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

A-570-018
Investigation
Public Document
E&C/V: KJA/JS

March 24, 2015

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for Preliminary Determination of the Antidumping Duty Investigation of Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China

SUMMARY

The Department of Commerce ("Department") preliminarily determines that boltless steel shelving units prepackaged for sale ("boltless steel shelving") from the People's Republic of China ("PRC") is being, or is 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 January 1, 2014, through June 30, 2014. The estimated margins of sales at LTFV are shown in the "Preliminary Determination" section of the accompanying Federal Register notice.

BACKGROUND

Initiation

On August 26, 2014, the Department received an antidumping duty ("AD") petition concerning imports of boltless steel shelving from the PRC filed in proper form by Edsal Manufacturing Company, Inc. ("Petitioner").[1] The Department published the initiation of this investigation and the companion countervailing duty ("CVD") investigation on September 22, 2014.[2] On October 17, 2014, the U.S. International Trade Commission ("ITC") published its preliminary determination in which it determined that there is a reasonable indication that an industry in the

[1] See Letter to the Secretary of Commerce from Petitioner "Antidumping and Countervailing Duty Petition" (August 26, 2014) ("Petition").

[2] See Boltless Steel Shelving Units Prepackaged for Sale From the People's Republic of China: Initiation of Antidumping Duty Investigation, 79 FR 56562 (September 22, 2014) ("Initiation Notice"); see also Boltless Steel Shelving Units Prepackaged for Sale From the People's Republic of China: Initiation of Countervailing Duty Investigation, 79 FR 56567 (September 22, 2014).

United States was materially injured by reason of imports from the PRC of boltless steel shelving.[3]

In the Initiation Notice, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in non-market economy ("NME") investigations.[4] The process requires exporters and producers to submit a separate rate application ("SRA")[5] and to demonstrate an absence of both de jure and de facto government control over their export activities. In the Initiation Notice, we stated that the SRA will be due 60 days after publication of the notice, which was November 21, 2014. On November 21, 2014, the Department received timely filed SRAs from Ningbo ETDZ Huixing Trade Co., Ltd. ("EDTZ"),[6] Zhejiang Limai Metal Products Co., Ltd. ("Meridian LM"),[7] Meridian International Co., Ltd. ("Meridian International"),[8] and Jiaxing Zhongda Import & Export Co., Ltd. ("Zhongda IE").[9, 10]

Period of Investigation

The POI is January 1, 2014, through June 30, 2014. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition, which was August 2014.[11]

Postponement of Preliminary Determination

On January 20, 2014, pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(b)(2), the Department published a 50-day postponement of the preliminary AD determination on boltless steel shelving from the PRC.[12]

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[3] See Boltless Steel Shelving Units Prepackaged for Sale From China, 79 FR 62465 (October 17, 2014).
[4] See Initiation Notice, 79 FR at 56566.
[5] See Policy Bulletin 05.1: Separate Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries (April 5, 2005) ("Policy Bulletin 05.1"), available at http://enforcement.trade.gov/policy/bull05-1.pdf.
[6] See Final Version of Letter to the Secretary of Commerce from EDTZ "Separate Rate Application" (November 24, 2014) ("ETDZ SRA").
[7] See Letter to the Secretary of Commerce from Meridian LM "Separate Rate Application" (November 21, 2014) ("Meridian LM SRA").
[8] See Letter to the Secretary of Commerce from Meridian International "Separate Rate Application" (November 21, 2014) ("Meridian International SRA").
[9] See Letter to the Secretary of Commerce from Zhongda "Boltless Steel Shelving from the People's Republic of China (A-570-018)" (November 21, 2014).
[10] The Department received an untimely filed SRA from Ningbo Shuntong Metal Products Co., Ltd. ("Shuntong"). The Department rejected this untimely filed SRA and removed it from the record. See Letter to Shuntong from Catherine Bertrand, Program Manager, Office V "Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China ('PRC')" (December 29, 2014). Further, the Department received a combined Q&V and SRA from Guangdong Guanyu Metal Products Company Ltd. ("Guanyu"). Because the Q&V was untimely we rejected the submission but allowed Guanyu to refile its SRA. However, we noted that the instructions included with the original Q&V questionnaire explicitly stated that "{t}he Department will not give consideration to any {SRAs} made by parties that fail to timely respond to the {Q&V} Questionnaire or fail to timely submit the requisite separate-rate status application." See Letter to Guanyu from Catherine Bertrand, Program Manager, Office V "Quantity and Value Response and Separate Rate Application" (November 26, 2014). Accordingly, we are not considering Guanyu's SRA for purposes of this preliminary determination.
[11] See 19 CFR 351.204(b)(1).

