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May 1, 2017

MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

FROM: Gary Taverman
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Certain Steel Threaded Rod from the People's Republic of China:
Decision Memorandum for the Preliminary Results of the 2015-
2016 Antidumping Duty Administrative Review

SUMMARY

The Department of Commerce (Department) is conducting the seventh administrative review of the antidumping duty (AD) order on certain steel threaded rod (STR) from the People's Republic of China (PRC) covering the period of review (POR) April 1, 2015, through March 31, 2016.¹ The Department preliminarily determines that mandatory respondent Zhejiang New Oriental Fastener Co., Ltd., (New Oriental) does not qualify for a separate rate and is, therefore, considered a part of the PRC-Wide Entity for its exports of subject merchandise exported to the United States during the POR. We also preliminarily find that mandatory respondent IFI & Morgan Ltd. and RMB Fasteners Ltd., (RMB/IFI Group) did not have any shipments during the POR.

If we adopt these preliminary results in the final results of the review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of subject merchandise during the POR. We invite interested parties to comment on these preliminary results. We expect to issue final results no later than 120 days from the date of publication of this notice pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act).

Background

On April 29, 2016, the Department received a request from the petitioner² to conduct an

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 36268, 36272-74 (June 6, 2016) (*Initiation Notice*).

² Vulcan Threaded Products Inc. (Vulcan) (the petitioner).



administrative review on 119 companies.³ On May 2, 2016, Tianjin Port Free Trade Zone Star Pipe International Trade Co., Ltd. (Tianjin Star) requested that it be reviewed.⁴ On June 6, 2016, the Department published in the *Federal Register* the notice of initiation of the seventh administrative review of the AD order on STR from the PRC with respect to 117 companies.⁵ On July 7, 2016, the Department published in the *Federal Register* a correction to the POR in the notice of initiation of the seventh administrative review.⁶ On September 12, 2016, the Department published in the *Federal Register* the notice of initiation with respect to an additional three companies that it inadvertently failed to include in the *Initiation Notice*.⁷ On September 21, 2016, the petitioner withdrew its request for review of 115 companies.⁸

On July 5, 2016, RMB/IFI submitted a no shipments letter. However, the entry data from U.S. Customs and Border Protection (CBP) indicated that RMB/IFI had subject entries to the United States during the POR. On July 28, 2016, the petitioner submitted deficiency comments regarding the separate rate application of Tianjin Star, requesting that the Department not grant Tianjin Star a separate rate because it had not established eligibility for a rate separate from the PRC-wide rate.⁹ On August 29, 2016, the Department selected RMB/IFI and New Oriental for individual examination, after limiting its examination due to the large number of companies for which it received requests for review and its resource constraints, and based on CBP data indicating that these two companies accounted for an overwhelming proportion of the volume of subject imports during the POR.¹⁰ On September 6, 2016, the Department issued AD questionnaires to RMB/IFI and New Oriental.¹¹ On September 14, 2016, New Oriental requested not to be chosen as a respondent, and made untimely comments regarding the CBP data.¹² On September 22, 2016, RMB/IFI provided the Department with additional information demonstrating that it did not have sales of subject merchandise to the United States during the POR.

On October 6, 2016, the Department issued a letter to New Oriental stating that it remained under review as a mandatory respondent.¹³ New Oriental did not respond to the AD questionnaire within the specified deadlines, request an extension of time to respond to the questionnaire, or otherwise communicate with the Department, after the Department stated that New Oriental remained a mandatory respondent.

³ See the petitioner's submission dated April 29, 2016.

⁴ See Tianjin Star submission dated May 2, 2016.

⁵ See *Initiation Notice*, 81 FR at 36272-74.

⁶ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 44265 (July 7, 2016) (*Initiation Notice 2*).

⁷ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 62720, 62726 (September 12, 2016) (*Initiation Notice 3*).

⁸ See the petitioner's submission dated September 21, 2016.

⁹ See the petitioner's submission dated July 28, 2016.

¹⁰ See Respondent Selection Memo dated August 29, 2016.

¹¹ See the Department's respective questionnaires to RMB/IFI and New Oriental, dated September 6, 2016.

