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

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Investigation
Public Document
E&C/VII: The Team

January 20, 2015

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for the Preliminary Determination in the Antidumping Duty Investigation of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China

I. SUMMARY

The Department of Commerce (Department) preliminarily determines that passenger vehicle and light truck tires (passenger tires) from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is October 1, 2013, through March 31, 2014. The estimated margins of sales at LTFV are shown in the "Preliminary Determination" section of the accompanying *Federal Register* notice. In accordance with section 733(e)(1)(A)(i) of the Act, we preliminarily find that critical circumstances exist with respect to imports of passenger tires from the PRC for Shandong Yongsheng Rubber Group Co., Ltd., the non-individually investigated companies, and the PRC-wide entity.

II. BACKGROUND

Initiation and Case History

On June 3, 2014, the Department received an antidumping duty (AD) petition filed by United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO, CLC (collectively, Petitioner) on passenger tires from the PRC.[1] Supplements to the petition are described in the AD Initiation Checklist.[2] On July 14, 2014, the Department initiated an AD investigation on passenger tires from the PRC.[3]

We stated in the *Initiation Notice* that we intended to base our selection of mandatory respondents on responses to quantity and value (Q&V) questionnaires to be sent to each potential respondent named in the Petition.[4] On July 16, 2014, the Department issued Q&V questionnaires to the 61 companies that the Petitioner identified as potential producers/exporters of passenger tires from the PRC.[5] In addition, the Department posted the Q&V questionnaire on its website and, in the *Initiation Notice*, invited parties that did not receive a Q&V questionnaire from the Department to file a response to the Q&V questionnaire by the applicable deadline. Between July 28 and August 5, 2014, the Department received timely filed Q&V questionnaire responses from 100 exporters/producers.[6]

Petitioner submitted respondent selection comments urging the Department to select four mandatory respondents.[7] Petitioner also requested that the Department decline to select Carlisle (Meizhou) Rubber Products Co., Ltd. (Carlisle) as a mandatory respondent as it does not seem, in fact, to be a producer of in-scope merchandise.[8] On August 27, 2014, based on the responses to the Q&V questionnaires, we selected Shandong Yongsheng Rubber Group Co., Ltd. (Yongsheng) and Giti Tire Global Trading Pte. Ltd. (GTT) and its affiliates (collectively, GITI) for individual examination as mandatory company respondents in this AD investigation.[9]

On August 27, 2014, the Department issued its standard AD non-market economy (NME) country questionnaires to Yongsheng and GITI.[10] GITI filed a Section A response for itself and on behalf of its affiliates GITI Tire (USA) Ltd. (GITI USA), GITI Radial Tire (Anhui) Company Ltd. (GITI Anhui), GITI Tire (Fujian) Company Ltd. (GITI Fujian), and GITI Tire (Hualin) Company Ltd. (GITI Hualin) on October 2, 2014.[11] GITI then filed its responses to Sections C

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[1] *See* ‘‘Petition for the Imposition of Antidumping Duties on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China,'' (June 3, 2014) (AD Petition).
[2] *See* "Antidumping Duty Initiation Checklist: Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China," (July 14, 2014) (AD Initiation Checklist).
[3] *See Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Initiation of Antidumping Duty Investigation,* 79 FR 42292 (July 21, 2014) (*Initiation Notice*).
[4] *Id.* at 42296.
[5] *See* AD Petition at Exhibit I-9; *see also* Memorandum, "Antidumping Duty Investigation of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Quantity and Value Questionnaire," (July 16, 2014).
[6] *See* Memorandum, "Antidumping Duty Investigation of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Respondent Selection," (August 27, 2014) (Respondent Selection Memorandum).
[7] *See* Letter from Petitioner, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China—Petitioner's Comments on Respondent Selection," at 2 (August 20, 2014).
[8] *Id*. at 5.
[9] *See* Respondent Selection Memorandum.
[10] *See* Letter to GITI Tire Global Trading Pte. Ltd., and its affiliates, "Investigation of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Antidumping Duty Questionnaire," (August 27, 2014) (GITI Initial Questionnaire); *see also* Letter to Shandong Yongsheng Rubber Group Co., Ltd., "Investigation of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Antidumping Duty Questionnaire," (August 27, 2014) (Yongsheng Initial Questionnaire).
[11] *See* "Passenger Vehicle and Light Truck Tires from the People's Republic of China: Section A Questionnaire Response - Giti Tire Global Trading Pte. Ltd.," (October 2, 2014) (GITI SAQR).

and D on October 27, 2014.[12] Subsequent to these initial questionnaire responses, GITI filed several supplemental responses in response to supplemental questionnaires issued by the Department.[13]

On October 6, 2014, Yongsheng informed the Department that it would not be participating in the instant investigation.[14] As a result of Yongsheng's withdrawal, the Department selected Sailun Group Co., Ltd. (Sailun China) as the third mandatory respondent.[15] On October 9, 2014, the Department issued its standard AD NME questionnaire to Sailun China.[16] Sailun China filed responses to the Department's Section A questionnaire for itself and on behalf of its affiliates Sailun Tire International Corp. (Sailun BVI), Shandong Jinyu Industrial Co., Ltd. (Shandong Jinyu), Jinyu International Holding Co., Limited (Jinyu HK), Seatex International Inc. (Seatex), Dynamic Tire Corp. (Dynamic), Husky Tire Corp. (Husky), and Seatex PTE. Ltd. (Seatex Singapore) (collectively, Sailun Group) on October 20 and November 13, 2014.[17] Sailun Group

[12] *See* Passenger Vehicle and Light Truck Tires from the People's Republic of China: Section C Questionnaire Response - Giti Tire Global Trading Pte. Ltd. (October 27, 2014) (GITI SCQR) and Passenger Vehicle and Light Truck Tires from the People's Republic of China: Section D Questionnaire Response - Giti Tire Global Trading Pte. Ltd. (October 27, 2014) (GITI SDQR).

[13] *See* Letter from GITI, "Passenger Vehicle and Light Truck Tires from the People's Republic of China: 1st Supplemental Questionnaire Response, Part I - Giti Tire Global Trading Pte. Ltd." (December 1, 2014) (GITI 1st Supplemental SDQR); "Passenger Vehicle and Light Truck Tires from the People's Republic of China: 1st Supplemental Section C Questionnaire Response, Part II - Giti Tire Global Trading Pte. Ltd." (December 8, 2014) GITI 1st Supplemental SCQR); "Passenger Vehicle and Light Truck Tires from the People's Republic of China: Supplemental Sections A and C Questionnaire Response - Giti Tire Global Trading Pte. Ltd." (December 31, 2014) (GITI Supplemental SACQR); and "Passenger Vehicle and Light Truck Tires from the People's Republic of China: 2nd Supplemental Section D Questionnaire Response - Giti Tire Global Trading Pte. Ltd." (December 31, 2014) (GITI 2nd Supplemental SDQR).

[14] *See* Letter from Yongsheng, "Passenger Vehicle and Light Truck Tires from the People's Republic of China: Withdrawal from Participation as a Mandatory Respondent, Shandong Yongsheng Rubber Group Co., Ltd.," October 6, 2014 (Yongsheng Withdrawal Letter) (where Yongsheng stated that it "withdraw{s} from participation as a mandatory respondent, through responses to questionnaires, in the above-referenced investigation").

[15] *See* Memorandum, "Antidumping Duty Investigation of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Selection of Additional Mandatory Respondent" (October 7, 2014) (Third Mandatory Respondent Memorandum).

[16] *See* Letter to Sailun Group, "Investigation of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Antidumping Duty Questionnaire" (October 9, 2014).

[17] *See* Letter from Sailun Group, "Sailun China Response to Questions 3. A, 3.C and 3. D of Section A Questionnaire in the Antidumping Duty Investigation on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China" (October 20, 2014) (Sailun Group SAQR-1) and Letter from Sailun Group, "Sailun Section A Questionnaire Response in the Antidumping Duty Investigation on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China," (November 13, 2014) (Sailun Group SAQR-2).

then filed its responses to Sections C and D on December 2, 2014. [18] Subsequent to these initial responses, Sailun Group filed timely supplemental responses.[19]

On January 14, 2015, the Department requested that the Sailun Group allow the names and locations of certain affiliates to be treated as public information.[20] The Sailun Group complied with the Department's request on January 16, 2015.[21]

In addition to the mandatory questionnaire responses, the Department also received voluntary questionnaire responses from other manufacturers/exporters of passenger tires in the PRC.[22] In addition, Petitioner submitted comments on the initial questionnaire responses submitted by the mandatory respondents.[23] Petitioner, GITI, and Sailun Group all submitted comments for the

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[18] *See* Letter from Sailun Group, "Sailun Sections C&D Responses in the Antidumping Duty Investigation on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China," (December 2, 2014) (Sailun Group SCDQR).

[19] *See* Letters from Sailun Group, "Sailun Supplemental Section A Questionnaire Response in the Antidumping Duty Investigation on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China," (December 29, 2014) (Sailun Group's 1st Supplemental SAQR); "Sailun China Second Supplemental Section A Questionnaire Response" (January 9, 2015) (Sailun Group 2nd Supplemental SAQR); "Sailun Supplemental Sections C&D Questionnaire Responses (In Part) in the Antidumping Duty Investigation on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China, " (January 9, 2015) (Sailun Group 1st Supplemental SCDQR-1); and "Sailun Supplemental Sections C&D Questionnaire Responses (In Part) in the Antidumping Duty Investigation on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China, " (January 12, 2015) (Sailun Group 1st Supplemental SCDQR-2).

[20] *See* Letter to Sailun Group, "Investigation of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Treatment of Certain Business Proprietary Information" (January 14, 2015).

[21] *See* Letter from Sailun Group, "Sailun Response to DOC Request for Public Treatment of Certain Affiliates in the Antidumping Duty Investigation on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China" (January 16, 2015).

[22] *See* Letters from Cooper Tire & Rubber Company (Cooper), "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China/CTRC Section A Response" (October 1, 2014), "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China/Response To Section C Questionnaire" (October 24, 2014), and "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China/Response To Section D Questionnaire" (October 24, 2014); Letters from Zhaoqing Junhong Co. Ltd. (Junhong), "Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Section A Voluntary Response" (October 1, 2014) and "Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Junhong. Section C & D Voluntary Response" (October 24, 2014); and Letters from of Kenda Rubber (China) Co., Ltd. (Kenda), "Passenger Vehicle and Light Truck Tires from the People's Republic of China; Submission of Kenda Section A Response," (October 2, 2014) and "Passenger Vehicle and Light Truck Tires from the People's Republic of China; Submission of Kenda Sections C and D Response" (October 28, 2014).

[23] *See* Letter from Petitioner, "*Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China*—Petitioner's Rebuttal Factual Information to Giti's Section C and D Questionnaire Responses," (November 17, 2014); Letter from Petitioner, "*Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China*—Petitioner's Deficiency Comments Regarding Giti's Section C and D Questionnaire Responses," (December 1, 2014); Letter from Petitioner, *"Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China*—Petitioner's Deficiency Comments Regarding Sailun's Section A, C and D Questionnaire Responses," (December 12, 2014).

Department to consider for the preliminary determination.[24] We have taken these comments into consideration for this preliminary determination, as needed.

On October 9, 2014, in accordance with section 733(c)(1)(B) of the Act and 19 CFR 351.205(b)(2), the Department postponed the preliminary determination until January 20, 2015.[25]

III. SCOPE COMMENTS

In accordance with the preamble to the Department's regulations, we set aside a period of time in our *Initiation Notice* for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of that notice.[26] Numerous parties submitted comments on the scope of this investigation and the companion countervailing duty (CVD) investigation which we have addressed in a separate memorandum as well as in the amended preliminary determination of the CVD investigation.[27] Based on the comments we received, we have updated the scope of the investigation. The updated scope language is reflected below, under "Scope of the Investigation."

IV. SCOPE OF THE INVESTIGATION

The scope of this investigation is passenger vehicle and light truck tires. Passenger vehicle and light truck tires are new pneumatic tires, of rubber, with a passenger vehicle or light truck size designation. Tires covered by this investigation may be tube-type, tubeless, radial, or non-radial, and they may be intended for sale to original equipment manufacturers or the replacement market.