Scope of the Investigation

The scope of this investigation covers boltless steel shelving, with or without decks ("boltless steel shelving"). The term "prepackaged for sale" means that, at a minimum, the steel vertical supports (i.e., uprights and posts) and steel horizontal supports (i.e., beams, braces) necessary to assemble a completed shelving unit (with or without decks) are packaged together for ultimate purchase by the end-user. The scope also includes add-on kits. Add-on kits include, but are not limited to, kits that allow the end-user to add an extension shelving unit onto an existing boltless steel shelving unit such that the extension and the original unit will share common frame elements (e.g., two posts). The term "boltless" refers to steel shelving in which the vertical and horizontal supports forming the frame are assembled primarily without the use of nuts and bolts or screws. The vertical and horizontal support members for boltless steel shelving are assembled by methods such as, but not limited to, fitting a rivet, punched or cut tab or other similar connector on one support into a hole, slot or similar receptacle on another support. The supports lock together to form the frame for the shelving unit, and provide the structural integrity of the shelving unit separate from the inclusion of any decking. The incidental use of nuts and bolts or screws to add accessories, wall anchors, tie-bars or shelf supports does not remove the product from scope. Boltless steel shelving units may also come packaged as partially assembled, such as when two upright supports are welded together with front-to-back supports, or are otherwise connected, to form an end unit for the frame. The boltless steel shelving covered by this investigation may be commonly described as rivet shelving, welded frame shelving, slot and tab shelving, and punched rivet (quasi-rivet) shelving as well as by other trade names. The term "deck" refers to the shelf that sits on or fits into the horizontal supports (beams or braces) to provide the horizontal storage surface of the shelving unit.

The scope includes all boltless steel shelving meeting the description above, regardless of (1) vertical support or post type (including but not limited to open post, closed post and tubing); (2) horizontal support or beam/brace profile (including but not limited to Z-beam, C-beam, L-beam, step beam and cargo rack); (3) number of supports; (4) surface coating (including but not limited to paint, epoxy, powder coating, zinc and other metallic coating); (5) number of levels; (6) weight capacity; (7) shape (including but not limited to rectangular, square, and corner units); (8) decking material (including but not limited to wire decking, particle board, laminated board or no deck at all); or (9) the boltless method by which vertical and horizontal supports connect (including but not limited to keyhole and rivet, slot and tab, welded frame, punched rivet and clip).

Specifically excluded from the scope are:

- wall-mounted shelving, defined as shelving that is hung on the wall and does not stand on, or transfer load to, the floor;[13]
- wire shelving units, which consist of shelves made from wire that incorporates both a wire deck and wire horizontal supports (taking the place of the horizontal beams and

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[12] See Boltless Steel Shelving Units Prepackaged for Sale From the People's Republic of China: Postponement of Preliminary Determination of Antidumping Duty Investigation, 80 FR 2682 (January 20, 2015).

[13] The addition of a wall bracket or other device to attach otherwise freestanding subject merchandise to a wall does not meet the terms of this exclusion.

braces) into a single piece with tubular collars that slide over the posts and onto plastic sleeves snapped on the posts to create the finished shelving unit;

- bulk-packed parts or components of boltless steel shelving units; and
- made-to-order shelving systems.

Subject boltless steel shelving enters the United States through Harmonized Tariff Schedule of the United States ("HTSUS") statistical subheadings 9403.20.0018 and 9403.20.0020, but may also enter through HTSUS 9403.10.0040. While HTSUS subheadings are provided for convenience and Customs purposes, the written description of the scope of this investigation is dispositive.

Scope Comments

In accordance with the Preamble to the Department's regulations,[14] in our Initiation Notice we set aside a period of time for parties to raise issues regarding product coverage, and stated that parties must submit comments by October 6, 2014.[15] However, we noted that if a party "subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact the Department and request permission to submit the additional information."[16] We received scope comments from Whitmor, Inc. ("Whitmor") and Costco Wholesale Corporation ("Costco").[17] On October 16, 2014, Petitioner filed rebuttal scope comments.[18] On December 19, 2014, Costco filed further comments on the scope[19] in response to the Department's request for further clarification.[20] On January 6, 2015, Petitioner responded to Costco's further comments.[21] On January 22, 2015, Whirlpool Corporation ("Whirlpool") filed a scope ruling request[22] which was rejected by the Department because the Department does not issue scope rulings during the pendency of an investigation under the provision (19 CFR 351.225(c)) relied upon by Whirlpool.[23] On February 24, 2015, Whirlpool filed a request for leave to refile its scope comments,[24] to which Petitioner objected.[25] On February 27, 2015, the Department granted Whirlpool's request to refile its scope comments.[26] On March 2, 2015, Whirlpool refiled its scope comments, without the reference to

