DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–977]

High Pressure Steel Cylinders From the People's Republic of China: Final Determination of Sales at Less Than Fair Value

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

DATES: *Effective Date:* May 7, 2012.

SUMMARY: On December 15, 2011, the Department of Commerce (''Department'') published the *Preliminary Determination* of sales at less than fair value (''LTFV'') in the antidumping investigation of high pressure steel cylinders from the People's Republic of China (''PRC'').[1] The period of investigation (''POI'') is October 1, 2010, through March 31, 2011. Based on its analysis of the comments received, the Department has made changes to its *Preliminary Determination.* The Department continues to find that high pressure steel cylinders from the PRC are being, or are likely to be, sold in the United States at LTFV, as provided in section 735 of the Tariff Act of 1930, as amended (''Act''). The estimated margins of sales at LTFV are shown in the ''Final Determination Margins'' section of this notice.

FOR FURTHER INFORMATION CONTACT: Alan Ray or Emeka Chukwudebe, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–5403 or 482–0219, respectively.

SUPPLEMENTARY INFORMATION:

Background

Since the *Preliminary Determination,* the Department conducted sales and factors of production (''FOP'') verifications for Beijing Tianhai Industry Co., Ltd. (''BTIC''), the mandatory respondent, from January 9 through January 17, 2012, and a sales verification for American Fortune Company (''AFC''), BTIC's U.S. affiliate, on February 9 and 10, 2012.[2] *See* the

[1] *See High Pressure Steel Cylinders From the People's Republic of China: Preliminary Determination of Sales at Less than Fair Value,* 76 FR 77964 (December 15, 2011) (''*Preliminary Determination''*).

[2] We conducted verifications of BTIC and one of its affiliated producers, Langfang Tianhai High Pressure Contain Co., Ltd. (''Langfang Tianhai''), which produced the merchandise under

Continued

''Verification'' section below for additional information. On January 31, 2012, and February 10, 2012, we received surrogate value (''SV'') comments from both BTIC and Petitioner and rebuttal SV comments from BTIC. On March 2, 2011, we issued a post-preliminary supplemental questionnaire.

Upon the February 23, 2012, release of the verification reports, we invited interested parties to comment on the *Preliminary Determination.* On March 6, 2012, we received case briefs from Petitioner,[3] BTIC, and Zhejiang Jindun Pressure Vessel Co., Ltd. (''Jindun''). On March 26, 2012, we received rebuttal briefs from Petitioner and BTIC. On March 16, 2012, we released a new labor calculation and requested that interested parties submit comments.[4] On March 26, 2012, BTIC submitted comments regarding the revised labor calculation. The Department held a public hearing on April 4, 2012, pursuant to 19 CFR 351.310(d).

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the ''Antidumping Duty Investigation of High Pressure Steel Cylinders from the People's Republic of China: Issues and Decision Memorandum for the Final Determination'' (''Decision Memorandum''), dated concurrently with this notice and which is hereby adopted by this notice. A list of the issues which parties raised, and to which we respond to in the Decision Memorandum, is attached to this notice as Appendix I. The Decision Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). Access to IA ACCESS is available in the Central Records Unit (''CRU''), room 7046 of the main Department of Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the internet at *http://www.trade.gov/ia/.* The signed Decision Memorandum and the electronic versions of the Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of information on the record of this investigation, we have made changes regarding BTIC and the separate rate companies[5] for the final determination.

- Subsequent to the *Preliminary Determination,* at the Department's request, BTIC provided a revised FOP and sales database.
- We have changed the source used for valuing truck freight.
- We have changed the surrogate financial statements upon which we are relying to calculate financial ratios from Everest Kanto Cylinder Ltd. to Thai Metal Drum Manufacturing Public Company Limited.
- We have excluded water and all of the other energy FOPs from the build-up for normal value as the Thai Metal Drum Manufacturing Public Company Limited financial statement does not provide sufficient detail for the Department to allocate those factors appropriately.
- We are changing the date of sale for constructed export price (''CEP'') sales to reflect the correct date of sale in the ''Targeted Dumping'' section of the margin calculation program.
- We are using the revised labor valuation methodology discussed in our March 16, 2012, memorandum.[6]
- In the *Preliminary Determination,* we assigned the PRC-wide rate of 26.23 percent, the highest transaction-specific rate preliminarily calculated for BTIC. For this final determination, we continue to use BTIC's highest transaction-specific rate, which now is 31.42 percent.

