

DEPARTMENT OF COMMERCE**International Trade Administration****[C–570–948]****Certain Steel Grating from the People's Republic of China: Final Affirmative Countervailing Duty Determination**

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

SUMMARY: The Department of Commerce (the Department) has determined that countervailable subsidies are being provided to producers and exporters of steel grating from the People's Republic of China (PRC). For information on the estimated countervailable subsidy rates, please see the "Suspension of Liquidation" section, below.

EFFECTIVE DATE: June 8, 2010.

FOR FURTHER INFORMATION CONTACT: Justin Neuman or Nicholas Czajkowski AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0486, (202) 482–1395, respectively.

Petitioners

Petitioners in this investigation are Alabama Metal Industries Corp. (AMICO) and Fisher & Ludlow (collectively, "Petitioners").

Period of Investigation

The period for which we are measuring subsidies, *i.e.*, the period of investigation (POI), is January 1, 2008 through December 31, 2008.

Case History

The following events have occurred since the preliminary determination. *See Certain Steel Grating from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 74 FR 56796 (November 3, 2009) (*Preliminary Determination*).

The Department issued several supplemental questionnaires to the Government of the People's Republic of China (GOC) and Ningbo Jiulong Machinery Manufacturing Co., Ltd. (Ningbo Jiulong). The Department received responses to questionnaires issued to the GOC in December 2009, as well as in January and February 2010. The Department received responses to questionnaires issued to Ningbo Jiulong in December 2009, as well as in January, February, and March 2010. Public versions of the questionnaires and

responses, as well as the various memoranda cited below, are available in the Department's Central Records Unit (Room 1117 in the HCHB Building) (hereinafter referred to as the CRU).

As explained in the Memorandum from the Deputy Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from February 5, through February 12, 2010. Thus, all deadlines in this segment of the proceeding have been extended by seven days. The revised deadline for this final CVD determination is now May 28, 2010. See Memorandum to the Record from Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm" (February 12, 2010).

On February 24, 2010, Department officials met with Petitioners' counsel to discuss issues related to the upcoming verification of the GOC and Ningbo Jiulong. See Memorandum for the File from Nicholas Czajkowski, Case Analyst, AD/CVD Operations, *Meeting with Counsel for Petitioners: Countervailing Duty Investigation on Certain Steel Grating from the People's Republic of China* (February 26, 2010).

On March 8, 2010, Petitioners placed on the record a detailed analysis of mill test certificates that were provided to the Department by Ningbo Jiulong. See Letter to Secretary Locke from Timothy C. Brightbill, *Certain Steel Grating from the People's Republic of China: Comments on Mill Test Certificates* (March 8, 2010).

From March 8 through March 13, 2010, we conducted verification of the questionnaire responses submitted by the GOC and Ningbo Jiulong. We issued verification reports on April 14, 2010. See Memorandum to the File from Thomas Beline, Staff Attorney; Nicholas Czajkowski, International Trade Analyst; and Justin Neuman, International Trade Analyst, *Verification of the Questionnaire Responses Submitted by the Government of China* (April 14, 2010), and Memorandum to the File from Thomas Beline, Staff Attorney; Nicholas Czajkowski, International Trade Analyst; and Justin Neuman, International Trade Analyst, *Verification of the Questionnaire Responses Submitted by Ningbo Jiulong Machinery Manufacturing Co., Ltd. and Ningbo Zhenhai Jiulong Electronic Equipment Factory* (April 14, 2010) (*Ningbo Jiulong Verification Report*).

On March 15, 2010, Ningbo Jiulong filed a copy of the minor corrections

provided to the Department at verification. See Letter to Secretary Locke from Gregory S. Menegaz, *Certain Steel Grating from the People's Republic of China – Minor Corrections – Ningbo Jiulong* (March 15, 2010).

