto* control.²³

By demonstrating that CISRI is insulated from government control as a company "owned by all the people," and thus not in a position to exercise government control over ATM as one of

¹⁹ See *Silicon Carbide*, 59 FR at 22586-22587; see also *Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("*Sparklers*").

²⁰ See *Silicon Carbide*, 59 FR at 22586.

²¹ See *id.*, at 22587.

²² See *Sparklers*, 56 FR at 20589.

²³ See, e.g., *Paper Clips*, 59 FR at 55169; see also *Chrome-Plated Lug Nuts From The People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 60 FR 42504, 42505 (August 16, 1995), unchanged in *Chrome Plated Lug Nuts From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 61 FR 58514 (November 15, 1996); *Hot-Rolled Carbon Steel*, 66 FR at 22187-22188.

its shareholders, the Department has determined that the ATM Entity continues to be eligible for a separate rate so long as it is able to demonstrate an absence of *de jure* and *de facto* control over its own operations. Pursuant to the Policy Bulletin, the separate rates test applies only to exporters of subject merchandise, not producers or other entities.²⁴ Thus, in keeping with precedent, the Department did not require CISRI to address the separate-rate criteria because the separate rates test applies only to exporters. CISRI was not a respondent or exporter of subject merchandise.²⁵ Accordingly, the Department correctly focused its analysis on, and turned the burden of responsibility to demonstrate such absence of government control to, Respondent, the ATM Entity.

Similarly, in *Steel Beams*, the Department had determined that a respondent who was majority-owned by a shareholding company that was in turn financed by the provincial government was eligible for a separate rate, so long as the respondent demonstrated the absence of *de jure* and *de facto* control.²⁶ In that case, the respondent placed on the record laws and other information demonstrating an absence of *de jure* control. In response, the petitioners in that case argued that the respondent was not eligible for a separate rate due to the possibility of government control resulting from the relationship between its majority owner and the provincial government. However, the Department determined that the record evidence provided by respondent, as described above, demonstrated an absence of *de jure* control and without specific evidence pointing to *de facto* control, the Department found the respondent eligible for a separate

²⁴ See Policy Bulletin 05.1 on the topic of “Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries”, (“Policy Bulletin 05.1”), dated April 5, 2005, at 6 (“The Department’s separate rates analysis and test is *not* being extended to producers. Firms that produce the subject merchandise are not required to demonstrate their eligibility for separate rate status unless they also export merchandise to the United States. The Department’s separate rates test . . . focuses exclusively on the respondent’s *export* activities.”) (emphasis in original).

²⁵ See *Steel Beams*, 66 FR at 67199; see also *Foundry Coke*, 66 FR at 13887.

²⁶ See *Steel Beams*, 66 FR at 67199.

rate.²⁷ A parallel determination was made in *Foundry Coke* where the Department determined that the respondent was eligible for a separate rate despite having been majority-owned by a company that was financed by the government.²⁸ Thus, this precedent and practice in combination with the above determination that CISRI is insulated from governmental control as a company “owned by all the people,” establishes that the ATM Entity, as the respondent and the manufacturer and exporter of subject merchandise, is the entity responsible for demonstrating an absence of *de jure* and *de facto* control.

The Court also raised concerns regarding the control that ATM had over its own selection of management and the distribution of its own profits. Specifically, the Court suggested that CISRI could pass on governmental control to ATM because: (1) it was a majority shareholder of ATM; (2) ATM’s Articles of Association stated that only shareholders owning a certain minimum percentage of shares were permitted to nominate candidates for the Board of Directors; (3) a certain number of CISRI’s board members have been elected to ATM’s Board of Directors; and (4) the President and Vice-Chairman of ATM’s Board also was a member of CISRI’s Board of Directors.²⁹

In the Department’s analysis, consistent with the documents placed on this record, the fact that CISRI operated under the management structure of being “owned by all the people” demonstrates that, when CISRI acts as a shareholder of ATM, CISRI does not pass on governmental control over export activities through such relationship. Further, to prove its own control over the selection of management and the distribution of profits, BGY placed on the record several documents demonstrating the absence of *de facto* control over ATM’s selection of management and the distribution of profits. Regarding the selection of board members, BGY

²⁷ See *id.*

²⁸ See *Foundry Coke*, 66 FR at 13886-13887.

