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

A-570-967
AR: 05/01/12 - 04/30/13
Public Document
E&C III: JT/LRL/PS/AMM

December 22, 2014

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Issues and Decision Memorandum for Final Results of Antidumping Duty Administrative Review: Aluminum Extrusions from the People's Republic of China

SUMMARY

We analyzed the case and rebuttal briefs of interested parties in the second administrative review of the antidumping duty ("AD") order on aluminum extrusions from the People's Republic of China ("PRC") for the period of review ("POR") May 1, 2012, through April 30, 2013. This review covers 52 companies for which an administrative review was initiated, and for whom the review was not rescinded.[1] For these final results, we examined two mandatory respondents: (1) Guangzhou Jangho Curtain Wall System Engineering Co., Ltd. and Jangho Curtain Wall Hong Kong Ltd. (collectively "Jangho"); and (2) the single entity comprised of Guang Ya Aluminum Industrial Co., Ltd. ("Guang Ya"), Foshan Guangcheng Aluminum Co., Ltd. ("Guangcheng"), Kong Ah International Co., Ltd. ("Kong Ah"), and Guang Ya Aluminum Industries (Hong Kong) Ltd. ("Guang Ya HK") (collectively "Guang Ya Group"), Guangdong Zhongya Aluminum Co., Ltd. ("Zhongya"), Zhongya Shaped Aluminum (HK) Holding Ltd. ("Shaped Aluminum"), and Karlton Aluminum Co., Ltd. ("Karlton") (collectively "Zhongya"), and Foshan Nanhai Xinya Aluminum & Stainless Steel Product Co., Ltd. ("Xinya") (collectively "Guang Ya Group/Zhongya/Xinya"); and one voluntary respondent, Kromet International, Inc. ("Kromet"). We recommend that you approve the positions we developed in the "Discussion of the Issues" section of this memorandum.

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 78 FR 38924 (June 28, 2013) ("*Initiation Notice*"); *see also Aluminum Extrusions From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Rescission, in Part*; 2012/2013, 79 FR 36003 (June 25, 2014) ("*Preliminary Results*").

BACKGROUND

On June 25, 2014, the Department published the *Preliminary Results* of this administrative review. At that time, we invited interested parties to comment on the *Preliminary Results*.[2] We granted parties an extension of time to submit case and rebuttal briefs.[3]

On August 8, 2014 we received case briefs from the Aluminum Extrusions Fair Trade Committee ("Petitioner");[4] Zhongya; Skyline Exhibit Systems (Shanghai) Co., Ltd. ("Skyline"); Jangho; tenKsolar (Shanghai) Co., Ltd. ("tenKsolar"); Permasteelisa South China Factory and Permasteelisa Hong Kong Ltd. (collectively, "Permasteelisa"); Taishan City Kam Kiu Aluminium Extrusion Co. Ltd., Kam Kiu Aluminium Products Sdn. Bhd. (collectively "Kam Kiu"), and Streamlight, Inc. ("Streamlight"). On August 20, 2014, we received rebuttal briefs from the Petitioner, Kromet, and Jangho.

On September 5, 2014, the Department extended the deadline for the final results until December 22, 2014.[5]

SCOPE OF THE ORDER

The merchandise covered by this *Order*[6] is aluminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by The Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents). Specifically, the subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 1 contains not less than 99 percent aluminum by weight. The subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 3 contains manganese as the major alloying element, with manganese accounting for not more than 3.0 percent of total materials by weight. The subject merchandise is made from an aluminum alloy with an Aluminum Association series designation commencing with the number 6 contains magnesium and silicon as the major alloying elements, with magnesium accounting for at least 0.1 percent but not more than 2.0 percent of total materials by weight, and silicon accounting for at least 0.1 percent but not more than 3.0 percent of total materials by weight. The subject aluminum extrusions are properly identified by a four-digit alloy series without either a decimal point or

[2] *See Preliminary Results*, 79 FR at 36006.
[3] *See* "Second Administrative Review of the Antidumping Duty Order on Aluminum Extrusions from the People's Republic of China: Granting an Extension of Time for Parties to Provide Case Briefs and Rebuttal Case Briefs," dated July 7, 2014 and "Second Administrative Review of the Antidumping Duty Order on Aluminum Extrusions from the People's Republic of China: Granting an Extension of Time for Parties to Provide Rebuttal Briefs," dated August 12, 2014.
[4] The individual members of the Committee are Aerolite Extrusion Company; Alexandria Extrusion Company; Benada Aluminum of Florida, Inc.; William L. Bonnell Company, Inc.; Frontier Aluminum Corporation; Futural Industries Corporation; Hydro Aluminum North America, Inc.; Kaiser Aluminum Corporation; Profile Extrusion Company; Sapa Extrusions, Inc.; and Western Extrusions Corporation.
[5] *See* "Aluminum Extrusions from the People's Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Review," dated September 5, 2014.
[6] *See Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order*, 76 FR 30650 (May 26, 2011) ("*AD Order*").

leading letter. Illustrative examples from among the approximately 160 registered alloys that may characterize the subject merchandise are as follows: 1350, 3003, and 6060.

Aluminum extrusions are produced and imported in a wide variety of shapes and forms, including, but not limited to, hollow profiles, other solid profiles, pipes, tubes, bars, and rods. Aluminum extrusions that are drawn subsequent to extrusion (drawn aluminum) are also included in the scope.

Aluminum extrusions are produced and imported with a variety of finishes (both coatings and surface treatments), and types of fabrication. The types of coatings and treatments applied to subject aluminum extrusions include, but are not limited to, extrusions that are mill finished (*i.e.*, without any coating or further finishing), brushed, buffed, polished, anodized (including bright-dip anodized), liquid painted, or powder coated. Aluminum extrusions may also be fabricated, *i.e.*, prepared for assembly. Such operations would include, but are not limited to, extrusions that are cut-to-length, machined, drilled, punched, notched, bent, stretched, knurled, swedged, mitered, chamfered, threaded, and spun. The subject merchandise includes aluminum extrusions that are finished (coated, painted, etc.), fabricated, or any combination thereof.

Subject aluminum extrusions may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, window frames, door frames, solar panels, curtain walls, or furniture. Such parts that otherwise meet the definition of aluminum extrusions are included in the scope. The scope includes the aluminum extrusion components that are attached (*e.g.*, by welding or fasteners) to form subassemblies, *i.e.*, partially assembled merchandise unless imported as part of the finished goods 'kit' defined further below. The scope does not include the non-aluminum extrusion components of subassemblies or subject kits.

Subject extrusions may be identified with reference to their end use, such as fence posts, electrical conduits, door thresholds, carpet trim, or heat sinks (that do not meet the finished heat sink exclusionary language below). Such goods are subject merchandise if they otherwise meet the scope definition, regardless of whether they are ready for use at the time of importation.

The following aluminum extrusion products are excluded: aluminum extrusions made from aluminum alloy with an Aluminum Association series designations commencing with the number 2 and containing in excess of 1.5 percent copper by weight; aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 5 and containing in excess of 1.0 percent magnesium by weight; and aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 7 and containing in excess of 2.0 percent zinc by weight.

The scope also excludes finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry, such as finished windows with glass, doors with glass or vinyl, picture frames with glass pane and backing material, and solar panels. The scope also excludes finished goods containing aluminum extrusions that are entered unassembled in a "finished goods kit." A finished goods kit is understood to mean a packaged combination of parts that contains, at the time of importation, all of the necessary parts to fully assemble a final finished good and requires no further finishing or fabrication, such as cutting or punching, and is assembled 'as is' into a finished product. An imported product will not be considered a 'finished goods kit' and therefore excluded from the scope of the investigation merely by including fasteners such as screws, bolts, *etc.* in the packaging with an aluminum extrusion product.

The scope also excludes aluminum alloy sheet or plates produced by other than the extrusion process, such as aluminum products produced by a method of casting. Cast aluminum products are properly identified by four digits with a decimal point between the third and fourth digit. A letter may also precede the four digits. The following Aluminum Association designations are representative of aluminum alloys for casting: 208.0, 295.0, 308.0, 355.0, C355.0, 356.0, A356.0, A357.0, 360.0, 366.0, 380.0, A380.0, 413.0, 443.0, 514.0, 518.1, and 712.0. The scope also excludes pure, unwrought aluminum in any form.

The scope also excludes collapsible tubular containers composed of metallic elements corresponding to alloy code 1080A as designated by the Aluminum Association where the tubular container (excluding the nozzle) meets each of the following dimensional characteristics: (1) length of 37 mm or 62 mm, (2) outer diameter of 11.0 mm or 12.7 mm, and (3) wall thickness not exceeding 0.13 mm.

Also excluded from the scope are finished heat sinks. Finished heat sinks are fabricated heat sinks made from aluminum extrusions the design and production of which are organized around meeting certain specified thermal performance requirements and which have been fully, albeit not necessarily individually, tested to comply with such requirements.

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States ("HTS"): 7610.10.00, 7610.90.00, 7615.10.30, 7615.10.71, 7615.10.91, 7615.19.10, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7615.20.00, 7616.99.10, 7616.99.50, 8479.89.98, 8479.90.94, 8513.90.20, 9403.10.00, 9403.20.00, 7604.21.00.00, 7604.29.10.00, 7604.29.30.10, 7604.29.30.50, 7604.29.50.30, 7604.29.50.60, 7608.20.00.30, 7608.20.00.90, 8302.10.30.00, 8302.10.60.30, 8302.10.60.60, 8302.10.60.90, 8302.20.00.00, 8302.30.30.10, 8302.30.30.60, 8302.41.30.00, 8302.41.60.15, 8302.41.60.45, 8302.41.60.50, 8302.41.60.80, 8302.42.30.10, 8302.42.30.15, 8302.42.30.65, 8302.49.60.35, 8302.49.60.45, 8302.49.60.55, 8302.49.60.85, 8302.50.00.00, 8302.60.90.00, 8305.10.00.50, 8306.30.00.00, 8418.99.80.05, 8418.99.80.50, 8418.99.80.60, 8419.90.10.00, 8422.90.06.40, 8479.90.85.00, 8486.90.00.00, 8487.90.00.80, 8503.00.95.20, 8516.90.50.00, 8516.90.80.50, 8708.29.50.60, 8708.80.65.90, 9401.90.50.81, 9403.90.10.40, 9403.90.10.50, 9403.90.10.85, 9403.90.25.40, 9403.90.25.80, 9403.90.40.05, 9403.90.40.10, 9403.90.40.60, 9403.90.50.05, 9403.90.50.10, 9403.90.50.80, 9403.90.60.05, 9403.90.60.10, 9403.90.60.80, 9403.90.70.05, 9403.90.70.10, 9403.90.70.80, 9403.90.80.10, 9403.90.80.15, 9403.90.80.20, 9403.90.80.30, 9403.90.80.41, 9403.90.80.51, 9403.90.80.61, 9506.11.40.80, 9506.51.40.00, 9506.51.60.00, 9506.59.40.40, 9506.70.20.90, 9506.91.00.10, 9506.91.00.20, 9506.91.00.30, 9506.99.05.10, 9506.99.05.20, 9506.99.05.30, 9506.99.15.00, 9506.99.20.00, 9506.99.25.80, 9506.99.28.00, 9506.99.55.00, 9506.99.60.80, 9507.30.20.00, 9507.30.40.00, 9507.30.60.00, 9507.90.60.00, and 9603.90.80.50.

The subject merchandise entered as parts of other aluminum products may be classifiable under the following additional Chapter 76 subheadings: 7610.10, 7610.90, 7615.19, 7615.20, and 7616.99 as well as under other HTS chapters. In addition, fin evaporator coils may be classifiable under HTS numbers: 8418.99.80.50 and 8418.99.80.60. While HTS subheadings are provided for convenience and customs purposes, the written description of the scope of the *Order* is dispositive.

There have been numerous scope rulings with regard to this order. For further information, *see* a listing of these at the webpage titled "Aluminum Extrusions from the People's Republic of China: Final Scope Rulings" at *http://enforcement.trade.gov/download/prc-ae/scope/prc-ae-scope-index.html.*

DISCUSSION OF THE ISSUES

Comment 1A: Selection of the Primary Surrogate Country

- Petitioner recommends selecting Thailand as a surrogate country because it is the most significant producer of comparable merchandise on the surrogate country list and has good availability of quality data. In contrast, Petitioner argues, the Philippines is not appropriate as it has significantly fewer exports and is a net importer of comparable merchandise.[7] Petitioner also argues that in determining whether the Philippines is a significant producer, the Department should only rely on chapter 76 HTS subheadings, because it claims that such categories represent a more accurate reflection of total production of subject merchandise than the other HTS number covered by the scope.
- Petitioner also argues that the quality of the Thai data is better than the quality of the Philippine data which Petitioner asserts is further support for selecting Thailand as the primary surrogate country. For example, the Thai data are more specific to the major input consumed by Kromet's producer. In addition, there are several useable Thai financial statements that are better than the Philippine statement used by the Department.
- Kromet recommends selecting the Philippines as the primary surrogate country because, as in the prior review, the Philippines is a significant producer of subject merchandise, and Philippine data quality is more specific to aluminum ingot, one of the key inputs into aluminum extrusions.

