

*Export Trade*

## 1. Products

All Products.

## 2. Services

All Services.

## 3. Technology Rights

Technology rights, including, but not limited to, patents, trademarks, copyrights, and trade secrets that relate to Products and Services.

## 4. Export Trade Facilitation Services (as They Relate to the Export of Products, Services and Technology Rights)

Export Trade Facilitation Services, including, but not limited to, professional services in the areas of government relations and assistance with state and federal programs; foreign trade and business protocol; consulting; market research and analysis; collection of information on trade opportunities; marketing; negotiations; joint ventures; shipping; export management; export licensing; advertising; documentation and services related to compliance with customs requirements; insurance and financing; trade show exhibitions; organizational development; management and labor strategies; transfer of technology; transportation services; and facilitating the formation of shippers' associations.

*Export Markets*

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

*Export Trade Activities and Methods of Operation*

1. With respect to the sale of Products and Services, licensing of Technology Rights, and provision of Export Trade Facilitation Services, GTI may:

a. Provide and/or arrange for the provision of Export Trade Facilitation Services;

b. Engage in promotional and marketing activities and collect information on trade opportunities in the Export Markets and distribute such information to clients;

c. Enter into exclusive and/or non-exclusive licensing and/or sales agreements with Suppliers for the export of Products, Services, and/or Technology Rights to Export Markets;

d. Enter into exclusive and/or non-exclusive arrangements with

distributors and/or sales representatives in Export Markets;

e. Allocate export sales or divide Export Markets among Suppliers for the sale and/or licensing of Products, Services, and/or Technology Rights;

f. Allocate export orders among Suppliers;

g. Establish the price of Products, Services, and/or Technology Rights for sales and/or licensing in Export Markets;

h. Negotiate, enter into, and/or manage licensing agreements for the export of Technology Rights; and

i. Enter into contracts for shipping of Products to Export Markets.

2. GTI may exchange information on a one-to-one basis with individual Suppliers regarding that Supplier's inventories and near-term production schedules for the purpose of determining the availability of Products for export and coordinating export with distributors.

*Terms and Conditions of Certificate*

1. GTI, including its officers, employees or agents, shall not intentionally disclose, directly or indirectly, to any Supplier (including parent companies, subsidiaries, or other entities related to any Supplier) any information about any other Supplier's costs, production, capacity, inventories, domestic prices, domestic sales, terms of domestic marketing or sale, or U.S. business plans, strategies, or methods unless such information is already generally available to the trade or public.

2. GTI will comply with requests made by the Secretary of Commerce on behalf of the Secretary or the Attorney General for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary believes that the information or documents are required to determine that the Export Trade, Export Trade Activities and Methods of Operation of a person protected by this Certificate of Review continue to comply with the standards of Section 303(a) of the Act.

*Definition*

"Supplier" means a person who produces, provides, or sells Products, Services, and/or Technology Rights.

Dated: April 24, 2008.

**Jeffrey Anspacher,**

*Director, Export Trading Company Affairs.*

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**DEPARTMENT OF COMMERCE****International Trade Administration**

**A-570-891**

**Hand Trucks and Certain Parts Thereof from the People's Republic of China: Preliminary Results of 2006-2007 Semi-Annual New Shipper Review**

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

**SUMMARY:** In response to a request from New-Tec Integration (Xiamen) Co., Ltd. ("New-Tec"), the U.S. Department of Commerce ("the Department") is conducting a new shipper review of the antidumping duty order on hand trucks and certain parts thereof from the People's Republic of China ("PRC"). The period of review ("POR") is December 1, 2006, through May 31, 2007.

We have preliminarily determined that sales have not been made below normal value ("NV") by New-Tec. If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on entries of subject merchandise during the POR for which the importer-specific assessment rates are above *de minimis*.

We invite interested parties to comment on these preliminary results. Parties who submit comments are requested to submit with each argument a statement of the issue and a brief summary of the argument. We will issue the final results no later than 90 days from the date of this notice.