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[14] See Antidumping Duties; Countervailing Duties, 62 FR 27296, 27323 (May 19, 1997) ("Preamble").
[15] See Initiation Notice, 79 FR at 56563.
[16] Id.
[17] See Letter to the Secretary of Commerce from Whitmor "Comments on Scope of Investigation" (October 6, 2014) ("Whitmor Scope Comments"); see also Letter to the Secretary of Commerce from Costco "Comments on Scope of Investigation" (October 6, 2014).
[18] See Letter to the Secretary of Commerce from Petitioner "Response to Comments on Scope" (October 16, 2014).
[19] See Letter to the Secretary of Commerce from Costco "Further Comments on the Scope" (December 19, 2014) ("Costco Additional Scope Comments").
[20] See Letter to Costco from Catherine Bertrand, Program Manager, Office V "Comments on Scope of Investigation" (November 19, 2014).
[21] See Letter to the Secretary of Commerce from Petitioner "Response to Costco Request for Scope Clarification" (January 6, 2015) ("Petitioner Second Scope Rebuttal").
[22] See Letter to the Secretary of Commerce from Whirlpool "Scope Ruling Request" (January 22, 2015).
[23] See Letter to Whirlpool from Catherine Bertrand, Program Manager, Office V "Scope Ruling Request" (February 23, 2015); see also 19 CFR 351.225(c).
[24] See Letter to the Secretary of Commerce from Whirlpool "Response to February 23, 2015 Memorandum" (February 24, 2015).
[25] See Letter to the Secretary of Commerce from Petitioner "Response to Comments on Scope" (February 26, 2015).
[26] See Letter to Whirlpool from Catherine Bertrand, Program Manager, Office V "Response to February 23, 2015

19 CFR 351.225(c).[27] On March 12, 2015, Petitioner filed rebuttal comments to Whirlpool's scope comments.[28]

As a prefatory matter, we note that no interested party suggested alternative scope language that would alter the existing framework for coverage or exclusion of products. Rather, each party submitted comments that examined the scope of the AD and CVD[29] investigations as it is currently constructed in order to argue that its products are not covered by the language of the scope of these investigations. Accordingly, we have looked to the scope of these investigations, as published in the Initiation Notice, in making the following preliminary determinations:

Whitmor's Storage Shelf: Whitmor argues that the horizontal shelves in its product are necessary to the structural integrity of the unit but are not separate from the inclusion of any decking, as required by the scope of these investigations.[30] Whitmor contends that the vertical and horizontal supports of its product do not "lock together" to form the frame of the unit because the shelf frames attach to the vertical posts with rubber connectors that hold the shelves in place and are supported by shelf support bars connecting the vertical posts.[31] Finally, Whitmor avers that its product is similar to the wire shelving units excluded from the scope because wire components form the unit's shelving deck and provide the unit with support.[32]

Petitioner argues that the essential characteristics of Whitmor's product fall within the scope language and are not covered by any exclusion in the scope language.[33] Petitioner notes the method by which the beams connect to the posts of Whitmor's product are not a basis for exclusion because the method is "boltless" within the meaning of the scope.

The Department preliminarily agrees with Petitioner. Although Whitmor argues that the slats that form the decks of the unit are necessary for the structural integrity of the unit and prevent the unit from twisting, warping or bending,[34] the unit as described and pictured appears to be comprised of horizontal welded steel shelving frames and vertical welded steel end units that reasonably would be considered structurally sound even without the addition of plastic slats for decking. Although Whitmor contends that because the horizontal beams connected to the vertical supports with brackets are covered with rubber, its product is excluded from the scope, we note that the method by which the beams connect to the posts does not remove the product from the language of the scope provided that the method is boltless. Specifically, the scope states that the components "are assembled by methods **such as, but not limited to**" particular connecting methods. Finally, although Whitmor contends that its product is similar to the wire

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Memorandum" (February 27, 2015).

[27] See Letter to the Secretary of Commerce from Whirlpool "Submission of Factual Information and Request for Scope Clarification" (March 2, 2015) ("Whirlpool Scope Comments").

[28] See Letter to the Secretary of Commerce from Petitioner "Response to Whirlpool's Comments on Scope" (March 12, 2015). Given the close proximity to the preliminary determination of Petitioner's submission, we have not considered these comments for the preliminary determination but intend to consider them for the final determination.

[29] A copy of this decision memorandum has been placed on the record of the CVD proceeding.

[30] See Whitmor Scope Comments at 3-4.

[31] Id. at 5.

[32] Id. at 6.

[33] See Petitioner Scope Comments at 1.