Department's Position: Sections 773(c)(4)(A) and (B) of the Act require the Department to value, to the extent possible, FOPs in a surrogate country that is at a level of economic development comparable to that of the nonmarket economy country and a significant producer of comparable merchandise. Neither the statute nor the Department's regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, the Department looks to other sources such as the Policy Bulletin for guidance on defining comparable merchandise. The Policy Bulletin states that "in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable

[7] Petitioner cites to the Conference Report to the 1988 Omnibus Trade and Competition Act, H.R. Conf. Rep. No. 576, 100th Cong. 2nd Sess. (1988), *reprinted in* 1988 U.S.C.C.A.N. 1547, 1623-24 (1988)("1988 Conference Report"), at 590; *see also* Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) ("Policy Bulletin") at 3.

merchandise."[8] For the *Preliminary Results*, the Department stated that "the record shows that all of the potential surrogate countries identified in the Surrogate-Country Memorandum have significant exports of comparable merchandise."[9] We also stated that we did "not find that the Philippines' ranking and the 60,000 metric tons ("MT") capacity estimated by the *Aluminum Times* demonstrate that the country is an insignificant producer of aluminum extrusions."[10]

Petitioner takes issue with the Department relying on all HTS numbers in the scope to determine whether the countries that are economically comparable to the PRC were significant producers of comparable merchandise. It argues that using only Chapter 76 categories, which cover "aluminum extrusions," is more appropriate than the other HTS categories in the scope, which are basket categories containing merchandise that is not comparable. Petitioner also argues that assembly of fabricated extrusions into subassemblies cannot be considered "comparable merchandise" and that if a country has exports of products under those categories, it does not necessarily mean that the product was produced in that country (as the extrusion may have been produced in another country and assembled in that economically comparable country). We disagree with both of the Petitioner's arguments with regard to this issue.

First, we preliminarily determined in the *Preliminary Results* that because the scope of the *Order* covers a much wider selection of merchandise than just those classified under Chapter 76, it was appropriate to examine whether a potential surrogate country exported comparable merchandise in assessing the issue of significant production, and thus we considered data from the other HTS categories in the scope as well.[11] We find that there is no reason to change this analysis for the final results. While there are exceptions in the scope language for finished merchandise and finished goods kits, the HTS numbers included in the scope cover subject merchandise. Without the underlying data to determine the composition of the exports under those HTS numbers, we have no reason to reject all of the HTS numbers included in the scope in comparing exports from the list of economically comparable countries. The other HTS categories in the scope may contain more than just aluminum extrusions, but that data, coupled with other data on the record, show that all of the countries on the surrogate country list are significant producers.

Additionally, we disagree with Petitioner that the Department ignored its own Policy Bulletin in analyzing production capacity to determine whether a country is a significant producer using the *Aluminum Times* data. The Policy Bulletin states:

> a judgment should be made consistent with the characteristics of world production of, and trade in, comparable merchandise (subject to the availability of data on these characteristics). Since these characteristics are specific to the merchandise in question, the standard for "significant producer" will vary from case to case. For example, if there are just three producers of comparable merchandise in the world, then arguably any commercially meaningful production is significant. Intermittent production, however, would not be significant. If there are ten large producers and a variety of small producers, "significant producer" could be

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[8] *Id.*, at 2.
[9] *See Preliminary Results,* and accompanying Preliminary Decision Memorandum at 22.
[10] *Id.*
[11] *Id.*

> interpreted to mean one of the top ten. If, in the example above, there is also a middle-size group of producers, then "significant producer" could be interpreted as one of the top ten or middle group.[12]

Petitioner characterizes the Philippines as a small producer, by grouping countries into "small" producers with 100,000 MTs or less of production capacity, "medium" producers with between 100,001 and 600,000 MT of production capacity, and "large" producers with more than 600,001 MT of production capacity. However, Petitioner has not provided any rationale for these break-outs, and we have no reason to find Philippines to be an insignificant producer merely because it ranks 41st out of 96 nations in production capacity of aluminum extrusions, with over 60,000 MT of production capacity. It is not the Department's practice to exclude potential surrogate countries from consideration based on relative comparisons of export volumes.[13] Instead, we examine the record for evidence that the country is a significant producer of identical or comparable merchandise.[14] As we stated in the *Preliminary Results*, based on record information, including export data, we found all countries on the Department's surrogate country list to be significant producers of comparable merchandise.[15]

Further, regarding the argument that countries which are not net exporters are not significant producers, we disagree. The Act does not define the phrase "significant producer."[16] While the legislative history suggests that the Department may consider a country to qualify as a "significant producer" if, among other things, it is a "net exporter" of identical or comparable merchandise,[17] that text does not define the phrase "net exporter" or explain whether a potential surrogate country must constitute a net exporter in terms of quantity, value, or both to fit the example provided in the legislative history.[18] As a result, this ambiguous provision of the Act does not compel the Department to define "significant producer" in any particular manner.[19]

Additionally, we disagree with Petitioner's recommendation that we should select Thailand as a surrogate country because it is the "most" significant producer of comparable merchandise on the surrogate country list. As noted above, section 773(c)(4)(B) of the Act requires the Department to value, to the extent possible, FOPs in a surrogate country that is a significant producer of comparable merchandise. Thus, we find that there is nothing in the statute, the Department's regulations, or the Policy Bulletin, which states that the Department is required to select the "most" significant producer of comparable merchandise in determining the primary surrogate country.

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[12] *See* Policy Bulletin at 3.
[13] *See, e.g., Hardwood and Decorative Plywood from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 58273 (September 23, 2013) and accompanying Issues and Decision Memorandum at Comment 7.
[14] *See, e.g., Frontseating Service Valves from the People's Republic of China; 2010-2011 Antidumping Duty Administrative Review; Final Results*, 77 FR 67334 (November 9, 2012) and accompanying Issues and Decision Memorandum at Comment 1.
[15] *See Preliminary Results,* and accompanying Preliminary Decision Memorandum at 23.
[16] *See* section 773(c)(4)(B) of the Act.
[17] *See* 1988 Conference Report at 590, 1988 U.S.C.C.A.N. 1547, 1623 (1988).
[18] *Id.*
[19] *See Dorbest Ltd. v. United States*, 462 F. Supp. 2d 1262, 1274 n.5 (CIT 2006).

Finally, we disagree with Petitioner that we failed to make "substantive determinations on comparable merchandise and significant producers prior to evaluating data considerations." In the *Preliminary Results*, we first determined based on the Surrogate Country Memorandum that six countries were economically comparable to the PRC.[20] We then undertook the analysis of significant production of identical or comparable merchandise. Based on all countries having exports of subject merchandise, which is consistent with the Department's practice, we stated that, "the record shows that all of the potential surrogate countries identified in the Surrogate-Country Memorandum have significant exports of comparable merchandise."[21] We then explained that the record does not indicate that any of the potential surrogate countries are not significant producers of subject merchandise:

> because the information on the record does not show that the Philippines, or any of the other potential surrogate countries, are not significant producers of subject merchandise, and in light of the fact that each country exports a significant amount of comparable merchandise, the Department has reviewed the availability, quantity and quality of SV data to determine the most appropriate surrogate country from the aforementioned list for purposes of this administrative review.[22]

Therefore, we disagree with Petitioner that we did not follow our sequential consideration of the statutory elements in conducting our surrogate country analysis. With respect to Petitioner's argument that quality of the Thai data is better than the quality of the Philippines data, we have addressed those issues in Comments 1B through 1D below. Thus, we continue to select the Philippines as the primary surrogate country, as the Philippines is a significant producer of comparable merchandise and, as detailed in Comments 1B through 1D below, the Philippines has the best quality data available to value the factors of production.

Comment 1B: Selection of Financial Statements to Derive Financial Ratios

- Petitioner argues that the Department should use the Thai financial statements it put on the record because Thailand is a significant producer of comparable merchandise. In addition, Petitioner argues that none of the Thai financial statements show evidence of any subsidies and, as such, are not disqualified from being used,[23] as cited by the Department in the *Preliminary Results*. Petitioner argues that the Department should not use the Philippine financial statement of Currimao Aluminum Corporation ("Currimao") in the final results because the company derived significant income from activities other than producing subject merchandise. Petitioner also argued that the company produces a different mix of products than Kromet and its PRC supplier, Alnan Aluminium Co., Ltd. ("Alnan") (including curtain walls); thus the ratios are less accurate. Petitioner also argues that, if we reject the Thai financial statements, we should use the Philippine

[20] *See Preliminary Results,* and accompanying Preliminary Decision Memorandum at 21.
[21] *Id.* at 22.
[22] *Id.* at 23.
[23] In support of this claim, Petitioner cites to *Yantai Xinke Steel Structure., Ltd. v. United States*, No. 10-00240, slip op. 14-38, 2014 Ct. Intl. Trade LEXIS 39 (April 9, 2014) at 40 (holding that "because there is no evidence of specific countervailable subsidies, or any evidence of distortive subsidies in NIL, North Eastern, Good Luck, or NTL's financial statements, the Department did not err in including their financial statements in its calculations of the surrogate financial ratios").

financial statement of Hilton Manufacturing Corporation ("Hilton"), which the Department rejected in the *Preliminary Results* because it derived over half of its revenue from contracting. Petitioner points out that the Department has used financial statements from companies that trade as well as produce merchandise.

- Kromet argues the Department correctly rejected United Aluminum and Thai Aust's financial statements because they received subsidies. Kromet also argues that the Department should continue to use Currimao's financial statements and rebuts Petitioner's contention that Currimao produces different products or derives revenue from other sources.

Department's Position: We disagree with Petitioner that we should use the Thai financial statements. The Department's regulations at 19 CFR 351.408(c)(2) state that the Department "normally will value all factors in a single surrogate country." Furthermore, section 19 CFR 351.408(c)(4) states that for "manufacturing overhead, general expenses and profit," the Department will "normally" use "nonproprietary information gathers from producers of identical or comparable merchandise in the surrogate country." Consistent with our practice, because we have useable financial statements of producers of comparable merchandise from the primary surrogate country,[24] we intend to follow the regulatory preference stated in those provisions and decline to use financial statements from the Thai companies.

With respect to Petitioner's reliance on the CIT's holding in *Yantai Xinke Steel Structure, Ltd. v. United States*, the Court's determination about the existence, or absence, of subsidies is of no relevance in this case because we find that we have a usable financial statement from the primary surrogate country and, therefore, are not using the Thai financial statements on the record. Furthermore, there is no evidence on the record of Philippine subsidies which would call into question our use of Currimao's financial statement.

Furthermore, regarding Petitioner's argument that we should reject Currimao because it derives a significant source of revenue from business activities other than producing aluminum extrusions, we disagree with this argument as well and find no evidence on the record to support Petitioner's contention. Specifically, the company profile and financial statement on the record clearly demonstrate that Currimao solely produces aluminum extrusions.[25]

Moreover, we disagree with Petitioner's contention that Currimao produces curtain walls—the financial statements clearly identify the products produced and curtain walls are not identified.[26] Moreover, there is no clear evidence that Currimao produces such a different mix of products than Alnan, Kromet's PRC supplier, such that relying on Currimao's financial statements would be inappropriate. Both Alnan and Currimao produce a range of products subject to the order: Currimao produces a range of aluminum extrusion products including claddings for windows and

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[24] *See* Comment 1A above regarding the Department's determination to continue to select the Philippines as the primary surrogate country.
[25] *See* Kromet's submission dated January 9, 2014, at Exhibit 9.
[26] *Id.*

doors;[27] Alnan, Kromet's PRC supplier, produces appliance handles, solar energy panel frames, and furniture components.[28]

Regarding Hilton, we agree with Petitioner that the Department has used financial statements from companies that also trade as well as produce comparable merchandise.[29] However, Hilton's financial statements do not define what the term "contracting" means, although such activity accounts for half of Hilton's sales revenue.[30] Because "contracting" is such a significant revenue source for the company, the nature of that activity is relevant to Hilton's overhead and selling, general, and administrative ("SG&A") expenses. Therefore, without knowing the nature of the "contracting" referenced, we are unable to tell what effect that activity has on the company's financial ratios. Also, the record demonstrates that Hilton has significant production of various products other than aluminum extrusions, such as brass and PVC extrusions, which are not comparable merchandise.[31] Based on these concerns, and given the fact that we have a reliable financial statement from our primary surrogate country that we can use, we decline to use Hilton's financial statements.