²⁹ See *Sawblades Remand* at 20.

placed on the record copies of resolutions made by ATM's Board of Directors documenting the voting and appointment of managers.³⁰ These documents demonstrated that ATM was free of *de jure* control over the selection of management. While ATM's Articles of Association state that only shareholders owning a certain minimum percentage of shares are permitted to nominate candidates for management positions, the Articles of Association state that it is necessary for all shareholders to vote on the nominated candidate in order to appoint them to the Board of Directors.³¹ Furthermore, the Department notes that it is then the responsibility of the Board of Directors to select the general management, including managers over export operations.³² Thus, although CISRI has the option to nominate a candidate for the Board of Directors, the votes of the remaining shareholders can veto the appointment of the candidate should they so chose. Similarly, to demonstrate the absence of *de facto* control over the distribution of profits, BGY placed on the record financial statements that showed that ATM had no governmental control over the flow of cash and was able to retain the profits from its sales that were allocated as ATM saw fit.³³ BGY also provided ATM's board meeting minutes attended by all members on ATM's Board of Directors in which they discussed and voted upon the distribution of profits.³⁴ Therefore, we continue to find that ATM has demonstrated an absence of *de facto* control regarding the selection of managers and the distribution of its profits.

ii. Evaluation of Control: Whether the Government Voted Its Shares

In the *Sawblades Remand*, the Court ordered the Department to "further explain why its analysis of government control does not consider shareholder control, and why it deviated from

³⁰ See BGY's Supplemental Questionnaire Response dated September 20, 2005, at Exhibit SA-6.

³¹ See *id.*, at Exhibit SA-10; see also *id.* at Exhibit SA-6.

³² See *id.*, at Exhibit SA-10.

³³ See *id.*, at Exhibit SA-22.

³⁴ See *id.*, at Exhibit SA-5.

its original test in set forth in *Cased Pencils*.³⁵ In *Cased Pencils*, as part of the *de jure* test, we further analyzed possible governmental control through “voting its shares.”³⁶ The analysis was applied to two companies that were previously “owned by all the people,” but had since become shareholding companies with the PRC government directly owning a percentage of the shares.³⁷ In determining government control over these two companies that had restructured into a shareholding corporate structure, we examined whether the government was voting the shares that it owned directly.³⁸ The Department notes, though, that the instant case differs from *Cased Pencils* in that, in *Cased Pencils*, the respondents were *previously* “owned by all the people” and had subsequently changed to become shareholding companies during the period of investigation with the PRC government directly owning a percentage of the shares.³⁹ The separate rate respondents in *Cased Pencils* were subject to possible governmental control through the PRC government voting the shares of respondents in their new corporate form (*i.e.*, not companies “owned by all the people”) that it owned directly. Because the two separate rate respondents in *Cased Pencils* were no longer “owned by all the people,” the precedent established in *Silicon Carbide* no longer applied where such a management structure combined with certain other documents on the record, coupled with the demonstration of an absence of *de facto* control, permitted a company to be eligible for a separate rate. Instead, in *Cased Pencils*, in order to be eligible for a separate rate, the two respondents needed to further demonstrate that the PRC government was not extending *de jure* control through the voting of its shares in addition to demonstrating the absence of *de jure* and *de facto* control over daily business operations as is typical in the Department’s separate rate analysis. However, in this case, CISRI never changed

³⁵ See *Sawblades Remand* at 27.

³⁶ See *Cased Pencils*, 59 FR at 55627.

³⁷ See *id.*, 59 FR at 55626.

³⁸ See *id.*

³⁹ See *id.*

into a shareholding company and remained “owned by all the people” for the entirety of the period of investigation. Therefore, the additional analysis required in *Cased Pencils* was not required here because CISRI maintained its corporate form and status as a company “owned by all the people.”

Moreover, although CISRI was a majority shareholder in ATM and was itself fully invested by SASAC, SASAC did not exercise governmental control through its majority shareholder ownership of CISRI because of CISRI’s corporate form as a company “owned by all the people.” As discussed above, because CISRI operates under a “owned by all the people” management structure, it was insulated from any interference by SASAC and thus not acting pursuant to government control when voting the shares that it owned of ATM. Furthermore, although ATM is a shareholding company, the PRC government did not directly own any shares of ATM during the period of investigation, unlike the situation in *Cased Pencils*.

A similar distinction is evident in *Paper Clips*. There, two of the three separate rate respondents were “owned by all the people.”⁴⁰ For those two companies, the Department had determined that the laws supplied on the record in addition to the information showing that the companies were “owned by all the people” demonstrated that there was an absence of *de jure* control.⁴¹ The third company had been *previously* “owned by all the people,” but had restructured into a shareholding company during the POI.⁴² For this third company, the Department further analyzed the situation to determine whether there was an absence of *de jure* control because, unlike the other two separate rate respondents, the restructuring into a shareholding company during the period of investigation was not immediately indicative of an

⁴⁰ See *Paper Clips*, 59 FR at 51170.

⁴¹ See *id.*

⁴² See *id.*, 59 FR at 51169.

absence of such control.⁴³ Thus, the Department only applied the voting shares analysis to the respondent that was no longer “owned by all the people” and had since restructured into a shareholding company.

In this case, CISRI was incorporated as a company “owned by all the people” and remained structured this way through the entirety of the period of investigation. Therefore, in combination with the precedent established in *Silicon Carbide* and as discussed above, the information on the record demonstrates that an evaluation of whether the PRC government was “voting its shares” in ATM is inapplicable.

