

(2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

We will make our final determination no later than 135 days after the publication of this notice in the **Federal Register**.

This determination is published pursuant to sections 733(f) and 777(i) of the Act.

Dated: December 19, 2001.

**Bernard T. Carreau,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-869]

#### 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

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

**ACTION:** Notice of preliminary determination of sales at less than fair value.

**SUMMARY:** We preliminarily determine that structural steel beams from the People's Republic of China are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended.

Interested parties are invited to comment on this preliminary determination. Since we are postponing the final determination, we will make our final determination not later than 135 days after the date of publication of this preliminary determination in the **Federal Register**.

**EFFECTIVE DATE:** December 28, 2001.

**FOR FURTHER INFORMATION CONTACT:** Lyn Johnson or Richard Rimlinger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-5287 and (202) 482-4477, respectively.

#### SUPPLEMENTARY INFORMATION:

#### The Applicable Statue and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995,

the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (April 2001).

#### Preliminary Determination

We preliminarily determine that structural steel beams from the People's Republic of China ("PRC") are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Act. The estimated margins of sales at LTFV for the period of investigation ("POI"), October 1, 2000, through March 31, 2001, are shown in the "Suspension of Liquidation" section of this notice.

#### Background

On June 20, 2001, the Department of Commerce ("the Department") published in the **Federal Register** the *Notice of Initiation of Antidumping Duty Investigations: Structural Steel Beams from the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan* (66 FR 33048). The Department notified the U.S. Embassy in the PRC of the initiation of this investigation on June 12, 2001.

On July 9, 2001, the United States International Trade Commission ("ITC") preliminarily determined that there is a reasonable indication that imports of structural steel beams from the PRC are materially injuring the United States industry (see ITC Investigation Nos. 731-TA-935-942 (Publication No. 3438)).

On July 17, 2001, the Department issued its antidumping questionnaire to the Chinese Ministry of Foreign Trade & Economic Cooperation with a letter requesting that it forward the questionnaire to all Chinese exporters of structural steel beams who had shipments during the POI. We also sent courtesy copies of the antidumping questionnaire to the following possible producers/exporters of subject merchandise named in the petition: Chongqing Iron & Steel (Group Co. Ltd.), Fushun Special Steel Co. Ltd., Guangzhou Iron & Steel Holdings Ltd., Hangzhou Iron & Steel Group Co., Hefei Iron & Steel Co., Jinan Iron & Steel Group, Lingyuan Iron & Steel Group Co. Ltd., Maanshan Iron & Steel Co., Ltd ("Maanshan"), Shanghai Pudong Iron & Steel (Group) Co. Ltd., Taiyuan Iron & Steel (Group) Co. Ltd., and Wuhan Iron & Steel Group Co.

During the period August through November 2001, the Department received responses to sections A, C, and

D of the Department's original and supplemental questionnaires from Maanshan. We received no other responses to our questionnaire.<sup>1</sup>

On September 6, we requested publicly-available information for valuing the factors of production and comments on surrogate-country selection. We received comments from Maanshan and from the Committee for Fair Beam Imports ("petitioners") on November 29, 2001.

On September 25, 2001, pursuant to 19 CFR 351.205(e), the petitioners made a timely request to postpone the preliminary determination. We granted this request on October 2, 2001, and postponed the preliminary determination until no later than November 30, 2001. (*See Notice of Postponement of Preliminary Determinations of Sales at Less Than Fair Value: Structural Steel Beams from the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain and Taiwan*, 66 FR 51639 (October 10, 2001).) On October 30, 2001, the petitioners made another timely request to postpone the preliminary determination for an additional 19 days. We granted this request on October 31, 2001, and postponed the preliminary determination until no later than December 19, 2001. (*See Notice of Postponement of Preliminary Antidumping Duty Determinations: Structural Steel Beams from the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain and Taiwan*, 66 FR 56078 (November 6, 2001).)

#### Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Act, on December 13, 2001, Maanshan requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register** and extend the provisional measures to not more than six months. In accordance with 19 CFR 351.210(b), because (1) our preliminary determination is affirmative, (2) Maanshan accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling

<sup>1</sup> The Hangzhou Iron & Steel Group and the Jinan Iron & Steel Group notified the Department via facsimile on July 28, 2001, and August 2, 2001, respectively, that they had no shipments of the subject merchandise during the POI. The Department put this information on the administrative record of this proceeding.

reasons for denial exist, we are granting the respondent's request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

### Scope of Investigation

The scope of this investigation covers doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated, or clad. These structural steel beams include, but are not limited to, wide-flange beams ("W" shapes), bearing piles ("HP" shapes), standard beams ("S" or "I" shapes), and M-shapes. All the products that meet the physical and metallurgical descriptions provided above are within the scope of this investigation unless otherwise excluded. The following products are outside and/or specifically excluded from the scope of this investigation: (1) structural steel beams greater than 400 pounds per linear foot, (2) structural steel beams that have a web or section height (also known as depth) over 40 inches, and (3) structural steel beams that have additional weldments, connectors, or attachments to I-sections, H-sections, or pilings; however, if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector, or attachment.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheadings 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7228.70.3040, and 7228.70.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

### Scope Comments

In accordance with the preamble to our regulations (*see Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997)), we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of

publication of the *Initiation Notice* (*see* 66 FR 33048–33049). Interested parties submitted such comments by July 10, 2001. Additional comments were subsequently submitted by interested parties.

Pursuant to the Department's solicitation of scope comments in the *Initiation Notice*, interested parties in this and the concurrent structural steel beams investigations request that the following products be excluded from the scope of the investigations: (1) beams of grade A913/65 and (2) forklift mast profiles.

With respect to the scope-exclusion requests for the A913/65 beam and forklift mast profiles, the interested parties rely upon 19 CFR 351.225(k)(2) and reason that, in general, these products differ from the structural steel beams covered by the scope of the investigations in terms of physical characteristics, ultimate uses, purchaser expectations, channels of trade, manner of advertising and display and/or price. They also argue that these products are not produced by the petitioners.

In considering whether these products should be included within the scope of the investigations, we analyzed the arguments submitted by all of the interested parties in the context of the criteria enumerated in the court decision *Diversified Products Corp. v. United States*, 572 F. Supp. 883, 889 (CIT 1983) ("*Diversified*"). For these analyses, we relied upon the petition, the submissions by all interested parties, the International Trade Commission's ("ITC") preliminary determination, and other information.

After considering the respondent's comments and the petitioners' objections to the exclusion requests regarding the A913/65 beam, we find that the description of this grade of structural steel beam is dispositive such that further consideration of the criteria provided in their submissions is unnecessary. Furthermore, the description of the merchandise contained in the relevant submissions pertaining to this grade of beam does not preclude this product from being within the scope of the investigations. Accordingly, we preliminarily determine that the A913/65 beam does not constitute a separate class or kind of merchandise and, therefore, falls within the scope as defined in the petition.

With respect to forklift mast profiles, having considered the comments we received from the interested parties and the criteria enumerated in *Diversified*, we find that the profiles in question, being doubly-symmetric and having an I-shape, fall within the scope of the investigations. These profiles also meet

the other criteria included in the scope language contained in the petition. While the description by the interested party requesting the exclusion indicates some differences, such as in price, between forklift mast profiles and structural steel beams, these differences are not sufficient to recognize forklift mast profiles as a separate class or kind of merchandise. However, given these differences between forklift mast profiles and structural steel beams, we preliminarily determine that forklift mast profiles should be separately identified for model-matching purposes.

We also received a scope-exclusion request by an interested party for fabricated steel beams. This request was subsequently withdrawn pursuant to an agreement with the petitioners to clarify the scope language by adding that "\* \* \* beams that have additional weldments, connectors or attachments to I-sections, H-sections, or pilings are outside the scope definition." However, "\* \* \* if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector or attachment." Accordingly, we modified the scope definition to account for this clarification. *See* the "Scope" section above.

We have addressed these scope-exclusion requests in detail in a Memorandum to Louis Apple and Laurie Parkhill, Directors, AD/CVD Enforcement Group I, Offices 2 and 3, respectively, from The Structural Steel Beams Teams Re: Scope Exclusion Requests, dated December 19, 2001.

### Period of Investigation

The POI is October 1, 2000, through March 31, 2001.