Accordingly, we are continuing to use Currimao's financial statements to value overhead, SG&A, and profit for these final results. The company is a producer of comparable products, the company is located in the primary surrogate country, and the audited financial statements are complete and sufficiently detailed to disaggregate materials, labor, overhead, and SG&A expenses.

Comment 1C: Selection of Surrogate Value for Primary Aluminum Input

- For aluminum alloy billets used by Kromet, Petitioner argues that the Department should use the Thai tariff schedule, which contains HTS categories which are more specific to those billets used by Kromet rather than the Philippine HTS category used by the Department in the *Preliminary Results*.[32] For non-alloyed aluminum ingots, Petitioner contends that the Philippine and Thai tariff schedules are equally specific.
- Kromet argues that, as in the final results of the previous review, for aluminum alloy billets, the Department should continue to find that the Thai 10 digit HTS category proposed by Petitioner to value its aluminum alloy billets is not more specific to its input, but rather that the Thai and Philippine HTS categories are equally specific because both are basket categories. With respect to non-alloyed aluminum ingot, Kromet argues that similar to the previous review, the Philippine data is more specific to the non-alloyed aluminum ingot its producer consumes.

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[27] *Id.*
[28] *See* Kromet's Section D Response dated December 9, 2013, at 4 -9.
[29] *See, e.g., Folding Metal Tables and Chairs from the People's Republic of China: Final Results of 2007-2008 Deferred Antidumping Duty Administrative Review and Final Results of 2008-2009 Antidumping Duty Administrative Review*, 76 FR 2883 (January 18, 2011) and accompanying Issues and Decision Memorandum at Comment 2.
[30] *See* Petitioner's May 19, 2014, submission at Exhibit 3, at 17.
[31] *Id.,* Exhibit 3 at 1.
[32] Petitioner bracketed Kromet's input at issue in its August 8, 2014 Case Brief, but Kromet made this information public in its August 20, 2014 Rebuttal Brief.

Department's Position: Regarding the valuation of aluminum alloy billets, in the *Preliminary Results* (as in the first review)[33] we preliminarily determined that the Thai and Philippine HTS categories for aluminum alloy billets are equally specific to the FOP reported by Kromet because both are basket categories. Though Petitioner stated in its case brief that the Thai HTS is more specific and provided titles for the Thai HTS subcategories under 7601.20, the underlying data showing the titles of the Thai HTS subcategories are not on the record of this review.[34] The only information with respect to Thai HTS category 7601.20.0090, Petitioner's preferred surrogate value ("SV") for aluminum alloy billets, is a title of "Other."[35] This is no more specific than the SV selected by the Department in the *Preliminary Results* from the Philippines under HTS 7601.20, "Unwrought Aluminum Alloys."[36] Thus, the evidence on the record does not support Petitioner's claims that Thailand has a more specific HTS category to value aluminum alloy billets and that we should select Thailand as our primary surrogate country because the data is more specific to this input.

With respect to valuing non-alloyed aluminum ingots, another of Kromet's producer's major inputs, we disagree with Petitioner that the Philippine and Thai HTS categories are equally specific. The Philippine HTS category 7601.10.0001 covering "Unwrought aluminum - aluminum, not alloyed - ingots and pigs"[37] is more specific to the input that Alnan, Kromet's PRC producer, consumes, which it describes in its questionnaire response as "aluminum ingots."[38] By contrast, the Thai HTS category proposed by Petitioner (7601.10.00090) covers "Other,"[39] which is less specific to the input being used.[40] Though Petitioner argues that it is not clear what product would fall until the category of "aluminum pigs" and there is nothing on the record demonstrating that Alnan consumed "aluminum pigs," because the Philippine HTS category expressly covers "aluminum ingots," we find that it is more specific than Petitioner's proposed Thai HTS category that covers "Other articles of unwrought aluminum alloys." Therefore, we determined to use the Philippine HTS category 7601.10.0001 to value non-alloyed aluminum ingots.

Accordingly, because the Philippines has a more specific HTS category to value a significant input into the subject merchandise, aluminum ingots, we continue to select Philippines as the primary surrogate country. Thus, we valued both aluminum alloy billets and aluminum ingots using Philippine SVs, consistent with 19 CFR 351.408(c)(2).

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33 *See Aluminum Extrusions from the People's Republic of China: Final Result of Antidumping Duty Administrative Review and Rescission, in Part, 2010/12*, 79 FR 96 (January 2, 2014) ("*AR1 Final Results")* and accompanying Issues and Decision Memorandum at Comment 1.
34 In *AR1 Final Results* and accompanying Issues and Decision Memorandum at Comment 1 we found that the Thai HTS category 7601.20 covered "unwrought aluminum alloys."
35 *See* Petitioner's January 9, 2014, submission at Exhibit 1B, and Petitioner's May 19, 2014, submission at Exhibit 2.
36 *See* Memorandum to the File, "Factor Valuation Memorandum for Preliminary Results of the Antidumping Duty Review of Aluminum Extrusions from the People's Republic of China," dated June 18, 2014, at Attachment 2.
37 *See* Kromet's January 9, 2014, SV submission at Exhibit 2.
38 *See* Kromet's Section D Response dated December 9, 2013, at 12 -14.
39 *See* Petitioner's January 9, 2014, submission at Exhibit 1B.
40 In *AR1 Final Results* and accompanying Issues and Decision Memorandum at Comment 1 we found that the Thai HTS category, 7901.10 covered "Aluminum, not alloyed, unwrought."

Comment 1D: Selection of Surrogate Value for Labor

- Petitioner argues that the 2013 Thai National Statistics Office ("NSO") labor data are more contemporaneous than the 2008 Philippines labor data used by the Department for the *Preliminary Results*. Petitioner argues that this is also one of the reasons the Department should select Thailand as the primary surrogate county.
- Kromet argues that the International Labor Organization ("ILO") Chapter 6A labor data for the Philippines are more specific and complete than the Thai data—the Philippines data covers "Manufacture of Fabricated Metal Products, except Machinery and Equipment" in comparison to the Thai data which covers "Manufacturing." In addition, the Department clearly articulated in *Labor Methodologies*[41] that the source of the Philippines data, the "ILO Yearbook" is the primary source of labor cost data in non-market-economy ("NME") proceedings.

Department's Position: We agree with Kromet that the use of the ILO Chapter 6A labor data for the Philippines are the best available information on the record to be used as an SV for labor, consistent with section 773(c)(1) of the Act. In the *Preliminary Results*,[42] we explained that we selected the Philippines ILO data because it is from the primary surrogate country and is otherwise consistent with our practice of choosing ILO Chapter 6A data as the best available labor rate, as articulated in *Labor Methodologies*. Though the Philippines ILO data is less contemporaneous with the POR, we inflated the 2008 rate using relevant Consumer Price Index data.

The labor rate we relied on that most closely matches the subject merchandise is ISIC-Revision 3-D, "Division: 28 – Manufacture of fabricated metal products, except machinery and equipment." By contrast, the Thai category proposed by Petitioner covers "Manufacturing," which is less specific to the product in question. In addition, the Philippine data covers an entire year, whereas the Thai information covers only a few months.[43]

Comment 2: Whether to Continue to Collapse Zhongya, Guang Ya, and Xinya

- In its case brief, Zhongya argues that the Department should not collapse it with Guang Ya and Xinya. In support of its position, Zhongya reiterates the same arguments it made on the record of this review prior to the *Preliminary Results*.[44]
  - o Zhongya claims it no longer has a familial relationship with Xinya; and there is no substantial evidence of intertwined operations between the companies on the record of this review.
  - o The statute only authorizes collapsing where producers and exporters are jointly involved in the production and sale of the same subject merchandise.

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[41] Kromet cites to *Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092 (June 21, 2011) ("*Labor Methodologies*").
[42] *See Preliminary Results,* and accompanying Preliminary Decision Memorandum at 32.
[43] *See* Kromet's submission dated January 9, 2014, at Exhibit 3.
[44] Zhongya attached as its case brief, its letter entitled, "Aluminum Extrusions from China," dated November 18, 2013 ("Zhongya Collapsing Comments").

  - The statute does not provide for collapsing affiliates purely on the basis of countering a future potential to manipulate. The statute provides other remedies that address manipulation, including certifications of accuracy, administrative reviews, and adjustments to transactions between affiliates.
  - There is no "common control" or "common ownership" among Zhongya, the Guang Ya Group, and Xinya. A sibling relationship, in and of itself, does not constitute control, or potential control. Furthermore, the Department erred in finding that "a family grouping" is "a person" to reach its affiliation and collapsing findings.
  - The statute provides remedies that address manipulation and does not provide for collapsing to address manipulation.
  - The Department does not demonstrate that collapsing is needed here to accurately calculate the current weighted-average dumping margin of Zhongya.
  - The Department may not collapse a company with other companies that have not responded to the Department's questionnaires.
- Petitioner argues that the Department correctly collapsed the Zhongya/Guang Ya Group/Xinya entity's members for the *Preliminary Results* and should continue to collapse them in the final results, as the Act inherently contemplates collapsing.
  - Section 771(33)(A) of the Act exists to address the distortive price and costs effects that may arise in an AD investigation or review among family members by treating the family members as affiliates so that family members cannot shift or direct exports to a different company owned by another family member with a lower dumping margin. The collapsing regulation, 19 CFR 351.401(f), requires the Department to treat two or more affiliated producers as a single entity where those producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities to prevent producers from circumventing ADs by channeling production through affiliates to whom the Department may have assigned a lower AD rate.
  - The Court of International Trade ("CIT") confirmed that the Department's collapsing practice, which addresses future manipulation concerns, arises out of the Department's mandate to determine current margins as accurately as possible, as well as the Department's responsibility to prevent circumvention of the AD law.
  - The Department's collapsing regulation does not require companies to produce the same merchandise, as Zhongya claims. Rather, the Department's regulations expressly allow the collapsing of companies that have the capability to produce similar products. Moreover, the Department has previously collapsed affiliates that do not produce the same subject merchandise.
  - Because the Guang Ya Group and Xinya did not participate in this review, it is appropriate, as an adverse inference, for the Department to conclude that the Zhongya entity's members were affiliated and to require collapsing to address potential price and cost distortion.
  - Members of the Zhongya/Guang Ya Group/Xinya entity are affiliated by familial relationships and there is a potential for future manipulation. Zhongya is effectively judicially foreclosed from making a plausible argument that the

members of the Zhongya/Guang Ya Group/Xinya entity are not affiliated. In *Zhaoqing New Zhongya*,[45] the CIT found that the determination to collapse Zhongya, the Guang Ya Group, and Xinya was appropriate based on substantial record evidence that the Kwong family owned each member of the Zhongya/Guang Ya Group/Xinya collapsed entity. The CIT also found that there was a reasonable basis to determine that a significant potential existed for price or production manipulation because there was sole ownership among the companies, members of the Kwong family sit on the boards of directors and hold management positions within the companies, and there were intertwined operations among the companies.

- The facts of this review regarding the affiliation among members of the Zhongya/Guang Ya Group/Xinya entity have not changed since the original investigation except that the Guang Ya Group, an entity that participated in the original investigation, has decided not to participate in the administrative review.