[34] See Whitmor Scope Comments at 3.

shelving units excluded from the scope, the Department preliminarily finds that Whitmor's product is more similar to welded frame shelving units, which are expressly included in the scope of these investigations. Further, although Whitmor argues that wire components both form the unit's shelving deck and provide the unit with support, the images of the unit submitted by Whitmor do not support this contention because the only wire parts of the unit appear to be welded to the vertical posts and do not form any part of the shelving deck. Accordingly, the Department preliminarily finds that Whitmor's product is covered by the plain language of the scope of these investigations.

Wire Industrial Shelving Unit: Costco describes this product as a shelving unit made from wire that incorporates a wire deck and wire horizontal supports into a single piece with tubular collars that slide over the posts to create a finished product. Costco argues that this product falls outside of the scope of these investigations because the scope excludes "wire shelving units, which consist of shelves made from wire that incorporates both a wire deck and horizontal supports … into a single piece with tubular collars that slide over the posts and onto plastic sleeves on the post to create the finished shelving unit."[35] Petitioner states that the scope language is clear as written and the Department should not provide further confirmation to importers regarding such scope exclusions.[36] The Department preliminary agrees the product described by Costco is excluded from the scope of these investigations because it falls within the exclusion for wire shelving units quoted above, and there are no steel beams or other steel horizontal supports in the design.

Household Shoe Rack Nine Tier: Costco describes this product as a nine-tier shoe rack that is zinc-plated and incorporates casters, and is designed for display of light-weight items that can be moved without unloading or disassembling the shelves. Costco argues that this product is excluded from the scope because it is designed to hold shoes.[37] According to Petitioner, the Department has stated that the scope of these investigations makes no reference to end-use or location where the merchandise under consideration may be stored.[38] Although the Department preliminarily agrees with Petitioner that end-use alone does not exclude a product from the scope, based on the limited information provided by Costco, we are unable to make a preliminary determination as to whether this product falls within the scope of these investigations. Accordingly, we intend to request additional information regarding the method by which the components of this product connect from Costco regarding this product.

Mesh Wire Drawer System: Costco describes this product as "a mesh wire drawer system that incorporates a wooden cover piece but otherwise has no decking for storage," noting that instead of decking the product contains hanging wire baskets. Costco contends that this product should be excluded from the scope because it does not have decks but, rather, its storage system incorporates wire mesh hanging baskets.[39] Petitioner argues that a basket or drawer that fits into horizontal supports could meet the scope definition of a "deck," so that feature alone does not by itself exclude the product from the scope. However, Petitioner states that there is not enough

[35] See Costco Additional Scope Comments at 1-2.
[36] See Petitioner Second Scope Rebuttal at 4-5.
[37] See Costco Additional Scope Comments at 2.
[38] See Petitioner Second Scope Rebuttal at 5.
[39] See Costco Additional Scope Comments at 2-3.

evidence on the record to determine if this product falls within the scope of these investigations.[40] Accordingly, the Department preliminarily determines that the record does not contain the information necessary to make a preliminary determination with respect to Costco's wire mesh drawer system and intends to solicit further information from Costco regarding its claim that the decking type excludes this product from the scope of these investigations.

Metal Wheeled Cart with Bamboo Top: Costco describes this product as a cart on casters with one wire basket and two wire shelves made from wire that incorporate both a wire deck and wire horizontal supports into a single piece with tubular collars that slide over the posts to create the finished cart. The top deck is made of bamboo and the decks and basket are made from wire. Costco states that this product should be excluded because it is a wire shelving unit and therefore falls into the exclusion for wire shelving units.[41] Petitioner agreed generally that any product meeting the definition of a "wire shelving" unit is excluded from the scope, but noted that the incorporation of the bamboo deck and casters do not alone remove this product from the scope.[42] The Department preliminarily determines that this product falls under the exclusion for wire shelving units described in the scope based on the incorporation of both a wire deck and wire horizontal supports into a single piece with tubular collars that slide over the posts and onto plastic sleeves snapped on the posts.

Stainless Steel Tool Chest: Costco describes this product as a fully-enclosed stainless steel tool chest, with casters, that incorporates seven metal drawers with handles, one door for storage, and incorporates hardware, such as nuts, bolts, and screws, throughout.[43] According to Costco, this product is not a boltless shelving unit because the outer metal sheet is a single piece of metal, which provides the support and frame for the drawers.[44] Petitioner states that the scope language indicates that most items which could be called a tool chest are likely outside of the scope of these investigations.[45] The Department preliminarily determines that the stainless steel tool chest described by Costco does not fall within the scope of these investigations because it incorporates nuts, bolts, and screws, and because a single sheet of metal provides the frame for the drawers and there are no steel beams or other steel horizontal supports in the design.