Surrogate Value for the Steel Plate Used to Make Sawblade Cores

a. Background

In the LTFV *Final Determination*, the Department valued 30CrMo steel plates using the average of Indian HTS categories 7225.40.20 and 7225.40.30 (widths 600mm or more), and 7226.91.10 and 7226.92.10 (widths 600mm or less).⁴⁴ Before the Court, ATM argued that evidence on the record shows that it only used 30CrMo steel plates of widths 600mm or more, not less. Thus, ATM argued that the Department should have only used HTS categories 7225.40.50 and 7225.40.30 to value the steel plate used to make sawblade cores. The Court granted the Department’s request for a voluntary remand to reconsider its determination.

b. Analysis

The Department agrees with ATM that the evidence on the record supports the finding that the ATM Entity only used steel plate in widths greater than 600mm in the production of sawblade cores. The Department had originally cited to verification exhibits it believed showed

⁴³ See *id.*, 59 FR at 51170, 55170.

⁴⁴ See Memorandum to the File from Catherine Bertrand, Case Analyst, through James Doyle, Director, Office 9 and Carrie Blozy, Program Manager, on the subject of Surrogate Values for the Preliminary Determination, dated December 20, 2005; see also *Final Determination* and accompanying Issues and Decision Memorandum at Comment 22.

products of 30CrMo with widths of 600mm or less.⁴⁵ However, upon further review, the Department finds that this information was describing the widths of the finished product, not the steel plate used in production. As all other record evidence indicates that the ATM Entity only used 30CrMo steel plate of widths 600mm or greater in production, the Department has determined that it will recalculate the SV using only HTS categories 7225.40.20 and 7225.40.30 to value the 30CrMo steel plate input.

Comments Received

I. Separate Rate Status for the ATM Entity

Petitioner's Comments

Petitioner contends that the Department's analysis of CISRI being "owned by all the people" is inaccurate and that the company is a state-owned enterprise because new laws have been instituted since CISRI's incorporation. Petitioner notes that CISRI's Articles of Association cited by the Department in its draft redetermination were signed in 2000, before the creation of SASAC in 2003.⁴⁶ Since the signing of the Articles of Association, Petitioner states that CISRI's 2004 financial statements identify the company as a "state-owned enterprise" and its website lists numerous awards that are given only to companies that are state-owned entities.⁴⁷

Furthermore, Petitioner contends that laws on the record show that the PRC government had significant control over CISRI and the ATM Entity. Petitioner states that the Company Law grants investors the right to select or remove directors and supervisors, as well as approve

⁴⁵ See Verification Report at Exhibit 12.

⁴⁶ See submission from Petitioner entitled "Diamond Sawblades and Parts Thereof from the People's Republic of China: Comments on Draft Results of Redetermination Pursuant to Remand Order, Advanced Technology & Materials Co., Ltd., et al v. United States, Consol. Court No. 09-00511" ("Petitioner's Comments"), dated January 4, 2012, at 16.

⁴⁷ See Petitioner's Comments at 17.

financial documents and amend the articles of association as needed.⁴⁸ Moreover, upon creation of SASAC, SASAC was granted the ability to select or remove directors and managers of state-owned enterprises, strengthen state control over state-owned enterprises, and approve and influence both a state-owned enterprise's articles of association and various financial dealings and acquisitions.⁴⁹ Petitioner reminds the Department that the PRC government, as the sole investor in the state-owned enterprise and through its directives given to SASAC, was able to exercise such powers over CISRI as described in both the Company Law and the Interim Regulations that established SASAC.⁵⁰ Thus, Petitioner concludes that the PRC government had *de jure* control over CISRI, and through CISRI's majority ownership in ATM, had such control over the ATM Entity as well.⁵¹

Petitioner further proffers that, since the creation of SASAC and during the POI, the PRC government has taken strides to increase its control over state-owned enterprises, thereby effectively reversing the policies and management structure of "owned by all the people" that the Department had previously evaluated in the Draft Redetermination. Petitioner contends that the combination of the laws placed on the record and the subsequent attempts at stronger state control over state-owned enterprises as cited by Petitioner establishes automatic *de jure* control.⁵² Moreover, Petitioner argues that an examination of whether the PRC government has actually exercised its authority over CISRI and the ATM Entity is irrelevant, for the Department's separate rates test is designed to prevent the PRC government's influence and

⁴⁸ *See id.*, at 20.

⁴⁹ *See id.*, at 21.

⁵⁰ *See id.*

⁵¹ *See id.*

⁵² *See id.*, at 24.

control over future exports through manipulation of merchandise sold through exporters given the lowest margins.⁵³

Regarding ATM, Petitioner emphasizes again that CISRI was a majority shareholder in ATM, shared representatives on ATM's Board of Directors during the POI, and was the only one to be able to nominate candidates for the Board of Directors.⁵⁴ Petitioner also points to intertwined financial matters and dealings between CISRI and ATM.⁵⁵ Specifically, Petitioner contends that because CISRI was a state-owned entity during the POI, the PRC government directly owned CISRI's majority share in ATM, as all assets of state-owned enterprises were owned by the government and controlled by SASAC.⁵⁶ Therefore, Petitioner states that the PRC government was able to influence the selection of management of ATM, as well as financial and operational decisions in the ATM Entity.⁵⁷

Respondent's Comments

Respondent states that the separate rates analysis is clearly set forth in the Department's Policy Bulletin 05.1, which was issued prior to the final determination in this case.⁵⁸ Respondent stresses that the Department's separate rates analysis focuses on examining whether there is "*de jure* and *de facto* government control over export . . . activities," not over the business in general.⁵⁹ Respondent highlights the fact that the Department's approach "is to determine whether that entity has independence with regard to its export activities, rather than [] some

⁵³ See *id.*, at 32.