Department's Position: The arguments made by Zhongya above are identical to the arguments it made prior to the *Preliminary Results* in opposition to collapsing the three companies in this review.[46] The Department addressed these arguments in the *Preliminary Results*. Our responses remain unchanged for these final results.[47] In the *Preliminary Results* the Department preliminarily found that ". . . the Guang Ya Group, Zhongya, and Xinya should continue to be treated as a single entity . . ."[48] The Department stated:

> Based on our prior determinations we preliminarily find the entities comprising the Guang Ya Group, and the entities comprising Zhongya are respectively affiliated pursuant to sections 771(33)(A) and (F) of the Act, and that the Guang Ya Group, Zhongya and Xinya are affiliated pursuant to sections 771(33)(A) and (F) of the Act, as we did in the investigation and the first administrative review.[49] Additionally, because no interested party has placed new evidence on the record of this administrative review refuting the facts on the records of the investigation and the first administrative review regarding the potential for manipulation of price or production of subject merchandise, we preliminarily find, pursuant to 19 CFR 351.401(f), that there exists the potential for manipulation of price or production of subject merchandise.[50] Thus, we preliminarily

[45] Petitioner cites to *Zhaoqing New Zhongya Aluminum Co. v. United States*, 887 F. Supp. 2d 1301 (CIT 2012) ("*Zhaoqing New Zhongya*").
[46] *See* Zhongya Collapsing Comments.
[47] *See* the memorandum entitled "2012/2013 Administrative Review of Aluminum Extrusions from the People's Republic of China: Preliminary Determination Regarding Affiliation and Collapsing of Guang Ya Aluminum Industrial Co., Ltd., Foshan Guangcheng Aluminum Co., Ltd., Kong Ah International Co., Ltd., Guang Ya Aluminum Industries (Hong Kong) Ltd., Guangdong Zhongya Aluminum Co., Ltd., Zhongya Shaped Aluminum (HK) Holding Ltd., Karlton Aluminum Co., Ltd., and Foshan Nanhai Xinya Aluminum & Stainless Steel Product Co., Ltd.," dated concurrently with this memorandum ("AR2 Collapsing Memorandum") at 9 - 13.
[48] *See Preliminary Results,* and accompanying Preliminary Decision Memorandum at 9.
[49] *See* AR2 Collapsing Memorandum; *see also Aluminum Extrusions From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 76 FR 18524 (April 4, 2011) (*"LTFV Final")* and accompanying Issues and Decision Memorandum at Comment 4 and *AR1 Final Results* and accompanying Issues and Decision Memorandum at Comment 4.
[50] *See* AR2 Collapsing Memorandum at 5-6.

> find that the Guang Ya Group, Zhongya, and Xinya should continue to be treated as a single entity, consistent with the *LTFV Final* and *AR1 Final Results*.[51]

No new evidence or argument with respect to this issue has been placed on the segment of this proceeding since the *Preliminary Results*. Thus, we did not change our collapsing analysis.[52] With respect to Zhongya's contention that there is no evidentiary basis to continue to collapse Xinya with Zhongya and the Guang Ya Group in this administrative review, in particular, as we concluded in the AR2 Collapsing Memo,[53] though Zhongya provided an alleged statement from a Xinya official that Xinya no longer has ownership or familial ties with the "family of Kwong Wing Wah,"[54] there is no factual information on the record to substantiate such a claim. Outside of the claims in this self-serving statement, there is no record evidence upon which the Department can make a determination that Xinya's relationship, either personally or professionally, has changed since the *LTFV Final* and *ARI Final Results*. The Guang Ya Group stated that it would not participate in this review,[55] and Xinya did not respond to the Department's AD questionnaire. Zhongya provided the Department only with a quantity and value response,[56] a separate rate application[57] and the certifications purportedly made by a Xinya company official.[58] Therefore, for the reasons outlined in the *Preliminary Results*, we continue to find that find that the Guang Ya Group, Zhongya, and Xinya should continue to be treated as a single entity.

Comment 3: Whether to Recalculate the PRC-Wide Rate

- Petitioner argues that the Department should "update" the PRC-wide cash deposit rate using ". . . certain transaction-specific dumping margins from Kromet to calculate a PRC-wide rate that 'balance{s} the statutory objectives of finding an accurate dumping margin and inducing compliance.'" Petitioner maintains that:
  - The current PRC-wide rate was derived in the less-than-fair-value ("LTFV") investigation using Indian data, but India is no longer economically comparable to the PRC.
  - The Department has the authority to update the PRC-wide rate in this review because the PRC-wide entity is under review.
  - The PRC has failed to act to the best of its ability, and the adverse facts available ("AFA") rate applied to it is too low to induce compliance.
  - The Court of Appeals for the Federal Circuit ("CAFC") and the CIT have upheld the Department's practice of using transaction-specific margins, even where the rates were based on less than one percent of the non-cooperating respondent's sales.
- Petitioner argues that an AFA rate calculated using Kromet's data can be corroborated using Jangho's data.

[51] *See Preliminary Results,* and accompanying Preliminary Decision Memorandum at 8 - 9.
[52] *Id.; see also* AR2 Collapsing Memorandum.
[53] *Id.* at 12.
[54] *See* Zhongya's letter to the Department dated November 18, 2013 ("Zhongya's November 18, 2013 letter").
[55] *See* Guang Ya's October 31, 2013 letter.
[56] *See* Zhongya's quantity and value submission dated August 27, 2013.
[57] *See* Zhongya's letter, "Aluminum Extrusions from China," dated August 27, 2013.
[58] *See* Zhongya's November 18, 2013 letter.

- Jangho contends that the Department should follow its consistent practice of choosing the highest rate on the record as the PRC-wide/AFA rate as it did in the *Preliminary Results*.
  - The Department's practice in administrative reviews has been to use the highest rate on the record as the AFA rate, to the extent it can be corroborated.[59]
  - A PRC-wide/AFA rate, calculated as proposed by Petitioner, would be aberrational and would bear no relationship to the PRC-wide entity or Jangho, which is a producer of vastly different products than Kromet.
    - The CIT has held that "{f}acts specific to a particular case may make transactions representing a small percentage of sales inadequate corroboration."
    - The CIT has held that "{s}election of an AFA rate based on minuscule data will not suffice. An AFA rate must not be aberrant or punitive, and should bear a rational relationship to respondent's commercial reality."[60]
- Kromet argues that "{i}n reviews, the Department normally selects as AFA the highest rate on the record of the proceeding." As the Department noted in the *Preliminary Results*, this practice has been regularly upheld by the CIT and CAFC.[61]
  - The evidence does not establish that the AFA rate is too low to encourage participation in the Department's proceedings.
    - Kromet has fully participated in both administrative reviews, once as a mandatory respondent (in the first review) and as a voluntary respondent (in this review).
    - Zhongya supplied substantial information to the Department in the investigation and the first administrative review.
  - The Department found in the final results of the first administrative review that Kromet's experience is not representative of the separate rate applicants: "Kromet's unconventional sales process is not representative of the separate rate respondents in this review."[62]
  - There is no precedent for Petitioner's proposed methodology to recalculate the PRC-wide/AFA rate.

Department's Position: As described in the *Preliminary Results*,[63] the PRC-wide entity failed to act to the best of its ability in providing the Department with necessary information. Accordingly, pursuant to sections 776(a) and 776(b) of the Act, for the final results, the Department will apply facts available to the PRC-wide entity, and in selecting the appropriate facts available rate, will use an adverse inference. For the reasons discussed in the Preliminary Decision Memorandum at 16 – 19, where we considered Petitioner's arguments submitted in its pre-preliminary results submission, we continue to use the 33.28 percent as the AFA rate. As we stated in the *Preliminary Results*, the 33.28 percent rate "is the highest rate on the record of the proceeding" and "we find that the rate of 33.28 percent has probative value because it was in the range of the individual dumping margins which we calculated for Kromet. Accordingly, we find

[59] Jangho cites *Glycine from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 74 FR 15930, 15934 (April8, 2009), unchanged in *Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 41121 (August 14, 2009).
[60] Jangho cites *Lifestyle Enters, Inc. v. United States*, 865 F. Supp. 2d 1284, 1289 (CIT 2012).
[61] Kromet cites the *Preliminary Results,* and accompanying Preliminary Decision Memorandum at 17.
[62] Kromet cites *AR1 Final Results,* and accompanying Issues and Decision Memorandum at 30.
[63] *See Preliminary Results,* and accompanying Preliminary Decision Memorandum at 14-17.

that the rate of 33.28 percent is corroborated within the meaning of section 776(c) of the Act."[64] Since there has been no change to Kromet's margin since the *Preliminary Results*, pursuant to section 776(c) of the Act, we find this rate continues to be corroborated.

In its briefs, all of Petitioner's arguments are repeated from its pre-preliminary results submission, which we addressed fully in the *Preliminary Results* and our response does not change for these final results, except for one additional argument raised in its case brief regarding the source of the data used to calculate the AFA rate. Petitioner argues for the first time that the current PRC-wide rate is no longer appropriate because it was derived in the LTFV investigation using Indian data, but India is no longer economically comparable to the PRC.

Although it is true that the Department did not identify India in the surrogate-country list as a country that is economically comparable to the PRC, the statute and the Department's regulations do not restrict the selection of the AFA rate to data based on information for countries listed in the Department's surrogate country list for the instant segment of the proceeding.[65] In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from: (1) the petition; (2) a final determination in the investigation; (3) any previous review or determination; or (4) any information placed on the record, as long as the Department determines that the selected rate is corroborated under section 776(c) of the Act. In reviews, the Department normally selects as AFA the highest corroborated rate on the record of the proceeding.[66] The CIT and the CAFC have consistently upheld the Department's practice.[67] Accordingly, as AFA, we selected the highest corroborated rate on the record of this proceeding, 33.28 percent, which is from the final determination of the LTFV investigation.[68]

Comment 4: Calculation of Separate-Rate for Non-Examined Exporters

- Separate rate respondents Kam Kiu, Permasteelisa, and tenKsolar argue that the Department's preliminary method for assigning separate rates to non-examined exporters does not constitute a "reasonable method." The 32.79 percent separate rate assigned in the *Preliminary Results* (a simple average of the adjusted petition rates because the only cooperating respondent (Kromet, a voluntary), received a preliminary rate of zero percent) is substantially the same as the 33.28 percent AFA rate, which unfairly penalizes

[64] *See Preliminary Results,* and accompanying Preliminary Decision Memorandum at 18-19.
[65] *See* section 776(b) of the Act and 19 CFR 351.308(c)(1).
[66] *See, e.g., Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results of Antidumping Duty Administrative Review*, 68 FR 19504, 19507 (April 21, 2003).
[67] *See KYD, Inc. v. United States*, 607 F.3d 760, 766-67 (Fed. Cir. 2010) ("*KYD, Inc.*"); *Rhone Poulenc, Inc. v. United States*, 899 F.2d 1185, 1190 (Fed. Cir. 1990) ("*Rhone Poulenc*"); *NSK Ltd. v. United States*, 346 F. Supp. 2d 1312, 1335 (CIT 2004) (upholding a 73.55 percent total AFA rate, the highest available dumping margin from a different respondent in a LTFV investigation); *Kompass Food Trading Int'l v. United States*, 24 CIT 678, 684 (2000) (upholding a 51.16 percent total AFA rate, the highest available dumping margin from a different, fully cooperative respondent); and *Shanghai Taoen International Trading Co., Ltd. v. United States*, 360 F. Supp. 2d 1339, 1348 (CIT 2005) (upholding a 223.01 percent total AFA rate, the highest available AD margin from a different respondent in a previous administrative review).
[68] In the *Preliminary Results*, we did not adjust the PRC-wide entity's margin for export subsidies and domestic subsidy pass-through. For the final results, we adjusted the PRC-wide rate for these subsidy offsets. *See* sections 772(c)(1)(C) and 777A(f) of the Act; *see also* Attachment to this memorandum.

cooperating separate rate respondents and violates the intent and design of the AD law. They argue that the CAFC's holding in *MacLean-Fogg* makes clear that the statute requires voluntary respondent rates be included in the general all-others rate calculation.[69] Thus, the Department must, at minimum, include the rate assigned to Kromet in its final calculation of the separate rate.[70]

- tenKsolar further argues that if the Department will not assign Kromet's *de minimis* rate to the separate rate companies, then the Department should assign a margin based upon one of Kromet's alternative margins (*i.e.*, average-to-transaction or mixed alternative), which were greater than *de minimis*, but were not used because an insignificant portion of Kromet's sales passed the *Cohen's d* test. These alternative margins, calculated for Kromet, have a rational connection to sale and production of aluminum extrusions during the POR.
- Petitioner argues that the Department's preliminary decision to use the rate from the investigation constitutes a "reasonable method;" thus, the Department should continue to use this rate for the final. Because of Kromet's unconventional sales process, a separate rate that includes any of Kromet's calculated weighted average margins in the analysis does not reasonably reflect the experience of the other respondent companies. Further, it argues, the statute expressly precludes the Department from using margins that are zero, *de minimis*, or based on total AFA to calculate a margin for the separate rate respondents. With respect to the CAFC's holding in *MacLean-Fogg*, Petitioner argues that the holding did not require the Department to always use the voluntary respondent's margin in the calculation of the separate rate. In fact, the CAFC's ruling implies the Department is not permitted to include a zero or *de minimis* margin from a voluntary respondent in the calculation of the separate rate.[71]

Department's Position: The Department applied the separate rate assigned in the LTFV investigation of this proceeding as the separate rate in these final results. Neither the Act nor the Department's regulations address the establishment of the rate applied to individual companies not selected for examination where the Department limited its examination in an administrative review pursuant to section 777A(c)(2) of the Act. The Department's practice in cases involving limited selection based on exporters accounting for the largest volumes of trade has been to look to section 735(c)(5) of the Act for guidance, which provides instructions for calculating the all-others rate in an investigation. Section 735(c)(5)(A) of the Act instructs the Department to avoid calculating an all-others rate using calculated rates that are zero, *de minimis*, or based entirely on facts available in investigations. Section 735(c)(5)(B) of the Act provides that, where all rates

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[69] *See MacLean-Fogg Co., et al. v. United States*, 753 F.3d 1237, 1244 (Fed. Cir. 2014) ("*MacLean-Fogg*").