Scope of Investigation

The merchandise covered by the scope of the investigation is seamless steel cylinders designed for storage or transport of compressed or liquefied gas (''high pressure steel cylinders''). High pressure steel cylinders are fabricated of chrome alloy steel including, but not limited to, chromium-molybdenum steel or chromium magnesium steel, and have permanently impressed into the steel, either before or after importation, the symbol of a U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (''DOT'') approved high pressure steel cylinder manufacturer, as well as an approved DOT type marking of DOT 3A, 3AX, 3AA, 3AAX, 3B, 3E, 3HT, 3T, or DOT–E (followed by a specific exemption number) in accordance with the requirements of sections 178.36 through 178.68 of Title 49 of the Code of Federal Regulations, or any subsequent amendments thereof. High pressure steel cylinders covered by the investigation have a water capacity up to 450 liters, and a gas capacity ranging from 8 to 702 cubic feet, regardless of corresponding service pressure levels and regardless of physical dimensions, finish or coatings.

Excluded from the scope of the investigation are high pressure steel cylinders manufactured to UN–ISO–9809–1 and 2 specifications and permanently impressed with ISO or UN symbols. Also excluded from the investigation are acetylene cylinders, with or without internal porous mass, and permanently impressed with 8A or 8AL in accordance with DOT regulations.

Merchandise covered by the investigation is classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') under subheading 7311.00.00.30. Subject merchandise may also enter under HTSUS subheadings 7311.00.00.60 or 7311.00.00.90. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the investigation is dispositive.

Verification

As provided in section 782(i) of the Act, we conducted verification of the information submitted by BTIC for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by BTIC.[7]

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investigation that BTIC sold to the United States, and BTIC's U.S. affiliate which sold merchandise under investigation in the United States. *See* Memo to the File, through Matthew Renkey, Acting Program Manager, Office 9, from Alan Ray and Emeka Chukwudebe, International Trade Analysts, ''Verification of the Sales and Factors of Production Response of Beijing Tianhai Industry Co., Ltd. (''BTIC'') in the Investigation of High Pressure Steel Cylinders from the People's Republic of China,'' dated February 23, 2012 (''BTIC Verification Report''); Memo to the File, through Matthew Renkey, Acting Program Manager, Office 9, from Alan Ray and Ricardo Martinez Rivera, International Trade Analysts,, ''Verification of the Constructed Export Price Sales of American Fortune Company (''AFC'') in the Investigation of High Pressure Steel Cylinders from the People's Republic of China,'' dated February 23, 2012 (''AFC Verification Report'').

[3] Norris Cylinder Company.

[4] *See* ''Memorandum to Christian Marsh, Deputy Assistant Secretary, for Antidumping and Countervailing Duty Operations, through Matthew Renkey, Acting Program Manager, Office 9, from Emeka Chukwudebe, Case Analyst, Office 9: Antidumping Duty Investigation of High Pressure Steel Cylinders from the People's Republic of China: Post-Preliminary Analysis Regarding Surrogate Labor Value,'' dated March 16, 2012 (''Surrogate Labor Value Memo'').

[5] Jindun, Shanghai J.S.X. International Trading Corporation (''Shanghai J.S.X.''), and Shijiazhuang Enric Gas Equipment Co., Ltd. (''Enric'') (''Separate Rate Respondents'').

[6] *See* Surrogate Labor Value Memo.

[7] *See* BTIC Verification Report; AFC Verification Report.