Subject tires have, at the time of importation, the symbol "DOT" on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Subject tires may also have the following prefixes or suffix in their tire size designation, which also appears on the sidewall of the tire:
Prefix designations:
P - Identifies a tire intended primarily for service on passenger cars

[24] *See* Letters from Petitioner, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China—Petitioner's Submission of Double Remedies Information" (December 19, 2014), "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China—Petitioner's Submission of Information on Government Control of the Chinese Tire Industry" (December 19, 2014), and "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China – Petitioner's Pre-Preliminary Comments," (December 31, 2014); Letter from Sailun China, "Sailun's Pre-Preliminary Comments: Antidumping Duty Investigation on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China (December 23, 2014); and Letter from GITI, "Passenger Vehicle and Light Truck Tires from the People's Republic of China: Pre-Preliminary Determination Comments - Giti Tire Global Trading Pte. Ltd.," (December 24, 2014).
[25] *See Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Postponement of Preliminary Determination of Antidumping Duty Investigation*, 79 FR 61052 (October 9, 2014).
[26] *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997); *see also Initiation Notice.*
[27] *See* Memorandum, "Scope Clarification in the Antidumping Duty and Countervailing Duty Investigations of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China," (November 21, 2014); *see also Countervailing Duty Investigation of Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Amended Affirmative Preliminary Determination*, 79 FR 78398 (December 30, 2014) at *Appendix-Scope of the Investigatio*n.

LT- Identifies a tire intended primarily for service on light trucks

Suffix letter designations:
LT - Identifies light truck tires for service on trucks, buses, trailers, and multipurpose passenger vehicles used in nominal highway service.

All tires with a "P" or "LT" prefix, and all tires with an "LT" suffix in their sidewall markings are covered by this investigation regardless of their intended use.

In addition, all tires that lack a "P" or "LT" prefix or suffix in their sidewall markings, as well as all tires that include any other prefix or suffix in their sidewall markings, are included in the scope, regardless of their intended use, as long as the tire is of a size that is among the numerical size designations listed in the passenger car section or light truck section of the *Tire and Rim Association Year Book*, as updated annually, unless the tire falls within one of the specific exclusions set out below.

Passenger vehicle and light truck tires, whether or not attached to wheels or rims, are included in the scope. However, if a subject tire is imported attached to a wheel or rim, only the tire is covered by the scope.

Specifically excluded from the scope of this investigation are the following types of tires:

(1) racing car tires; such tires do not bear the symbol "DOT" on the sidewall and may be marked with "ZR" in size designation;
(2) new pneumatic tires, of rubber, of a size that is not listed in the passenger car section or light truck section of the *Tire and Rim Association Year Book*;
(3) pneumatic tires, of rubber, that are not new, including recycled and retreaded tires;
(4) non-pneumatic tires, such as solid rubber tires;
(5) tires designed and marketed exclusively as temporary use spare tires for passenger vehicles which, in addition, exhibit each of the following physical characteristics:
(a) the size designation and load index combination molded on the tire's sidewall are listed in Table PCT-1B ("T" Type Spare Tires for Temporary Use on Passenger Vehicles) of the *Tire and Rim Association Year Book*,
(b) the designation "T" is molded into the tire's sidewall as part of the size designation, and,
(c) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by *Tire and Rim Association Year Book*, and the rated speed is 81 MPH or a "M" rating;
(6) tires designed and marketed exclusively for specialty tire (ST) use which, in addition, exhibit each of the following physical characteristics:*
(a) the size designation molded on the tire's sidewall is listed in the ST sections of the *Tire and Rim Association Year Book*,
(b) the designation "ST" is molded into the tire's sidewall as part of the size designation,
(c) the tire incorporates a warning, prominently molded on the sidewall, that the tire is "For Trailer Service Only" or "For Trailer Use Only",
(d) the load index molded on the tire's sidewall meets or exceeds those load indexes listed in the *Tire and Rim Association Year Book* for the relevant ST tire size, and

(e) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by TRA, and the rated speed does not exceed 81 MPH or an "M" rating;
(7) tires designed and marketed exclusively for off-road use and which, in addition, exhibit each of the following physical characteristics:
(a) the size designation and load index combination molded on the tire's sidewall are listed in the off-the-road, agricultural, industrial or ATV section of the *Tire and Rim Association Year Book*,
(b) in addition to any size designation markings, the tire incorporates a warning, prominently molded on the sidewall, that the tire is "Not For Highway Service" or "Not for Highway Use",
(c) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by the *Tire and Rim Association Year Book*, and the rated speed does not exceed 55 MPH or a "G" rating, and
(d) the tire features a recognizable off-road tread design.

The products covered by the investigation are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4011.10.10.10, 4011.10.10.20, 4011.10.10.30, 4011.10.10.40, 4011.10.10.50, 4011.10.10.60, 4011.10.10.70, 4011.10.50.00, 4011.20.10.05, and 4011.20.50.10. Tires meeting the scope description may also enter under the following HTSUS subheadings: 4011.99.45.10, 4011.99.45.50, 4011.99.85.10, 4011.99.85.50, 8708.70.45.45, 8708.70.45.60, 8708.70.60.30, 8708.70.60.45, and 8708.70.60.60. While HTSUS subheadings are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

*We are currently suspending requirements (6)(d) and (e); therefore, tires entered, or withdrawn from warehouse for consumption that meet exclusion requirements (6)(a)-(c) above are excluded from the scope of this investigation.

V. SINGLE ENTITY TREATMENT

The Department has, in prior cases, treated certain NME exporters and/or producers as a single entity if the facts of the case supported such treatment.[28] Pursuant to 19 CFR 351.401(f)(1), the Department will treat producers as a single entity, or "collapse" them, where: (1) those producers are affiliated; (2) the producers have production facilities for producing similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities; and (3) there is a significant potential for manipulation of price or production.[29] In determining whether a significant potential for manipulation exists, 19 CFR 351.401(f)(2) states that the Department may consider various factors, including: (1) the level of common ownership; (2) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and (3) whether the operations of the

[28] *See Certain Steel Nails From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances and Postponement of Final Determination*, 73 FR 3928, 3932 (January 23, 2008), unchanged in *Certain Steel Nails From the People's Republic of China: Amended Preliminary Determination of Sales at Less Than Fair Value*, 73 FR 7254 (February 7, 2008) and *Certain Steel Nails from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 33977 (June 16, 2008).
[29] *See, e.g., Gray Portland Cement and Clinker From Mexico: Final Results of Antidumping Duty Administrative Review*, 63 FR 12764, 12774-12775 (March 16, 1998).

affiliated firms are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers.[30]

Section 771(33) of the Act identifies persons that shall be considered "affiliated" or "affiliated persons," if: (A) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants; (B) Any officer or director of an organization and such organization; (C) Partners; (D) Employer and employee; (E) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and such organization; (F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person; and (G) Any person who controls any other person and such other person. Section 771(33) of the Act further states that a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.

We preliminarily determine that GTT, GITI USA, GITI Anhui, GITI Fujian, GITI Hualin are affiliated pursuant to section 771(33)(E) of the Act and that these companies should be treated as a single entity for AD purposes pursuant to 19 CFR 351.401(f). As explained in the proprietary GITI Preliminary Analysis Memorandum,[31] GITI Anhui, GITI Fujian and GITI Hualin are producers of subject merchandise, all sales of the merchandise under consideration in the United States were made by GITI USA, these companies are under common control of the same parent holding company[32] and, therefore, are affiliated in accordance with section 771(33)(E) of the Act. We preliminarily find that GITI Anhui, GITI Fujian, and GITI Hualin operate production facilities that producer similar or identical products.[33] We also preliminarily determine that there is a significant potential for the manipulation of price or production among these companies as evidenced by the level of common ownership, the degree of management overlap, and the intertwined nature of the operations of these companies.[34] Therefore, we have preliminarily treated these companies as a single entity.

Additionally, we preliminarily determine that Sailun China, Sailun BVI, Shandong Jinyu, Jinyu HK, Seatex, Seatex Singapore, Dynamic, and Husky (collectively, Sailun Group) are affiliated pursuant to sections 771(33)(E) and (F) of the Act and that these companies should be treated as a single entity for AD purposes pursuant to 19 CFR 351.401(f).[35] As explained in the business proprietary *Sailun China Single Entity Analysis Memorandum*, there is significant common ownership and other shared operations between the producing affiliates and the group

[30] *See also, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Collated Roofing Nails From Taiwan*, 62 FR 51427, 51436 (October 1, 1997).
[31] *See* "Preliminary Analysis Memorandum for GITI Tire Global Trading Pte. Ltd." (GITI Preliminary Analysis Memorandum) (dated concurrently with this Memorandum) at "Single Entity Analysis" section.
[32] *Id*.
[33] *See* 19 CFR 351.401(f)(1).
[34] *See* GITI Preliminary Analysis Memorandum.
[35] *See* Memorandum to Edward C. Yang Re: Antidumping Duty Investigation of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Sailun Group Co., Ltd. Affiliation Single Entity Status (January 14, 2015) (Sailun Group Single Entity Analysis Memorandum).

company.[36] We preliminarily find that Sailun China and Shandong Jinyu operate production facilities that produce similar or identical products.[37] We also preliminarily determine that there is a significant potential for the manipulation of price or production among these companies as evidenced by the level of common ownership, the degree of management overlap, and the intertwined nature of the operations of these companies.[38] Thus we have preliminarily treated these companies as a single entity.

VI. DISCUSSION OF THE METHODOLOGY

Non-Market Economy Country

The Department considers the PRC to be a Non-Market Economy (NME) country.[39] In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. No information or argument has been presented to demonstrate that the PRC should not be considered to be an NME country. Therefore, we continue to treat the PRC as an NME country for purposes of this preliminary determination.

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base normal value (NV), in most circumstances, on the NME producer's factors of production (FOPs), valued in a surrogate market economy (ME) country or countries considered to be appropriate by the Department. Specifically, in accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, "to the extent possible, the prices or costs of FOPs in one or more ME countries that are: (A) at a level of economic development comparable to that of the NME country; and (B) significant producers of comparable merchandise."[40] Further, the Department determines economic comparability on the basis of per capita gross national income, as reported in the most current annual issue of the *World Development Report* (The World Bank).[41] In addition, if more than one country satisfies the two criteria noted above, the Department narrows the field of potential surrogate countries to a single country (pursuant to 19 CFR 351.408(c)(2), the Department prefers to value FOPs in a single surrogate country) based on data availability and quality.

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[36] *Id*.
[37] *See* 19 CFR 351.401(f)(1).
[38] *See* Sailun Group Single Entity Analysis Memorandum.
[39] *See, e.g., Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Preliminary Results of the First Administrative Review, Preliminary Rescission, in Part, and Extension of Time Limits for the Final Results*, 76 FR 62765, 62767-68 (October 11, 2011), unchanged in *Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Results and Partial Rescission of First Antidumping Duty Administrative Review*, 77 FR 21734 (April 11, 2012).
[40] For a description of the Department's practice, *see* Department Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (Policy Bulletin 04.1) available on the Department's website at http://enforcement.trade.gov/policy/bull04-1.html.
[41] *Id*.