¹² See New Oriental's Letter to the Secretary dated September 14, 2016.

¹³ See Letter to New Oriental dated October 6, 2016.

On October 7, 2016, Tianjin Star requested to be selected as a mandatory respondent, or in the alternative, as a voluntary respondent.¹⁴ However, Tianjin Star did not respond to the Department's AD questionnaire by the dates specified for the exporters that were initially selected for examination, *i.e.*, September 27 for Section A, and October 13 for Sections C and D. On November 9, 2016, the petitioner submitted comments, arguing that the Department should not select Tianjin Star as a mandatory or voluntary respondent.¹⁵

The Department has not rescinded its review of either mandatory respondent, and declines to select an additional mandatory respondent. Furthermore, the Department declines to accept Tianjin Star as a voluntary respondent where it has not met the statutory requirement of filing questionnaire responses specified for the exporters initially selected for examination.

On January 13, 2017, the Department placed certain CBP entry documents for RMB/IFI on the record and requested that RMB/IFI reconcile its no shipments letter and the CBP entry documentation.¹⁶ On January 26, 2017, RMB/IFI responded to the Department's request.¹⁷

Scope of the Order

The merchandise covered by the order is steel threaded rod. Steel threaded rod is certain threaded rod, bar, or studs, of carbon quality steel, having a solid, circular cross section, of any diameter, in any straight length, that have been forged, turned, cold-drawn, cold-rolled, machine straightened, or otherwise cold-finished, and into which threaded grooves have been applied. In addition, the steel threaded rod, bar, or studs subject to the order are non-headed and threaded along greater than 25 percent of their total length. A variety of finishes or coatings, such as plain oil finish as a temporary rust protectant, zinc coating (*i.e.*, galvanized, whether by electroplating or hot-dipping), paint, and other similar finishes and coatings, may be applied to the merchandise.

Included in the scope of the order are steel threaded rod, bar, or studs, in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 1.80 percent of manganese, or
- 1.50 percent of silicon, or
- 1.00 percent of copper, or
- 0.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 1.25 percent of nickel, or

¹⁴ See Tianjin Star's Request for Status of Mandatory Respondent, or Alternatively Voluntary Respondent dated October 7, 2016.

¹⁵ See the petitioner's submission dated November 9, 2016.

¹⁶ See Letter to RMB/IFI dated January 13, 2017.

¹⁷ See RMB/IFI's Comments on CBP Data dated January 26, 2017.

- 0.30 percent of tungsten, or
- 0.012 percent of boron, or
- 0.10 percent of molybdenum, or
- 0.10 percent of niobium, or
- 0.41 percent of titanium, or
- 0.15 percent of vanadium, or
- 0.15 percent of zirconium.

Steel threaded rod is currently classifiable under subheadings 7318.15.5051, 7318.15.5056, 7318.15.5090, and 7318.15.2095 of the United States Harmonized Tariff Schedule (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise is dispositive.

DISCUSSION OF THE METHODOLOGY

Partial Rescission

As noted above, on September 21, 2016, the petitioner withdrew its request for review on 115 companies.¹⁸ Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation. Because the Department corrected certain errors in the original *Initiation Notice*, the petitioner's withdrawal of the review request was submitted within the deadline set forth under 19 CFR 351.213(d)(1).¹⁹ Thus, all administrative review requests have been timely withdrawn for 115 companies. Accordingly, the Department is rescinding this review, in part, with respect to 115 companies, in accordance with 19 CFR 351.213(d)(1). As such, the following companies remain under review: New Oriental, RMB/IFI Group, Tianjin Star, Zhejiang Heiter Industries Co., Ltd. (Zhejiang Heiter Industries), and Zhejiang Heiter Mfg & Trade Co. Ltd. (Zhejiang Heiter Mfg).

No Shipments

On July 5, 2016, RMB/IFI Group filed a no-shipment certification indicating that it did not export subject merchandise to the United States during the POR. During the course of this review, the Department has examined this no shipments claim.