### Non-Market-Economy Country Status

The Department has treated the PRC as a non-market-economy ("NME") country in all past antidumping investigations (*see, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Bulk Aspirin From the People's Republic of China*, 65 FR 33805 (May 25, 2000), and *Notice of Final Determination of Sales at Less Than Fair Value: Certain Non-Frozen Apple Juice Concentrate from the People's Republic of China*, 65 FR 19873 (April 13, 2000)). A designation as an NME remains in effect until it is revoked by the Department (*see* section 771(18)(C) of the Act). The respondents in this investigation have not requested a revocation of the PRC's NME status. We have, therefore, preliminarily

determined to continue to treat the PRC as an NME country.

When the Department is investigating imports from an NME, section 773(c)(1) of the Act directs us to base the normal value ("NV") on the NME producer's factors of production, valued in a comparable market economy that is a significant producer of comparable merchandise. The sources of individual factor prices are discussed under the "Normal Value" section, below. Furthermore, no interested party has requested that we treat the structural steel beams industry in the PRC as a market-oriented industry and no information has been provided that would lead to such a determination. Therefore, we have preliminarily continued to treat the PRC as an NME.

### Separate Rates

It is the Department's policy to assign all exporters of merchandise subject to investigation in an NME country a single rate, unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. Maanshan has provided the requested company-specific separate-rates information and has indicated that there is no element of government ownership or control. Based on Maanshan's claim, we considered whether it is eligible for a separate rate.

The Department's separate-rate test is unconcerned, in general, with macroeconomic/ border-type controls (e.g., export licenses, quotas, and minimum export prices), particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. See *Certain Cut-to-Length Carbon Steel Plate from Ukraine: Final Determination of Sales at Less than Fair Value*, 62 FR 61754, 61757 (Nov. 19, 1997); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 61276, 61279 (Nov. 17, 1997); and *Honey from the People's Republic of China: Preliminary Determination of Sales at Less than Fair Value*, 60 FR 14725, 14726 (Mar. 20, 1995).

To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991), as modified by *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*). Under the separate-rates criteria, the Department assigns separate rates in NME cases only if the NME respondents can demonstrate the absence of both de jure and de facto governmental control over export activities. See *Silicon Carbide and Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22545 (May 8, 1998).

#### 1. 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 decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies.

Maanshan has placed on the record a number of documents to demonstrate absence of de jure control, including the "Foreign Trade Law of the People's Republic of China" and the "Company Law of the People's Republic of China." In prior cases, the Department has analyzed these laws and found that they establish an absence of de jure control. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Certain Partial-Extension Steel Drawer Slides with Rollers from the People's Republic of China*, 60 FR 54472, 54474 (October 24, 1995). We have no information in this proceeding which would cause us to reconsider this determination.

#### 2. Absence of De Facto Control

The Department typically considers four factors in evaluating whether each respondent is subject to de facto governmental control of its export functions: (1) Whether the export prices are set by, or subject to, the approval of a governmental authority; (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 its 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.

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in

the PRC. See *Silicon Carbide*. Therefore, the Department has determined that an analysis of de facto control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

Maanshan asserted the following: (1) There is no government participation in setting export prices; (2) its managers have authority to bind sales contracts; (3) it does not have to notify any government authorities of its management selection, and (4) there are no restrictions on the use of its export revenue and it is responsible for financing its own losses. Additionally, Maanshan's questionnaire response does not suggest that pricing is coordinated among exporters. Furthermore, our analysis of Maanshan's questionnaire response reveals no other information indicating government control.

The petitioners in this case argue that, because Maanshan is 63 percent owned by a holding company which is, in turn, wholly owned by the Anhui provincial government, and because certain managers of the holding company also serve on the board of directors of Maanshan, the respondent is ineligible for a separate rate due to potential government control. However, the petitioners have not submitted any specific evidence indicating that the conditions for de facto control exist. As stated in the *Silicon Carbide*, 59 FR at 22587, ownership of the company by a state-owned enterprise does not require the application of a single rate. Therefore, based on the information provided, we preliminarily determine that there is an absence of de facto governmental control of Maanshan's export functions. Consequently, we preliminarily determine that the respondent has met the criteria for the application of a separate rate.