[70] Kam Kiu and Permasteelisa also cite to: *Yangzhou Bestpak Gifts & Crafts Co., Ltd. v. United States*, 716 F.3d 1370, 1379 (Fed. Cir. 2013) ("*Bestpak*"); *SNR Roulement v. United States*, 402 F.3d 1358, 1363 (Fed. Cir. 2005) ("*SNR Roulement*"); *Albemarle Corp. v. U.S.*, 931 F.Supp.2d 1280, 1292 (2013) ("*Albemarle Corp.*"); and *KYD, Inc.* tenKsolar also cites to: *Amanda Foods II*, 714 F.Supp.2d at 1287, 1291-1292 ("*Amanda Foods*"); *Baroque Timber Industries (Zhongshan) Company, Limited, et al. v. United States*, 971 F.Supp.2d 1333, 1341 ("*Baroque Timber Industries*"); *F.lli De Cecco Di Filippo Fara S. Martino S.p.A. v. United States*, 216 F.3d 1027, 1032 (Fed. Cir. 2000) ("*F.lli De Cecco*"); *KYD, Inc.*; and *Mannesmannrohren-Werke AG v. United States*, 77 F.Supp.2d 1302, 1322-23 (CIT 1999) ("*Mannesmannrohren-Werke*").

[71] Petitioner also cites to, and provides rebuttal arguments, for *Navneet Publ'ns (India) Ltd. v. United States*, No. 13-00204, slip op. 14-87, 2014 Ct. Intl. Trade LEXIS 119 (July 22, 2014) ("*Navneet Publ'ns*"). We have not addressed *Navneet Publ'ns*, as no other party raised it and because we agree with Petitioner's interpretation of the case.

are zero, *de minimis*, or based entirely on facts available, the Department may use "any reasonable method" for assigning a rate to the all-others.

In this instance, both selected respondents, Jangho and Guang Ya Group/Zhongya/Xinya have not demonstrated their eligibility for a separate rate and thus are assigned the PRC-wide rate. Further, due to the failure of the PRC-wide entity to cooperate, the Department assigned the PRC-wide entity an AFA rate. The cooperating voluntary respondent, Kromet, obtained the only calculated rate in this proceeding. However, Kromet's rate is zero. Further, Kromet's unconventional sales process, whereby its merchandise underwent further manufacturing in a third country before entering the United States, appears to differ from that of the companies who filed separate rate applications.[72] Specifically, upon examination of the separate rate applications submitted by Kam Kiu, Permasteelisa, and tenKsolar, we do not see a similar pattern of (1) further manufacturing of subject merchandise in a third country before shipment to the United States or (2) shipment of subject merchandise, to the United States, via a third country reseller.[73] Therefore, we determined that using Kromet's data in calculating a separate rate would not be a "reasonable method."

The Department used reasonable means to assign rates to non-examined companies in instances in which the Department calculated zero rates, *de minimis* rates, or rates based entirely on facts available for the mandatory respondents.[74] In *Vietnam Shrimp AR3 Final*, the Department assigned to those non-examined separate rate companies with no history of an individually calculated weighted-average dumping margin the rate determined for cooperative separate rate respondents from the underlying investigation.[75] However, for those non-examined separate rate respondents that had received a calculated weighted-average dumping margin in a completed, prior segment, concurrent with or more recent than the calculated rate in the underlying investigation, the Department assigned that calculated rate as the company's individual separate rate in the review at hand.[76] In a recent *China Staple Fiber* administrative review, the two selected mandatory respondents received *de minimis* margins and, as a result, the Department

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[72] The Department made this same finding in the first administrative review of the *Order*: "Kromet's unconventional sales process is not representative of the separate rate respondents in this review." *See AR1 Final Results* and accompanying Issues and Decision Memorandum at Comment 9.
[73] *See* Kromet's Separate Rate Application, dated August 27, 2013, at 7 and Exhibit 4. *See also* Kam Kiu's Separate Rate Application, dated August 27, 2013, at 5-10 and Exhibit 4; Permasteelisa's Separate Rate Application, dated August 27, 2013, at 9-14 and Exhibit 12; and tenKsolar's Separate Rate Application, dated August 27, 2013, at 3-5 and Exhibit 1.
[74] *See, e.g., Administrative Review of Certain Frozen Warmwater Shrimp From the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 75 FR 49460, 49463 (August 13, 2010); *see also Narrow Woven Ribbons With Woven Selvedge From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011*, 78 FR at 10130, 10131-10132 (February 13, 2013).
[75] *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 47191, 47194 (September 15, 2009) ("*Vietnam Shrimp AR3 Final*").
[76] *Id*.

articulated a standard to apply the most recently calculated rate from a completed prior segment for each current, non-examined, separate rate respondents.[77]

During the history of this proceeding, no company has had a final calculated weighted-average dumping margin that was non-zero, non-*de minimis*, or not based entirely on facts available. Thus, we find the methodology used in both *China Staple Fiber* and *Vietnam Shrimp AR3 Final* to be instructive, based on the otherwise similar fact pattern. As such, we determine that the application of the rate from the investigation to the non-examined separate rate respondents is consistent with our past practice and an appropriate method to determine the separate rate in the instant review. Pursuant to this method, we are assigning the rate of 32.79 percent, the most recent rate (from the LTFV investigation) calculated for the non-examined separate rate respondents, to the non-examined separate rate respondents in the instant review.

Applying this rate from the LTFV investigation as the separate rate is reasonable, as that rate is an average of margins calculated in the petition. Specifically, the margins in the petition were based on actual selling prices of a Chinese exporter of subject merchandise, and therefore represent economic reality. Furthermore, evidence on the record of this review also demonstrates that this rate is an accurate representation of the commercial experience of a segment of the aluminum extrusions industry because it does not lie outside the realm of actual selling prices.[78] Accordingly, we are not persuaded by Kam Kiu's and Permasteelisa's reference to *Albemarle Corp.*, or tenKsolar's reference to *Baroque Timber Industries*, because those cases dealt with different factual scenarios.[79]

In *Albemarle Corp*, there were two mandatory respondents for whom the Department calculated a zero margin; under protest, the Department assigned the same zero rate to two separate rate companies; the Department also assigned another separate rate company its individually calculated rate from the previous review.[80] In *Baroque Timber Industries*, there were three mandatory respondents for whom the Department calculated a zero margin; the Department then averaged those three margins with the PRC-wide rate to obtain the margin for the separate rate companies; the CIT rejected this calculation and the Department then declined to calculate a rate for the separate rate companies, but stated that they would receive a rate above *de minimis*.[81]

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[77] *Certain Polyester Staple Fiber From the People's Republic of China: Notice of Preliminary Results of the Antidumping Duty Administrative Review, and Intent To Revoke Order in Part*, 76 FR 40329, 40332 (July 8, 2011), unchanged in *Certain Polyester Staple Fiber From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, and Revocation of an Order in Part*, 76 FR 69702 (November 9, 2011) ("*China Staple Fiber*").

[78] *See Preliminary Results,* and accompanying Preliminary Decision Memorandum at 19 (in which we explained that the petition rates are within the range of Kromet's individual AD margins.)

[79] In the instant review, we have no participating mandatory respondents and only one participating voluntary respondent who received a zero calculated margin and whose sales practices are unique, due to its further manufacturing in a third country before exportation to the United States.

[80] *See Albemarle Corp.*, 931 F. Supp. 2d at 1292 (the Department may not assign "a margin that has no rational relationship to any pricing behavior during the POR or to the likely pricing behavior of the recipients of the margin").

[81] *See Baroque Timber Industries*, 971 F. Supp. 2d at 1333 (the Department must articulate a "rational connection between the facts found and the choice made" in order for an all-others rate calculation to be considered reasonable). *Baroque Timber Industries* is still in litigation and is not final and conclusive.

Neither *Albemarle Corp.* nor *Baroque Timber Industries* dictate a standard for what constitutes a reasonable separate rate in light of the specific facts of this case.

In this case, unlike in either *Albemarle Corp.* or *Baroque Timber Industries*, we have only ever had one fully cooperative company, Kromet; all other mandatory respondents in the investigation, first review, and this current (second) review have not fully cooperated and have been assigned the AFA rate. Moreover, the separate rate companies, since the investigation, have been assigned a rate of 32.79 percent but have continued to make shipments of subject merchandise; thus, if the rate were commercially unreasonable, we would expect to see an end to shipments, but the record does not reflect such a cessation of shipments.

Kam Kiu and Permasteelisa cite to *Bestpak* and *SNR Roulement* in support of their argument that the Department must calculate a dumping margin fairly and accurately as possible.[82] In employing the reasonable methodology of relying on the separate rate assigned in a completed prior segment of this proceeding rather than averaging the *de minimis* and AFA rates assigned to the voluntary and mandatory respondents, the CAFC's decision in *Bestpak* is inapposite. In *China Ribbons*,[83] the investigation that underlies *Bestpak*, the Department averaged the *de minimis* and AFA rates of the mandatories in order to calculate the rate for Bestpak, the non-examined, separate rate respondent. While the CAFC stated that the Department may be permitted to use a simple average methodology to calculate a separate rate, it did not uphold the separate-rate calculation at issue in light of facts before it.[84] Furthermore, the CAFC expressly rejected applying the sole calculated rate, a zero rate, to the separate rate companies appealing the case to the CAFC because the Court did not believe there was sufficient evidence on the record to find that the commercial experience of that sole respondent was representative of the separate rate companies.[85] In this case, we are not implicating the averaging methodology at issue in *Bestpak*, and have rejected the use of the one company for which a calculation has resulted in a *de minimis* margin.

We also do not find the facts on the record of this review to be comparable to those underlying *Amanda Foods* (as cited by tenKsolar).[86] In that case, the Department was confronted with calculated, albeit *de minimis*, rates for three mandatory respondents and, on remand, averaged those rates to determine the separate rate.[87] In this case, as explained, *supra*, we have two mandatories with margins based entirely on AFA (as part of the PRC-wide entity) and one voluntary respondent with a calculated rate (albeit, a zero rate) and, therefore, the facts in the current review are distinguishable from those in *Amanda Foods*.

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[82] *See Bestpak*, 716 F. 3d at 1379 (the Department is required to "calculate dumping margins as accurately as possible"); *see also SNR Roulement*, 402 F.3d at 1363 ("Antidumping laws intend to calculate antidumping duties on a fair and equitable basis").
[83] *See Narrow Woven Ribbons with Woven Selvedge from the People's Republic of China and Taiwan*, 74 FR 39291 (August 6, 2009) ("*China Ribbons*")
[84] *See Bestpak*, 716 F. 3d at 1378.
[85] *Id.* at 1379.
[86] *See Amanda Foods* (discussing that the inclusion of zero or *de minimis* antidumping margins of investigated producers and exporters in the all-others rates is the only example of a "reasonable method" articulated in the statute).
[87] *See* Final Results of Remand Redetermination Pursuant to Court Remand in *Amanda Foods v. United States*, Consolidated Court No. 09-00431, signed by Paul Piquado, Assistant Secretary for Import Administration, and dated March 29, 2012, at 13, available at *http://enforcement.trade.gov/remands/index.html*.

Respondents' reliance on *MacLean-Fogg* is also misplaced, as the CAFC's holding does not require the Department to average zero and *de minimis* margins which are calculated for voluntary respondents in determining a non-reviewed respondent rates in administrative reviews. Section 735(c)(5)(A) of the Act states that in investigations, in calculating an all-others rate, zero and *de minimis* margins and margins determined entirely using facts available should be excluded under the "general rule." The CAFC's in *MacLean-Fogg* did not make a decision with respect to administrative reviews, the calculation of non-selected companies in those reviews, or zero or *de minimis* margins calculated for any respondent. As discussed above, in the instant administrative review, Kromet has obtained a zero margin. Accordingly, consistent with its practice, the Department will not use Kromet's rate in calculation of the separate rate.