In order to examine this claim, and because the CBP entry data showed that RMB/IFI Group had entries of subject merchandise, we requested that CBP provide copies of the complete entry packages for the shipments identified for RMB/IFI during the POR.²⁰ As noted above, after receiving the entry packages, the Department issued a supplemental questionnaire to RMB/IFI requesting it to reconcile the information from the entry packages with its claim of no shipments.²¹ RMB/IFI commented on the CBP entry package data and provided information

¹⁸ See the petitioner's withdrawal of request on specific companies, dated September 21, 2016.

¹⁹ See *Initiation Notice 2 and Initiation Notice 3*.

²⁰ See Memorandum to Alexander Amdur: *Request for U.S. Entry Documents- Certain Steel Threaded Rod from the People's Republic of China*, dated November 28, 2016.

²¹ See Letter to RMB/IFI: No Shipments Supplemental Questionnaire dated January 13, 2017.

consistent with its no shipment certification.²² The petitioner submitted a letter to the Department to rebut, clarify, or correct the no shipment information filed by RMB/IFI.²³ The Department issued a second supplemental questionnaire to RMB/IFI for additional information and clarification.²⁴ On April 5, 2017, the Department received RMB/IFI's response, in which it stated that it did not make any sales of subject merchandise to the United States during the POR, and there is no evidence it did so.²⁵ The petitioner rebutted RMB/IFI's response to the supplemental questionnaire, stating that RMB/IFI knew or should have known that the shipments of STR to a party in a third country were destined for sale in the United States.²⁶

Based on the record evidence submitted, we preliminarily determine that RMB/IFI Group had no shipments during the POR. Specifically, a review of the CBP entry documentation, as well as RMB/IFI Group's responses, indicates that the entries attributed to it during the POR either pertain to non-subject merchandise, to a sale that the Department reviewed in the immediately preceding POR, or to merchandise sold to a party in a third country which subsequently re-sold it to the United States without RMB/IFI Group's prior knowledge.²⁷ Lastly, we find that it is appropriate not to rescind the review, in part, and to complete the review with respect to RMB/IFI Group, issuing appropriate instructions to CBP based on the final results of the review.²⁸ Per our NME reseller policy and given the record evidence that RMB/IFI Group had no shipments during, any subject merchandise entries attributed to RMB/IFI that entered during the POR would be assessed at the PRC-wide rate.²⁹ The one exception to this would be for one entry that record evidence shows pertained to a sale that RMB/IFI reported during the previous POR.³⁰ Should evidence contrary to RMB/IFI's no-shipments claim arise, we will pursue the issue in accordance with our governing statute and regulations.

NME Country Status

In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is a non-market economy (NME) country shall remain in effect until revoked by the Department.

²² See RMB/IFI's Comments on CBP Data dated January 26, 2017.

²³ See Vulcan's letter: Steel Threaded Rod from the People's Republic of China: Factual Information to Rebut, Clarify, or Correct RMB/IFI's Comments dated February 6, 2017.

²⁴ See Letter to RMB/IFI: Supplemental Questionnaire dated March 22, 2017.

²⁵ See RMB/IFI's Supplemental Questionnaire Response dated April 5, 2017.

²⁶ See the petitioner's Rebuttal Pre- Prelim Comments dated April 12, 2017.

²⁷ See Memorandum to the file, "Summary of Information Regarding Entries Attributed to IFI & Morgan Ltd. and RMB Fasteners Ltd.," dated concurrently with this memorandum. Additionally, contrary to the RMB/IFI Group's claim in its comments on the issue, the Department does in fact apply a knowledge test in NME cases. See, e.g., *Certain Steel Nails from the People's Republic of China: Final Results of the First Antidumping Duty Administrative Review*, 76 FR 16379 dated March 23, 2011. Nonetheless, that knowledge indicates that RMB/IFI Group did not know that certain merchandise it exported to the third country in question would subsequently be shipped to the United States.

²⁸ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694-65695 (October 24, 2011).

²⁹ *Id.*

³⁰ See, e.g., *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 81 FR 7750 (February 16, 2016) and accompanying Issues and Decision Memorandum at Comment 1 (where we the Department did not review a sale which was sold in the prior POR and entered in the current POR).