**EFFECTIVE DATE:** April 30, 2008.

**FOR FURTHER INFORMATION CONTACT:**

Eugene Degnan or Robert Bolling, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0414 and (202) 482-3434, respectively.

**SUPPLEMENTARY INFORMATION:****Background**

The Department published an antidumping duty order on hand trucks and certain parts thereof from the PRC on December 2, 2004. *See Notice of Antidumping Duty Order: Hand Trucks and Certain Parts Thereof From the People's Republic of China*, 69 FR 70122 (December 2, 2004). On July 2, 2007, we received a timely request for a new shipper review from New-Tec. On July 23, 2007, New-Tec amended its request to correct a typographical error.

Pursuant to section 751(a)(2)(B) of the Tariff Act of 1930, as amended (“the Act”), and 19 CFR 351.214(d)(1), we initiated a new shipper review for shipments of hand trucks and certain parts thereof from the PRC.

On August 2, 2007, the Department published a notice of the initiation of a new shipper review of New-Tec. *See Hand Trucks and Certain Parts Thereof From the People's Republic of China: Initiation of New Shipper Review*, 72 FR 42392 (August 2, 2007).

On August 30, 2007, we issued an antidumping duty questionnaire to New-Tec. In September and October 2007, we received New-Tec's responses to our questionnaire. From February to March 2008, the Department issued supplemental questionnaires to New-Tec and received timely responses. Additionally, from December 2007 through January 2008, Petitioners (Gleason Industrial Products, Inc. and Precision Products, Inc.) submitted comments on New-Tec's questionnaire and supplemental questionnaire responses.

On January 29, 2008, we extended the deadline for the issuance of the preliminary results of this new shipper review until April 21, 2008. *See Hand Trucks and Certain Parts Thereof From the People's Republic of China: Extension of Time Limit for the Preliminary Results of New Shipper Review*, 73 FR 5176 (January 29, 2008).

On March 5, 2008, New-Tec submitted comments on the appropriate surrogate values (“SVs”) to be applied to the factors of production (“FOPs”) in this review. On March 13, 2008, New-Tec submitted a supplemental response to its original SV submission to correct an error of submission.

#### Period of Review

The POR is December 1, 2006, through May 31, 2007.

#### Scope of Order

The product covered by this order consists of hand trucks manufactured from any material, whether assembled or unassembled, complete or incomplete, suitable for any use, and certain parts thereof, namely the vertical frame, the handling area and the projecting edges or toe plate, and any combination thereof.

A complete or fully assembled hand truck is a hand-propelled barrow consisting of a vertically disposed frame having a handle or more than one handle at or near the upper section of the vertical frame; at least two wheels at or near the lower section of the vertical frame; and a horizontal projecting edge or edges, or toe plate, perpendicular or

angled to the vertical frame, at or near the lower section of the vertical frame. The projecting edge or edges, or toe plate, slides under a load for purposes of lifting and/or moving the load.

That the vertical frame can be converted from a vertical setting to a horizontal setting, then operated in that horizontal setting as a platform, is not a basis for exclusion of the hand truck from the scope of this petition. That the vertical frame, handling area, wheels, projecting edges or other parts of the hand truck can be collapsed or folded is not a basis for exclusion of the hand truck from the scope of the petition. That other wheels may be connected to the vertical frame, handling area, projecting edges, or other parts of the hand truck, in addition to the two or more wheels located at or near the lower section of the vertical frame, is not a basis for exclusion of the hand truck from the scope of the petition. Finally, that the hand truck may exhibit physical characteristics in addition to the vertical frame, the handling area, the projecting edges or toe plate, and the two wheels at or near the lower section of the vertical frame, is not a basis for exclusion of the hand truck from the scope of the petition.

Examples of names commonly used to reference hand trucks are hand truck, convertible hand truck, appliance hand truck, cylinder hand truck, bag truck, dolly, or hand trolley. They are typically imported under heading 8716.80.50.10 of the *Harmonized Tariff Schedule of the United States* (“HTSUS”), although they may also be imported under heading 8716.80.50.90. Specific parts of a hand truck, namely the vertical frame, the handling area and the projecting edges or toe plate, or any combination thereof, are typically imported under heading 8716.90.50.60 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the scope is dispositive.