KS Metal Rolling Tool Chest: Costco describes this product as a large metal tool chest, with 15 drawers, a door, and additional storage on the top. Costco argued that like stainless steel tool chests, this product is an entirely different product from the one described in the scope.[46] Petitioner states that the scope language indicates that most items which could be called a tool chest are likely outside of the scope of these investigations.[47] The Department preliminarily determines that the KS Metal Rolling Tool Chest described by Costco, falls outside of the scope of these investigations because, like the stainless steel tool chest, it is not a boltless shelving unit and there are no steel beams or other steel horizontal supports in the design.

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[40] See Petitioner Second Scope Rebuttal at 6-7.
[41] See Costco Additional Scope Comments at 3.
[42] See Petitioner Second Scope Rebuttal at 6.
[43] See Costco Additional Scope Comments at 3-4.
[44] Id.
[45] See Petitioner Second Scope Rebuttal at 6.
[46] See Costco Additional Scope Comments at 4.
[47] See Petitioner Second Scope Rebuttal at 6.

Metal Shelving with Bins: Costco describes this product as a shelving unit with plastic bins and wire decking. Costco contends that this product does not fall within the scope because its wire decking and supports are specifically excluded by the following scope language: "specifically excluded from the scope are … units, which consist of shelves made from wire that incorporates both a wire deck and wire horizontal supports… ."[48] Petitioner notes that wire decking is specifically contemplated by the scope, which includes all boltless steel shelving meeting the scope description, regardless of "decking material (including but not limited to wire decking…)," and nothing in the physical description or picture provided by Costco demonstrates why the horizontal supports of this unit are not within the scope of these investigations.[49] Based on the limited information provided by Costco, we are unable to make a preliminary determination as to whether this product falls within the scope of these investigations. Accordingly, we intend to request additional information regarding Costco's claim that the horizontal support system of this product exclude it from the scope of these investigations.

Steel Stacking Shelves: Costco describes this product as consisting of wire stacking shelves, which incorporates a wire deck into the horizontal support. Costco states that the product is imported as sets of three shelves, which can be stacked on top of each other. Costco argues that the product should be excluded from the scope because it falls under the wire shelving unit exclusion, despite the fact that it does not contain a tubular collar. Additionally, Costco contends that the horizontal supports are not assembled in the manner described by the scope which states that the "supports lock to form the frame for the shelving unit."[50] Petitioner notes that wire shelving units "which consist of shelves made from wire that incorporates both a wire deck and wire horizontal supports (taking the place of the horizontal beams and braces) into a single piece with tubular collars that slide over the posts and onto plastic sleeves snapped on the posts to create the finished shelving unit" are specifically excluded from the scope of these investigations, and that the Department need not provide any further confirmation to importers regarding such scope exclusions.[51] The Department preliminarily determines that the product described by Costco falls outside of the scope of these investigations because the shelves stack on top of each other and do not lock together, and there are no steel beams or other steel horizontal supports in the design.

Household Steel Wire Shelf: Costco describes this product as a steel wire shelf, consisting of four wire shelves that incorporate both a wire deck and wire horizontal supports into a single piece with tubular collars that slide over the posts and onto plastic sleeves snapped on the posts to create the finished shelving unit. Costco argues that this product should be excluded from the scope because it has wire decking and supports, which fall under the scope's wire shelving unit exclusion.[52] Petitioner argues that the scope language is clear as written, and the Department does not need to provide further confirmation to importers. Nonetheless, Petitioner states that neither the product dimensions nor the inclusion of casters specifically exclude the product from the scope.[53] The Department preliminarily determines that the product described by Costco falls

[48] See Costco Additional Scope Comments at 4.
[49] See Petitioner Second Scope Rebuttal at 6-7.
[50] See Costco Additional Scope Comments at 4-5.
[51] See Petitioner Second Scope Rebuttal at 7.
[52] Id. at 5.
[53] See Petitioner Second Scope Rebuttal at 4-5.

outside the scope of these investigations because it incorporates a wire deck with wire horizontal supports taking the place of horizontal beams, with tubular collars which slide over the posts.

Steel Four Shelf Wine Rack: Costco describes this product as a steel wire rack with specially formed decks designed to hold and display wine bottles. Costco argues that this product falls within the wire shelving unit exclusion of the scope.[54] Petitioner argues that the scope language is clear as written, and the Department does not need to provide further confirmation to importers. Nonetheless, Petitioner states that neither the product dimensions nor the inclusion of casters specifically exclude the product from the scope.[55] The Department preliminarily determines that the product described by Costco falls outside the scope of these investigations because it incorporates a wire deck with wire horizontal supports taking the place of horizontal beams, with tubular collars which slide over the posts.