The Department considers the PRC to be an NME country.³¹ Therefore, we continue to treat the PRC as an NME country for purposes of these preliminary results.

Separate Rates

Pursuant to section 771(18)(C)(i) of the Act, a designation of a country as an NME remains in effect until it is revoked by the Department. Accordingly, there is a rebuttable presumption that all companies within an NME are subject to government control, and thus, should be assessed a single AD rate.³² In the *Initiation Notice*, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME proceedings.³³ It is the Department's policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in *Sparklers*,³⁴ as amplified by *Silicon Carbide*.³⁵ However, if the Department determines that a company is wholly foreign-owned by individuals or companies located in a market economy (ME), then a separate rate analysis is not necessary to determine whether it is independent from government control.³⁶

Separate Rate Applicant

The Department received a separate rate application from Tianjin Star, for which there is an outstanding review request, and for which there are entries during the POR:

A. Absence of *De Jure* Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments

³¹ For a full discussion of this practice, see *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

³² See *Notice of Final Determination of Sales at Less than Fair Value, and Affirmative Critical Circumstances, in Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079, 53082 (September 8, 2006); *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, 29307 (May 22, 2006).

³³ See *Initiation Notice*.

³⁴ 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).

³⁵ See *Silicon Carbide*, 59 FR at 22586.

³⁶ See, e.g., *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 73 FR 9278, 9284 (February 20, 2008), unchanged in *Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Final Affirmative Determination of Sale at Less than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40485 (July 15, 2008).

decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies.³⁷ The evidence submitted by Tianjin Star supports a preliminary finding of *de jure* absence of government control based on the following: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) there are applicable legislative enactments decentralizing control of the companies; and (3) there are formal measures by the government decentralizing control of companies.³⁸

B. Absence of *De Facto* Control

Typically the Department considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) whether the export prices (EPs) are set by or are subject to the approval of a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.³⁹ The Department determines that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude the Department from assigning separate rates.⁴⁰

The evidence provided by Tianjin Star, supports a preliminary finding of *de facto* absence of government control based on the following: (1) the company sets its own EPs independent of the government and without the approval of a government authority; (2) it has authority to negotiate and sign contracts and other agreements; (3) it has autonomy from the government in making decisions regarding the selection of management; and (4) there is no restriction on any of the company's use of export revenue.⁴¹ Although the petitioner initially questioned whether there were entries, we find that the CBP data on the record indicate that Tianjin Star had subject entries during the POR.⁴² However, an issue arose close to the preliminary results due date regarding a potential discrepancy between certain of Tianjin Star's entry documentation and the CBP entry documentation on the record. The exact nature of this potential discrepancy is business proprietary and is not subject to summarization. We intend to ask Tianjin Star for additional information about this issue after the preliminary results.

Dumping Margin for the Separate Rate Company Not Individually Examined: Tianjin Star

The statute and the Department's regulations do not directly address the establishment of a rate to be applied to companies not selected for individual examination where the Department limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. The Department's practice in cases involving limited selection based on exporters or producers accounting for the largest volumes of trade has been to look to section 735(c)(5) of the Act for

³⁷ See *Sparklers*, 56 FR at 20589.

³⁸ See *Separate Rate Application for Tianjin Star* dated July 6, 2016.

³⁹ See *Silicon Carbide*, 59 FR at 22586-87; see also *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544, 22545 dated May 8, 1995.

⁴⁰ *Id.*, 60 FR at 22544.

⁴¹ See *Separate Rate Application for Tianjin Star*, dated July 6, 2016.

⁴² The petitioner acknowledged this fact in their letter of November 9, 2016.

guidance, which provides instructions for calculating the all-others rate in an investigation. Section 735(c)(5)(A) of the Act instructs that we are not to calculate an all-others rate using any rates that are zero, *de minimis* or based entirely on facts available.