On July 28, 2014, the Department identified Bulgaria, Colombia, Ecuador, Indonesia, South Africa, and Thailand as potential surrogate countries.[42] On August 11, 2014, the Department invited interested parties to comment on the list of potential surrogate countries, to select a primary surrogate country, and to submit surrogate values (SVs) with deadlines for such information to be considered for the preliminary determination.[43] The Department received timely comments regarding the primary surrogate country and SV from Petitioner, GITI, and Sailun Group.[44]

In their comments, all parties are in agreement that Thailand and Indonesia are at a level of economic development comparable to that of the PRC, and are significant net exporters of identical merchandise.[45]

Petitioner maintains that the Department should select Thailand as the primary surrogate country, because: (1) it is the most economically comparable to the PRC; (2) it provides SVs for all inputs, including multiple sources from which to value natural rubber; (3) its labor data is more contemporaneous than the Indonesian labor data, which after adjusting for inflation is thirty percent less than the country's average minimum wage during the POI; (4) the unavailability of non-subsidized electricity prices in Indonesia on the record.[46]

GITI and Sailun Group argue the Department should select Indonesia as the primary surrogate country because: (1) its data quality is higher than that of Thailand, including multiple sources from which to value technically specified natural rubber and grade-specific tariff schedule from which to value rubber grade carbon black; (2) Thai rubber industry is heavily influenced by government intervention schemes and subsidy programs; (3) the Department's recent decisions in the *Off-the Road Tires from the PRC* confirm that Indonesia is a better surrogate country than Thailand for the tire industry.[47]

Economic Comparability

As a general rule, the Department selects a surrogate country that is at the same level of economic development as the NME country unless it is determined that none of the countries on the surrogate country lists are viable options because (a) they either are not significant producers of comparable merchandise, (b) do not provide sufficient reliable sources of publicly available SV data, or (c) are not suitable for use based on other reasons. Surrogate countries that are not at the same level of economic development as the NME country, but still at a level of economic

[42] *See* the Department's August 11, 2014 letter at Attachment 1 (Surrogate Country Memorandum). The Surrogate Country Memorandum identified six countries that the Department considers to have equally satisfied the economic comparability prong of the surrogate country selection criteria. However, this list is a non-exhaustive list.
[43] *Id.* at 2.
[44] *See* Petitioner's, GITI's and Sailun Group's October 31, 2014 surrogate country and surrogate value submissions.
[45] *Id; see also Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2012–2013*, 79 FR 61291 (October 10, 2014) and accompanying Preliminary Decision Memorandum at "Surrogate Country" (*Off-the Road Tires from the PRC*).
[46] *See* Petitioners' December 31, 2014 pre-preliminary determination comments at 4-8.
[47] *See* Sailun Group's December 23, 2014 pre-preliminary determination comments at 1-3; *see also* GITI's December 24, 2014 pre-preliminary determination comments at 1.

development comparable to the NME country, are selected only to the extent that data considerations outweigh the difference in levels of economic development.[48]

Consistent with its practice, and section 773(c)(4)(A) of the Act, the Department identified Bulgaria, Colombia, Ecuador, Indonesia, South Africa, and Thailand as countries at the same level of economic development as the PRC based on the most current annual issue of *World Development Report 2014*.[49] Therefore, we consider all six countries identified on the surrogate country list as having met economic comparability prong of the surrogate country selection criteria.

Significant Producer of Comparable Merchandise

Among the factors we consider in determining whether a country is a significant producer of comparable merchandise is whether the country is an exporter of comparable merchandise. In order to determine whether the above-referenced countries are significant producers of comparable merchandise, we examined whether any of the potential surrogate countries exported merchandise comparable to the merchandise under consideration. Information on the record indicates that both Thailand and Indonesia were significant net exporters of merchandise covered by HTS categories identified in the scope of this investigation.[50] There is no information on the record regarding either production or net exports for Bulgaria, Colombia, Ecuador, or South Africa. Accordingly, we preliminarily find that Thailand and Indonesia have met the significant producer of comparable merchandise prong of the surrogate country selection criteria.

Data Availability

If more than one potential surrogate country satisfies the statutory requirements for selection as a surrogate country, the Department selects the primary surrogate country based on data availability and reliability.[51] We examined the availability and reliability of SV data from Thailand and Indonesia. When evaluating SV data, the Department considers several factors, including whether the SV data are publicly available, contemporaneous with the POI, representative of a broad market average, tax and duty-exclusive, and specific to the inputs being valued.[52] There is no hierarchy among these criteria.[53] It is the Department's practice to

[48] *See, e.g., Certain Cased Pencils From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Intent Not To Revoke Order In Part; 2010-2011*, 78 FR 2363 (January 11, 2013) and accompanying Preliminary Decision Memorandum at 6, unchanged in *Certain Cased Pencils From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Determination to Revoke Order In Part; 2010-2011*, 78 FR 42932 (July 18, 2013).
[49] *See* Surrogate Country Memorandum.
[50] *See* Petitioners' October 31, 2014 surrogate country and surrogate value submission at 3; *see also* GITI's October 31, 2014 surrogate country and surrogate value submission at 2; *see also* Sailun's October 31, 2014 surrogate country and surrogate value submission at 2.
[51] *See* Policy Bulletin 04.1.
[52] *See, e.g., Utility Scale Wind Tower from the Socialist Republic of Vietnam: Final Determination of Sales at Less Than Fair Value, 77 FR 75984 (December 26, 2012),* and accompanying Issues and Decision Memorandum (IDM) at Comment 1.
[53] *See, e.g., Certain Preserved Mushrooms from the People's Republic of China: Final Results and Final Partial Rescission of the Sixth Administrative Review*, 71 FR 40477 (July 17, 2006) and accompanying IDM at Comment 1.

carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis.[54]

Petitioner, GITI, and Sailun Group placed surrogate data on the record for Thailand and Indonesia.[55] The data on the record from Thailand and Indonesia largely consists of contemporaneous Global Trade Atlas (GTA) import price data for all raw materials in GTA, including data for natural rubber in smoked sheets (HTS 4001.21) and natural rubber in primary forms or in plates, sheets or strip, NESOI (HTS 4001.29). Petitioner argued that GTA Indonesian prices for HTS 4001.21 are not reliable. Conversely, Sailun Group argued that GTA Thai prices for HTS 4001.21 and HTS 4001.29 are unreliable.[56] However, a review of GITI's and Sailun Group's respective production experiences with these the types of natural rubbers covered by these two HTS categories leads us to preliminarily conclude that the impact of any alleged unreliability of the relevant import prices should not disqualify either country from being a primary surrogate country. The analysis contains proprietary information and is in Preliminary Surrogate Value Memorandum.

As stated above, the data from Indonesia and Thailand on the record also contains contemporaneous data for all other SVs with the exception of Indonesian labor data.[57] The Thai labor data on the record is from the National Statistical Office of Thailand, Labor Force Survey and Industrial Census, and contains 2006, 2011, 2013 and 2014 data.[58] In contrast, the Indonesian labor data on the record is from International Labor Organization (ILO) Yearbook of Labor Statistics and contains wage rate data from 2008.[59] Further, as explained by the Petitioner, in Indonesia, the Consumer Price Index (CPI) increased by 30 percent from 2008 to 2014, while the average minimum wage increased by 200 percent from 2008 to the POI, resulting in an inflation adjusted 2008 ILO labor rate that is thirty percent less than the average minimum wage of the country's provinces during the POI and therefore, when compared to the labor data from Indonesia, labor data from Thailand on the record is more contemporaneous and reliable.[60]

Accordingly, the Department preliminarily finds data from Thailand is the best available information, because Thailand: (1) is at a level of economic development comparable to that of the PRC; (2) is a significant producer of comparable merchandise; and (3) provides the best opportunity to use publicly available data that are representative of a broad market average, tax and duty-exclusive, specific to the inputs be valued, and contemporaneous with or closest in time

[54] *See* Policy Bulletin 04.1.
[55] There are no surrogate value data from Bulgaria, Colombia, Ecuador or South Africa on the record of this investigation. As such, these countries will not be considered for primary surrogate country selection.
[56] *See* Petitioner's October 31, 2014 surrogate country and surrogate value submission at 7, *see also* Sailun's November 7, 2014 surrogate value rebuttal submission at Exhibit 1 and 2.
[57] *See* Petitioner's, GITI's and Sailun Group's October 31, 2014 surrogate country and surrogate value submissions.
[58] *See* Petitioner's October 31, 2014 surrogate country and surrogate value submission at Attachment 9 and December 19, 2014 surrogate value submission at Attachment 3; *see also* GITI's November 26, 2014 factual information submission at Exhibit 2.
[59] *See* Petitioner's October 31, 2014 surrogate country and surrogate value submission at 8; *see also,* Giti's October 31, 2014 surrogate country and surrogate value submission at Exhibit 6; *see also* Sailun's December 22, 2014 surrogate value submission at Exhibit 14.
[60] *See* Petitioner's October 31, 2014 surrogate country and surrogate value submission at 8.

to the POI. As such, the Department preliminarily selects Thailand as the primary surrogate country. A detailed explanation of the SVs is in the "Normal Value" section of this notice.

Surrogate Value Comments

Petitioner, GITI, and Sailun Group each submitted surrogate values and rebuttal surrogate values for the preliminary determination according to established deadline.[61] Subsequent to these filings, they filed additional surrogate values and rebuttal surrogate values according to statutory deadline,[62] which we considered, to the extent possible, while selecting a surrogate country and SVs for this preliminary determination. For a detailed discussion of the surrogate values used in the preliminary determination, *see* the "Factor Valuation" section below and the Preliminary Surrogate Value Memorandum.

Combination Rates

In the *Initiation Notice*, the Department stated that it would calculate combination rates for respondents that are eligible for a separate rate in this investigation.[63] This practice is described in Policy Bulletin 05.1.[64]

The PRC-wide Entity

As discussed below under the *Separate Rate* section , we are not granting separate rate status to certain applicants. Also, as noted under the *Initiation and Case History* section above, Yongsheng withdrew from the investigation. Therefore, Yongsheng and the applicants that did not qualify for a separate rate will be considered to be a part of the PRC-wide entity. We have preliminarily assigned the PRC-wide entity a dumping margin of 87.99 percent, which is the highest petition rate, *see Application of Facts Available and Adverse Inferences* and *Corroboration* sections below.

Date of Sale

In identifying the date of sale of the merchandise under consideration, the Department will normally, in accordance with 19 CFR 351.401(i), "use the date of invoice, as recorded in the exporter or producer's records kept in the normal course of business." The date of sale is

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[61] *See* Petitioner's, GITI's, and Sailun Group's October 31, 2014 surrogate country and surrogate value submission; *See also* Petitioner's, GITI's and Sailun Group's November 7, 2014 rebuttal surrogate value submission.
[62] *See* Petitioner's December 19, 2014 surrogate value and January 5, 2015 rebuttal surrogate value submissions; *see also* GITI's November 21, 2014 and November 26, 2014 and December 22, 2014 factual information submissions; *see also* Sailun Group's December 22, 2014 surrogate value submission.
[63] *See Initiation Notice*.
[64] *See Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries*, dated April 5, 2005 found at: http://enforcement.trade.gov/policy/bull05-1.pdf.

generally the date on which the parties agree upon all material terms of the sale. This normally includes the price, quantity, delivery terms, and payment terms.[65]

GITI states that the company sells tires to its first unaffiliated U.S. customers through either distribution center sales or container sales. GITI states that for its distribution center sales, the invoice date is the date of sale, which is also the date of shipment; however, for its container sales, shipment date is the date of sale as the shipment date precedes the invoice date.[66] GITI states that container sales are shipped directly from GITI's Chinese plants to the U.S. customer, for these sales, the date of shipment from the plants as shown on the bill of lading was reported.[67] Therefore, we are relying on shipment date for both of GITI's distribution center sales[68] and container sales for the preliminary determination.

Sailun Group has reported the earlier of invoice date or shipment date as the date of sale.[69] Sailun Group explains that often shipment leaves the factory before the commercial invoice is issued.[70] Therefore, we are relying on the commercial invoice as the date of sale except in instances where the shipment date precedes the commercial invoice date; in such instances we will rely upon the shipment date as the date of sale.[71] As the shipment date is also the invoice date for all other instances of sales, we are using the shipment date for all of Sailun Group's U.S. sales for this preliminary determination.

Fair Value Comparisons

In accordance with section 777A(d)(1)(A) of the Act, the Department compared the weighted-average price of the U.S. sales of the merchandise under consideration to the weighted-average NV to determine whether the individually-examined respondents sold merchandise under consideration to the United States at LTFV during the POI.[72]

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[65] *See, e.g., Carbon and Alloy Steel Wire Rod From Trinidad and Tobago: Final Results of Antidumping Duty Administrative Review*, 72 FR 62824 (November 7, 2007), and accompanying Issue and Decision Memorandum at Comment 1; *Notice of Final Determinations of Sales at Less Than Fair Value; Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products from Turkey*, 65 FR 15123 (March 21, 2000), and accompanying IDM at Comment 1.

[66] *See* GITI SAQR at 20; *see also Notice of Final Determination of Sales at Less Than Fair Value;: Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil*, 64 FR 38756, 38768 (July 19, 1999) and accompanying IDM at Comment 5 (using shipment date as invoice date because once merchandise is shipped the material terms of sale are presumed to be established).

[67] *Id.* at 21.

[68] The invoice date is also the shipment date for these sales.

[69] *See* Sailun Group SAQR-2 at 17 and Sailun Group SCDQR at 18.