With respect to tenKsolar's assertion that the Department should use one of the other margins calculated for Kromet under either the average-to-transaction or mixed-alternative methodology, because it claims those margins would be more reasonable, we disagree. The result of such an analysis would be the use by the Department of a comparison method which the Department did not use in calculating a rate for Kromet because Kromet's sales did not pass the *Cohen's d* test. Moreover, as explained above, Kromet has an unconventional sales process that is not representative of the separate rate respondents. Furthermore, the 32.79 percent separate rate is within the range of Kromet's transaction-specification dumping margins, and therefore is consistent with the observed commercial experience of a reviewed exporter of the subject merchandise on the record. Accordingly, we have determined that the use of the 32.79 percent is reasonable and supported by substantial evidence on the record.

In response to the respondents' arguments that the Department's methodology is "punitive" in selecting a separate rate, and citation to the CAFC's analysis in *KYD, Inc.*[88] and *F.lli De Cecco*,[89] we note that the 32.79 percent separate rate is distinct from the 33.28 percent AFA rate, which is assigned to the PRC-wide entity and non-cooperating companies and was not calculated as a punitive rate. Accordingly, there is no support on the record for the claim that this rate is "punitive."

With regards to tenKsolar's argument that there is not a significant difference between the two rates (citing to 19 CFR 351.106(c) and *Mannesmannrohren-Werke*, 77 F. Supp. 2d at 1322-1323), we note that there is no regulatory or statutory criteria for the Department to evaluate a significant difference between separate rate margins and AFA margins, and that the 0.5 percent *de minimis* criteria applies only to margins that may be so near zero that they may be disregarded. Proximity of a separate rate to an AFA rate does not on its own render a separate-rate inappropriate. Furthermore, we note that had there been cooperating mandatory respondents, the Department may have other rates to choose from; however, given the relative lack of cooperating mandatory respondents in the current and previous segments of this case, the Department is left with few options for margins to assign to separate rate respondents.

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[88] *See KYD, Inc.*, 607 F.3d at 767-768 ("The antidumping laws 'are remedial not punitive,' . . . and an antidumping rate based on AFA is designed 'to provide respondents with an incentive to cooperate, not to impose punitive . . . margins").

[89] *See F.lli De Cecco.*, 216 F.3d at 216 F.3d at 1032 ("{T}he purpose of section 1677e(b) is to provide respondents with an incentive to cooperate, not to impose punitive, aberrational, or uncorroborated margins …").

We additionally note that, though Permasteelisa, tenKsolar, and Kam Kiu argue that the separate rate margin is unreasonable, they did not request voluntary respondent status, as Kromet did, nor did they submit voluntary questionnaire responses that would allow the Department to establish more precise, company-specific AD rates during the period.

In this review, as in the previous administrative review, we preliminarily found that a reasonable method was to assign to the non-examined, separate rate respondents (none of which have a history of an individually calculated weighted-average dumping margin) the rate calculated for non-examined separate rate respondents in the underlying investigation, 32.79 percent, adjusted as appropriate for export subsidy and domestic subsidy pass-through offsets.[90] We continue to find that this is a reasonable method and sustain our assignment of this separate rate for the final results.

Comment 5: Whether the Department Has the Authority to Assess Antidumping Duties on Imports of Merchandise Prior to the Initiation of a Scope Inquiry

- Jangho, Permasteelisa and Streamlight argue that when the Department conducts a formal scope inquiry and determines that the product in question is within the scope of the order, 19 CFR 351.225(l)(3) authorizes the Department to assess duties only on entries made on or after the date of the initiation of the formal scope inquiry.[91]
- Streamlight contends that in the first administrative review of this case, after the Department had issued a scope ruling finding that IDEX's precision machine parts were within the scope of the *Orders*,[92] the Department stated that, consistent with 19 CFR 351.225(1)(3), it would instruct U.S. Customs and Border Protection ("CBP") "to suspend liquidation . . . on or after the date of initiation" of IDEX's scope inquiry.
- Jangho, Permasteelisa and Streamlight argue further that *AMS Associates*[93] held that the Department failed to follow the AD regulation's "restriction of suspension of liquidation to only those entries made on or after the date of initiation of a formal scope inquiry."[94]
- Permasteelisa argues further that *AMS Associates* upholds the plain language of 19 CFR 351.225(l)(3), authorizing the Department to liquidate entries only "on or after the date of

[90] *See* Attachment to this memorandum.
[91] Jangho, Permasteelisa and Streamlight each cite *AR1 Final Results* and accompanying Issues and Decision Memorandum at Comment 14 (where the Department determined that consistent with 19 CFR 351.225(1)(3), antidumping duties could be assessed on IDEX Health & Science LLC's ("IDEX") imports of precision machine parts only after the date of the initiation of a formal scope inquiry).
[92] *See AD Order* and *Aluminum Extrusions from the People's Republic of China: Countervailing Duty Order,* 76 FR 30653 (May 26, 2011) ("*CVD Order*") (collectively, "*Orders*").
[93] *See AMS Associates, Inc. v. United States,* 881 F. Supp. 2d 1374, 1382 (CIT 2012) ("*AMS Associates CIT*"), aff'd, 737 F. 3d 1338 (Fed. Cir. 2013) (collectively, "*AMS Associates*").
[94] Permasteelisa cites a number of court rulings which hold that government agencies must abide by their own regulations: *Fort Stewart Schools v. Fed. Labor Relations Authority*, 495 U.S. 641, 654 (1990) (citing *Vitarelli v. Seaton*, 359 U.S. 535, 547 (1959); *Service v. Dulles*, 354 U.S. 363, 388 (1957)); and, *Torrington Co. v. United States*, 82 F.3d 1039, 1049 (Fed. Cir. 1996) ("Commerce, like other agencies, must follow its own regulations.").

the initiation of the scope inquiry" in a scope ruling where coverage is unclear.[95] Permasteelisa and Streamlight maintain that, after the completion of the POR,[96] the Department initiated formal scope inquiries covering their respective merchandise (curtain-wall units and heat sinks parts for high-energy light emitting diode ("LED") lamps) because the scope language of the *Orders* was unclear.

  - Permasteelisa notes that it was a party to the proceeding in the *Curtain Wall Units Scope Ruling* and it fulfilled all of the obligations required of a party to a scope proceeding.
  - Permasteelisa argues further that the *Curtain Wall Units Scope Ruling* was not effective during the instant POR and that any determination and/or assessment of AD duties covering the POR would be inconsistent with the *Curtain Wall Units Scope Ruling*, the Department's regulations and practice, and court precedent to continue to assess duties for sales and entries during the current POR.

- Streamlight asserts that to date, the Department has not issued a final ruling on its heat sinks parts for high-energy LED lamps, so that, even if it were to determine that Streamlight's products were within the scope of the order, 19 CFR 351.225(l)(3) prohibits the Department from assessing countervailing duties (*sic*) on merchandise entered prior to the date of the formal scope initiation.
- Petitioner argues that the initiation of a scope inquiry does not prevent the Department from assessing duties on Jangho's and Permasteelisa's curtain walls. Rather, Petitioner maintains that:
  - 19 CFR 351.225(l)(3) requires that in instances where the Department has conducted a scope inquiry and found the products at issue within the scope of the order, and there has been no suspension of liquidation, the Department will instruct CBP to suspend liquidation and to require a cash deposit of estimated duties, at the applicable rate, for each unliquidated entry of the product entered, or withdrawn from warehouse, for consumption on or after the date of initiation of the scope inquiry.
  - The Department requires all parties requesting a review to have suspended entries of subject merchandise.[97] Petitioner notes that Jangho submitted evidence of a suspended entry in its separate rates application. As a consequence, Petitioner argues that Jangho's imports do not qualify under the provision of the regulation that applies to merchandise that has not already been suspended.

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[95] Permasteelisa cites *AMS Associates*, 737 F.3d at 1343-1344 (relying upon 19 U.S.C. § 351.225(l)(2) and the provision for suspension "on or after the date of initiation of the scope inquiry"). As set forth above, the language in 19 U.S.C. § 351.225(l)(3) contains the same "on or after the date of initiation of the scope inquiry" provision. In addition, Permasteelisa contends that *AR1 Final Results* and accompanying Issues and Decision Memorandum at Comment 14 relies upon *AMS Associates* to set the effective date for assessment in scope rulings.
[96] Permasteelisa cites letter to All Interested Parties, entitled, "Aluminum Extrusions the People's Republic of China: Initiation of Formal Scope Inquiry dated May 10, 2013 ("CWU Scope Initiation"); Streamlight cites letter to All Interested Parties, entitled, "Aluminum Extrusions from the People's Republic of China ("PRC"): Initiation of Scope Inquiry on Heat Sinks Parts for LED Lamps," May 19, 2014 ("Streamlight Scope Initiation").
[97] Petitioner cites to *AR1 Final Results* and accompanying Issues and Decision Memorandum at Comment 26 ("Antidumping duty rates serve as the basis for estimated AD duties. Where there is no evidence of suspended entries upon which to assess AD duties for certain exporters, consistent with the Act and with the Department's long-standing practice, we find that these exporters are not eligible for a review.").

- *Shenyang Yuanda*[98] supports the Department's retroactive suspension of liquidation for unliquidated entries of curtain walls because *Curtain Wall Units and Other Parts of a Curtain Wall System*[99] neither added to nor subtracted from the products included in the scope of these *Orders*. Thus, Petitioner argues that the Department did not exceed its authority by continuing the suspension of liquidation of products which had been suspended since publication of the preliminary determination in the original investigation.[100]
- *Shenyang Yuanda* also clarifies that the Department cannot retroactively suspend liquidation of "new products" that are found to be covered under the scope.[101]
- *AMS Associates*, holds that "{I}mporters cannot circumvent antidumping orders by contending that their products are outside the scope of existing orders when such orders are clear as to their scope."[102]
- *AMS Associates* is inapplicable to this case because, in *AMS Associates*, the Department issued clarification instructions that interpreted the scope of an existing AD order to cover new products and then retroactively suspended liquidation of those products.
- During the first POR, the Department declined to retroactively suspend liquidation of IDEX's imports as a result of *Precision Machine Parts*,[103] which was prior to the issuance of *Shenyang Yuanda* (which prohibited the retroactive suspension of liquidation).
- Thus, because curtain walls and CWUs have always been covered by the scope of the *Orders*, Petitioner argues that the Department should collect duties on all CWUs imported by Jangho and Permasteelisa during the POR.

- Petitioner argues that to the extent that the Department determines that Streamlight's heat sink parts for high-energy LED lamps are within the scope of the *Orders*, the Department should collect duties on Streamlight's imports prior to the initiation of the scope inquiry.
  - In addition, Petitioner argues that to the extent that any of Streamlight's products were classified as Type 3 merchandise prior to the scope initiation date, then 19 CFR 351.225(l)(3) does not apply to those products, and the Department should continue to collect duties on the product if found to be in scope.

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[98] Petitioner cites to *Shenyang Yuanda Aluminum Industry Engineering Co., Ltd. v. United States,* 961 F. Supp. 2d 1291, 1302-03 (CIT 2014), *currently on appeal*, 2014-1386, -1387, -1388 ("*Shenyang Yuanda*").
[99] Petitioner cites to Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Antidumping Duty (AD) and Countervailing Duty (CVD) Orders: Curtain Wall Units and Other Parts of a Curtain Wall Systems from the People's Republic of China (PRC): Final Scope Ruling on Curtain Wall Units and Other Parts of a Curtain Wall System," dated November 30, 2012 ("*Curtain Wall Units and Other Parts of a Curtain Wall System*").
[100] Petitioner cites to *Shenyang Yuanda*, 961 F. Supp. 2d 1291 at 1304-1305.
[101] *Id.* at 1303. (In addition to this cite, Petitioner states without attribution, "It appears that the CIT classifies "new products" as products that were found to be in scope due to later developed merchandise, minor alterations, and country of origin scope proceedings.")
[102] Petitioner cites to *AMS Associates*, 737 F.3d at 1344 (citing *Huaiyin Foreign Trade Corp. (30) v. United States*, 322 F.3d 1369, 1378-79 (Fed. Cir. 2003)).
[103] Petitioner cites to Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Antidumping Duty (AD) and Countervailing Duty (CVD) Orders: Aluminum Extrusions from the People's Republic of China (PRC): Final Scope Ruling on Precision Machine Parts," dated March 28, 2012 ("*Precision Machine Parts*").

- Furthermore, Petitioner argues, if the Department finds that Streamlight's products represent heat sinks, but not finished heat sinks, the Department should retroactively suspend liquidation of such merchandise.