⁵⁴ See *id.*, at 28.

⁵⁵ See *id.*

⁵⁶ See *id.*, at 30.

⁵⁷ See *id.*

⁵⁸ See submission from Respondent entitled "Diamond Sawblades from the people's Republic of China: Comments of Gang Yan Respondents Regarding Draft Results of Redetermination Pursuant to Remand Order" ("Respondent's Comments"), dated January 4, 2012, at 4 (citing Request for Comments of May 3, 2004 (69 FR 24119) and September 20, 2004 (69 FR 56188) and resulting Policy Bulletin 05.1).

⁵⁹ See Respondent's Comments at 4, 5 and 19 (citing Policy Bulletin 05.1 at 1).

general independence from all governmental influence.”⁶⁰ Additionally, Respondent stresses that the Department’s separate rate analysis is conducted at the firm level, *i.e.*, the ATM Entity.⁶¹ Furthermore, in conducting the separate rates analysis, Respondent states that the Department examines whether such laws and corporate structure compel government control during the POI, thereby examining evidence of current or past control.⁶² Respondent points out that this is a markedly different view from the collapsing analysis, which examines the relationship between affiliated companies,⁶³ not the potential for government control, and has a forward-looking viewpoint that examines the potential for manipulating exports subject to an order through various business affiliations.⁶⁴ In support of its argument Respondent cites *Persulfates from the PRC*, where the Department stated that the separate rate methodology “is separate and distinct from the ‘collapsing’ methodology in both focus and function. On the one hand, the separate rates test focuses specifically on whether there is government control of a nonmarket company’s export activities. On the other hand, the collapsing methodology focuses on the relationship between two or more affiliated companies, not their relationship vis-a-vis the government or other entities. There is no basis for applying a collapsing analysis in this case.”⁶⁵

Regarding possible governmental control over the ATM Entity, Respondent reminds the Department that should the Department come to the conclusion that CISRI is government-controlled, the record still establishes that the ATM Entity is not government-controlled, as CISRI is not the sole shareholder and the ATM Entity has previously demonstrated an absence of

⁶⁰ *See id.*, at 5.

⁶¹ *See id.*

⁶² *See id.*, at 11 and 21.

⁶³ *See id.*, at 12.

⁶⁴ *See id.*, at 21.

⁶⁵ *See id.*, at 11-12 (citing *Notice of Final Determination of Sales at Less Than fair Value: Persulfates from the People’s Republic of China*, 62 FR 27222 (May 19, 1997) and accompanying Issues and Decision Memorandum at Comment 2).

control over day-to-day export activities.⁶⁶ Furthermore, Respondent states that the Code of Corporate Governance limits shareholder powers and provides additional guidance to companies in conjunction with the Company Law.⁶⁷ Respondent argues that despite the powers given to the shareholder under Company Law Article 38, none of the powers is the control of the export activities relevant to the separate rates analysis.⁶⁸

Respondent further argues that the protections granted in the Code of Corporate Governance include assuring minority shareholder rights, limiting shareholder rights in daily business activities, and separating control over personnel and financial operations from that of the shareholders.⁶⁹ Specifically, Respondent notes Article 21 which states: “The controlling shareholders shall not directly interfere with the company’s decisions or business activities . . . nor shall they impair the listed company’s or other shareholders’ rights and interests.”⁷⁰ Respondent also notes Article 26 which states: “There shall be no subordination relationship between, on the one hand, a listed company or its internal offices and, on the other hand, the company’s controlling shareholders or their internal offices, and the latter shall not give plans or instructions concerning the listed company’s business operation to the former, nor shall the latter interfere with the independent operation of the former in any other matter.”⁷¹ Further, Respondent observes Article 27 which states: “A listed company’s business shall be completely independent from that of its controlling shareholders.”⁷²

⁶⁶ *See id.*, at 7.

⁶⁷ *See id.*, at 9.

⁶⁸ *See id.*, at 8.

⁶⁹ *See id.*, at 10.

⁷⁰ *See id.*

⁷¹ *See id.*

⁷² *See id.*, at 10-11.