On March 23, 2010, we requested permission from Customs and Border Protection (CBP) to place on the record certain entry documents that it had provided for the record in the corresponding antidumping (AD) investigation. See Memorandum to Tom Futtner, Supervisory Import Compliance Analyst, Customs Unit, Import Administration from Nicholas Czajkowski, International Trade Analyst, Office 6, *Countervailing Duty Investigation of Certain Steel Grating from the People's Republic of China: Request for Customs Documents* (March 23, 2010). Those documents were placed on the record on April 6, 2010. See Memorandum to the File from Nicholas Czajkowski, Trade Analyst, Office 6, AD/CVD Operations, *Countervailing Duty Investigation of Certain Steel Grating (CSG) from the People's Republic of China (PRC): CBP Entry Documents* (April 6, 2010).

On March 23, 2010, we issued a letter establishing a deadline for parties to rebut factual information recently added to the record. See Letter to Ningbo Jiulong from Barbara E. Tillman, Director, AD/CVD Operations, Office 6, *Countervailing Duty Investigation: Certain Steel Grating from the People's Republic of China* (March 23, 2010).

On March 23, 2010, Ningbo Jiulong filed clarifying and rebuttal comments related to Petitioners' March 8, 2010 analysis of mill test certificates provided by Ningbo Jiulong to the Department. See Letter to Secretary Locke from Ningbo Jiulong, *Steel Grating from China – Ningbo Jiulong Machinery Manufacturing Co. Ltd. and Ningbo Zhenhai Jiulong Electronic Equipment Factory – Rebuttal to Petitioners' March 8, 2010 Submission* (March 24, 2010).

On April 15, 2010, we issued our post-preliminary determination regarding the "Provision of Electricity at Less than Adequate Remuneration." See Memorandum to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration from John M. Andersen, Acting Deputy Assistant Secretary for AD/CVD Operations, *Countervailing Duty Investigation of Certain Steel Grating from the People's Republic of China (PRC): Post-Preliminary Determination Regarding the Provision of Electricity for Less than Adequate Remuneration* (April 15, 2010).

On April 23, 2010, we received comments from Ningbo Jiulong regarding what it considers to be several

significant errors in the *Ningbo Jiulong Verification Report* issued by the Department on April 14, 2010, and urging the Department not to let those errors color its analysis for the purposes of the final determination.

On April 26, 2010, we received case briefs from Petitioners, the GOC, Ningbo Jiulong, and Yantai Xinxin Steel Structure Co., Ltd. (an exporter/producer of steel grating that was not selected as a mandatory respondent in this investigation). On April 28, the Department issued a letter rejecting Petitioners' brief because it contained new factual information. See Letter to AMICO and Fisher & Ludlow from Barbara E. Tillman, Director, AD/CVD Operations, Office 6, Import Administration, *Rejection of New Factual Information Submitted in Case Brief Dated April 26, 2010*. Petitioners resubmitted their brief on April 29, 2010. Rebuttal briefs were submitted by Petitioners, the GOC, and Ningbo Jiulong on May 3, 2010.

On May 4, 2010, Ningbo Jiulong withdrew its request for a hearing. On May 6, 2010, Department officials met with representatives of Ningbo Jiulong regarding issues in the briefs submitted by their client and by Petitioners. See Memorandum for the File from Justin M. Neuman, International Trade Analyst, AD/CVD Operations, Office 6, *Ex-Parte Meeting with Representatives of Ningbo Jiulong Machinery Manufacturing Co., Ltd.* (May 10, 2010). On May 10, 2010, Department officials met with Petitioners' counsel to discuss issues related to the briefs. See Memorandum for the File from Justin M. Neuman, International Trade Analyst, AD/CVD Operations, Office 6, *Countervailing Duty Investigation of Certain Steel Grating from the People's Republic of China: Ex-Parte Meeting with Representatives of Alabama Metal Industries, Fisher and Ludlow* (May 19, 2010).