Excluded from the scope are small two-wheel or four-wheel utility carts specifically designed for carrying loads like personal bags or luggage in which the frame is made from telescoping tubular material measuring less than 5/8 inch in diameter; hand trucks that use motorized operations either to move the hand truck from one location to the next or to assist in the lifting of items placed on the hand truck; vertical carriers designed specifically to transport golf bags; and wheels and tires used in the manufacture of hand trucks.

#### New Shipper Status

Consistent with our practice, we investigated whether the sale(s) made by

New-Tec for this new shipper review was *bona fide*. *See, e.g., Notice of Rescission of Antidumping Duty New Shipper Review: Honey from the People's Republic of China*, 70 FR 59031, 59031–59032 (October 11, 2005). For New-Tec, we found no evidence that the sale(s) in question was not a *bona fide* sale(s). In our examination of New-Tec's sale(s), we found the sale price to be within the range of POR sales prices, and that New-Tec received timely payment for their POR sale(s). Based on our investigation into the *bona fide* nature of the sale(s) and the questionnaire responses submitted by New-Tec, we preliminarily determine that New-Tec has met the requirements to qualify as new shipper during the POR. *See Memorandum to Wendy Frankel, “Antidumping Duty New Shipper Reviews of the Antidumping Duty Order on Hand Trucks and Certain Parts Thereof from the People's Republic of China: Bona Fide Analysis of New-Tec Integration (Xiamen) Co., Ltd.”*, dated April 21, 2008. In addition, we have preliminarily determined that based on the information submitted, New-Tec made its first sale and/or shipment of subject merchandise to the United States during the POR, did not export subject merchandise during the period of investigation, and was not affiliated with any exporter or producer that had previously shipped subject merchandise to the United States. Therefore, for purposes of these preliminary results of review, we are treating the respective sale(s) of hand trucks to the United States as appropriate transaction(s) to be examined in the context of this new shipper review. *See* Section 751(a)(2)(B) of the Act and 19 CFR 351.214(a); *see also* “*Separate Rates*” section below.

#### Non-market Economy Country Status

In every case conducted by the Department involving the PRC, the PRC has been treated as a non-market economy (“NME”) country. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Preliminary Results of 2001–2002 Administrative Review and Partial Rescission of Review*, 68 FR 7500 (February 14, 2003) (unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of 2001–2002 Administrative Review and Partial Rescission of Review*, 68 FR 70488

(December 18, 2003)). Accordingly, we calculated NV ("NV") in accordance with section 773(c) of the Act, which applies to NME countries.

### Surrogate Country

Section 773(c)(1) of the Act directs the Department, in most instances, to base NV on the NME producer's FOPs. The Act further instructs that valuation of the FOPs shall be based on the best available information in a surrogate market economy country or countries considered to be appropriate by the Department. See Section 773(c)(1) of the Act. When valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market economy countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise. See Section 773(c)(4) of the Act. The sources of the SVs are discussed under the *Normal Value* section below and in the Memorandum to the File, "Factors Valuations for the Preliminary Results of the New Shipper Review," dated April 21, 2008 ("Surrogate Value Memorandum"), which is on file in the Central Records Unit ("CRU"), Room 1117 of the main Commerce Building.

The Department first determined that India, Indonesia, Sri Lanka, the Philippines, and Egypt are countries comparable to the PRC in terms of economic development. See Memorandum from Ron Lorentzen, Director, Office of Policy, "Antidumping Duty Administrative Review of Hand Trucks and Certain Parts Thereof from the People's Republic of China (PRC): Request for a List of Surrogate Countries," dated October 26, 2007, ("Surrogate Countries Memorandum") which is on file in the CRU. Once the economically comparable countries have been identified, we select an appropriate surrogate country by determining whether one of these countries is a significant producer of comparable merchandise and whether the data for valuing FOPs is both available and reliable.