Respondent remarks that the Department has a longstanding precedence in which it has granted separate rates to respondents who have some level of connection to the government.⁷³ Respondent cites two cases where the Department examined certain laws that demonstrated an absence of *de jure* control.⁷⁴ According to Respondent, the Department continued to grant a separate rate in those cases despite contradictory evidence placed on the record by Petitioners because the Department stressed that the evidence did not specifically show government control over export activities.⁷⁵ Further, Respondent argues that the “‘potential’ or ‘possibility’ or ‘appearance’ are not the standards used for *de jure* or *de facto* control . . . such laws and regulations must compel governmental control and not just allow it.”⁷⁶

Department’s Position: The Department agrees with Respondent. The Department stresses that, in order to obtain a separate rate, a company must demonstrate an absence of *de jure* and *de facto* control over *export activities*, as stated in Policy Bulletin 05.1.⁷⁷ Furthermore, the separate rates test is administered at the firm level, *i.e.* at the level at which such decisions relating to the production and export of merchandise are made.⁷⁸ Therefore, the Department continues to find that the separate rates test should be applied to the ATM Entity, consistent with the Department’s policy.

Furthermore, in response to Petitioner’s assumption that the separate rates test is designed to prevent future manipulation of the dumping margin, *i.e.*, by the government directing export activities, the Department stresses that the separate rates test must necessarily be based on

⁷³ See *id.*, at 13.

⁷⁴ See *id.*, citing *Preliminary Determination of Sales at Less than Fair Value and Postponement of Final Determination: Certain Cold-Rolled Flat Rolled Carbon Quality Steel Products from the People’s Republic of China*, 65 FR at 1122 (January 7, 2000); citing also *Hot-Rolled Carbon Steel*, 66 FR at 22187-22188.

⁷⁵ See *id.*, at 14.

⁷⁶ See *id.*, at 11.

⁷⁷ See Policy Bulletin 05.1 at 4.

⁷⁸ See *id.*, at 1.

evidence on the record and not speculations of future control.⁷⁹ Rather than base its separate rate decision on what might occur under a given set of laws and regulations, the Department instead analyzes the *de jure* and *de facto* information pertaining to the POI or period of review, as appropriate. The Department then prospectively applies the results of this analysis until the next review period when it renews the examination of that status in order to ensure that no such government control over export activities exists. Therefore, the Department has determined that it will continue to look at record evidence of whether the respondent, the ATM Entity, has demonstrated an absence of *de jure* and *de facto* control during the POI.

The Department also continues to find that CISRI is a company “owned by all the people,” as set forth in its Articles of Association. Although Petitioner argues that CISRI identifies itself as a state-owned enterprise, this is only a designation that does not restructure or reformulate the corporate form of CISRI, an “owned by all the people” company. CISRI’s Articles of Association specifically state that CISRI operates under the “owned by all the people” business structure and confirm that CISRI is managed accordingly.⁸⁰

CISRI’s incorporating documents clearly establish that its corporate form is “owned by all the people.” Despite Petitioner’s assertion and evidence pointing to CISRI’s designation as a state-owned enterprise, these Articles of Association were not subsequently modified. Therefore, the 2003 law, which merely gives CISRI the designation of “state-owned enterprise,” does not alter the corporate configuration of CISRI as a company “owned by all the people.” That is, the creation of SASAC did not cause CISRI to rewrite or modify its Articles of Association. Moreover, as the Court and parties to this proceeding have observed, 100 percent government ownership does not prevent an “owned by all the people” company from

⁷⁹ *See id.*

⁸⁰ *See* BGY’s supplemental response dated September 20, 2005 at Exhibit SA-10.

establishing a separate rate; thus, being a “state-owned enterprise” does not by itself have any impact on such a company’s eligibility for separate rate status.⁸¹ Notwithstanding the creation of SASAC, CISRI’s valid business license continued to list its ownership structure as “owned by all the people” and CISRI was not required to file for a new business license in response to the 2003 law. Thus, the Department concludes that the underlying business structure of CISRI did not change with the creation of SASAC and the Department continues to find that such an ownership structure demonstrates an absence of *de jure* control.

Moreover, the Department finds that despite CISRI being a majority shareholder, CISRI does not have control over ATM. Although CISRI is a majority shareholder, there are numerous other shareholders, all of whom have protected rights as minority shareholders as discussed below and voting rights articulated in ATM’s Articles of Association. In ATM’s Articles of Association, shareholders owning 10% or more may nominate candidates for the Board of Directors, but the Articles of Association also state that such nominees may not be shareholders and must be voted in by all shareholders.⁸² Furthermore, the Board of Directors operates independently of the shareholders and is in charge of overseeing the business matters of the company.⁸³ The Department also notes that during the POI, the majority of the nine directors sitting on the Board of Directors did not hold positions in CISRI or were involved in CISRI’s business functions in any way, further establishing the independence of the Board of Directors from the possible influence of the majority shareholder of ATM.⁸⁴ Finally, as discussed below, various laws in place during the POI protect minority shareholder rights, grant autonomy to

⁸¹ See, e.g., Remand Order at 14 (“It is now well established that ‘government ownership by itself is not dispositive’ of government control. *Qingdao Taifa Group Co., Ltd., v. United States*, 33 CIT __, __, 637 F. Supp. 2d 1231, 1242 (2009).”)

⁸² See BGY’s supplemental response dated September 20, 2005 at Exhibit SA-10.