Scope of the Investigation

The products covered by this investigation are certain steel grating, consisting of two or more pieces of steel, including load-bearing pieces and cross pieces, joined by any assembly process, regardless of: (1) size or shape; (2) method of manufacture; (3) metallurgy (carbon, alloy, or stainless); (4) the profile of the bars; and (5) whether or not they are galvanized, painted, coated, clad or plated. Steel grating is also commonly referred to as "bar grating," although the components may consist of steel other than bars, such as hot-rolled sheet, plate, or wire rod.

The scope of this investigation excludes expanded metal grating, which

is comprised of a single piece or coil of sheet or thin plate steel that has been slit and expanded, and does not involve welding or joining of multiple pieces of steel. The scope of this investigation also excludes plank type safety grating which is comprised of a single piece or coil of sheet or thin plate steel, typically in thickness of 10 to 18 gauge, that has been pierced and cold formed, and does not involve welding or joining of multiple pieces of steel.

Certain steel grating that is the subject of this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States ("HTSUS") under subheading 7308.90.7000. While the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Injury Test

Because the PRC is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Tariff Act of 1930, as amended (the Act), the International Trade Commission (ITC) is required to determine, pursuant to section 701(a)(2) of the Act, whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a United States industry. On July 20, 2009, the ITC published its preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of allegedly subsidized imports from the PRC of subject merchandise. See *Certain Steel Grating From China Determinations*, 74 FR 35204 (July 20, 2009); and *Certain Steel Grating from China (Preliminary)*, USITC Pub. 4087, Inv. Nos. 701-TA-465 and 731-TA-1161 (July 2009).

Analysis of Subsidy Programs and Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the Memorandum to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, from John M. Andersen, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Steel Grating from the People's Republic of China," dated concurrently with this notice (hereinafter, *Decision Memorandum*), which is hereby adopted by this notice. Attached to this notice as an Appendix is a list of the issues that parties have raised and to which we have responded in the

Decision Memorandum. The *Decision Memorandum* also contains a complete analysis of the programs covered by this investigation, and the methodologies used to calculate the subsidy rates. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room 1117 in the main building of the Commerce Department. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Internet at <http://ia.ita.doc.gov/frn/>. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Use of Adverse Facts Available

For purposes of this final determination, we have relied on facts available and drawn adverse inferences, in accordance with sections 776(a) and (b) of the Act, with regard to Ningbo Jiulong's receipt of countervailable subsidies under the "Provision of Hot-Rolled Steel for Less than Adequate Remuneration" and "Provision of Wire Rod for Less than Adequate Remuneration" programs. A full discussion of our decision to apply partial adverse facts available (AFA) is presented in the *Decision Memorandum* in the section "Application of Facts Available, Including the Application of Adverse Inferences," as well as the Department's position on Comment 4 in the *Decision Memorandum*.

With respect to the GOC's "Provision of Electricity for Less than Adequate Remuneration," the Department has also relied upon facts available and drawn adverse inferences, in accordance with sections 776(a) and (b) of the Act. A full discussion of our decision to apply partial AFA is presented in the section "Application of Facts Available, Including the Application of Adverse Inferences," and the Department's position on Comment 10 of the *Decision Memorandum*.

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we have calculated an individual rate for the mandatory respondent under investigation, Ningbo Jiulong Machinery Manufacturing Co., Ltd. Section 705(c)(5)(A)(i) of the Act states that for companies not investigated, we will determine an "all others" rate equal to the weighted-average countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates,

and any rates determined entirely under section 776 of the Act. In this investigation, the Department selected two mandatory respondents to review. After receiving and reviewing the questionnaire responses of one of the mandatory respondents, United Steel Structures, Ltd. (USSL), the Department determined that, because USSL was not a steel grating exporter or producer, it would be an inappropriate mandatory respondent in this investigation. See Memorandum to Ronald K. Lorentzen, Acting Assistant Secretary for Import Administration from John M. Andersen, Acting Deputy Assistant Secretary for AD/CVD Operations, *Countervailing Duty Investigation of Certain Steel Grating from the People's Republic of China: Whether USSL Should be Maintained as a Mandatory Respondent*. However, because that determination was made on October 23, 2009, three days before the preliminary determination, the Department determined that it could not select an additional mandatory respondent to calculate an individual rate for in this investigation. Because there is only one respondent in this investigation for which the Department has calculated a company-specific rate, consistent with our practice and section 705(c)(5)(A)(i) of the Act, its rate serves as the "all others" rate. See e.g., *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products from Thailand*, 66 FR 50410, 50411 (October 3, 2001); and *Final Affirmative Countervailing Duty Determination: Pure Magnesium From Israel*, 66 FR 49351, 49353 (Sept. 27, 2001).