### The PRC-Wide Rate

In NME cases, it is the Department's policy to make a rebuttal presumption that all exporters located in the NME comprise a single exporter under common control, the "NME entity." The Department assigns a single NME rate to the NME entity unless an exporter can demonstrate eligibility for a separate rate. All exporters were given the opportunity to respond to the Department's questionnaire. As explained above, we received timely Section A responses from Maanshan. Our review of U.S. import statistics, however, reveals that Maanshan did not account for all imports of subject merchandise into the United States from

the PRC. For this reason, we preliminarily determine that some PRC exporters of structural steel beams failed to respond to our questionnaire. Consequently, we are applying adverse facts available (see below) to determine the single antidumping rate—the PRC-wide rate-applicable to all other exporters in the PRC based on our presumption that those respondents who failed to demonstrate entitlement to a separate rate constitute a single enterprise under common control by the Chinese government. *See, e.g., Final Determination of Sales at Less Than Fair Value: Synthetic Indigo from the People's Republic of China*, 65 FR 25706, 25707 (May 3, 2000). The PRC-wide rate applies to all entries of subject merchandise except for entries from Maanshan.

#### Use of Facts Otherwise Available

Section 776(a) of the Act provides that, if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form or manner requested, significantly impedes a proceeding under the antidumping statute, or provides information which cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination. Pursuant to section 782(e) of the Act, the Department shall not decline to consider submitted information if that information is necessary to the determination but does not meet all of the requirements established by the Department provided that all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties. Section 776(a)(2)(B) of the Act requires the Department to use facts available when a party does not provide the Department with information by the established deadline or in the form and manner requested by the Department. In addition, section 776(b) of the Act provides that, if the Department finds that an interested party “has failed to cooperate by not acting to the best of its ability to comply with a request for information,” the Department may use information that is adverse to the interests of that party as facts otherwise available. Adverse inferences are appropriate “to ensure

that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.” *See* Statement of Administrative Action (SAA) accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2d Session at 870 (1994). Furthermore, “an affirmative finding of bad faith on the part of the respondent is not required before the Department may make an adverse inference.” *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27340 (May 19, 1997).

An adverse inference may include reliance on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record. *See* section 776(b) of the Act. However, section 776(c) provides that, when the Department relies on secondary information rather than on information obtained in the course of a review, the Department shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. The SAA states that the independent sources may include published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation or review. *See* SAA at 870. The SAA clarifies that “corroborate” means that the Department will satisfy itself that the secondary information to be used has probative value. *Id.* As noted in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.

In the case of the single Chinese enterprise, as explained above, some exporters of the subject merchandise failed to respond to the Department's request for information. Pursuant to section 776(a) of the Act, in reaching our preliminary determination, we have used total facts available for the PRC-wide rate because certain entities did not respond. Also, the complete failure of these exporters to respond to the Department's requests for information constitutes a failure to cooperate to the best of their ability. Therefore, pursuant to section 776(b) of the Act, the Department preliminarily finds that, in selecting from among the facts available, an adverse inference is appropriate.

In selecting from among the facts otherwise available and using an adverse inference, we reviewed the information provided in the petition and in the response submitted by Maanshan. For export price, the petition contained price quotations which the petitioners obtained from a PRC producer of subject merchandise. We corroborated the petitioners' price quotations with data submitted by Maanshan in its questionnaire response. The price quotations fell within the range of export prices reported by Maanshan and are therefore reliable and relevant.

For normal value, we attempted to corroborate the petitioners' factors-of-production data. However, due to different reporting formats and factor groupings by the petitioners and the respondent, we were unable to reconcile the two sets of factors of production for corroboration purposes. Therefore, as facts available we preliminarily used the factors of production reported by Maanshan and applied the valuations which we used to calculate normal value for Maanshan. Using this data we calculated an all-PRC rate of 177.21 percent. *See* the Facts-Available Decision Memo dated December 19, 2001, in Central Records for a comprehensive explanation of how we corroborated this rate.

#### Fair Value Comparisons

To determine whether sales of structural steel beams to the United States by Maanshan were made at less than fair value, we compared export price to NV, as described in the “Export Price” and “Normal Value” sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average export prices. We calculated weighted-average NVs.