Department's Position: We disagree with Permasteelisa, Jangho and Streamlight that the Department has no authority to assess duties on imports prior to the initiation of a scope inquiry. Further, we disagree with Permasteelisa and Jangho that 19 CFR 351.225(l)(3) prohibits the Department from assessing duties on their entries as a result of this administrative review. Permasteelisa, Jangho and Streamlight mischaracterize 19 CFR 351.225(1)(3), which states that "the Secretary will instruct the Customs Service to suspend liquidation and to require a cash deposit of estimated duties, at the applicable rate, for each unliquidated entry of the product entered, or withdrawn from warehouse, for consumption on or after the date of initiation of the scope inquiry," by failing to include the words, "*{w}here there has been no suspension of liquidation*" (emphasis added). Permasteelisa's and Jangho's entries were suspended prior to the date of initiation of the *Curtain Wall Units Scope Ruling*, a scope ruling which neither Permasteelisa nor Jangho requested.[104] Nothing in 19 CFR 351.225(l)(3) prohibits CBP from suspending liquidation of their entries prior to the initiation of a scope inquiry. Likewise, nothing in this provision prohibits the Department from instructing CBP to assess duties on these entries, which are properly subject to this review.

We also disagree with the arguments of Permasteelisa, Jangho and Streamlight that the initiation of a formal scope inquiry is an indicator that, prior to the date of the initiation, the Department could not determine if the products were within the scope in the order, and therefore it is improper for CBP to suspend liquidation prior to the date of initiation. As evidenced by 19 CFR 351.225(l)(1)-(3), the Department may initiate a formal scope inquiry even where products have already been suspended prior to the date of initiation. If the Department reaches an affirmative determination that the products are within the scope of the orders, 19 CFR 351.225(l)(3) permits the Department to continue its suspension of the products. As noted above, Jangho's and Permasteelisa's products at issue were already suspended prior to the date of initiation of the scope inquiry, and thus, the Department may properly assess duties on these entries. For Streamlight, we do not have any information on the record with respect to whether its entries are currently suspended. However, as stated above, nothing in 19 CFR 351.225(l)(3) prohibits CBP from suspending liquidation of these entries prior to the initiation of a scope inquiry.

We also disagree with Jangho's, Permasteelisa's and Streamlight's contention that the Department's treatment of IDEX in the final results of the *AR1 Final Results* is applicable to the parties in this review. In that review, the Department stated:

> Consistent with 19 CFR 351.225(1)(3), the Department will instruct CBP to suspend liquidation and to require a cash deposit of estimated AD duties, at the applicable rate, for each unliquidated entry, if any, of IDEX's subject merchandise entered, or withdrawn from warehouse, for consumption on or after

[104] *See e.g.*, letter from Jangho, "Separate Rate Application; Administrative Review – Jangho; Aluminum Extrusions from China," dated August 27, 2013 ("SRA") at Exhibit 3, "First Sale Documentation." *See* also letter from Permasteelisa, "Aluminum Extrusions from the People's Republic of China: Separate Rate Application," dated August 27, 2013, at Exhibit 12.

> December 1, 2011, the date of initiation of IDEX's scope inquiry for precision-machined parts.[105]

Contrary to Jangho, Permasteelisa and Streamlight's contention, the *AR1 Final Results* did not say that the Department would not assess duties on IDEX's entries of subject merchandise prior to the initiation of its scope inquiry, but rather that the Department would instruct CBP to "suspend liquidation and require a cash deposit" on or after the date of the initiation of IDEX's scope inquiry. Thus, we do not find that the *AR1 Final Results* is applicable to the parties in this review.

Moreover, Permasteelisa's and Jangho's reliance on *AMS Associates* is misplaced. In *AMS Associates*, the CAFC held that the Department (1) erred in failing to conduct a formal scope inquiry because the scope of the order was unclear, and (2) exceeded its authority under 19 CFR 351.225(l)(2) by ordering the suspension of liquidation retroactive to the beginning of the period of review when the order did not clearly cover the product at issue.[106] In contrast, in the scope ruling at issue, at the request of Yuanda USA Corporation, an importer, and Shenyang Yuanda Aluminum Industry Engineering Co., Ltd., a foreign producer/exporter of certain curtain wall units, (together, "Yuanda"), the Department initiated a formal scope inquiry on certain curtain wall units to determine whether the products were subject to the order. The Department found the products were within the scope of the order pursuant to the unambiguous scope language covering parts for curtain walls,[107] and ordered CBP to "suspend liquidation of entries of curtain wall units that are produced and imported pursuant to a contract to supply a curtain wall effective 05/10/2013, which is the date of initiation of the scope inquiry."[108] Importantly, nothing in these instructions prohibited the continued suspension of liquidation for products that were already suspended prior to the date of initiation of the formal scope inquiry.

Importantly, in *Shenyang Yuanda*, another case related to a scope ruling on curtain wall units, the CIT expressly addressed and rejected the argument presented here by Permasteelisa and Jangho that the Department cannot "retroactively" collect duties on curtain wall units. The CIT confirmed that "{w}here, as here, a scope ruling confirms that a product is, and has been, the subject of an order, the Department has not acted beyond its authority by continuing the suspension of liquidation of the product."[109] The CIT in *Shenyang Yuanda* further dismissed the argument that Permasteelisa and Jangho rely on here with respect to *AMS Associates*. As the CIT explained, "{i}n *AMS*, Commerce issued clarification instructions that interpreted the scope of an existing antidumping duty order to cover new products and then retroactively suspended liquidation of these products."[110] The CIT went on to find *AMS Associates* "inapplicable to this case because, here, the instructions added no new products to the scope, and because liquidation of plaintiffs' curtain wall units has been suspended since publication of the preliminary determinations{,}…{thus,} merely confirm{ing} what had previously been the case."[111]

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[105] *See AR1 Final Results* and accompanying Issues and Decision Memorandum at Comment 14.
[106] *See AMS Associates*, 737 F. 3d at 1343-44.
[107] *See Curtain Wall Units Scope Ruling* at 20-27.
[108] *See* CBP Message No. 4101301 (April 11, 2014).
[109] *See Shenyang Yuanda,* 961 F. Supp. 2d at 1302-03.
[110] *Id.*, at 1303 (citing *AMS Associates CIT*, 881 F. Supp. 2d at 1377).
[111] *Id.*

Here, the Department has not retroactively ordered the suspension of liquidation of any of these parties' merchandise, though such merchandise may already have been properly suspended by CBP. Thus, we disagree with the respondents that *AMS Associates* stands for the proposition that the Department cannot liquidate a party's suspended entries of subject merchandise prior to the initiation of that a scope inquiry.

With respect to Streamlight, in accordance with 19 CFR 351.225(l)(1), to the extent that any of Streamlight's entries subject to the scope inquiry are already suspended, such suspension will continue pending a preliminary or final scope ruling. Any other issues raised by Streamlight or Petitioner on this issue should be raised in Streamlight's on-going scope proceeding.

Comment 6: Whether the Department Should Make a Scope Ruling on Jangho's Curtain Wall Units and Window Wall Units in this Review

- Jangho contends that its curtain wall units ("CWUs') are final finished products excluded by the "finished merchandise" and "finished-goods kits" provisions of the scope of the *Orders* pursuant to:
    - *Fan Blade Assemblies*[112] (which excluded from the *Orders* "subassemblies" that enter the United States as "finished goods" or "finished goods kits," and require no further "finishing" or "fabrication"); and,
    - *Window Wall Kits*[113] (which excluded NR Windows' window-wall kits from the *Orders* because they contained all of the necessary parts to be fully assembled, including the glass panes).
- Jangho claims that stand-alone CWUs were not a part of the underlying investigation, and thus may not be included in the scope of the *Orders*.[114]
- Jangho claims that during the underlying investigation, the Petitioners used CWUs as an example of excluded "finished goods kits," and therefore if the Department determined that the CWUs were excluded from the scope, such a determination would be consistent with representations in the Petition.[115]
- Jangho claims further that its CWUs and window-wall units ("WWUs"), like NR Windows' merchandise at issue in *Window Wall Kits*, represent window-like structures placed upon a building, and thus, should be excluded from the scope of the *Orders*.[116]
- Jangho argues that even if the Department determines that its CWUs are subject to the *Orders*, the Department may not assess duties on its imports during the period of review

[112] Jangho cites the Department's memorandum to the file, "Antidumping Duty (AD) and Countervailing Duty (CVD) Orders: Aluminum Extrusions from the People's Republic of China (PRC): Final Scope Ruling on Fan Blade Assemblies," at 16, dated July 25, 2014 ("*Fan Blade Assemblies*").
[113] Jangho cites the Department's memorandum to the file, "Antidumping Duty (AD) and Countervailing Duty (CVD) Orders: Aluminum Extrusions from the People's Republic of China (PRC): Final Scope Ruling on Finished Window Kits" dated June 19, 2014 ("*Window Wall Kits*").
[114] Jangho cites the CAFC's reversal of *A.L. Patterson, Inc. v United States*, Slip Op. 2012-103 (CIT April 6, 2012), rev'd 2014 U.S. App. LEXIS 18393 (Fed. Cir. 2014) (nonprecedential) as support for this claim.
[115] Jangho cites to language in Exhibit I-5 of the Petition for support of this claim. It is attached to Jangho's brief.
[116] Jangho cites *Window Wall Kits* at 10 for support of this argument.

("POR"), because Jangho was an interested party in the Department's formal scope inquiry which resulted in the *Curtain Walls Units Scope Ruling*.[117]

- Jangho maintains that it reported the aluminum extrusion content and volume of its imports in its questionnaire response to demonstrate its "good faith as a mandatory respondent."
- Petitioner argues that scope of the *Orders* covers Jangho's CWUs and that Jangho's reliance on *Fan Blade Assemblies* and *Window Wall Kits* is factually and legally incorrect.
- Petitioner disagrees with Jangho's contention that the Department cannot assess duties on CWUs during the POR because they are now subject to a formal scope inquiry, noting that CIT has already addressed this issue.[118] Rather, Petitioner argues that the scope of the *Orders* covers Jangho's CWUs, and that parts of curtain walls, such as CWUs, were included in the original investigation[119] and in the scope of the *Orders*.[120]
- Petitioner maintains that:
    - Neither Jangho's section A nor section C responses demonstrate that Jangho imported window walls during the POR.
    - The Department's scope rulings apply only to specific merchandise from a specific importer or exporter,[121] so that Jangho cannot now claim the benefit of the Department's scope ruling that it did not participate in, or provide evidence for, at the appropriate time.
    - The Department should collect duties on all of the merchandise Jangho imported during the POR.

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[117] Jangho cites Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Antidumping Duty and Countervailing Duty Orders on Aluminum Extrusions from the People's Republic of China: Final Scope Ruling on Curtain Wall Units that are Produced and Imported Pursuant to a Contract to Supply a Curtain Wall," date March 27, 2014 ("*Curtain Wall Units Scope Ruling*").

[118] Petitioner cites for support to *AMS Associates,* 737 F.3d at 1344 (citing *Huaiyin Foreign Trade Corp. (30) v. United States,* 322 F.3d 1369, 1378-79 (Fed. Cir. 2003)) ("{t}o hold otherwise would permit importers to potentially avoid paying antidumping duties on past imports by asserting unmeritorious claims that their products fall outside the scope of the original order.").

[119] Petitioner cites *Aluminum Extrusions From the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, and Preliminary Determination of Targeted Dumping,* 75 FR 69403 (November 12, 2010) ("*Preliminary Determination*"), which references the Department's memorandum entitled "Aluminum Extrusions from the People's Republic of China, Preliminary Determinations: Comments on the Scope of the Investigations," dated October 27, 2010, at Comment 6 ("*Preliminary Investigation Scope Memorandum*"). The *Preliminary Investigation Scope Memorandum*, unlike the other scope rulings cited by the parties in this administrative review, is not available on the Department's website at *http://enforcement.trade.gov/download/prc-ae/scope/prc-ae-scope-index.html*. Accordingly, the Department placed a copy of the *Preliminary Investigation Scope Memorandum* on the record. *See* Memorandum to the File, "Aluminum Extrusions from the People's Republic of China: 12-13 Review: Placing Comments Regarding the Scope of the Original Investigation on the Record of the Instant Review," dated concurrently with this memorandum.

[120] Petitioner cites to *Shenyang Yuanda*, 961 F. Supp. 2d at 1299-1302.

[121] Petitioner cites Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Antidumping ("AD") and Countervailing Duty ("CVD") Orders on Aluminum Extrusions from the People's Republic of China ("PRC"): Final Scope Ruling on Rheetech Sales & Services Inc.'s Screen Printing Frames with Mesh Screen Attached," dated August 7, 2014, at 13 ("*Screen Printing Frames*"), ("we note that our ruling only applies to screen printing frames matching the description of this scope request, *i.e.*, Rheetech's screen printing frames with the affixed mesh screen.").

Department's Position: We agree with Petitioner that there is no evidence that Jangho's reported merchandise is excluded from the *Orders*. Thus, we will address Jangho's concerns with respect to its merchandise in turn.