[70] *See* Sailun Group SAQR-2 at 17.

[71] Shipment date is the invoice date for all other instances of sales.

[72] *See* "Export Price," "Constructed Export Price," "Normal Value," and Determination of Comparison Method" sections below.

Export Price

In accordance with section 772(a) of the Act, "the term 'export price' (EP) is the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c)." The Department defined the U.S. price of merchandise under consideration based on the EP for certain sales as reported by Sailun Group.[73] The Department calculated the EP based on the prices at which merchandise under consideration was sold to unaffiliated purchasers in the United States.

The Department made deductions, as appropriate, from the reported U.S. price for billing adjustments, movement expenses (*i.e.*, domestic and foreign inland freight, domestic inland insurance, domestic brokerage and handling, international movement expenses, and marine insurance).[74] The Department based movement expenses on surrogate values where the service was purchased from a PRC company.[75]

Constructed Export Price

In accordance with Section 772(b) of the Act, "the term 'constructed export price' (CEP) is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d)." The Department defined the U.S. price of merchandise under consideration based on the CEP for all sales reported by GITI[76] and certain sales as reported by Sailun Group.[77] The Department calculated CEP based on packed prices to customers in the United States. We made deductions from the starting price for discounts, in accordance with 19 CFR 351.401(c). We also made deductions for movement expenses (foreign and U.S. movement, U.S. customs duty and brokerage, as well as foreign and U.S. warehousing), in accordance with section 772(c)(2) of the Act and 19 CFR 351.401(e). In addition, because GITI and Sailun Group each reported CEP sales,[78] in accordance with section 772(d)(1) of the Act, we deducted from the starting price, credit expenses, late payment fees, and indirect selling expenses, including inventory carrying costs, incurred in the United States and the PRC and associated with economic activities in the United States.

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[73] *See* Sailun Group SCDQR at 17.
[74] *See* section 772(c)(2)(A) of the Act. *See also* Sailun Group SCDQR at Exhibit C-1.
[75] *See* "Factor Valuation Methodology" section below.
[76] *See* GITI SCQR at18.
[77] Sailun Group SCDQR at 17.
[78] *See* the Sailun Group's U.S. sales datasets "sailunsal01" and "sailunsal02" submitted on December 2, 2014, and January 13, 2015, respectively.

Value-Added Tax

The Department's recent practice in NME cases is to adjust EP or CEP for the amount of any un-refunded value-added tax (VAT), in accordance with section 772(c)(2)(B) of the Act.[79] The Department explained that when an NME government imposes an export tax, duty, or other charge on subject merchandise, or on inputs used to produce subject merchandise, from which the respondent was not exempted, the Department will reduce the respondent's EP and CEP prices accordingly by the amount of the tax, duty or charge paid, but not rebated.[80] Where the irrecoverable VAT is a fixed percentage of CEP or EP, the Department explained that the final step in arriving at a tax neutral dumping comparison is to reduce the U.S. CEP or EP downward by this same percentage.[81] The Department's methodology, as explained above and applied in this investigation, essentially amounts to performing two basic steps: (1) determining the irrecoverable VAT on subject merchandise, and (2) reducing U.S. price by the amount (or rate) determined in step one.

Both GITI and Sailun Group requested adjustments and reported VAT paid for inputs imported through bonded warehouses.[82] Both respondents reported that the official VAT rate for exports of subject merchandise is 17 percent and the refund rate is nine percent, under the applicable PRC regulations.[83]

As discussed in more detail in the business proprietary analysis memoranda for both GITI and Sailun Group, the Department preliminarily finds that respondents' claims for an adjustment are largely based on the theory of what could happen under the Chinese regulations rather than what actually happened in terms of their non-refundable VAT for sales of subject merchandise during the POI. For this preliminary determination, the Department is re-calculating the non-refundable VAT amount by applying the Department's standard formula of subtracting nine percent from the 17 percent VAT and multiplying the result by the export price.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using an FOP methodology if: (1) the merchandise is exported from an NME country; and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(e) of the Act. When determining NV in an NME context, the Department will base NV on FOPs because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our normal methodologies. The Department's questionnaire requires that a respondent provide information regarding the weighted-average FOPs across all of the

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[79] *See Methodological Change for Implementation of Section 772(c)(2)(B) of the Tariff Act of 1930, as Amended, In Certain Non-Market Economy Antidumping Proceedings*, 77 FR 36481, 36483-84 (June 19, 2012) (*Methodological Change*).
[80] *Id.*; *see also Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 4875 (January 30, 2014) and accompanying IDM at Comment 5.A.
[81] *Id*.
[82] *See* GITI SCQR at 52-53; *see also* Sailun Group SCDQR at 45-47 and Exhibit C-13.
[83] *Id*.

company's plants and/or suppliers that produce the merchandise under consideration, not just the FOPs from a single plant or supplier. This methodology ensures that the Department's calculations are as accurate as possible.[84]

The Department calculated NV based on FOPs in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c). Under section 773(c)(3) of the Act, FOPs used by respondents in the production include, but are not limited to, (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. The Department based NV on respondents' reported FOPs for materials, energy, and labor.

Factor Valuation Methodology

In accordance with section 773(c) of the Act, for subject merchandise produced by the respondents, the Department calculated NV based on the FOPs reported by the respondents for the POI. The Department used Thailand import data and other publicly available sources in order to calculate SVs for each respondent's FOPs. To calculate NV, the Department multiplied their reported per-unit FOP quantities by publicly available SVs. The Department's practice when selecting the best available information for valuing FOPs is to select, to the extent practicable, SVs which are product specific, representative of a broad market average, publicly available, contemporaneous with the POI, and exclusive of taxes and duties.[85]

As appropriate, the Department adjusted input prices by including freight costs to render them delivered prices. Specifically, the Department added to Thailand import SVs a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory where it relied on an import value. This adjustment is in accordance with the decision of the Federal Circuit in *Sigma Corp. v. United States*, 117 F.3d 1401, 1408 (Fed. Cir. 1997). Additionally, where necessary, the Department adjusted SVs for inflation and exchange rates, and the Department converted all applicable FOPs to a per-kilogram basis.

Furthermore, with regard to the Thailand import-based SVs, we disregarded import prices that we have reason to believe or suspect may be subsidized. We have reason to believe or suspect that prices of inputs from India, Indonesia, and South Korea may have been subsidized because we have found in other proceedings that these countries maintain broadly available, non-

[84] *See, e.g., Final Determination of Sales at Less Than Fair Value: Prestressed Concrete Steel Rail Tie Wire from the People's Republic of China*, 79 FR 25572 (May 5, 2014) and accompanying IDM at Comment 7.
[85] *See, e.g., Electrolytic Manganese Dioxide From the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 73 FR 48195 (August 18, 2008) and accompanying IDM at Comment 2.

industry-specific export subsidies.[86] Therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized.[87] Further, guided by the legislative history, it is the Department's practice not to conduct a formal investigation to ensure that such prices are not subsidized.[88] Rather, the Department bases its decision on information that is available to it at the time it makes its determination. Additionally, consistent with our practice, we disregarded prices from NME countries and excluded imports labeled as originating from an "unspecified" country from the average value, because the Department could not be certain that they were not from either an NME country or a country with general export subsidies.[89] Therefore, we have not used prices from these countries either in calculating the Thailand import-based SVs or in calculating ME input values.

Pursuant to 19 CFR 351.408(c)(1), where a factor is produced in one or more ME countries, purchased from one or more ME suppliers and paid for in an ME currency, the Department normally will use the prices paid to the ME suppliers if substantially all (*i.e.*, 85 percent or more) of the total volume of the factor is purchased from the ME suppliers. In those instances where less than substantially all of the total volume of the factor is produced in one or more ME countries and purchased from one or more ME suppliers, the Department will weight-average the actual prices paid for the ME portion and the surrogate value for the NME portion by their respective quantities.

Each respondent purchased inputs that are produced in ME countries, from ME suppliers and paid for in an ME currency. The Department valued those inputs in accordance with 19 CFR 351.408(c).[90]

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[86] *See, e.g.*, *Steel Threaded Rod From India: Final Affirmative Countervailing Duty Determination and Partial Final Affirmative Determination of Critical Circumstances*, 79 FR 40712 (July 14, 2014); *Certain Frozen Warmwater Shrimp From the Republic of Indonesia: Final Negative Countervailing Duty Determination*, 78 FR 50383 (August 19, 2013); *Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review; 2011*, 78 FR 55241 (September 10, 2013), unchanged in final *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2011*, 79 FR 5378 (January 31, 2014); *Large Residential Washers From the Republic of Korea: Final Affirmative Countervailing Duty Determination*, 77 FR 75975 (December 26, 2012); *Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea: Final Affirmative Countervailing Duty Determination*, 77 FR 17410 (March 26, 2012); *Certain Frozen Warmwater Shrimp From Thailand: Final Negative Countervailing Duty Determination*, 78 FR 50379 (August 19, 2013).

[87] *See, e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 69 FR 20594 (April 16, 2004) and accompanying IDM at Comment 7.

[88] *See* Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576, at 590 (1988); *see also Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 30758, 30763 (June 4, 2007), unchanged in *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 60632 (October 25, 2007).

[89] *See, e.g.*, *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates From the People's Republic of China*, 69 FR 75294, 75301 (December 16, 2004), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China*, 70 FR 24502 (May 10, 2005).

[90] *See* Preliminary Surrogate Value Memorandum; GITI Preliminary Analysis Memorandum; and Sailun Group's Preliminary Analysis Memorandum.

The Department used Thai import statistics from GTA to value raw materials, by-products, packing label, and certain energy inputs, except as listed below.

In NME AD proceedings, the Department prefers to value labor solely based on data from the primary surrogate country.[91] In *Labor Methodologies*, the Department determined that the best methodology to value labor is to use industry-specific labor rates from the primary surrogate country. Additionally, we determined that best data source for industry-specific labor rate is Chapter 6A: Labor Cost in Manufacturing, from the International Labor Organization (ILO) Yearbook of Labor Statistics.[92] We did not, however, preclude all other sources from evaluation labor costs. Rather, we continue to follow our practice of selecting the best available information to determine SVs for inputs such as labor. In this case, we valued labor using data reported by the Thailand National Statistics Office that is specific to manufacture and contemporaneous with or closest in time to the POI.[93]

We valued electricity, water, and rail transportation using Thai data published in the Cost of Doing Business in Thailand 2014, by Thailand Board of investment.[94]

We valued steam using data published in the 2013 annual report of Glow Energy Public Company Limited, a Thai company that supplies electricity, steam, and water for industrial use.[95]

We valued truck freight and brokerage and handling using data published in the *Doing Business 2014, Economy Profile: Thailand* by the World Bank.[96]

We valued trans-Pacific ocean freight (from the PRC to the U.S.) using quotes posted on Descartes.[97]

None of the interested parties in this investigation placed Thai inland insurance information on the record. Therefore for this preliminary determination, we valued Domestic Inland Insurance (from respondents' plants to the Chinese ports) using Indonesian data on the record.[98]

We used the financial statements of two Thai companies to value factory overhead, selling, general, and administrative expenses, and profit: S.R. Tyre Co., Ltd. and Hihero Co., Ltd.,. Specifically, we applied a simple average to both sets of factory overhead, selling, general, and administrative expenses, and profit.[99] We did not use the financial statement of Goodyear (Thailand) Public Company Limited 2013, because it did not adequately breakout energy costs.

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[91] *See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092 (June 21, 2011) (*Labor Methodologies*).
[92] *Id.*
[93] *See* Preliminary Surrogate Value Memorandum.
[94] *Id.*
[95] *Id*.
[96] *Id*.
[97] *Id*.
[98] *Id*.
[99] *Id*.

Comparisons to Normal Value

Pursuant to section 773(a)(1)(B) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether GITI's and Sailun Group's sales of the subject merchandise to the United States were made at less than NV, the Department compared the EP and CEP to the NV as described above in the "Export Price", "Constructed Export Price", and "Normal Value" sections of this memorandum.

Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates individual dumping margins by comparing weighted-average NVs to weighted-average EPs (or CEPs) (the average-to-average (A-A) method) unless the Department determines that another method is appropriate in a particular situation. In AD investigations, the Department examines whether to compare weighted-average NVs to the EPs (or CEPs) of individual transactions (the average-to-transaction (A-T) method) as an alternative comparison method using an analysis consistent with section 777A(d)(l)(B) of the Act.