Stainless Steel Table w/Casters K/D: Costco describes this product as a stainless steel serving table, with casters, and two shelves. Costco argues this product should be excluded because the shelves are not integrated and supported as described in the scope. According to Costco, the bottom shelf is incorporated into the vertical supports with tubular collars that slide over the vertical posts, making it similar to wire shelving units which are excluded by the scope. Additionally, Costco notes that the top shelf rests on four vertical supports and does not have structural integrity from the assembly methods outlined in the scope.[56] Petitioner states that "{a} common sense reading of the scope language would indicate that most items that could reasonably {be} described as a table would likely be outside of the scope of the investigation."[57] The Department preliminarily determines that the product described by Costco falls outside the scope of these investigations because the shelves are not integrated or supported in the manner described by the scope. Specifically, the Department notes the product lacks steel horizontal supports (i.e., beams, braces) as described by the scope language.

The Gladiator 77" Rack Shelving Unit ("Gladiator") and The Gladiator Cadet ("Cadet"): Whirlpool describes its Gladiator product as having four wire decks, eight horizontal support beams, twelve channel supports, and two welded-end frame assemblies. According to Whirlpool, the welded-end frame assemblies form the vertical support and the horizontal support beams are attached to the welded-end frame assemblies by inserting the rivet head of the vertical support into the matching larger hole on the support beam. Whirlpool states that the shelves are composed of the wire decking supported by the attachment of the tie channel, and the tie channel supports attach to the horizontal support beams by the insertion of the rivet of the tie channel supports into the keyholes on the horizontal support beams. Finally, Whirlpool states that the wire decking is placed on top of the tie channel supports for each shelf.[58]

Whirlpool describes its Cadet product as either a six-tier rack shelf or a five-tier rack shelf. According to Whirlpool, each version permits the end user to use them in alternative

[54] See Costco Additional Scope Comments at 5-6.
[55] See Petitioner Second Scope Rebuttal at 4-5.
[56] See Costco Additional Scope Comments at 6.
[57] See Petitioner Second Scope Rebuttal at 7.
[58] See Whirlpool Scope Comments at 4-5. Petitioner submitted a response to Whirlpool's scope comments on March 12, 2015. As discussed above, we have not considered Petitioner's comments for this or any of the products described by Whirlpool for the preliminary determination but intend to consider them for the final determination.

configurations, including configuration of the shelves as a "workbench." Whirlpool states that the shelves include upright posts, long and short horizontal beams, a shelf deck, post inserts, post caps, and post clips. To assemble the Cadet product, Whirlpool states that "the end frames are assembled by attaching the short horizontal beams to the upright posts and then adding the long horizontal beams. The end frames are attached together by the post inserts and secured by the addition of short and long horizontal beams. The shelves are created by attaching short and long horizontal beams in designated heights and the laminated shelf deck is added to complete each shelf. Finally, the post caps are added to the top of each upright post. If the user wants to create a 'workbench,' the Gladiator Cadet shelves may be reconfigured."[59]

The Department notes that Whirlpool did not argue that its products fall outside the scope based on any physical description of the actual shelving units in question. Under Whirlpool's product descriptions above, its units are clearly boltless shelving units, with vertical supports and horizontal supports that when assembled form a completed shelving unit.[60] Therefore, we next examine whether the Gladiator and Cadet products fall into any of the exclusions advocated by Whirlpool.

Whirlpool argued that the Gladiator and Cadet shelving units are "made-to-order" boltless steel shelving as defined by the scope, and are qualitatively different from the off-the-shelf commodity products produced generally by PRC producers for the U.S. market. Whirlpool notes that Gladiator shelving units were produced by a licensed original equipment manufacturer ("OEM") supplier, per proprietary designs which include patent pending tie bar attachments to support the shelves. According to Whirlpool, under the Finished Goods Purchase Agreement, it delineated a "Restricted Raw Materials List" with a detailed bill of material specifications, exacting product testing requirements, and strict packaging and labeling guidelines. Whirlpool maintained ownership over the tooling, drawings, specifications, software and machine readable information, and the agreement stipulated that the PRC supplier could not sell the products to any other party, making the products made-to-order. Additionally, Whirlpool notes that the Gladiator and Cadet shelving units are designed to "match" with other items in the Gladiator family, such as refrigerators and cabinets, making them unique from all competitors.[61]

In the pre-initiation phase of these investigations, Petitioner stated that made-to-order commercial shelving systems can be distinguished from subject merchandise because they are not prepackaged or boxed and labelled for individual sale with all of the pieces necessary to build a complete shelving unit.[62] Further, according to Petitioner, made-to-order commercial shelving systems are normally sold by material handling industry distributors, whereby components of the units are produced and removed from inventory, packaged according to the distributor's or customer's order or for the shelving system designed by the customer.[63] Whirlpool has stated that the Gladiator and Cadet products are produced by a licensed OEM supplier to Whirlpool's specifications, [64] which is a different process than described by Petitioner