⁸³ See *id.*

⁸⁴ See *id.*, at Exhibit SA-11.

ATM, and outline the independence of the Board of Directors and management from the control of the shareholders. Thus, the Department finds that several barriers existed between ATM's majority shareholder, CISRI, and the management of day-to-day operations governing exports.

On the record of the LTFV investigation, interested parties have placed three sets of laws and regulations governing businesses in the PRC: (1) Decree of the State Council of the People's Republic of China No. 378: Interim Regulations on Supervision and Management of State-owned Assets of Enterprises ("Interim Regulations"); (2) The Company Law of the People's Republic of China (1999 Amended) ("the Company Law") governing listed companies; and (3) the Code of Corporate Governance for Listed Companies ("the Code"). The Interim Regulations govern state-owned assets and pertains to the creation of SASAC and the Company Law and the Code elaborate on the rules by which limited liability and shareholding companies ought to operate.

The Interim Regulations were adopted in 2003, prior to the POI, and established SASAC, which is the oversight body for state-owned enterprises. The Department does not dispute the fact that CISRI was also subject to the oversight of SASAC, as it was a state-owned enterprise for the entirety of the POI. This oversight is not synonymous with *de jure* control over export activities. Rather, the Department has determined that the Interim Regulations do not automatically demonstrate *de jure* control of a state-owned enterprise. Article 1 and 2 of the Interim Regulations state that the law is intended to be applicable to state-owned enterprises and assets.⁸⁵ Article 3 and 4 of the Interim Regulations further clarifies that the law is specific to "all forms of State investments in enterprises and the equities generated therefrom..."⁸⁶ and that the

⁸⁵ See Petitioner's submission titled "Clarification of Separate Rate Status of Beijing Gang Yan Diamond Products Company" dated December 15, 2005, at Exhibit 5 ("Interim Regulations") at Articles 1 and 2.

⁸⁶ See *id.*, at Article 3.

function of SASAC is to act in the capacity of an “investor”.⁸⁷ Thus, although the law applies to all state-owned assets and investments, SASAC was established to act as an “investor” or shareholder, not as a manager and does not interfere or influence day-to-day business operations.

Additionally, Article 7 of the Interim Regulations provides for the “separation of government functions from enterprise management and separation of ownership from management.”⁸⁸ Article 10 states that those companies operating under SASAC “enjoy autonomy in their operation” and that SASAC “shall support the independent operation of enterprises according to law, and shall not interfere in their production and operation activities...”⁸⁹ The Interim Regulations sets aside particular protections for the autonomy of companies operating under SASAC, showing that SASAC solely provides oversight and is not intended to direct day-to-day business operations. Thus, nothing calls into question that CISRI continued to operate free from *de jure* control as an “owned by all the people” company pursuant to its Articles of Association. Although the Interim Regulations provide that SASAC may intervene in certain business operations, the Department notes that there is no record evidence that SASAC acted upon this power and intervened in the selection of management and board members. More to the point, SASAC did not require CISRI to rewrite its Articles of Association, as discussed above. Importantly, the Department notes that any powers granted to SASAC under Article 17 are limited to those companies that are deemed “invested enterprises,” *i.e.*, state-owned enterprises. Thus, CISRI’s majority shareholder ownership in ATM is not a vehicle by which SASAC or the PRC government can exercise control over the ATM Entity’s export activities. In response to Petitioner’s claim that the PRC government had control over CISRI’s majority ownership in ATM, the Department notes that Article 42 of the Interim

⁸⁷ See *id.*, at Article 4.

⁸⁸ See *id.*, at Article 7.

⁸⁹ See *id.*, at Article 10.

Regulations states that “organizational form, organizational structure, rights and obligations....shall be governed by the Company Law”,⁹⁰ which the Department has previously found to demonstrate an absence of *de jure* control.⁹¹ Similarly, the Department notes that Article 27 states that state-owned enterprises are able to enjoy the rights of an investor in those companies in which they hold shares, consistent with the Company Law. In other words, CISRI’s independence from the government with regard to its decisions as an ATM investor are protected by the Company Law from any government interference. Thus, the Department finds that CISRI is free to enjoy its rights as a shareholder of ATM and conduct its business relations with the ATM Entity without control or interference from the PRC government. Therefore, after considering the entirety of the Interim Regulations, the Department finds that the Interim Regulations do not establish *de jure* control, as Petitioner contends. Instead, the Department determines that the Interim Regulations continue to allow state-owned enterprises to operate with autonomy over their business operations.

As mentioned above, the Department has consistently found that the Company Law, covering limited liability and shareholding companies in the PRC, demonstrates an absence of *de jure* control. Article 4 of the Company Law states that shareholders “have the right to enjoy the benefits of the assets of the company, make major decisions, choose managers, *etc.* in accordance with the amount of capital they have invested”.⁹² Article 5 further defines the autonomy a company holds by granting companies the right to conduct their own business, the ability to be responsible for their own financial wellbeing, and the right to control their own

⁹⁰ See *id.*, at Article 42.