Surrogate Country

In the *Preliminary Determination,* we selected Ukraine as the primary surrogate country in this investigation because: (1) In accordance with section 773(c)(4) of the Act, we determined that it is a significant producer of comparable merchandise and it is at a level of economic development comparable to the PRC; and (2) Ukraine data satisfy several factors that the Department considers in selecting a primary surrogate country, including whether the SV data are publicly available, contemporaneous with the POI, represent a broad-market average, from an approved surrogate country, are tax- and duty-exclusive, and specific to the input.[8] Interested parties submitted comments regarding our preliminary determinations concerning the selection of surrogate country, which are summarized in the accompanying Decision Memo at Comment I. For this final determination we continue to select Ukraine as the primary 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.[9] In the *Preliminary Determination,* we found that BTIC, Enric, Jindun, and Shanghai J.S.X., (collectively, ''Separate Rate Companies'') demonstrated their eligibility for, and were hence assigned, separate rate status.[10]

No parties commented on the above companies' eligibility for separate rate status. Consequently, for the final determination, we continue to find that these companies demonstrated both a *de jure* and *de facto* absence of government control with respect to their exports of the merchandise under investigation, and are eligible for separate rate status for the final determination.

Calculation of the Margin for the Separate Rate Companies

As in the *Preliminary Determination,* we are basing the antidumping duty margin for those companies receiving a separate rate, but who were not individually examined,[11] on the margin calculated for BTIC.[12]

The Department received comments from Jindun regarding the Department's *Preliminary Determination* and its decision not to examine Jindun as a voluntary respondent, as requested. The Department has addressed these arguments in Comment VI of the Decision Memorandum. For the final determination, we continue not to individually examine Jindun. Accordingly, Jindun will continue to be treated as and receive the rate assigned to the non-selected, Separate Rate Companies.[13]

The PRC-Wide Entity Rate

Because we begin with the presumption that all companies within a NME country are subject to government control, and because only the companies listed under the ''Final Determination Margins'' section, below, have overcome that presumption, we are assigning a single weighted-average dumping margin (*i.e.,* the PRC-wide rate) to all other exporters of the merchandise under consideration. These other companies did not demonstrate entitlement to a separate rate.[14] The PRC-wide rate applies to all entries of the merchandise under consideration except for entries from the Separate Rate Companies.

In the *Preliminary Determination,* the Department determined that there were exporters/producers of the merchandise subject to this investigation during the POI from the PRC that did not respond to the Department's request for information.[15] Further, we treated these PRC exporters/producers as part of the PRC-wide entity because they did not qualify for a separate rate. Therefore, we find that the use of facts available (''FA'') is necessary and appropriate to determine the PRC-wide rate pursuant to section 776(a)(2)(A) of the Act.[16]

In the *Preliminary Determination,* the Department also determined that, in selecting from among the FA, an adverse inference is appropriate because the PRC-wide entity failed to cooperate by not acting to the best of its ability to comply with requests for information.[17] As adverse facts available (''AFA''), we preliminarily assigned to the PRC-wide entity a rate of 26.23 percent, the highest transaction-specific rate preliminarily calculated for BTIC.[18]

Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information requested by the Department, (B) fails to provide such information by the deadline, or in the form or manner requested, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified, the Department shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. Section 776(b) of the Act provides that, in selecting from among the facts otherwise available, the Department may employ an adverse inference if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information.[19] We find that, because the PRC-wide entity did not respond to our request for information, it has failed to cooperate to the best of its ability. Therefore, the Department finds that, in selecting from among the facts otherwise available, an adverse inference is appropriate.

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) provide that the Department may rely on information derived from (1) the petition, (2) a final determination in the investigation, (3) any previous review or determination, or (4) any information placed on the record. In selecting a rate for AFA, the Department selects a rate that is sufficiently adverse ''so as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.'' [20] It is also the Department's practice to select a rate that ensures ''that the party does not obtain a more favorable result by failing

[8] *See Preliminary Determination,* 76 FR at 77967–77968.

[9] *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''*), and 19 CFR 351.107(d).

[10] *See Preliminary Determination,* 76 FR at 77965 n.16 and 77969.