In recent investigations and reviews, the Department applied a "differential pricing" analysis to determine whether application of A-T comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.[100] The Department finds that the differential pricing analysis used in those recent investigations and reviews may be instructive for purposes of examining whether to apply an alternative comparison method in this investigation. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the A-A method in calculating weighted-average dumping margins.[101]

The differential pricing analysis used in this preliminary determination requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differs significantly among purchasers, regions, or time periods. When we find such a pattern the differential pricing analysis evaluates whether such differences can be taken into account when using the A-A method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise, which is defined by the parameters within each respondents reported data fields, *e.g.*, reported consolidated customer

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[100] *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 IDM at Comment 5 Differential pricing was also used in *Certain Activated Carbon From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 26748 (May 8, 2013), unchanged in *Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 70533 (November 26, 2013) and accompanying Issues and Decisions Memorandum at Comments 2-4.

[101] *Id*.

code; reported destination code (*e.g.*, zip codes or cities) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau; and quarters within the POI being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region, and time period, that the Department uses in making comparisons between EP/CEP and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the "Cohen's *d* test" is applied. The Cohen's *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen's *d* coefficient is calculated when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. The Cohen's *d* coefficient evaluates the extent to which the net prices to a particular purchaser, region, or time period differ significantly from the net prices of all other sales of comparable merchandise. One of three fixed thresholds defined by the Cohen's d test can quantify the extent of these differences: small, medium, or large. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant, and the sales are considered to have passed the Cohen's *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large (*i.e.,* 0.8) threshold.

Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test account for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the A-T method to all sales as an alternative to the A-A method. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an A-T method to those sales identified as passing the Cohen's *d* test as an alternative to the A-A method, and application of the A-A method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the A-A method.

If both tests in the first stage (*i.e.*, the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, we examine whether using only the A-A method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the A-A method only. If the difference between the two calculations is meaningful, this demonstrates that the A-A method cannot account for differences such as those observed in this analysis, and, therefore, an alternative method would be appropriate. A meaningful difference in the weighted-average dumping margins occurs if (1) there is a 25 percent relative change in the weighted average dumping margin between the A-A method and the appropriate alternative method where both rates are above the *de minimis* threshold or (2) the resulting weighted-average dumping margin moves across the *de minimis* threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in this preliminary determination, including arguments for modifying the group definitions used in this proceeding.

Results of the Differential Pricing Analysis

For GITI, based on the results of the differential pricing analysis, the Department finds that the total sales that passed the Cohen's *d* test was over 66 percent, and as such confirm the existence of a pattern of sales prices for comparable merchandise that differ significantly among purchasers, regions or time periods. Further, the Department determines that the average-to-average method can appropriately account for such differences because there is not a meaningful difference in the weighted-average dumping margins when calculated using the average-to-average method and the average-to-transaction method.[102] Accordingly, the Department preliminarily determines to use the average-to-average method for all U.S. sales in making comparisons of CEP and NV for GITI.[103]

For the Sailun Group, based on the results of the differential pricing analysis, the Department finds that the total sales that passed the Cohen's *d* test was over 66 percent, and as such confirm the existence of a pattern of sales prices for comparable merchandise that differ significantly among purchasers, regions or time periods. Further, the Department determines that the average-to-average method can appropriately account for such differences because there is not a meaningful difference in the weighted-average dumping margins when calculated using the average-to-average method and the average-to-transaction method.[104] Accordingly, the Department preliminarily determines to use the average-to-average method for all U.S. sales in making comparisons of EP/CEP and NV for Sailun Group.

Currency Conversion

We made currency conversions into U.S. Dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

[102] *See* GITI's Preliminary Analysis Memorandum.
[103] In these preliminary results, the Department applied the weighted-average dumping margin calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101, 8104 (February 14, 2012). In particular, the Department compared monthly weighted-average EP with monthly weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.
[104] *See* Sailun Group's Preliminary Analysis Memorandum.

Separate Rates

In proceedings involving NME countries, the Department maintains a rebuttable presumption that all companies within the country are subject to government control and, therefore, should be assessed a single weighted-average dumping margin.[105] The Department's policy is to assign all exporters of merchandise under consideration that are in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.[106] The Department analyzes whether each entity exporting the merchandise under consideration is sufficiently independent under a test established in *Sparklers*[107] and further developed in *Silicon Carbide*.[108] According to this separate rate test, the Department will assign a separate rate in NME proceedings if a respondent can demonstrate the absence of both *de jure* and *de facto* government control over its export activities. If, however, the Department determines that a company is wholly foreign-owned, then a separate rate analysis is not necessary to determine whether that company is independent from government control and eligible for a separate rate.[109]

The Department continues to evaluate its practice with regard to the separate rates analysis in light of the diamond sawblades from the PRC AD proceeding, and it's determinations therein.[110] In particular, in litigation involving the diamond sawblades from the PRC proceeding, the U.S. Court of International Trade (CIT) found the Department's existing separate rates analysis

[105] *See, e.g., Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 55039, 55040 (September 24, 2008).
[106] *See Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China*, 56 FR 20588, 20589 (May 6, 1991) (*Sparklers*).
[107] *Id*.
[108] *See Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*).
[109] *See, e.g., Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles From the People's Republic of China*, 72 FR 52355, 52356 (September 13, 2007).
[110] *See Final Results of Redetermination Pursuant to Remand Order for Diamond Sawblades and Parts Thereof from the People's Republic of China* (May 6, 2013) in *Advanced Technology & Materials Co., Ltd., et al. v. United States*, 885 F. Supp. 2d 1343 (CIT 2012) (*Advanced Technology I*), affirmed in *Advanced Technology & Materials Co., Ltd., et al. v. United States*, 938 F. Supp. 2d 1342 (CIT 2013), *aff'd* Case No. 2014-1154 (Fed. Cir. 2014) (*Advanced Technology II*). This remand redetermination is on the Enforcement and Compliance website at http://enforcement.trade.gov/remands/12-147.pdf; *see also Diamond Sawblades and Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 77098 (December 20, 2013) and accompanying Preliminary Decision Memo at 7, unchanged in *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 35723 (June 24, 2014) and accompanying IDM at Comment 1.

deficient in the circumstances of that case, in which a government-owned and controlled entity had significant ownership in the respondent exporter.[111]

Before it was selected as a third mandatory respondent, Sailun China and its affiliates Shandong Jinyu, Jinyu HK, and Sailun BVI each submitted separate rate applications (SRA).[112] After being selected as a mandatory respondent, Sailun Group requested separate rate status for its other affiliates Dynamic, Seatex, and Seatex Singapore.[113] As noted under the *Single Entity Treatment* section of this notice, we are treating these companies as a single entity for this preliminary determination, and therefore, will only assign one AD rate to the collective Sailun Group (*i.e*. the Sailun Group's calculated rate).

In addition to the SRAs filed by Sailun Group, the Department received SRAs from other companies claiming to be manufacturers/exporters of passenger tires. The list of companies that timely filed separate rate applications is attached at Appendix I of this memorandum.

Separate Rate Recipients

The Department preliminary grants separate rate status to Sailun Group because they have demonstrated that they exercise both *de facto* and *de jure* control over their operations.[114] Based on the information submitted in its Section A Questionnaire Response, we are able to determine that GITI also exercises *de facto* and *de jure* control of its company and thus qualifies for a separate rate.[115]

We are also preliminarily granting separate rate status to several of the applicants that were able to document that they either exercised both *de jure* and *de facto* control over their operations or that they were wholly foreign-owned entities.[116] The list of preliminary separate rate recipients is attached at Appendix II of this memorandum.

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[111] *See, e.g*., *Advanced Technology I*, 885 F. Supp. 2d at 1349 (CIT 2012) ("The court remains concerned that Commerce has failed to consider important aspects of the problem and offered explanations that run counter to the evidence before it."); *id*. at 1351 ("Further substantial evidence of record does not support the inference that SASAC's {state-owned assets supervision and administration commission} 'management' of its 'state-owned assets' is restricted to the kind of passive-investor de jure 'separation' that Commerce concludes.") (footnotes omitted); *id*. at 1355 ("The point here is that 'governmental control' in the context of the separate rate test appears to be a fuzzy concept, at least to this court, since a 'degree' of it can obviously be traced from the controlling shareholder, to the board, to the general manager, and so on along the chain to 'day-to-day decisions of export operations,' including terms, financing, and inputs into finished product for export."); *id*. at 1357 ("AT&M itself identifies its 'controlling shareholder' as CISRI {owned by SASAC} in its financial statements and the power to veto nomination does not equilibrate the power of control over nomination.") (footnotes omitted).

[112] *See* Sailun China SRA (September 19, 2014); Shandong Jinyu SRA (September 19, 2014); Jinyu HK SRA (September 19, 2014); and Sailun BVI SRA (September 19, 2014).

[113] *See* Sailun Group SAQR-2 at Exhibits 2 through 4.

[114] *See* Sailun China Separate Rate Application (September 19, 2014); Shandong Jinyu Separate Rate Application (September 19, 2014); Sailun BVI Separate Rate Application (September 19, 2014); Jinyu HK Separate Rate Application (September 19, 2014); and Sailun Group SAQR-2 at Exhibits A-1 through A-3.

[115] *See* GITI SAQR at "Separate Rate" response.

[116] *See* "Antidumping Duty Investigation of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Preliminary Separate Rate Determinations" dated concurrently with this memorandum (Preliminary Separate Rate Memorandum).

Companies Not Receiving a Separate Rate

As noted under the *Background* section of this memorandum, Yongsheng withdrew from participating in this investigation. Therefore, it has not demonstrated its entitlement to a separate rate and will be considered part of the PRC-wide entity.

The Department has preliminarily denied separate rate status to Aeolus Tyre Co. Ltd., Shaanxi Yanchang Petroleum Group Rubber Co., Ltd., Double Coin Holdings Ltd., Guizhou Tyre Import and Export Co., Ltd. (aka Guizhou Tyre I/E Co., Ltd.), Zhongce Rubber Group Company Limited, and Sichuan Tyre and Rubber Co., Ltd. because these companies have not demonstrated an absence of *de facto* government control. These companies are, therefore, being treated as part of the PRC-wide entity. Certain information regarding State-owned Assets Supervision and Administration Commission (SASAC) control of these entities is business proprietary; therefore, a complete discussion of SASAC ownership and control regarding these applicants is provided in a separate memorandum.[117]

In addition, we are not granting separate rate status to America Business Co., Ltd., Shandong Anchi Tyres Co., Ltd., Beijing Capital Tire Co., Ltd., Qingdao Fuyingxiang Imp. & Exp. Co., Ltd., Shandong Changfeng Tyres Co., Ltd., Zhejiang Qingda Rubber Co., Ltd., Doublestar-Dongfeng Tyre Co., Ltd., Qingdao Doublestar Tyre Industrial Co., Ltd., Federal Tire (Jiangxi), Ltd./Highpoint Trading, Ltd., Guangzhou Wanli Tire Trading Co. Ltd., and Qingdao Fullrun Tyre Corp., Ltd. because they did not adequately document the absence of *de facto* or *de jure* control by the government.[118]

We are also not granting separate rate status to Qingdao Jinhaoyang International Co., Ltd., Tianjin Wanda Tyre Group Co., Ltd., Tianjin Zhenxin Rubber Co., Ltd., and Carlisle (Meizhou) Rubber Products Co., Ltd. because information on the record demonstrates that these entities did not sell subject tires during the POI.[119]

Margin for Non-Selected Separate Rate Companies

Normally, the Department's practice is to assign to separate rate entities that were not individually examined a rate equal to the average of the rates calculated for the individually examined respondents, excluding any rates that are zero, *de minimis*, or based entirely on facts available, in accordance with section 735(c)(5)(A) of the Act.[120] Consistent with that practice, the Department has based the separate rate for non-selected companies upon a simple average of the weighted-average dumping margins calculated for GITI and Sailun Group.