[59] Id. at 5-6.
[60] See Whirlpool Scope Comments at 4-6, and attachments 1-5, and 7-8.
[61] Id. at 10-11.
[62] See Letter to the Secretary of Commerce from Petitioner "Response to Supplemental Questions Concerning General Injury Section of the Petitioner" (September 4, 2014) ("General Issues Deficiency Response") at 12-13.
[63] Id.
[64] See Whirlpool Scope Comments at 11.

above. In addition, Whirlpool has not indicated on the record that these products are not prepackaged, boxed and labeled for individual sale. Rather, the assembly instructions submitted by Whirlpool suggest that the products are prepackaged with all the necessary parts and components to assemble a completed shelving unit.[65] Whirlpool also stated that the products are sold at major retailers, which is an indication that they are prepackaged for individual sale.[66] Therefore, we preliminarily determine that the Gladiator 77" Rack Shelving and Gladiator Cadet Shelving units described by Whirlpool are not "made-to-order" and are within the scope of these investigations.

Whirlpool's Units without Posts or Beams: Whirlpool requests confirmation that imports of certain prepackaged shelving units that do not contain either vertical posts or horizontal beams would be outside the scope of these investigations because they do not contain the posts and beams necessary to assemble a completed shelving unit, as required by the scope of these investigations.[67]

The Department preliminarily confirms that imports of prepackaged shelving units that do not contain all of the necessary posts and beams/braces to assemble a completed shelving unit, as required by the plain language of the scope, are not covered by the scope of these investigations. However, we note that "add-on kits" for existing shelving units, as defined in the scope, are expressly included in the scope and any imports made by Whirlpool of prepackaged units lacking posts or beams that meet the definition of add-on kits above are covered by the plain language of the scope of these investigations.

Whirlpool's Imports of Pre-wrapped Bundles of Beams or Posts and Wire Decks: Whirlpool requests confirmation that imports from the PRC of 1) pre-wrapped bundles of bulk-shipped horizontal support beams, with no vertical supports and wire decking in the same shipping container; and 2) pre-wrapped bundles of bulk-shipped vertical supports and wire decking, with no horizontal support beams in the same shipping container, are not covered by the scope of these investigations because they fall under the scope exclusion for bulk-packed parts of components of boltless steel shelving units.[68]

The Department preliminarily agrees with Whirlpool that the imports described by Whirlpool are not included in the scope of these investigations because the minimum requirements necessary to assemble a unit are not packaged together for ultimate purchase by the end-user, as required by the scope. We note that Petitioner specifically addressed bulk-packed parts and component pieces in the pre-initiation phase of these investigations and stated that "the packaging of individual components or the packaging together in bulk of components (i.e., posts, beams or other components packaged together in large quantities) removes the product from the scope."[69] Petitioner further clarified that bulk packed parts are not prepackaged as individual units for sale but, rather, "{c}omponents of the shelving units are produced or removed from inventory,

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[65] Id. at Attachment 1 and 3 (Assembly Instructions – Unpack "Remove and verify the contents. See 'Parts.'" – Parts listing indicates that all parts and components are included in the package).
[66] Id. at 2.
[67] Id. at 12.
[68] Id. at 13.
[69] See General Issues Deficiency Response at 12.

packaged according to the distributor or customer's order for individual pieces, bulk components or for the shelving system designed for the customer."[70]

Whirlpool's Imports of Boltless Steel Shelving Prepackaged in a Third Country: Whirlpool requests confirmation that imports of boltless steel shelving units from the PRC where the prepackaging is completed in a third country are excluded from the scope of these investigations because the prepackaging of the component pieces imparts the "essential character" of merchandise under consideration.[71] To support its contention that component pieces are transformed into merchandise under consideration via the packaging process Whirlpool draws a comparison to Laminated Woven Sacks where the Department found that woven fabric imported to the PRC and laminated in the PRC was of PRC country-of-origin because the lamination process "imparted the 'essential quality' into the imported sacks that made them subject to the order."[72] Whirlpool contends that the same analysis here yields a similar result.

The Department preliminarily disagrees with Whirlpool's argument that PRC-origin component pieces packaged in a third country are necessarily excluded from the scope of these investigations. First, the Department lacks a complete understanding, and Whirlpool has not provided sufficient information, to determine where the "essential characteristics" of the merchandise under consideration are imparted. In Laminated Woven Sacks, the Department conducted a detailed country-of-origin analysis that considered the class or kind of merchandise, the nature/sophistication of any processing in a third country, the extent of the processing, and the value added through that processing.[73] In contrast, Whirlpool has neglected to provide the breadth of information that would be necessary for such an analysis, including basic information such as whether the boxes in which the component pieces are packaged in the third country are of PRC country-of-origin or of another country-of-origin. Although the facts suggest that the component pieces are not substantially transformed by the packaging process, the Department lacks the information necessary for such an analysis. Accordingly, the Department is not making a preliminary determination with respect to Whirlpool's imports of PRC-origin component pieces packaged in a third country and intends to request more detailed information from Whirlpool.