⁹¹ See, e.g., *Freshwater Crawfish Tail Meat From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative and New-Shipper Reviews*, 75 FR 34100 (June 16, 2010), unchanged in *Freshwater Crawfish Tail Meat From the People's Republic of China: Final Results of Antidumping Duty Administrative and New-Shipper Reviews*, 75 FR 79337 (December 20, 2010).

⁹² See BGY’s supplemental response dated September 20, 2005 at Exhibit SA-4 containing the Company Law at Article 4.

production and operations.⁹³ Article 6 clearly states that a company implements its own management structure pursuant to the company's bylaws.⁹⁴ Articles 16 and 20 allow state-owned enterprises to invest in limited liability companies of their own accord and ensure that the limited liability company will continue to operate under a democratic management structure.⁹⁵ Articles 19 and 22 reference the Articles of Association, stating that shareholders establish the company's Articles of Association and go on to list points that should be addressed in the Articles of Association, such as the rights of shareholders and the company structure.⁹⁶ Article 38 delimits the exact powers that shareholders can hold, namely appointing the Board of Directors, establishing the Articles of Association, and approving various financial decisions such as profit distribution and budget plans that are established by the Board of Directors.⁹⁷ Thus, the Company Law separates the powers between the shareholders and the Board of Directors, where the primary purpose of the Board of Directors is to design plans related to business functions and to enact them as they are approved by the shareholders.

Furthermore, Article 50 provides for another degree of separation from the control of the shareholders by entrusting production, operation, and management in the hands of the General Manager.⁹⁸ This division of control is mirrored in ATM's Articles of Association, in which the majority shareholder nominates candidates for the Board of Directors, all shareholders vote on whether or not to appoint the candidates, and then the Board of Directors is in charge of overall business planning and the selection of upper management.⁹⁹ Considering these various aspects of the Company Law, the Department continues to find that the Company Law establishes an

⁹³ *See id.*, at Article 5.

⁹⁴ *See id.*, at Article 6.

⁹⁵ *See id.*, at Articles 16 and 20.

⁹⁶ *See id.*, at Articles 19 and 22.

⁹⁷ *See id.*, at Articles 38 and 46.

⁹⁸ *See id.*, at Article 50.

⁹⁹ *See id.*, at Exhibit SA-10.

absence of *de jure* control, and protects the rights of shareholders and the autonomy of the company. Moreover, the Department finds that the Company Law institutes a company structure in which daily business operations, selection of management, and distribution of profits are not under the control of the shareholders, but rather are decided upon by the Board of Directors and the General Manager as dictated by the law. Therefore, in this case, although CISRI may be a majority shareholder in ATM, the Department finds that the Company Law ensures the rights of all shareholders, protects the autonomy of ATM as an independent company, and creates a barrier between the shareholder, including CISRI, and the decisions governing day-to-day business operations.

In examining the Code of Corporate Governance for Listed Companies, the Department finds further support for the absence of *de jure* control. The Code protects the rights of shareholders, including minority shareholders.¹⁰⁰ Consequently the rights of all shareholders are protected regardless of the percentage of their ownership in the company. The Code further limits the powers of majority shareholders by stating that majority shareholders must consult with all shareholders to appoint senior management and are forbidden from hindering day-to-day decisions and business activities.¹⁰¹ Articles 22 through 27 reconfirm the independence of the company, stating that the company “shall be separated from its controlling shareholders in such aspects as personnel, assets and financial affairs, shall be independent in institution and business...and shall independently bear risks and obligations.”¹⁰² The Code also stipulates that all personnel must be unconnected to majority shareholders.¹⁰³ Thus, the Code ensures that CISRI’s role in ATM is necessarily limited and that the other shareholders hold a voice and the

¹⁰⁰ See *id.*, at Exhibit SA-4 containing the Code at Articles 2 and 31.

¹⁰¹ See *id.*, at Articles 20 and 21.

¹⁰² See *id.*, at Article 22.

¹⁰³ See *id.*, at Article 23.

right to vote over issues affecting the company. Furthermore, Section 2 of Chapter 2 of the Code affirms ATM's autonomy, particularly as separate from its majority shareholders, and explicitly states limitations on the connections that majority shareholders may have with the company and its business operations and decisions.¹⁰⁴ Therefore, the Department finds that the Code helps to support its original determination that, despite CISRI being a majority shareholder in ATM, the ATM Entity operates independently and has established the absence of *de jure* control.

Thus, the Department emphasizes that the separate rates analysis is applied to the exporter of subject merchandise, which, in this case, is the ATM Entity, not CISRI. Furthermore, as discussed above, the Department finds that the laws placed on this record establish an absence of *de jure* control. As there is no evidence on the record that demonstrates the contrary, and in keeping with its precedent outlined above, the Department finds that the ATM Entity has the responsibility to demonstrate the absence of *de facto* control. As discussed previously, the ATM Entity was able to do so by providing various documents, including shareholder meeting minutes where all shareholders approved the appointment of the General Manager and the plan for distribution of profits.¹⁰⁵

Finally, in response to Petitioner's comments regarding the *de facto* analysis of the ATM Entity, the Department notes that this was discussed in length during the investigation,¹⁰⁶ as well as above. Given the above, the Department continues to find that the ATM Entity has demonstrated an absence of *de jure* and *de facto* control, and is thus eligible for a separate rate.