On February 6, 2008, the Department issued a request for parties to submit comments on surrogate country selection. No party submitted comments regarding the selection of a surrogate country.

We have determined it is appropriate to use India as a surrogate country pursuant to section 773(c)(4) of the Act based on the following: (A) India is at a level of economic development comparable to that of the PRC, and (B) India is a significant producer of

comparable merchandise. Furthermore, we have reliable data from India that we can use to value the FOPs. Thus, we have calculated NV using Indian prices when available and appropriate to value New-Tec's FOPs. We have obtained and relied upon publicly available information wherever possible.

In accordance with 19 CFR 351.301(c)(3)(ii), for the final results in an antidumping review, interested parties may submit within 20 days after the date of publication of the preliminary results publicly available information to value the FOPs.<sup>1</sup>

### Separate Rates

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. It is the Department's policy to assign all exporters of merchandise subject to 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. Exporters can demonstrate this independence through the absence of both *de jure* and *de facto* government control over export activities. The Department analyzes each entity exporting the subject merchandise under a test arising from the *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 further developed in the *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").<sup>2</sup>

<sup>1</sup> In accordance with 19 CFR 351.301(c)(1), for the final results, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information placed on the record by other interested parties. The Department generally cannot accept the submission of additional, previously absent-from-the-record alternative SV information pursuant to 19 CFR 351.301(c)(1). See *Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission*, in Part, 72 FR 58809 (October 17, 2007), and accompanying Issues & Decision Memorandum at Comment 2.

<sup>2</sup> It is the Department's practice, as explained in Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries (April 5, 2005) ("Policy Bulletin 05.1"), available at <http://ia.ita.doc.gov/policy/bull05-1.pdf>, at 6, that "[w]hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of

However, if the Department determines that a company is wholly foreign-owned or located in a market economy, then a separate-rate analysis is not necessary to determine whether it is independent from government control.

The sole participating company in this new shipper review, New-Tec, stated that it is a foreign invested company jointly owned by a South Korean national and a Chinese company. Therefore, because of the Chinese company's involvement, the Department must analyze whether New-Tec can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

#### 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 decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies.<sup>3</sup>

The evidence provided by New-Tec supports a preliminary finding of *de jure* absence of government control based on the following: (1) these are restrictive stipulations associated with the individual exporters' 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. See New-Tec's Section A Questionnaire Response, dated September 28, 2007.

#### 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 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)

investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation."

<sup>3</sup> See *Sparklers*, 56 FR at 20589.

whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.<sup>4</sup> 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 government control which would preclude the Department from assigning separate rates. We determine for New-Tec that the evidence on the record supports a preliminary finding of *de facto* absence of government control based on record statements and supporting documentation showing the following: (1) New-Tec sets its own export prices independent of the government and without the approval of a government authority; (2) New-Tec retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses; (3) New-Tec has the authority to negotiate and sign contracts and other agreements; and (4) New-Tec has autonomy from the government regarding the selection of management. See New-Tec's Section A Questionnaire Response, dated September 28, 2007.

The evidence placed on the record of this new shipper review by New-Tec demonstrates an absence of *de jure* and *de facto* government control with respect to each its exports of the merchandise under review, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*.

#### Date of Sale

Section 351.401(i) of the Department's regulations provides that the Department will normally use the date of invoice, as recorded in the exporter or producer's records kept in the normal course of business, as the date of sale of the subject merchandise. However, the Department may use a date other than the date of invoice if it is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale. 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001).

After examining the questionnaire responses and the sales documentation that New-Tec placed on the record, we preliminarily determine that invoice date is the most appropriate date of sale for New-Tec. We made this determination based on record evidence which demonstrates that New-Tec's invoices establish the material terms of sale to the extent required by our regulations.

#### Normal Value Comparisons

To determine whether sales of hand trucks to the United States by New-Tec were made at less than NV, we compared export price ("EP") to NV, as described in the *Export Price*, and *Normal Value* sections of this notice.

