



UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

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March 7, 2016

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh. *CM*
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results of Antidumping
Duty Administrative Review: Silicon Metal from the People's
Republic of China; 2014-2015

Summary

In response to requests from interested parties, the Department of Commerce ("Department") is conducting an administrative review of the antidumping duty order on silicon metal from the People's Republic of China ("PRC") for the period of review ("POR") June 1, 2014, through May 31, 2015. This review covers two companies, Shanghai Jinneng International Trade Co. Ltd. ("Shanghai Jinneng") and Shanghai Jinfeng Hardware Plastics Co. Ltd. ("Shanghai Jinfeng").¹ Neither Shanghai Jinneng nor Shanghai Jinfeng filed a separate rate application nor filed a separate rate certification with the Department, and thus neither company established its eligibility for separate rate status. Therefore, the Department has preliminarily treated Shanghai Jinneng and Shanghai Jinfeng as part of the PRC-wide entity.

If these preliminary results of review are adopted in our final results of 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. Interested parties are invited to comment on the preliminary results of review. We intend to issue the final results of this review 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") and 19 CFR 351.213(h).

¹ See Initiation of Antidumping and Countervailing Duty Administrative Reviews, 80 FR 45947 (August 3, 2015) ("Initiation Notice").



Background

On June 1, 2015, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on silicon metal from the PRC.² On June 30, 2015, Globe Metallurgical Inc. (“Petitioner”) requested a review of Shanghai Jinneng and Shanghai Jinfeng.³ On August 3, 2015, the Department initiated a review of these two companies.⁴

On August 11, 2015, the Department sent the antidumping duty questionnaire to Shanghai Jinneng and Shanghai Jinfeng.⁵ Although both Shanghai Jinneng and Shanghai Jinfeng received the Department’s antidumping duty questionnaire,⁶ neither responded to any section of the questionnaire, nor did either provide a separate rate certification, a separate rate application, or a statement of no-shipments.

The Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal Government because of Snowstorm “Jonas”. Thus, all of the deadlines in this segment of the proceeding have been extended by four business days. The revised deadline for the preliminary results of review is now March 7, 2016.⁷

Scope of the Order

The merchandise covered by this review is silicon metal containing at least 96.00 percent, but less than 99.99 percent of silicon by weight. Also covered by this review is silicon metal containing between 89.00 and 96.00 percent silicon by weight but which contains a higher aluminum content than the silicon metal containing at least 96.00 percent but less than 99.99 percent silicon by weight (58 FR 27542, May 10, 1993). Silicon metal is currently provided for under subheadings 2804.69.10 and 2804.69.50 of the Harmonized Tariff Schedule (“HTS”) as a chemical product, but is commonly referred to as a metal. Semiconductor-grade silicon (silicon metal containing by weight not less than 99.99 percent of silicon and provided for in subheading 2804.61.00 of the HTS) is not subject to this order. Although the HTS numbers are provided for convenience and customs purposes, the written description remains dispositive.

² See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review, 80 FR 31017 (June 1, 2015).

³ See Letter from Petitioner to the Department of Commerce, Re: “Silicon Metal From the People’s Republic of China: Request for 2014-2015 Administrative Review,” dated June 30, 2015.

⁴ See Initiation Notice.

⁵ See Letter from the Department to Shanghai Jinneng, dated August 11, 2015; see also Letter from the Department to Shanghai Jinfeng, dated August 11, 2015.

⁶ See Memorandum from Krishna Hill to the File, Re: “FEDEX Delivery Confirmations,” dated August 17, 2015.

⁷ See Memorandum to the Record from Ron Lorentzen, Acting Assistant Secretary for Enforcement & Compliance, regarding “Tolling of Administrative Deadlines as a Result of the Government Closure during Snowstorm Jonas,” dated January 27, 2016.

DISCUSSION OF THE METHODOLOGY

Non-Market Economy Country Status

The Department considers the PRC to be a non-market economy (“NME”) country.⁸ In accordance with section 771(18)(C)(i) of the Tariff Act of 1930, as amended (“the Act”), any determination that a country is an NME country shall remain in effect until revoked by the administering authority.⁹ None of the parties to this proceeding contested NME treatment for the PRC. Therefore, for the preliminary results of this review, we treated the PRC as an NME country and applied our current NME methodology in accordance with section 773(c) of the Act.

PRC-wide Entity

In proceedings involving 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 cash deposit rate.¹⁰ It is the Department’s policy to assign all exporters of merchandise subject to an administrative review involving 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.

In the Initiation Notice, we stated that “{a}ll firms listed below {(companies for which we initiated administrative reviews)} that wish to qualify for separate rate status in the administrative reviews involving NME countries *must* complete, as appropriate, either a separate rate application or certification, as described below” (emphasis added).¹¹ Separate applications and separate rate certifications were due to the Department within 30 calendar days of the publication of the Initiation Notice. Shanghai Jinneng and Shanghai Jinfeng neither filed a separate rate application nor filed a separate rate certification with the Department. Therefore, neither Shanghai Jinneng nor Shanghai Jinfeng has established eligibility for separate rate status. Thus, we are treating both Shanghai Jinneng and Shanghai Jinfeng as part of the PRC-wide entity. Because no review was requested of the PRC-wide entity, we are not conducting an administrative review of that entity. If, in the final results of review, the Department continues to find that both companies are part of the PRC-wide entity, the pre-existing PRC-wide rate of

⁸ See, e.g., Fresh Garlic from the People’s Republic of China: Preliminary Results of the 2009-2010 Antidumping Duty Administrative Review, 76 FR 76375 (December 7, 2011), unchanged in Fresh Garlic from the People’s Republic of China: Final Results of the 2009-2010 Administrative Review of the Antidumping Duty Order, 77 FR 34346 (June 11, 2012).

⁹ See Brake Rotors from the People’s Republic of China: Preliminary Results and Partial Rescission of the 2004-2005 Administrative Review and Preliminary Notice of Intent To Rescind the 2004-2005 New Shipper Review, 71 FR 26736 (May 8, 2006), unchanged in Brake Rotors from the People’s Republic of China: Final Results and Partial Rescission of the 2005-2005 Administrative Review and Notice of Rescission of 2004-2005 New Shipper Review, 71 FR 66304 (November 14, 2006).

¹⁰ See Initiation Notice, 78 FR 79393 (August 3, 2015).

¹¹ Id.

139.49 percent¹² will apply to entries of their subject merchandise into the United States during the POR.¹³

RECOMMENDATION

We recommend applying the above methodology for the preliminary results of review.



Agree

Disagree



Paul Piquado
Assistant Secretary
for Enforcement & Compliance

7 MARCH 2016

(Date)

¹² See Final Determination of Sales at Less Than Fair Value: Silicon Metal From the People's Republic of China, 56 FR 18570 (April 23, 1991).

¹³ See also Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings, 78 FR 65963, 65969-70 (Nov. 4, 2013) (explaining the change in practice with respect to review of the NME entity).