II. Surrogate Value for the Steel Plate Used to Make Sawblade Cores

Petitioner's Comments

¹⁰⁴ See *id.*, at Articles 22-27.

¹⁰⁵ See Verification Report at Exhibit 7.

¹⁰⁶ See *Final Determination* and accompanying Issues and Decision Memorandum at Comment 16.

Petitioner contends that the Department erred in its Draft Redetermination when it calculated the surrogate value for 30CrMo steel plates used by the ATM Entity with solely HTS categories 7225.40.20 and 7225.40.30. Petitioner notes that a raw materials sub-ledger and an inventory-out log shows entries for 30CrMo steel plate that have corresponding weights and values.¹⁰⁷ Thus, Petitioner finds that it is doubtful that the ATM Entity's claim that the dimensions listed on the inventory-out log are meant to describe the finished product, not the dimension of raw material inputs used in production. Petitioner also notes the Department has accepted the ATM Entity's argument despite the fact that, for 65Mn steel, the dimensions in both the inventory-in and inventory-out records are the same.¹⁰⁸ Thus, Petitioner believes the logical conclusion is that this indicates a figure for the 30CrMo steel input, not finished product, because there would be no margin of error if the inventory-out log listed an equal quantity produced of the finished product as was inputted according to the raw material sub-ledger.

Department's Position: In reconsidering its position for the Draft Redetermination, the Department found that the record evidence did not support its original decision in the LTFV investigation to also use the two HTS categories covering 30CrMo steel plates less than 600mm in width. The raw material purchase documentation for 30CrMo steel plate on the record only shows that the ATM Entity purchased it in widths of either 1210mm or 1050mm.¹⁰⁹ This fact is further bolstered by observation made by the Department's verification team during their examination of the records kept for material inputs "With respect to BGY's steel purchases during the POI, company officials provided a worksheet demonstrating the total purchases of steel during the POI. We noted that the purchases of 30CrMo were clearly for steel sheets with

¹⁰⁷ See Petitioner's Comments at 39.

¹⁰⁸ See *id.*, at 40-42.

¹⁰⁹ See Verification Report at Exhibit 12 and BGY's November 3, 2005, supplemental questionnaire response at Exhibit SD-4, 16-17.

dimensions listed on the invoices.”¹¹⁰ Furthermore, the Department has determined that the evidence that it had originally relied upon in the LTFV investigation did not support its decision to use all four HTS categories when calculating the surrogate value for the 30CrMo steel input. Upon further review, the Department noted that the measurements in the column in the inventory-out log refer to the diameters of the finished product being produced from the 30CrMo steel which was withdrawn, as opposed to the widths of the 30CrMo steel plate input itself.

Petitioner contends that the corresponding inventory records for the 65Mn steel input indicate otherwise, noting that some dimensions from an inventory-in log match those of an inventory-out log (inferring that the measurements in the inventory-out log reflect the input, not the finished product produced from the input). We do not find this argument persuasive; simply because some measurements overlap does not mean that any definitive conclusions can be drawn from such observation and then applied to the 30CrMo steel input. The inventory-in records for 65Mn steel clearly show purchases of less than 600mm in width, indicating BGY purchased this input in widths closer to the diameters of the finished product than it did for 30CrMo steel. In contrast, the record is absolutely bereft of any indication that BGY purchased 30 CrMo steel in widths under 600mm. Thus, the Department continues to find that the surrogate value of the 30CrMo steel input should only be calculated using Indian HTS categories 7225.40.20 and 7225.40.30 for steel plate of widths of 600mm or more.

Conclusion

Based on the above analysis, the Department has determined that despite being vested by SASAC, CISRI operates under the management structure of “owned by all the people” and, in keeping with the Department’s precedent and practice, does not transfer governmental control to

¹¹⁰ See Verification Report at 27.

ATM. The Department has determined that because such control is not passed on through ATM's parent company, the burden of demonstrating an absence of *de jure* and *de facto* control rests with the ATM Entity, as it is the producer and exporter of subject merchandise. Furthermore, after analyzing the various laws and regulations placed on the record, the Department has determined that there is an absence of *de jure* control over the ATM Entity. The Department continues to find that the ATM Entity has sufficiently demonstrated an absence of *de jure* and *de facto* control, including an absence of control in ATM's selection of managers and decision of the distribution of profits. Additionally, the Department has determined that it will recalculate the SV used for 30CrMo steel plate of widths 600mm or more using only HTS categories 7225.40.20 and 7225.40.30. As a result of using only these two HTS categories, the ATM Entity's calculated margin is now *de minimis*.

Paul Piquado
Assistant Secretary
for Import Administration

Date