In accordance with the statute, the Department will normally assign to separate rate entities that were not individually examined a rate equal to the weighted average of the rates calculated for the individually examined respondents, excluding any rates that are zero, *de minimis*, or based entirely on facts available.⁴³ Where the rates for the individually examined companies are all zero, *de minimis*, or based entirely on facts available, section 735(c)(5)(B) of the Act also provides that the Department may use “any reasonable method” to establish the rate for separate rate entities, which may include averaging the dumping margins for individually examined respondents.⁴⁴ The Statement of Administration Action states that the “expected method is to weight-average margins provided that the volume data is available and the resulting average would be reflective of the dumping margins of other exporters or producers.”

However, as noted above, because of its failure to respond to the Department’s request for information, including separate rate information, the Department has determined that one mandatory respondent, New Oriental, is part of the PRC-wide entity. Also, as noted above, the Department preliminarily determines that the other mandatory respondent, RMB/IFI Group, had no shipments during the POR. Thus, apart from the PRC-wide entity rate information, which was not subject to review during this POR, there is no other POR margin information available for the Department to consider in assigning a margin for Tianjin Star.

In the absence of any calculated rates in this segment, we have reached back to the immediately preceding administrative review to establish a separate rate for the non-examined company, Tianjin Star.⁴⁵ In that review, we calculated an above-*de minimis* rate for one of the mandatory respondents.⁴⁶ Thus, the Department preliminarily finds that Tianjin Star should receive the 5.40 percent rate calculated for the *Sixth AR Final*.⁴⁷

Companies Considered as Part of the PRC-Wide Entity

New Oriental

⁴³ See, e.g., *Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 71 FR 77373, 77377 (December 26, 2006), unchanged in *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 19690 (April 19, 2007).

⁴⁴ See Section 735(c)(5)(B) of the Act.

⁴⁵ See, e.g., *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results and Partial Rescission of the Antidumping Duty Administrative Review; 2014-2015*, 81 FR 64131 (September 19, 2016) and accompanying Preliminary Decision Memorandum at “Dumping Margin for the Separate Rate Companies Not Individually Examined,” unchanged in *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results and Partial Rescission of Antidumping Duty Administrative Review; 2014-2015*, 82 FR 15181 (March 27, 2017).

⁴⁶ See *Certain Steel Threaded Rod from the People's Republic of China: Amended Final Results of the Antidumping Duty Administrative Review; 2014-2015*, 82 FR 1699 dated January 6, 2017 (*Sixth AR Final*).

⁴⁷ *Id.*

As noted above, New Oriental did not respond to the AD questionnaire, including Section A, which requests separate rate information, and therefore, it failed to rebut the presumption that it is subject to government control and did not demonstrate that it was entitled to a separate rate. Although New Oriental filed a Separate Rate Certification on July 5, 2016, per the separate criteria, exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.⁴⁸ Because New Oriental failed to submit complete separate rate information, we are unable to review whether it is eligible for a separate rate and, therefore, consider this company to be part of the PRC-wide entity. Because no review was requested of the PRC-wide entity, the pre-existing PRC-wide rate of 206.00 percent will apply to entries of New Oriental's subject merchandise into the United States during the POR.⁴⁹

Zhejiang Heiter Industries and Zhejiang Heiter Mfg

The petitioner did not withdraw its review request for Zhejiang Heiter Industries and Zhejiang Heiter Mfg. Because these companies did not apply for a separate rate, they are considered a part of the PRC-wide entity for their exports of subject merchandise exported to the United States during the POR. As noted above, because no review was requested of the PRC-wide entity, the pre-existing PRC-wide rate of 206.00 percent will apply to entries of the entity's subject merchandise into the United States during the POR.⁵⁰

RECOMMENDATION

We recommend applying the above methodology for these preliminary results.



Agree

Disagree

5/1/2017

X Ronald K. Lorentzen

Signed by: RONALD LORENTZEN

Ronald K. Lorentzen

Acting Assistant Secretary

for Enforcement and Compliance

⁴⁸ See *Initiation Notice*, 81 FR at 36269.

⁴⁹ See *Certain Steel Threaded Rod from the People's Republic of China: Final Results of the Antidumping Duty Administrative Review; 2014-2015*, 81 FR 83801 (November 22, 2016).

⁵⁰ *Id.*