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

VII. APPLICATION OF FACTS AVAILABLE AND ADVERSE INFERENCES

Section 776(a)(1) and (2) of the Act provides that, if necessary information is missing from the record, or if an interested party or any other person (A) withholds information that has been requested by the Department, (B) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Act, (C) significantly impedes a proceeding under the AD statute, or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

The Department did not receive a response to its AD questionnaire from Yongsheng, which was selected as mandatory respondent in this investigation.[121] Because the non-responsive PRC producer/exporter has not demonstrated its eligibility for separate-rate status, we preliminary find it is part of the PRC-wide entity. Thus, the record indicates that the PRC-wide entity withheld information requested by the Department, failed to provide information in a timely manner, and significantly impeded the proceeding by not submitting the requested information. Moreover, several companies failed to respond the Department's Q&V questionnaires. As a result, pursuant to sections 776(a)(2)(A)-(C) of the Act, we find that the preliminary use of facts available is appropriate to determine the weighted-average dumping margin for the PRC-wide entity.

Section 776(b) of the Act provides that, in selecting from among the facts otherwise available, the Department may use an inference that is adverse to the interests of an interested party if that party failed to cooperate by not acting to the best of its ability to comply with requests for information. When using an adverse inference, section 776(b) of the Act states that the Department may rely upon information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record.

We find that the PRC-wide entity's failure to provide the requested information constitutes circumstances under which it is reasonable to conclude that less than full cooperation has been shown.[122] The PRC-wide entity did not respond to our requests for information, and did not indicate it was having difficulty providing the information, nor did it request that it be allowed to submit the information in an alternate form. Therefore, we preliminarily find that the PRC-wide entity failed to cooperate by not acting to the best of its ability to comply with requests for information. Hence, in selecting from among the facts otherwise available, an adverse inference (AFA) is appropriate.

In selecting a preliminary weighted-average dumping margin for the PRC-wide entity based on AFA, the Department's practice is to select a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had

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[121] *See* Yongsheng Withdrawal Letter.

[122] *See Nippon Steel Corporation v. United States*, 337 F.3d 1373, 1383 (Fed. Cir. 2003) (noting that the Department need not show intentional conduct existed on the part of the respondent, but merely that a "failure to cooperate to the best of a respondent's ability" existed (*i.e.*, information was not provided "under circumstances in which it is reasonable to conclude that less than full cooperation has been shown")).

fully cooperated.[123] Specifically, it is the Department's practice to select, as an AFA rate, the higher of: (a) the highest dumping margin alleged in the petition, or (b) the highest calculated dumping margin of any respondent in the investigation.[124] The petition dumping margins, which range from 45.80 to 87.99 percent,[125] are higher than the weighted-average dumping margins calculated for the mandatory respondents participating in this investigation (*i.e.*, GITI and Sailun Group). However, before assigning the petition rate to the PRC-wide entity, we determined whether the rate, which is secondary information, could be corroborated.

Corroboration

Section 776(c) of the Act requires the Department to corroborate, to the extent practicable, secondary information used as facts available. Secondary information is defined as "information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise."[126]

The SAA clarifies that "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value.[127] The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation.[128] To corroborate secondary information, the Department will, to the extent practicable, determine whether the information used has probative value through examining the reliability and relevance of the information.[129]

In order to determine the probative value of the dumping margin alleged in the petition for assigning an AFA rate, we examined the individual dumping margins calculated for the cooperating mandatory respondents in this investigation(*i.e.*, GITI and Sailun Group). We compared the petition dumping margins of 45.80 percent to 87.99 percent, to the transaction-specific dumping margins for each mandatory respondent. We found that the petition dumping margins have probative value because they are in the range of the transaction-specific dumping margins calculated for each mandatory respondent. Therefore, we were able to corroborate the

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[123] *See*, *e.g.*, *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Purified Carboxymethylcellulose From Finland*, 69 FR 77216 (December 27, 2004), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Purified Carboxymethylcellulose From Finland*, 70 FR 28279 (May 17, 2005).
[124] *See Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products From the People's Republic of China*, 65 FR 34660 (May 31, 2000), and accompanying Issues and Decision Memorandum, at "Facts Available."
[125] *See* Letter from Petitioner, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China – Petitioner's Response to the Department's June 6, 2014 Supplemental Questions – Antidumping," at Exhibit II-SQ-17 (chart titled "Weighted average labor rate; original Goodyear financial ratios only (profit reduced)") (June 9, 2014); *see also* AD Initiation Checklist at "Estimated Margin" section.
[126] *See Statement of Administrative Action accompanying the Uruguay Round Agreements Act,* H. Doc. No. 103316, at 870 (1994) (SAA).
[127] *Id.*
[128] *Id*
[129] *See* 19 CFR 351.308(d); *see also Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil: Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 5554, 5568 (February 4, 2000).

dumping margins contained in the petition.[130] Thus, for the preliminary determination, we have assigned to the PRC-wide entity a dumping margin of 87.99 percent, which is the highest dumping margin alleged in the petition and which we are able to corroborate.

VIII. PRELIMINARY DETERMINATION OF CRITICAL CIRCUMSTANCES, IN PART

On September 12, 2014, Petitioner alleged that critical circumstances exist with regards to subject merchandise from the PRC.[131] Section 733(e)(1) of the Act provides that the Department will preliminarily determine that critical circumstances exist in an LTFV investigation if there is a reasonable basis to believe or suspect that: (A) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at LTFV and that there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period. For the reasons explained below, we are preliminarily determining that critical circumstances exist for Yongsheng , the non-individually investigated companies, and the PRC-wide entity but do not for GITI and the Sailun Group.

Analysis

We consider each of the statutory criteria for examining critical circumstances below.

Section 733(e)(1)(A)(i) of the Act: History of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise

In order to determine whether there is a history of dumping pursuant to section 733(e)(1)(A)(i) of the Act, the Department generally considers current or previous orders on subject merchandise from the country in question in the United States and current orders imposed by other countries with regard to imports of the same merchandise.[132] In its critical circumstances allegation, Petitioner cites to the U.S. International Trade Commission's (ITC's) preliminary determination, which indicates that Chinese Tires are subject to AD orders in Brazil, Egypt, India, Colombia and Turkey.[133] Petitioner specifically points to the order imposed by Brazil which specifically covers tires used on motor cars, and therefore covers the same type of goods being examined in

[130] For details regarding this finding, *see* Memorandum to the File, "Antidumping Duty Investigation of Passenger Vehicle and Light Truck Tires from the People's Republic of China: Corroboration of Margin Based on Adverse Facts Available," dated concurrently with this memorandum (Corroboration Memorandum).
[131] *See* Letter from Petitioner, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China – Petitioner's Critical Circumstances Allegation," September 12, 2014 (Critical Circumstances Allegation).
[132] *See, e.g., Certain Oil Country Tubular Goods From the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination*, 74 FR 59117, 59120 (November 17, 2009) unchanged in *Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping*, 75 FR 20335 (April 19, 2010).
[133] *See* Critical Circumstances Allegation at 4.

this investigation.[134] With regards to the other orders, which cover, in whole or in part, tires under HTS 4011.20, Petitioner states that although the scope in these orders are not identical to the current proceeding, there appears to be overlap in the products covered.[135] Thus, Petitioner claims that these orders demonstrates that there is a reasonable basis to believe or suspect there is a history of dumping and of material injury by reason of dumped in imports with respect to subject merchandise.

In responses to Petitioner's argument, certain respondents have argued that there is insufficient information on the record of this investigation to determine whether the products covered by the AD orders in Brazil, Colombia, Egypt, India, and Turkey match the scope in the current investigation.[136] However, we find that record information indicates that the products subject to the Brazilian order overlap with the merchandise subject to this investigation. Specifically, the Brazilian AD order covers "tyres, of a kind used on motor cars"[137] and the merchandise described in the scope description of this investigation are "passenger vehicle and light truck tires". Further, the scope specifically indicates that merchandise subject to this proceeding are tires that are purposely intended to be used on motor cars ("conforms to applicable motor vehicle safety standards"). Additionally, the scope excludes tires whose size would preclude their use on passenger cars or light trucks. Finally, while the tariff codes provided in the scope are provided for convenience and custom's purposes, a comparison of the products covered under both orders further indicate that the merchandise in the order overlaps. Specifically, the Brazilian order indicates that products falling under HTS 4011.10.00[138] are subject to the order. A review of the HTS schedule indicates that there are seven ten-digit HTS codes that fall under 4011.10 (4011.10.10.10, 4011.10.10.20, 4011.10.10.30, 4011.10.10.40, 4011.10.10.50, 4011.10.10.60 and 4011.10.10.70),[139] all of which are listed in the scope of this investigation. Thus, we preliminarily find that the products covered in the Brazilian order overlap with the merchandise in this investigation.

As a result, the Department finds that there is a history of injurious dumping of tires from the PRC by reason of dumped imports in elsewhere of the subject merchandise, pursuant to section 733(e)(1)(A)(i) of the Act.

Section 733(e)(1)(A)(ii): Whether the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales

The Department generally bases its decision with respect to knowledge on the weighted-average dumping margins calculated in the preliminary AD determination and the ITC's preliminary injury determination. The Department normally considers rates of 25 percent or more for EP

[134] *Id.*
[135] *Id.* at 4 and 5.
[136] *See* Letter from Aeolus and Sentaida International, Inc. titled, "Passenger Vehicle and Light Truck Tires from the People's Republic of China: Response to Petitioner's Critical Circumstances Allegation and Petitioner's Additional Comments and Information in Support of the Critical Circumstances Allegation," October 28, 2014.
[137] *See* Critical Circumstances Allegation at Exhibit 1.
[138] *Id.*
[139] *See* Petition at Exhibit I-7.

sales and rates of 15 percent or more for CEP sales as sufficient to impute importer knowledge of sales at LTFV.[140] The weighted-average dumping margin calculated for both GITI and Sailun Group exceeds the threshold sufficient to impute knowledge of dumping (*i.e.*, 25 percent for EP sales and 15 percent for CEP sales). Therefore, we determine that there is sufficient basis to find that importers should have known that GITI and Sailun Group was selling the merchandise under consideration at LTFV.

Additionally, we are assigning a rate of 27.72 percent, the weighted-average of the mandatory respondents, to the non-individually investigated companies and the Department preliminarily determines a rate for the PRC-wide entity of 87.99 percent. Because the preliminary dumping margins exceed the threshold sufficient to impute knowledge of dumping, these margins provide a sufficient basis for imputing knowledge of sales of subject merchandise at LTFV to the importers.

Finally, in determining whether an importer knew or should have known that there was likely to be material injury caused by reason of such imports, the Department normally will look to the preliminary injury determination of the ITC.[141] Since the ITC preliminarily found a reasonable indication that an industry in the United States is materially injured by imports from the PRC of passenger tires, the Department determined that importers knew or should have known that there was likely to be material injury by reason of sales of passenger tires at LTFV by GITI and Sailun Group, the non-individually investigated companies, and the PRC-wide entity.[142]

Section 733(e)(1)(B): Whether there have been massive imports of the subject merchandise over a relatively short period

In response to these allegations, certain respondents argued that the Department should conduct a seasonality analysis to account for the increase of "snow tire" imports during the June through September comparison period.[143] After analyzing the data for all other producers/exporters, the Department determines that there was no predictable fluctuation associated with seasonal trends

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[140] *See, e.g., Carbon and Alloy Steel Wire Rod From Germany, Mexico, Moldova, Trinidad and Tobago, and Ukraine: Preliminary Determination of Critical Circumstances*, 67 FR 6224, 6225 (February 11, 2002), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod from Moldova*, 67 FR 55790 (August 30, 2002); *Affirmative Preliminary Determination of Critical Circumstances: Magnesium Metal from the People's Republic of China*, 70 FR 5606, 5607 (February 3, 2005), unchanged in *Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Magnesium Metal From the People's Republic of China*, 70 FR 9037 (February 24, 2005).
[141] *See, e.g., Certain Potassium Phosphate Salts from the People's Republic of China: Preliminary Affirmative Determination of Critical Circumstances in the Antidumping Duty Investigation*, 75 FR 24572, 24573 (May 5, 2010), unchanged in *Certain Potassium Phosphate Salts from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Termination of Critical Circumstances Inquiry*, 75 FR 30377 (June 1, 2010).
[142] *See ITC's Preliminary Report*.
[143] *See* Letter from the China Manufacturer's Alliance LLC, "CMA's Rebuttal Factual Information Concerning Critical Circumstances Allegation Certain Passenger Vehicle and Light Truck Tires from China," September 22, 2014 (CMA submission), at 2; *see also* Letter from ITG Voma Corporation, "Passenger Vehicle and Light Truck Tires from the People's Republic of China: Rebuttal Comments and Factual Information In Response to Petitioner's Additional Critical Circumstances Allegations," October 27, 2014 (Voma submission), at 2.

over the past four years.[144] For all other exporters/producers, while shipments increase regularly between the base and comparison period over the past 10 years,[145] the increases have been as low as 4.73 percent[146] and thus do not establish a pattern of an increase that can explain the 2014 increase.[147]

In addition, while the Department was able to subtract shipment volumes for GITI and Sailun Group from aggregate GTA data for the years 2011 through 2014, no party provided data allowing the Department to adjust aggregate GTA data in prior years, and no party provided any other means of determining a pattern for all other producers/exporters that would not be affected by the shipments of the mandatory respondents.[148] Moreover, no party provided data indicating what portion of shipments during 2014 consisted of snow tires; such data might have allowed the Department to determine which part of the massive increase calculated between the base and comparison periods in 2014 was attributable to snow tires and which portion was attributable to possible efforts to avoid cash deposits and duties.