Exporter/Manufacturer	Net Countervailable Subsidy Rate
Ningbo Jiulong Machinery Manufacturing Co., Ltd. ...	62.46% <i>ad valorem</i>
All Others	62.46% <i>ad valorem</i>

As a result of our *Preliminary Determination*, we instructed CBP to suspend liquidation of all entries of steel grating from the PRC which were entered or withdrawn from warehouse, for consumption on or after November 3, 2009, the date of the publication of the *Preliminary Determination* in the **Federal Register** and to collect cash deposits of estimated countervailing duties or bonds, in the amount of the preliminary countervailing duty rates.

Pursuant to section 703(d) of the Act, we subsequently instructed CBP to discontinue the suspension of liquidation for countervailing duty

purposes for subject merchandise entered on or after March 3, 2010, but to continue the suspension of liquidation of entries made on or after November 3, 2009 through March 2, 2010.

If the ITC issues a final affirmative injury determination, we will issue a countervailing duty order and order CBP to resume the suspension of liquidation of entries of steel grating and to require a cash deposit on all such entries equal to the subsidy rate listed above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all deposits or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an APO, without the written consent of the Assistant Secretary for Import Administration.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: May 28, 2010.

Paul Piquado,

Acting Deputy Assistant Secretary for Import Administration.

Appendix

I. Summary

II. Background

III. Subsidies Valuation

- A. *Date of Applicability of CVD Law to the PRC*
- B. *Allocation Period*
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IV. Application of Facts Available, Including the Application of Adverse Inferences

V. Analysis of Programs

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1. Government Provision of Hot-Rolled Steel for Less than Adequate Remuneration
2. Government Provision of Wire Rod for Less than Adequate Remuneration
3. Income Tax Credits for Domestically Owned Companies Purchasing Domestically Produced Equipment
4. Government Provision of Electricity for Less than Adequate Remuneration
5. Other Grant Programs
 - a) Export Grant 2006, 2007, 2008
 - b) Jiulong Lake Town Grant 2008
 - c) Energy Saving Grant 2008
 - d) Foreign Trade Grant 2008
 - e) Famous Brand Grant 2008
 - f) Innovative Small- and Medium-Sized Enterprise Grant 2008
 - g) Water Fund Refund/Exemption 2008
 - h) Product Quality Grant

B. Program Determined To Be Not Countervailable

Cleaning Production Grant 2008

C. Programs Determined To Be Not Used or To Not Provide Benefits During the POI

1. *GOC Provision of Steel Bar for Less than Adequate Remuneration*
2. *GOC Provision of Steel Plate for Less than Adequate Remuneration*
3. *GOC Provision of Land-Use Rights to SOEs for Less than Adequate Remuneration*
4. *"Two Free, Three Half" Program*
5. *Reduced Income Tax Rates for Export-Oriented FIEs*
6. *Preferential Income Tax Policy for Enterprises in the Northeast Region*
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20. *Technical Upgrading Grant 2005, 2007*
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D. Programs For Which Ningbo Jiulong Is Determined to Be Ineligible

1. *Liaoning Province "Five Points, One Line" Program*
2. *Guangzhou City Famous Exports Brands*
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IV. Analysis of Comments

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Comment 2: Cut-Off Date

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Comment 9: Income Tax Credits for
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Comment 12: Separate CVD Rate for
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VII. Recommendation

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