#### Export Price

In accordance with section 772(a) of the Act, we used export price (“EP”) because the subject merchandise was sold directly to unaffiliated customers in the United States prior to importation and because constructed export price was not otherwise indicated. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average EPs to the NVs. We calculated EP based on prices to unaffiliated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight and brokerage and handling. Because certain domestic charges, such as those for foreign inland freight and brokerage and handling, were provided by NME companies, we valued those

charges based on surrogate rates from India. See the Factors-of-Production Valuation Memorandum, dated December 19, 2001 ("FOP Memorandum").

## Normal Value

### 1. Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production, valued in a surrogate market-economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, the Department, in valuing the factors of production, shall utilize, to the extent possible, the prices or costs of factors of production in one or more market-economy countries that are at a level of economic development comparable to the NME country and are significant producers of comparable merchandise. The sources of the surrogate factor values are discussed under the NV section below.

The Department has determined that India, Pakistan, Indonesia, Sri Lanka and the Philippines are countries comparable to the PRC in terms of economic development. See Memorandum from Jeffrey May to Laurie Parkhill, dated August 31, 2001. Customarily, we select an appropriate surrogate based on the availability and reliability of data from these countries. For PRC cases, the primary surrogate has often been India if it is a significant producer of comparable merchandise. In this case, we have found that India is a significant producer of comparable merchandise. We used India as the primary surrogate country and, accordingly, we have calculated NV using Indian prices to value the PRC producer's factors of production, when available and appropriate. We have obtained and relied upon publicly available information wherever possible. See FOP Memorandum. In accordance with 19 CFR 351.301(c)(3)(i), for the final determination in an antidumping investigation, interested parties may submit publicly available information to value the factors of production within 40 days after the date of publication of this preliminary determination.

### 2. Factors of Production

Section 773(c)(1) of the Act provides that the Department shall determine the NV using a factors-of-production methodology if: (1) The merchandise is exported from an NME country; and (2) the information does not permit the

calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. Factors of production include: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. We used factors of production, reported by respondent, for materials, energy, labor, by-products, and packing. We valued all the input factors using publicly available published information, as discussed in the "Surrogate Country" and "Factor Valuations" sections of this notice. In accordance with 19 CFR 351.408(c)(1), where a producer sources an input from a market economy and pays for it in market-economy currency, the Department employs the actual price paid for the input to calculate the factors-based NV. See also *Lasko Metal Products v. United States*, 437 F.3d 1442, 1445–1446 (Fed. Cir. 1994) ("*Lasko*"). Therefore, where Maanshan had market-economy inputs and paid for these inputs in a market-economy currency, we used the actual prices paid for those inputs in our calculations.

### 3. Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by respondents for the POI. To calculate NV, the reported per-unit factor quantities were multiplied by publicly available Indian surrogate values (except as noted below). In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. For a detailed description of all surrogate values used for respondents, see FOP Memorandum.

Citing *Sebacic Acid from the People's Republic of China, Final Results of Antidumping Duty Administrative Review*, 62 FR 65678 (December 15, 1997), Maanshan argued in its October 9, 2001, surrogate-value submission that the Department should make deductions from domestic prices to ensure that they are exclusive of India's central sales tax, any state sales tax, and any government-imposed statutory levies. However, there were no instances in which we had to use surrogate values that included such taxes or levies.

We added to Indian import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory. This adjustment is in accordance with the decision in *Sigma*

*Corporation v. United States*, 117 F.3d 1401, 1407–08 (Fed. Cir. 1997).

For those Indian Rupee values not contemporaneous with the POI, we adjusted for inflation using wholesale price indices published in the International Monetary Fund's *International Financial Statistics* for India. For those U.S. dollar-denominated values not contemporaneous with the POI, we adjusted for inflation using producer price indices published in the International Monetary Fund's *International Financial Statistics* for the United States.

Except as noted below, we valued raw-material inputs using the weighted-average unit import values derived from the *Monthly Trade Statistics of Foreign Trade of India—Volume II—Imports* ("Indian Import Statistics") for the time period April 2000, through February 2001. Where POI-specific Indian Import Statistics were not available, we used Indian Import Statistics from an earlier period (i.e., April 1, 1999, through March 31, 2000). Although surrogate-value data or sources to obtain such data were provided by the respondent or the petitioners, in some cases we found that the Indian Import Statistics provided more contemporaneous data.