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[144] The Department's precedent has sought "clear" "patterns" demonstrating imports are "dominated by seasonality," not simply upward trends at certain times of the year. *See Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China*, 70 FR 24502, 24504 (May 10, 2005); *see also Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 77 FR 63788 (October 17, 2012), and accompanying Issues and Decision Memorandum (IDM) at Comment 4 ("This type of sporadic variation is not the type of predictable fluctuation associated with seasonal trends. Seasonal trends, such as those affecting shipments of agricultural products, are the result of conditions known to repeat themselves each year (*e.g.*, a harvest at the end of each summer, or a surge in consumer shopping during the Christmas season). It is possible to subtract the effects of such predictable, measurable, cyclical patterns from import surges and then determine if what remains constitutes a 'massive increase.' There is no convincing explanation as to what might be the theoretical condition that causes an end-of-year increase in solar cell shipments"). Likewise, aside from lacking regularity, the increase at issue here lacks a solid theoretical basis. The summer increase is the supposed result of the increased demand for snow tires (in anticipation of winter) and tires to replace those worn out during the summer. That theory is only supported by a single affidavit, which does not refer to any additional evidence of these reasons for a predictable increase in demand at this time each year.

[145] While the Voma submission argues the seasonal surge takes place during June-September, the CMA submission argues the surge takes place during June-August. *See* CMA submission at 3. Comparing the periods March-May with June-August over the past ten years, however, indicates shipments actually decreased in the summer months in 2008 and 2012 and increased by less than 10 percent in 2005, 2006, and 2011.

[146] *See* Memorandum, "Monthly Shipment Quantity and Value Analysis for Critical Circumstances," January 20, 2015 (Critical Circumstances Memorandum).

[147] *See Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers from the People's Republic of China*, 69 FR 20594 (April 16, 2004), and accompanying IDM at Comment 3 (comparing the evidence of seasonal trends with the amount of the increase after the petition was filed to determine whether the latter could be *entirely* explained by the former); *see also Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances Determination: Bottom Mount Combination Refrigerator-Freezers From Mexico*, 77 FR 17422, 17426 (March 26, 2012) (determining the "massive" increase could not be explained by seasonal trends because the prior year's "increase" had been negative).

[148] *See Notice of Final Determination of Sales at Less Than Fair Value: Refined Brown Aluminum Oxide (Otherwise known as Refined Brown Artificial Corundum or Brown Fused Alumina) from the People's Republic of China*, 68 FR 55589 (September 26, 2003), and accompanying IDM at Comment 2 (explaining that it is the burden of the party claiming the increase is the result of a seasonal trend to provide all the necessary evidence).

Finally, as discussed below, it is the Department's practice to use all shipment data available in conducting its critical circumstances analysis; by extending our base and comparison periods, the Department already accounts for possible seasonal trends.[149] The details of the seasonality analysis involve business proprietary memorandum information, and can be found in the Critical Circumstances Memorandum.[150]

Mandatory Respondents

In determining whether there were massive imports from GITI or Sailun Group, we analyzed each company's respective monthly shipment data for the period November 2013 through May 2014 compared to June 2014 through December 2014. The data indicates that there was not a massive increase in shipments of subject merchandise to the United States by GITI or Sailun Group, during the seven-month period immediately following the filing of the petition on June 3, 2014.[151] Consequently, the Department determines that critical circumstances do not exist with respect to imports of subject merchandise shipped by GITI or Sailun Group.

All-Other Exporters or Producers

For the non-individually investigated companies, we relied upon GTA import statistics specific of subject merchandise, less the mandatory respondents' reported shipment data, to determine if imports in the post-Petition period for the subject merchandise were massive. This data demonstrates that there was an increase in imports of more than 15 percent during a "relatively short period" of time, in accordance with 19 CFR 351.206(h) and (i). Therefore, we preliminarily find there to be massive imports for the non- individually investigated separate rate entities, pursuant to section 733(e)(1)(B) of the Act and 19 CFR 351.206(c)(2)(i).

Further, as explained above, the PRC-wide entity, including Yongsheng, has been unresponsive, as AFA, we preliminarily find there to be massive imports for the PRC-wide entity, pursuant to section 733(e)(1)(B) of the Act and 19 CFR 351.206(c)(2)(i).[152]

IX. ADJUSTMENT UNDER SECTION 777A(F) OF THE ACT

In applying section 777A(f) of the Act in this investigation, the Department examined (1) whether a countervailable subsidy (other than an export subsidy) has been provided with respect to a class or kind of merchandise, (2) whether such countervailable subsidy has been demonstrated to have reduced the average price of imports of the class or kind of merchandise during the relevant period, and (3) whether the Department can reasonably estimate the extent to which that countervailable subsidy, in combination with the use of NV determined pursuant to

[149] *See Notice of Final Determination of Sales at Less than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the People's Republic of China*, 69 FR 70997 (December 8, 2004), and accompanying IDM at Comment 7.
[150] *See* Critical Circumstances Memorandum, at Attachment II.
[151] *See* Critical Circumstances Memorandum.
[152] *See, e.g., Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances: Small Diameter Graphite Electrodes from the People's Republic of China*, 74 FR 2049, 2052–53 (January 14, 2009).

section 773(c) of the Act, has increased the weighted average dumping margin for the class or kind of merchandise.[153] For a subsidy meeting these criteria, the statute requires the Department to reduce the AD by the estimated amount of the increase in the weighted average dumping margin subject to a specified cap.[154]

Since the Department has relatively recently started conducting analyses under section 777A(f) of the Act, the Department is continuing to refine its practice in applying this section of the law. The Department examined whether the respondents demonstrated: (1) a subsidies-to-cost link, *e.g.*, subsidy impact on cost of manufacture (COM); and (2) a cost-to-price link, *e.g.*, respondent's prices changed as a result of changes in the COM.

Mandatory respondents GITI and Sailun Group each submitted double remedy questionnaire responses.[155] Cooper Tire & Rubber Company (Cooper), a non-selected respondent in the instant investigation filed a voluntary double remedy response on behalf of Cooper (Kunshan) Tire Co., Ltd. (CKT), and Cooper Chengshan (Shandong) Tire Co., Ltd. (CCT).[156]

As a result of our analyses, the Department is preliminarily not making an adjustment to the calculation of the cash deposit rate for AD duties for GITI. The Department is preliminarily granting an adjustment to the calculation of the cash deposit rate for ADs for Sailun Group, and the companies that are not being individually examined but preliminarily are being granted separate-rate status in this investigation,[157] pursuant to section 777A(f) of the Act, in the manner described below. In making these adjustments, the Department has not concluded that concurrent application of NME ADs and CVDs necessarily and automatically results in overlapping remedies. Rather a finding that there is an overlap in remedies, and any resulting adjustment, is based on a case-by-case analysis of the totality of facts on the administrative record for that segment of the proceeding as required by the statute.

The Department examined the preliminary report issued by the ITC,[158] which indicates that prices of subject merchandise decreased during January 2011 to March 2014.[159] Based on this information, the Department preliminarily finds that prices of imports of the class or kind of merchandise during the relevant period decreased.

[153] *See* sections 777A(f)(1)(A)-(C) of the Act.
[154] *See* sections 777A(f)(1)-(2) of the Act.
[155] *See* letter from GITI, "Passenger Vehicle and Light Truck Tires from the People's Republic of China*:* Double Remedy Questionnaire Response - Giti Tire Global Trading Pte. Ltd.," (November 3, 2014) (GITI Double Remedy Response); letter from Sailun China, "Sailun Double Remedies Questionnaire Response in the Antidumping Duty Investigation on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China," (November 24, 2014) (Sailun Group Double Remedy Response).
[156] Cooper, CKT and CCT were mandatory respondents in the companion CVD investigation. *See* letter from Cooper "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China/Response To Double Remedies Questionnaire," (October 23, 2014) (Cooper Double Remedy Response).
[157] This includes CKT and CCT.
[158] *See ITC's Preliminary Report*.
[159] *Id.* at V-4 through V-10.

GITI

GITI demonstrated that less-than-adequate-remuneration (LTAR) programs impacted their cost of manufacturing (COM) and that the other subsidy programs under investigation (*e.g.*, grant programs and tax programs) did not. We preliminarily determine GITI's questionnaire responses indicate a subsidies-to-cost linkage for certain subsidy programs. However, GITI provided information linking their pricing decisions to a material input for which the subsidized program which the Department found not used by GITI in the companion CVD proceeding.[160] Thus, we preliminarily determine that there is no cost-to-price linkage to a subsidized program and are not making an adjustment for GITI.

Sailun Group

Sailun Group demonstrated that the LTAR programs for Provision of Natural Rubber for LTAR, Provision of Synthetic Rubber and Butadiene for LTAR, Provision of Carbon Black for LTAR, and Provision of Nylon Cord for LTAR impacted their COM, and did not make that demonstration for the other subsidy programs under investigation (*e.g.*, grant programs and tax programs).[161] We preliminarily determine Sailun Group's questionnaire responses indicate a subsidies-to-cost linkage for certain subsidy programs. Sailun Group provided information indicating that the price at which they sell subject merchandise to its customers is impacted by the cost of raw materials and energy.[162] Thus, Sailun Group's questionnaire responses indicate a cost-to-price linkage for the Provision of Natural Rubber for LTAR, Provision of Synthetic Rubber and Butadiene for LTAR, Provision of Carbon Black for LTAR, and Provision of Nylon Cord for LTAR programs that impact COM.

In the companion CVD proceeding, the Department did not determine program-specific rates for Sailun Group. Accordingly, the adjustment to account for domestic subsidies is based on an average of the program-specific countervailing duty rates found for the mandatory respondents in that proceeding for Provision of Natural Rubber for LTAR, Provision of Synthetic Rubber and Butadiene for LTAR, Provision of Carbon Black for LTAR, Provision of Nylon Cord.

Because the record indicates that several factors other than the cost of natural rubber, synthetic rubber and butadiene, carbon black and nylon cord impact Sailun's prices to customers,[163] the Department is applying a documented ratio of cost-price changes for the PRC manufacturing sector as a whole, which is based on data provided by Bloomberg, *i.e.*, 94.96, as the estimate of the extent of subsidy pass-through.[164] Accordingly, we are adjusting the preliminary cash deposit rate for estimated domestic subsidy pass through for Sailun by 6.97 percent.

[160] *See* Double Remedies Calculation Memorandum, dated concurrently with this memorandum.
[161] *See S*ailun Group Double Remedy Response at 6.
[162] *Id.* at 7 & 2.
[163] *Id.* at 2-3.
[164] *See* Double Remedies Calculation Memorandum, dated concurrently with this memorandum.

Separate Rate Companies

For the non-individually examined companies which are eligible for a separate rate, their weighted-average dumping margin is based on the weighted-average dumping margins of the mandatory respondents in this investigation. In the companion CVD investigation, the Department did not individually examine certain non-mandatory respondents that are preliminarily eligible for separate rates in this AD investigation, and, therefore, those companies were assigned the all-other exporters' rate as determined in the preliminary determination for the CVD investigation.[165]

Accordingly, in this AD investigation, for separate rate exporters that received a non-selected company rate in the companion CVD investigation, the adjustment to account for domestic subsidies is based on an average of the program-specific domestic subsidy pass-through amounts found for the AD investigation mandatory respondents for the Provision of Natural Rubber for LTAR, Provision of Synthetic Rubber and Butadiene for LTAR, Provision of Carbon Black for LTAR, and Provision of Nylon Cord for LTAR programs in the preliminary CVD determination. This adjustment is not more than the countervailing duty attributable to these countervailable subsidies for any of these exporters.