#### Export Price

In accordance with section 772(a) of the Act, EP is the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under section 772(c) of the Act. In accordance with section 772(a) of the Act, we used EP for New-Tec because the subject merchandise was sold directly to the unaffiliated customers in the United States prior to importation and because constructed export price was not otherwise warranted.

We calculated EP based on the packed cost and freight or delivered prices to unaffiliated purchasers in, or for exportation to, the United States. We made deductions, as appropriate, for any movement expenses (foreign inland freight from the plant to port, and foreign brokerage) in accordance with section 772(c)(2)(A) of the Act. For a detailed description of all adjustments, see Memorandum to the File, "Hand Trucks and Certain Parts Thereof from the People's Republic of China: Analysis Memorandum for the New Shipper Preliminary Results: New-Tec Integration (Xiamen) Co., Ltd. (April 21, 2008) ("New-Tec's Preliminary Analysis Memorandum").

#### Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using an FOP 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. When determining NV in an NME context, the Department will base NV on FOPs because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our normal methodologies. Under section 772(c)(3) of the Act, FOPs include but are not limited to: (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 FOPs reported by respondents for materials, energy, labor and packing.

In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to find an appropriate SV to value FOPs, but when a producer sources an input from a market economy and pays for it in market-economy currency, the Department will normally value the factor using the actual price paid for the input. See 19 CFR 351.408(c)(1); see also *Lasko Metal Prods., Inc. v. United States*, 43 F.3d 1442, 1446 (Fed. Cir. 1994). However, when the Department has reason to believe or suspect that such prices may be distorted by subsidies, the Department will disregard the market economy purchase prices and use SVs to determine the NV. See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results of the 1998-1999 Administrative Review, Partial Rescission of Review, and Determination Not to Revoke Order in Part*, 66 FR 1953 (January 10, 2001) ("TRBs 1998-1999"), and accompanying Issues and Decision Memorandum at Comment 1.

It is the Department's consistent practice that, where the facts developed in U.S. or third-country countervailing duty findings include the existence of subsidies that appear to be used generally (in particular, broadly available, non-industry specific export subsidies), it is reasonable for the Department to find that it has a reason to believe or suspect that prices of the inputs from the country granting the subsidies may be subsidized. See *TRBs 1998-1999* at Comment 1; see also *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results of 1999-2000 Administrative Review, Partial Rescission of Review, and Determination Not To Revoke Order in Part*, 66 FR 57420 (November 15, 2001), and accompanying Issues and Decision Memorandum at Comment 1; *China Nat'l Mach. Imp. & Exp. Corp. v. United States*, 293 F. Supp. 2d 1334, 1338-39 (CIT 2003).

In avoiding the use of prices that may be subsidized, the Department does not conduct a formal investigation to ensure that such prices are not subsidized, but rather relies on information that is generally available at the time of its determination. See H.R. Rep., Vol. 4, 100-576, at 590 (1988), reprinted in 1988 U.S.C.A.N. 1547, 1623-24.

We have reason to believe or suspect that prices of inputs from Indonesia,

South Korea, and Thailand may have been subsidized. Through other proceedings, the Department has learned that these countries maintain broadly available, non-industry-specific export subsidies and, therefore, finds it reasonable to infer that all exports to all markets from these countries may be subsidized. See, e.g., TRBs 1998–1999 at Comment 1. We are also guided by the legislative history not to conduct a formal investigation to ensure that such prices are not subsidized. See H.R. Rep. 100–576 Vol. 4, at 590 (1988) reprinted in 1998 U.S.C. A.N. 1547, 1623–24. The Department bases its decision on information that is available to it at the time it makes its determination. Accordingly, we have disregarded prices from Indonesia, South Korea and Thailand in calculating the Indian import-based SVs because we have reason to believe or suspect such prices may be subsidized. In addition, we excluded Indian import data from NME countries from our SV calculations. See Surrogate Value Memorandum.

#### Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on FOPs reported by the respondent for the POR. To calculate NV, we multiplied the reported per-unit factor—consumption rates of inputs purchased from NME suppliers by publicly available Indian SVs. In selecting the SVs, 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. Specifically, we added to Indian import SVs a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory of production or the distance from the nearest seaport to the factory of production. This adjustment is in accordance with the Federal Circuit's decision in *Sigma Corp. v. United States*, 117 F.3d 1401, 1407–1408 (Fed. Cir. 1997). A detailed description of all SVs used can be found in the Surrogate Value Memorandum and New-Tec's Preliminary Analysis Memorandum.

For this preliminary determination, in accordance with the Department's practice, we used import values from the World Trade Atlas® online ("Indian Import Statistics"), which were published by the Directorate General of Commercial Intelligence and Statistics, Ministry of Commerce of India, which were reported in rupees and are contemporaneous with the POR to calculate SVs for the mandatory respondent's material inputs. In selecting the best available information

for valuing FOPs in accordance with section 773(c)(1) of the Act, the Department's practice is to select, to the extent practicable, SVs which are non-export average values, most contemporaneous with the POR, product-specific, and tax-exclusive. See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004), unchanged in the final determination (*Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004)).

In those instances where we could not obtain publicly available information contemporaneous with the POR with which to value FOPs, we adjusted the SVs using, where appropriate, the Indian Wholesale Price Index, as published in the *International Financial Statistics* of the International Monetary Fund.

During the POR, New-Tec purchased all or a portion of certain inputs from a market economy supplier and paid for the inputs in a market economy currency. The Department has instituted a rebuttable presumption that market economy input prices are the best available information for valuing an input when the total volume of the input purchased from all market economy sources during the period of investigation or review exceeds 33 percent of the total volume of the input purchased from all sources during the period. See *Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments*, 71 FR 61716, 61717–19 (October 19, 2006). In these cases, unless case-specific facts provide adequate grounds to rebut the Department's presumption, the Department will use the weighted-average market economy purchase price to value the input. Record evidence shows that all of the inputs purchased from market-economy sources by New-Tec during the POR exceeded 33 percent of the total volume of inputs purchased during that period. Accordingly, we valued New-Tec's inputs using the market economy prices paid for the inputs. Where appropriate, we increased the market economy prices of inputs by freight expenses. See Surrogate Value Memorandum.

We used Indian transport information to value the inland freight cost of the raw materials. The Department determined the best available information for valuing truck freight to be from [www.infreight.com](http://www.infreight.com). This source provides daily rates from six major points of origin to five destinations in India. Because the Department cannot currently directly access [www.infreight.com](http://www.infreight.com), we used the value calculated for the period October 2005 through March 2006, which was used in the recent investigation of steel nails from the PRC. See Surrogate Value Memorandum at Exhibit 7. We adjusted this rate to be contemporaneous with the POR. Consistent with the Department's practice, we used two sources to calculate an SV for domestic brokerage expenses. See, e.g., *Preliminary Determination of Sales at Less Than Fair Value, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products from the People's Republic of China*, 71 FR 19695, 19704 (April 17, 2006) (utilizing these same two sources), unchanged in the final determination (*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 (September 8, 2006)). The Department averaged December 2003 through November 2004 data contained in the February 28, 2005, public version of Essar Steel's response submitted in the antidumping duty administrative review of hot-rolled carbon steel flat products from India. See Surrogate Value Memorandum at Exhibit 7.

These data were averaged with the February 2004 through January 2005 data contained in the May 24, 2005, public version of Agro Dutch Industries Limited's ("Agro Dutch") response submitted in the administrative review of the antidumping duty order on certain preserved mushrooms from India. See Surrogate Value Memorandum at Exhibit 8.

The brokerage expense data reported by Essar Steel and Agro Dutch in their public versions are ranged data. The Department first derived an average per-unit amount from each source, then adjusted each average rate for inflation. Finally, the Department averaged the two per-unit amounts to derive an overall average rate for the POR.