Maanshan argued that, since it generated its own electricity and produced other energy material inputs during the POI (argon, nitrogen and oxygen) in sufficient quantities to cover its needs in the manufacture of the subject merchandise during the POR, the Department should value these inputs using factors of production for items used by Maanshan in the production of these inputs. The petitioners argued that the Department should reject Maanshan's claim because the Department would have to calculate a number of additional factors to evaluate each upstream factor of production used in subject merchandise correctly. Consistent with our approach in *Notice of 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), we valued the respondent's inputs through the use of surrogate valuation, rather than based on surrogate valuation of the factors going into the production of those inputs. The respondent's methodology would add needless complications to our calculation of NV and lead to potentially erroneous results. Therefore, as the basis for valuing electricity, we have relied on the 1997 data published in the International Energy Agency's publication, *Energy Prices and Taxes*,

Third Quarter, 2000, and adjusted the amount for inflation. As the basis for valuing argon, nitrogen, and oxygen, we have relied on 1999 data from *UN Trade Commodity Statistics (UNTCS)*, United Nations. We also valued bentonite and coal tar using the data from the UNTCS.

Furthermore, we used a website ([www.indiaonline.com](http://www.indiaonline.com)) providing market prices for natural gas in 2000 to calculate a percentage of Maanshan-produced gas to natural gas and derive a surrogate value for gas. We valued water based on data from the Asian Development Bank's *Second Water Utilities Data Book: Asian and Pacific Region* (published in 1997).

Maanshan purchased iron ore from market-economy suppliers during the POI, one of which was an affiliate. We compared the price paid to the affiliated supplier with the prices paid to the unaffiliated market-economy suppliers and found that the price from the affiliated supplier was within the same range as those from the unaffiliated market-economy suppliers. Therefore, we used the weighted-average price reported by Maanshan.

The only input Maanshan reported for packing was steel strap. We used Indian Import Statistics data for the POI to value this input.

To value truck rates, we used freight costs based on price quotes obtained by the Department in November 1999 from trucking companies in India. For rail transportation, we valued rail rates using information published by the Indian Railway Conference Association in June 1998, as adjusted for inflation.

To value marine insurance and brokerage and handling we used a publicly summarized version of the average value for marine insurance expenses and brokerage and handling expenses reported in *Certain Stainless Steel Wire Rod from India; Final Results of Antidumping Duty Administrative and New Shipper Reviews*, 64 FR 856 (January 6, 1999).

To value factory overhead, and selling, general and administrative expenses and profit, we used rates based on financial information from an Indian integrated steel producer, Tata, a producer of subject merchandise whose March 2000 financial statement was provided by the petitioners in an October 9, 2001, submission.

For labor, consistent with 19 CFR 351.408(c)(3), we used the PRC regression-based wage rate at the Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in May 2000 ([see http://ia.ita.doc.gov/wages](http://ia.ita.doc.gov/wages)). The source of the wage rate data on the Import Administration's web site is the

1999 Year Book of Labour Statistics, International Labor Organization (Geneva: 1999), Chapter 5B: Wages in Manufacturing.

#### Verification

As provided in section 782(i)(1) of the Act, we intend to verify all company information relied upon in making our final determination.

#### Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average percentage margin
Maanshan Iron & Steel Co., Ltd. ....	159.60
China-Wide .....	117.21

#### ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

#### Public Comment

Case briefs for this investigation must be submitted to the Department no later than seven days after the date of the final verification report issued in this proceeding. Rebuttal briefs must be filed five days from the deadline date for case briefs. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, any hearing will be held two days after the rebuttal brief deadline date at the U.S. Department of

Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this notice. See 19 CFR 351.310(c). Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

We will make our final determination no later than 135 days after the publication of this notice in the **Federal Register**.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: December 19, 2001.

**Bernard T. Carreau,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 01-31981 Filed 12-27-01; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-583-838]

#### Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Structural Steel Beams From Taiwan

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

**ACTION:** Notice of preliminary determination of sales at less than fair value.

**SUMMARY:** We preliminarily determine that structural steel beams from Taiwan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended.

Interested parties are invited to comment on this preliminary determination. Since we are postponing the final determination, we will make our final determination not later than 135 days after the date of publication of this preliminary determination in the **Federal Register**.

**EFFECTIVE DATE:** December 28, 2001.