Cooper and its claimed affiliates CKT and CCT received a dumping margin based on the simple-average dumping margins of the mandatory respondents in this investigation. As such, the adjustment to account for domestic subsidies is based on an weighted-average of the program-specific pass-through amounts found for the AD investigation mandatory respondents for the Provision of Natural Rubber for LTAR, Provision of Synthetic Rubber and Butadiene for LTAR, Provision of Carbon Black for LTAR, and Provision of Nylon Cord for LTAR programs in the preliminary CVD determination. It is appropriate to base the adjustment for Cooper, CKT and CCT on the experience of those mandatory respondents rather than the information provided by Cooper because the average of the program-specific pass-through amounts found for the AD investigation mandatory respondents is less than the countervailing duty attributable to these countervailable subsidies preliminarily calculated for Cooper, CKT and CCT in the companion CVD investigation.

In making these adjustments for the separate rate companies, the Department preliminarily determines that the percentage of the CVDs determined to have passed through to U.S. prices is the documented ratio of cost-price changes for the Chinese manufacturing sector as a whole, which is based on data provided by Bloomberg.[166]

For the PRC-wide entity, which received an adverse facts available rate based on information contained in the Petition, as an extension of the adverse inference found necessary pursuant to section 776(b) of the Act, the Department has adjusted the PRC-wide entity's AD cash deposit rate by the lowest export subsidy rate determined for any party in the companion CVD proceeding and the lowest estimated domestic subsidy pass-through determined for any party in this investigation.

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[165] This includes CKT and CCT.
[166] *See* Double Remedies Calculation Memorandum, dated concurrently with this memorandum.

X. POSTPONEMENT OF FINAL DETERMINATION

Pursuant to section 735(a)(2)(A) of the Act, on January 13, 2015, GITI requested that the Department postpone the final determination as well as to extend provisional measures from four months to a period not to exceed six months pursuant to19 CFR 351.210(e)(2).[167] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(e), because (1) our preliminary determination is affirmative, (2) the requesting exporter, GITI, accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the request and are postponing the final determination no later than 135 days after the publication of the preliminary determination notice in the *Federal Register*. Suspension of liquidation will be extended accordingly, consistent with section 733(d) of the Act.

XI. VERIFICATION

As provided in section 782(i)(1) of the Act, we intend to verify the information submitted by GITI and Sailun Group in response to the Department's questionnaires.

XII. ITC NOTIFICATION

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary affirmative determination of sales at LTFV. Section 735(b)(2) of the Act requires the ITC to make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of passenger tires from PRC, or sales (or the likelihood of sales) for importation, of the merchandise under consideration within 45 days of our final determination.

XIII. CONCLUSION

We recommend applying the above methodology for this preliminary determination.

✓
Agree

Disagree

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

20 JANUARY 2015
Date

[167] *See* Letter from GITI, "Passenger Vehicle and Light Truck Tires from the People's Republic of China: Request for Extension of the Final Determination"(January 13, 2015.)

Appendix I
List of Companies that Applied for a Separate Rate

1. Aeolus Tyre Co. Ltd.
2. America Business Co., Ltd.
3. Beijing Capital Tire Co., Ltd.
4. Best Choice International Trade Co., Limited
5. Bridgestone (Wuxi) Tire Co., Ltd.
6. Bridgestone Corporation
7. Carlisle (Meizhou) Rubber Products Co., Ltd.
8. Cheng Shin Tire & Rubber (China) Co., Ltd.
9. Cooper Tire & Rubber Company
10. Cooper (Kunshan) Tire Co., Ltd.
11. Cooper Chengshan (Shandong) Tire Co., Ltd.
12. Crown International Corporation
13. Double Coin Holdings Ltd.
14. Doublestar-Dongfeng Tyre Co., Ltd.
15. Federal Tire (Jiangxi), Ltd./ Highpoint Trading, Ltd.
16. Goodyear Dalian Tire Company Limited
17. Guangzhou Pearl River Rubber Tyre Ltd.
18. Guangzhou Wanli Tire Trading Co. Ltd.
19. Guizhou Tyre Import and Export Co., Ltd. (aka Guizhou Tyre I/E Co., Ltd.)
20. Hankook Tire China Co., Ltd.
21. Hebei Tianrui Rubber Co., Ltd.
22. Hong Kong Tri-Ace Tire Co., Ltd.
23. Hongkong Tiancheng Investment & Trading Co., Limited
24. Hwa Fong Suzhou
25. Jiangsu Hankook Tire Co., Ltd.
26. Kenda Rubber (China) Co., Ltd.
27. Kumho Tire Co., Inc.
28. Liaoning Permanent Tyre Co., Ltd.
29. Longkou Xinglong Tyre Co., Ltd.
30. Mayrun Tyre (Hong Kong) Limited
31. Nankang (Zhangjiagang Free Trade Zone) Rubber Industrial Co., Ltd.
32. Pirelli Tyre Co., Ltd.
33. Qingdao Au-Shine Group Co., Limited
34. Qingdao Crown Chemical Co., Ltd.
35. Qingdao Doublestar Tyre Industrial Co., Ltd.
36. Qingdao Free Trade Zone Full-World International Trading Co., Ltd.
37. Qingdao Fullrun Tyre Corp., Ltd.
38. Qingdao Fullrun Tyre Tech Corp., Ltd.
39. Qingdao Fuyingxiang Imp. & Exp. Co., Ltd.

40. Qingdao Honghua Tyre Factory
41. Qingdao Jinhaoyang International Co., Ltd.
42. Qingdao Nama Industrial Co., Ltd.
43. Qingdao Nexen Tire Corporation
44. Qingdao Odyking Tyre Co., Ltd.
45. Qingdao Qianzhen Tyre Co., Ltd.
46. Qingdao Qihang Tyre Co., Ltd.
47. Qingdao Qizhou Rubber Co., Ltd.
48. Qingdao Sentury Tire Co., Ltd.
49. Shaanxi Yanchang Petroleum Group Rubber Co., Ltd.
50. Shandong Anchi Tyres Co., Ltd.
51. Shandong Changfeng Tyres Co., Ltd.
52. Shandong Duratti Rubber Corporation Co., Ltd.
53. Shandong Fengyuan Tire Manufacturing Co., Ltd.
54. Shandong Guofeng Rubber Plastics Co., Ltd.
55. Shandong Haohua Tire Co., Ltd.
56. Shandong Haolong Rubber Tire Co., Ltd.
57. Shandong Hawk International Rubber Industry Co., Ltd.
58. Shandong Hengyu Science & Technology Co., Ltd.
59. Shandong Linglong Tyre Co., Ltd.
60. Shandong Longyue Rubber Co., Ltd.
61. Shandong New Continent Tire Co., Ltd.
62. Shandong Province Sanli Tire Manufactured Co., Ltd.
63. Shandong Shuangwang Rubber Co., Ltd.
64. Shandong Wanda Boto Tyre Co., Ltd.
65. Shandong Yongtai Chemical Co., Ltd.
66. Shandong Zhongyi Rubber Co., Ltd.
67. Shandong Huitong Tyre Co., Ltd.
68. Shengtai Group Co., Ltd.
69. Shifeng Juxing Tire Co., Ltd.
70. Shouguang Firemax Tyre Co., Ltd.
71. Sichuan Tyre and Rubber Co., Ltd.
72. Southeast Mariner International Co., Ltd.
73. Techking Tires Limited
74. Tianjin Wanda Tyre Group Co., Ltd.
75. Tianjin Zhenxin Rubber Co., Ltd.
76. Toyo Tire (Zhangjiagang) Co., Ltd.
77. Triangle Tyre Co., Ltd.
78. Tyrechamp Group Co., Ltd.
79. Weihai Ping'an Tyre Co., Ltd.
80. Weihai Zhongwei Rubber Co., Ltd.

81. Wendeng Sanfeng Tyre Co., Ltd.
82. Winrun Tyre Co., Ltd.
83. Zenith Holdings (HK) Limited
84. Zhaoqing Junhong Co., Ltd.
85. Zhejiang Qingda Rubber Co., Ltd.
86. Zhongce Rubber Group Company Limited

Appendix II
List of Companies Granted A Separate Rate Companies

1. Best Choice International Trade Co., Limited
2. Bridgestone (Wuxi) Tire Co., Ltd.
3. Bridgestone Corporation
4. Cheng Shin Tire & Rubber (China) Co., Ltd.
5. Cooper Tire & Rubber Company
6. Cooper (Kunshan) Tire Co., Ltd.
7. Cooper Chengshan (Shandong) Tire Co., Ltd.
8. Crown International Corporation
9. Goodyear Dalian Tire Company Limited
10. Guangzhou Pearl River Rubber Tyre Ltd.
11. Hankook Tire China Co., Ltd.
12. Hebei Tianrui Rubber Co., Ltd.
13. Hong Kong Tiancheng Investment & Trading Co., Ltd.
14. Hong Kong Tri-Ace Tire Co., Ltd.
15. Hwa Fong Suzhou
16. Jiangsu Hankook Tire Co., Ltd.
17. Kenda Rubber (China) Co., Ltd.
18. Kumho Tire Co., Inc.
19. Liaoning Permanent Tyre Co., Ltd.
20. Longkou Xinglong Tyre Co., Ltd.
21. Mayrun Tyre (Hong Kong) Limited
22. Nankang (Zhangjiagang Free Trade Zone) Rubber Industrial Co., Ltd.
23. Pirelli Tyre Co., Ltd.
24. Qingdao Nama Industrial Co., Ltd.
25. Qingdao Au-Shine Group Co., Limited
26. Qingdao Crown Chemical Co., Ltd.
27. Qingdao Free Trade Zone Full-World International Trading Co., Ltd.
28. Qingdao Fullrun Tyre Tech Corp., Ltd.
29. Qingdao Honghua Tyre Factory
30. Qingdao Nexen Tire Corporation
31. Qingdao Odyking Tyre Co., Ltd.
32. Qingdao Qianzhen Tyre Co., Ltd.
33. Qingdao Qihang Tyre Co., Ltd.
34. Qingdao Qizhou Rubber Co., Ltd.
35. Qingdao Sentury Tire Co., Ltd.
36. Shandong Duratti Rubber Corporation Co., Ltd.
37. Shandong Fengyuan Tire Manufacturing Co., Ltd.
38. Shandong Guofeng Rubber Plastics Co., Ltd.

39. Shandong Haohua Tire Co., Ltd.
40. Shandong Haolong Rubber Tire Co., Ltd.
41. Shandong Hawk International Rubber Industry Co., Ltd.
42. Shandong Hengyu Science & Technology Co., Ltd.
43. Shandong Linglong Tyre Co., Ltd.
44. Shandong Longyue Rubber Co., Ltd.
45. Shandong New Continent Tire Co., Ltd.
46. Shandong Province Sanli Tire Manufactured Co., Ltd.
47. Shandong Shuangwang Rubber Co., Ltd.
48. Shandong Wanda Boto Tyre Co., Ltd.
49. Shandong Yongtai Chemical Co., Ltd.
50. Shandong Zhongyi Rubber Co., Ltd.
51. Shandong Huitong Tyre Co., Ltd.
52. Shengtai Group Co., Ltd.
53. Shifeng Juxing Tire Co., Ltd.
54. Shouguang Firemax Tyre Co., Ltd.
55. Southeast Mariner International Co., Ltd.
56. Techking Tires Limited
57. Toyo Tire (Zhangjiagang) Co., Ltd.
58. Triangle Tyre Co., Ltd.
59. Tyrechamp Group Co., Ltd.
60. Weihai Ping'an Tyre Co., Ltd.
61. Weihai Zhongwei Rubber Co., Ltd.
62. Wendeng Sanfeng Tyre Co., Ltd.
63. Winrun Tyre Co., Ltd.
64. Zenith Holdings (HK) Limited
65. Zhaoqing Junhong Co., Ltd.