For direct, indirect, and packing labor, consistent with 19 CFR 351.408(c)(3), we used the PRC regression-based wage rate as reported on Import Administration's home page, Import Library, Expected Wages of

Selected NME Countries, revised in January 2007, available at <http://ia.ita.doc.gov/wages/index.html>. Because this regression-based wage rate does not separate the labor rates into different skill levels or types of labor, we have applied the same wage rate to all skill levels and types of labor reported by the respondent. *See also* Surrogate Value Memorandum.

If the NME wage rates are updated by the Department prior to issuance of the final determination, we will use the updated wage rate in the final results.

To value electricity, we used data from the International Energy Agency *Key World Energy Statistics* (2003 edition). Because the value was not contemporaneous with the POR, we adjusted the rate for inflation.

The Department valued water using data from the Maharashtra Industrial Development Corporation ([www.midcindia.org](http://www.midcindia.org)) because it includes a wide range of industrial water tariffs. This source provides 386 industrial water rates within the Maharashtra province from June 2003: 193 for the “inside industrial areas” usage category and 193 for the “outside industrial areas” usage category. Because the value was not contemporaneous with the POR, we adjusted the rate for inflation.

To value factory overhead, selling, general, and administrative expenses (“SG&A”), and profit, we used the audited financial statements for the fiscal year ending March 31, 2006, from the following producer: Godrej & Boyce Manufacturing Company, Ltd., an Indian producer of comparable merchandise. From this information, we were able to determine factory overhead as a percentage of the total raw materials, labor and energy (“ML&E”) costs; SG&A as a percentage of ML&E plus overhead (*i.e.*, cost of manufacture); and the profit rate as a percentage of the cost of manufacture plus SG&A. For further discussion, *see* Factor Valuation Memorandum.

#### Preliminary Results of Review

We preliminarily determine that the following margin exists during the period December 1, 2006, through May 31, 2007:

#### HAND TRUCKS AND PARTS THEREOF FROM THE PRC

Exporter	Weighted-Average Margin (Percent)
New-Tec Integration (Xiamen) Co., Ltd. ....	0.00

#### Disclosure

The Department will disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. *See* 19 CFR 351.309(c)(ii). Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 35 days after the date of publication. *See* 19 CFR 351.309(d)(1). Further, parties submitting written comments should provide the Department with an additional copy of those comments on diskette. Any interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. *See* 19 CFR 351.310(d).

The Department will issue the final results of these new shipper reviews, which will include the results of its analysis of issues raised in the briefs, within 90 days of issuance of these preliminary results, in accordance with 19 CFR 351.214(i)(1), unless the time limit is extended.

#### Assessment Rates

Pursuant to 19 CFR 351.212(b), the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this review. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any assessment rate calculated in the final results of this review is above *de minimis*. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

#### Cash Deposit

On August 17, 2006, the Pension Protection Act of 2006 (“H.R. 4”) was signed into law. Section 1632 of H.R. 4 temporarily suspends the authority of the Department to instruct CBP to collect a bond or other security in lieu of a cash deposit in new shipper reviews. Therefore, the posting of a bond under section 751(a)(B)(iii) of the

Act in lieu of a cash deposit is not available in this case.

The following cash-deposit requirements will be effective upon publication of the final results of this new shipper review for all shipments of subject merchandise from New-Tec entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) for subject merchandise manufactured and exported by New-Tec, the cash-deposit rate will be the rate determined in the final results of review (except if that rate is *de minimis*, *i.e.*, less than 0.50 percent, no cash deposit will be required); (2) for subject merchandise exported by New-Tec but not manufactured by New-Tec, the cash deposit rate will continue to be the PRC-wide rate (*i.e.*, 383.60 percent); and (3) for subject merchandise manufactured by New-Tec, but not exported by New-Tec, the cash deposit rate will be the cash deposit rate will be the rate applicable to the exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary’s presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This new shipper review and this notice are published in accordance with section 777(i)(1) of the Act.

Dated: April 21, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

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#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

##### Proposed Information Collection; Comment Request; Pacific Islands Region Seabird-Fisheries Interaction Recovery Reporting

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.