CWUs

As a preliminary matter, we disagree with Jangho that CWUs were not considered or addressed during the underlying investigation. Parts of curtain walls are explicitly included in the scope of the preliminary and final determinations of the original investigation, which specifically states, "{S}ubject aluminum extrusions may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, window frames, door frames, solar panels, curtain walls, or furniture."[122] In addition, as Petitioner noted, during the underlying investigation, the Department determined a "final finished good" under the scope is a completed curtain wall, and "components" of a curtain wall, including another company's "unitized curtain wall product" exported by that company, was subject to the *Orders*.[123] Moreover, the CIT affirmed this understanding of the investigation and CWUs in *Shenyang Yuanda*, holding that "liquidation of parts for curtain walls has been suspended since publication of the preliminary determinations for the countervailing duty order on September 7, 2010 and November 12, 2010 for the antidumping duty order."[124]

Second, Jangho's argument that language in Exhibit I-5 to the Petition reflects that CWUs, individually, were intended to be excluded from the scope is incorrect. Exhibit I-5 is a chart which the Petitioner submitted to the Petition that indicates that "unassembled unitized curtain walls" are an example of an "unassembled" product "containing aluminum extrusions, *e.g.,* "kits" that at the time of importation comprise all necessary parts to assemble finished goods."[125] CWUs, as described by Jangho, are not curtain walls, but only stand-alone parts of a curtain wall. Accordingly, Exhibit 1-5 to the Petition does not address CWUs.

Furthermore, the Department's analysis in *Fan Blade Assemblies* does not apply to parts of curtain walls, including individual CWUs, because parts of curtain walls are explicitly included in the scope of the *Orders*. This is different from the facts that were before the Department in *Fan Blade Assemblies*, in which the merchandise at issue was not explicitly included in the scope of the *Orders*.

Finally, to the extent that Jangho is arguing in the alternative that its CWUs are parts of a larger curtain wall "kit," the Department is not in a position to determine if Jangho's merchandise enters the United States as part of a "finished goods kit," because Jangho has not fulfilled the procedural and evidentiary requirements specified in 19 CFR 351.225(c) in requesting that the Department issue a scope ruling covering its specific merchandise.

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[122] *See Preliminary Determination*, 75 FR 69403, 69404 (November 12, 2010); and *LTFV Final* at 76 FR 18525-18526.
[123] *Preliminary Investigation Scope Memorandum,* Comment 6, at 11-12.
[124] *See Shenyang Yuanda*, 961 F. Supp. 2d at 1304-1305.
[125] *See* Attachment to Jangho's Brief, Exhibit I-5 to Petition.

Window Walls
A comprehensive examination of Jangho's questionnaire responses[126] indicates that Jangho did not reference the term "window wall" or "window wall kits" in any of its submissions.[127] Jangho's website also does not reference window walls or WWUs.[128] Therefore, there is no record evidence that Jangho produced window walls during the POR. Moreover, as Petitioner noted, the Department's scope rulings apply only to specific merchandise from a specific importer or exporter, so that *Window Wall Kits* applies only to N.R. Windows Inc., and not to Jangho.[129] Jangho, in fact, has never requested a scope ruling with respect to its WWUs. Because Jangho has not requested a scope ruling and provided the requisite evidence concerning its WWUs, the Department therefore has no basis for determining whether such merchandise is covered by the scope of the *Orders*. Accordingly, if Jangho believes that its merchandise is not covered by the scope of the *Order*, Jangho should request the Department to issue a scope ruling pursuant to 19 CFR 351.225(c). For purposes of this administrative review, however, the Department must determine that no evidence on the record supports Jangho's argument for exclusion from the scope.

Jangho's Failure to Answer the Department's Questionnaire
We also disagree with Jangho's claim that it reported the aluminum extrusion content and volume of its imports in its questionnaire response to demonstrate its "good faith as a mandatory respondent."[130] In fact, Jangho did not respond to all of the Department's requests for information. Specifically, after the Department issued its first supplemental questionnaire,[131] Jangho withdrew as a mandatory respondent from this segment of the proceeding,[132] without providing the information requested in the Department's supplemental questionnaire. As a consequence, in the *Preliminary Results*, because Jangho did not demonstrate its eligibility for a separate rate, we included Jangho in the PRC-wide entity, to which we assigned a margin based on AFA, as explained above in Comment 3.[133] For this reason, we will make no changes to this determination for these final results of review.

Finally, we address Petitioner's argument with respect to the Department's ability to assess duties on a product that is subject to a formal scope ruling in Comment 5 of this memorandum.

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[126] *See* Jangho's SRA; Jangho's AQR; letter from Jangho, "Section C Questionnaire Response; Administrative Review - Jangho; Aluminum Extrusions from China," dated December 9, 2013 ("CQR"); and, letter from Jangho, "Section D Questionnaire Response; Administrative Review - Jangho; Aluminum Extrusions from China," dated December 12, 2013 ("DQR").
[127] *See* Jangho's SRA at Attachments 4 and 6.
[128] *See* Memorandum to the File, "Antidumping Duty Order on Aluminum Extrusions from the People's Republic of China: 12-13 Review: Transmitting Jangho's Website to the File," dated March 15, 2014.
[129] *See Window Wall Kits* at 10.
[130] *See* letter from Jangho, "Aluminum Extrusions from the People's Republic of China: Case Brief: Guangzhou Jangho Curtain Wall System Engineering Co., Ltd. and Jangho Curtain Wall Hong Kong Ltd.," dated August 8, 2014 ("Jangho's Case Brief") at 6, citing letter from Jangho, "Section A Questionnaire Response; Administrative Review - Jangho; Aluminum Extrusions from China," dated November 18, 2013 ("AQR") at A-2.
[131] *See* letter from the Department, "Aluminum Extrusions from the People's Republic of China: 12-13 Review: First Supplemental Questionnaire for Jangho's Separate Rates Application and Section A, C and D Questionnaire Response," dated March 25, 2014.
[132] *See* letter from Jangho, "Aluminum Extrusions from the People's Republic of China: 2012-2013 Administrative Review," dated April 7, 2014.
[133] *See Preliminary Results,* and accompanying Preliminary Decision Memorandum at 1, 14-15.

Comment 7: Status of Skyline's Separate Rate

- Skyline avers that it should not lose its separate rate status, as it had no entries during the POR, which it demonstrated to the Department in a supplemental questionnaire response filed after the *Preliminary Results*.

Department's Position: Based upon record evidence, we find that Skyline's entries were outside the POR; thus, we find that Skyline had no reviewable entries during the POR.[134] Specifically, Skyline provided documentary evidence showing that its entries came in prior to the POR and that it worked with CBP to correct the entry dates.[135] Thus, for these final results, we will not revoke Skyline's separate rate status but will issue no-shipments liquidation instructions to CBP, instructing CBP to liquidate any entries under Skyline's company-specific case number, during the POR, at the PRC-wide rate.

Comment 8: Whether to Correct the Spelling of Company Names in the Final Results and CBP Instructions

- Kam Kiu asserts that, in order to avoid complications with CBP, the Department should correct the spelling of its name in the final results FR notice and CBP instructions using the British spelling of *aluminium*, rather than the American English version *aluminum*.

Department's Position: We corrected the spelling of Kam Kiu's names for these final results (*i.e.*, "Kam Kiu Aluminium Products Sdn. Bhd." and "Taishan City Kam Kiu Aluminium Extrusions Co., Ltd.").[136]

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[134] *See* Skyline's submission titled "Aluminum Extrusions from the People's Republic of China: Skyline Exhibit Systems (Shanghai) Co., Ltd. Supplemental Questionnaire Response," dated July 17, 2014.
[135] *Id.*
[136] *See Federal Register* notice titled "*Aluminum Extrusions from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Rescission, in Part; 2012-2013*," dated concurrently with this memorandum. The Department will also correct the spellings of the name for cash deposit and liquidation instructions to be released to CBP.

RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting the above positions. If this recommendation is accepted, we will publish the final results of the review and the final weighted-average dumping margins in the *Federal Register*.

Agree ✓ Disagree ____

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

22 DECEMBER 2014
Date

ATTACHMENT

Domestic and Export Subsidy Offsets

Company	AD AR2 Margin	AD Margin Source	Status in CVD AR1	Export Subsidy	Domestic Subsidy[1]	Pass-Through[2]	Subsidy Passed[3]	Margin Net of Adjustments[4]
Cell	A			B	C	D	E	F
Claculation							E = C * D	F = A - B - E
Kromet International, Inc.[5]	n/a	Own, Calculated	Individually Examined	0.53%	12.19%	86.16%	10.50%	0.00%
Allied Maker Limited	32.79%	Avg of Pet. Rates	Did not participate	8.31%	2.55%	86.16%	2.20%	22.28%
Changzhou Changzheng Evaporator Co., Ltd.	32.79%	Avg of Pet. Rates	Individually Examined	0.03%	0.08%	86.16%	0.07%	32.69%
Classic & Contemporary Inc.	32.79%	Avg of Pet. Rates	Did not participate	8.31%	2.55%	86.16%	2.20%	22.28%
Dynabright Int'l Group (HK) Limited	32.79%	Avg of Pet. Rates	Did not participate	8.31%	2.55%	86.16%	2.20%	22.28%
Hanyung Metal (Suzhou) Co., Ltd.	32.79%	Avg of Pet. Rates	Did not participate	8.31%	2.55%	86.16%	2.20%	22.28%
Global Point Technology (Far East) Limited	32.79%	Avg of Pet. Rates	Did not participate	8.31%	2.55%	86.16%	2.20%	22.28%
Jiangsu Changfa Refrigeration Co., Ltd.	32.79%	Avg of Pet. Rates	Non-selected Co.	0.28%	6.14%	86.16%	5.29%	27.22%
Jiaxing Jackson Travel Products Co., Ltd.	32.79%	Avg of Pet. Rates	Non-selected Co.	0.28%	6.14%	86.16%	5.29%	27.22%
Justhere Co., Ltd.	32.79%	Avg of Pet. Rates	Non-selected Co.	0.28%	6.14%	86.16%	5.29%	27.22%
Kam Kiu Aluminium Products Sdn. Bhd.	32.79%	Avg of Pet. Rates	AFA	8.31%	2.55%	86.16%	2.20%	22.28%
Metaltek Group Co., Ltd.	32.79%	Avg of Pet. Rates	Non-selected Co.	0.28%	6.14%	86.16%	5.29%	27.22%
Midea International Trading Co., Ltd.	32.79%	Avg of Pet. Rates	Non-selected Co.	0.28%	6.14%	86.16%	5.29%	27.22%
Permasteelisa Hong Kong Limited	32.79%	Avg of Pet. Rates	Did not participate	8.31%	2.55%	86.16%	2.20%	22.28%
Shanghai Tongtai Precise Aluminum Alloy Manufacturing Co., Ltd.	32.79%	Avg of Pet. Rates	Non-selected Co.	0.28%	6.14%	86.16%	5.29%	27.22%
Sincere Profit Limited	32.79%	Avg of Pet. Rates	Non-selected Co.	0.28%	6.14%	86.16%	5.29%	27.22%
tenKsolar (Shanghai) Co., Ltd.	32.79%	Avg of Pet. Rates	Did not participate	8.31%	2.55%	86.16%	2.20%	22.28%
Tianjin Jinmao Import & Export Corp., Ltd.	32.79%	Avg of Pet. Rates	Non-selected Co.	0.28%	6.14%	86.16%	5.29%	27.22%
Union Industry (Asia) Co., Ltd.	32.79%	Avg of Pet. Rates	Non-selected Co.	0.28%	6.14%	86.16%	5.29%	27.22%
PRC-wide Entity	33.28%	PRC-wide	Not reviewed	0.03%	0.08%	86.16%	0.07%	33.18%

Status	Rate to assign
Individually Examined in CVD AR1................	CVD AR1 own-rate
Non-selected in CVD AR1..............................	CVD AR1 non-selected rate (simple average of CVD AR1 mandatories)
Did not participate in CVD AR1.......................	CVD Investigation Rate for "All Others"
CVD AR1 AFA..	CVD Investigation Rate for "All Others"

Notes

[1] Aluminum LTAR (*see* Preliminary Decision Memorandum at 35-36)

[2] Bloomberg-derived pass-through rate (*see* Preliminary Decision Memorandum at Attachment 1)

[3] Domestic subsidy passed through (*see* Preliminary Decision Memorandum at 35-36)

[4] Margin net of adjustments: for cash deposit and liquidation assessment instructions to be issued to CBP

[5] Kromet's adjustments, per the statute, were made in the margin program on a sale-specific basis