[11] Enric, Jindun, and Shanghai J.S.X.

[12] *See Preliminary Determination,* 76 FR at 77970.

[13] *See* Decision Memorandum at Comment 7.

[14] *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, 25707 (May 3, 2000).

[15] *See Preliminary Determination,* 76 FR at 77970.

[16] *See id.*

[17] *See id.*

[18] *See id.,* at 77971.

[19] *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). *See also* Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103–316, vol. 1, at 870 (1994) (''SAA'').

[20] *See Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan,* 63 FR 8909, 8932 (February 23, 1998).

to cooperate than if it had cooperated fully.'' [21]

In the *Preliminary Determination,* the Department selected as AFA, a rate of 26.23 percent, the highest transaction-specific rate for BTIC.[22] For the final determination, the Department continues to use the same methodology to determine the AFA rate used in the *Preliminary Determination.*[23] Specifically, the Department continues to use the highest transaction-specific rate calculated for BTIC, which, because of changes to the calculations since the *Preliminary Determination* now is 31.42 percent. No parties commented on the selection of AFA.

Final Determination Weighted-Average Dumping Margins

We determine that the following weighted-average dumping margins exist for the following entities for the POI:

Exporter	Producer	Weighted-Average dumping margin (percent)
Beijing Tianhai Industry Co., Ltd.	Beijing Tianhai Industry Co., Ltd.	6.62
Beijing Tianhai Industry Co., Ltd.	Tianjin Tianhai High Pressure Container Co., Ltd.	6.62
Beijing Tianhai Industry Co., Ltd.	Langfang Tianhai High Pressure Container Co., Ltd.	6.62
Shanghai J.S.X. International Trading Corporation	Shanghai High Pressure Special Gas Cylinder Co., Ltd.	6.62
Zhejiang Jindun Pressure Vessel Co., Ltd.	Zhejiang Jindun Pressure Vessel Co., Ltd.	6.62
Shijiazhuang Enric Gas Equipment Co., Ltd.	Shijiazhuang Enric Gas Equipment Co., Ltd.	6.62
PRC-Wide Rate [24]		31.21

Disclosure

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

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (''CBP'') to continue to suspend liquidation of all imports of merchandise subject to the investigation entered or withdrawn from warehouse, for consumption for the PRC-wide entity and the Separate Rate Companies on or after December 15, 2011. The Department will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds U.S. price, as follows: (1) The rate for the exporter/producer combinations listed in the chart above will be the rate we have determined in this final determination; (2) for all PRC exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be the PRC-wide rate; and (3) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be the rate applicable to the PRC exporter/producer combination that supplied that non-PRC exporter. 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, within 45 days, 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. 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 collect cash deposits for antidumping duties due 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: April 30, 2012.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

Appendix I

General Issues

Comment I: Selection of Surrogate Country
Comment II: Surrogate Values
- A. Selection of Surrogate Financial Ratios
- B. Truck Freight
- C. Labor

Comment III: Double Remedy
Comment IV: Targeted Dumping Methodology
- A. General Department Targeted Dumping Methodology
- B. Average to Transaction Methodology
- C. Zeroing

Company-Specific Issues

Comment V: BTIC
- A. Targeted Dumping—Clerical Error Allegation
- B. Cash Deposit Instructions

Comment VI: Jindun's Voluntary Respondent Status

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[21] *See* SAA at 870.

[22] *See Preliminary Determination,* 76 FR at 77971.

[23] *See* id.

[24] The PRC-Wide entity includes: Shanghai High Pressure Container Co., Ltd.; Heibei Baigong Industrial Co., Ltd.; Nanjing Ocean High-Pressure Vessel Co., Ltd.; Qingdao Baigong Industrial and Trading Co., Ltd.; Shandong Huachen High Pressure Vessel Co., Ltd.; Shandong Province Building High Pressure Vessel Limited Company; Sichuan Mingchuan Chengyu Co., Ltd.; and Zhuolu High Pressure Vessel Co., Ltd.