Whirlpool's Imports of Boltless Steel Shelving of Mixed Origin Prepackaged in a Third Country: Whirlpool requests confirmation that imports of boltless steel shelving units where the prepackaging is completed in Mexico with a combination of bulk-shipped PRC-origin parts and Mexican-origin horizontal supports are excluded from the scope of these investigations based on the reasoning employed in Laminated Woven Sacks, explained above.

The Department preliminarily determines that we do not have the necessary information to make a determination with respect to Whirlpool's imports of boltless steel shelving units prepackaged

[70] Id. at 12-13.
[71] See Whirlpool's Scope Comments at 15-16.
[72] Id. at 16-17 (citing Laminated Woven Sacks From the People's Republic of China: Final Results of First Antidumping Duty Administrative Review, 76 FR 14906 (March 18, 2011) and accompanying Issues and Decision Memorandum ("Laminated Woven Sacks") at Comment 1.
[73] Id.

in Mexico and comprised of PRC-origin parts and Mexico-origin horizontal supports. Accordingly, we intend to request additional information from Whirlpool.

Selection of Respondents

Section 777A(c)(l) of the Act directs the Department to calculate an individual weighted average dumping margin for each known exporter and producer of the subject merchandise. However, section 777A(c)(2) of the Act gives the Department discretion to limit its examination to a reasonable number of exporters and producers if it is not practicable to make individual weighted average dumping margin determinations because of the large number of exporters and producers involved in the investigation. When the Department limits the number of exporters examined in an investigation pursuant to section 777A(c)(2) of the Act, section 782(a) of the Act directs the Department to calculate individual weighted average dumping margins for companies not initially selected for individual examination who voluntarily provide the information requested of the mandatory respondents if (1) the information is submitted by the due date specified for the mandatory respondents and (2) the number of such companies that have voluntarily provided such information is not so large that individual examination would be unduly burdensome and inhibit the timely completion of the investigation.

On September 16, 2014, the Department issued quantity and value ("Q&V") questionnaires to the 21 PRC exporters and/or producers of boltless steel shelving named in the Petition.[74] Nineteen of the Q&V questionnaires were successfully delivered to the addressee, however, one was refused by the recipient and one was unable to be delivered due to an incorrect address.[75] For further information, please refer to the PRC-wide Entity section, below. On or before September 26, 2014, the Department received 13 Q&V responses.[76] Of the 13 Q&V responses, five responses were from companies to which we issued Q&V questionnaires.[77]

On October 29, 2014, the Department limited the number of respondents selected for individual examination to the two exporters accounting for the largest volume of exports from the PRC to the United States during the POI.[78] Therefore, in accordance with section 777A(c)(2) of the Act, the Department selected the two exporters accounting for the largest volume of boltless steel shelving exported from the PRC during the POI (i.e., Nanjing Topsun Racking Manufacturing Co., Ltd. ("Topsun") and Zhongda United Holding Group Co., Ltd. ("Zhongda United"))[79] based

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[74] See Petition at Volume I, Exhibit GEN-7.
[75] See Memo to the File from Kabir Archuletta, Senior International Trade Analyst, Office V "Quantity and Value Response Tracking" (October 3, 2014) ("Q&V Tracking Memo").
[76] See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, from Kabir Archuletta, Senior International Trade Analyst, Office V "Antidumping Duty Investigation of Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China: Respondent Selection" (October 29, 2014) ("Respondent Selection Memo") at 2 and Attachment.
[77] Id. at 2.
[78] Id. at 5-8.
[79] Zhongda United, Zhongda IE and Jiaxing Zhongda Metalwork Co., Ltd. ("Zhongda Metalwork") (collectively, "Zhongda") submitted questionnaire responses on behalf of both companies based on the contention that the entities are affiliated. See "Affiliation/Single Entity" section below for further details. See also Memorandum to the File from through Catherine Bertrand, Program Manager, Office V, from Kabir Archuletta, Senior International Trade Analyst, Office V "Antidumping Duty Investigation of Boltless Steel Shelving Units Prepackaged for Sale from the

on Q&V data.[80] The Department issued its AD NME questionnaire to Topsun and Zhongda United on October 29, 2014. Two companies filed requests for treatment as voluntary respondents,[81] and filed timely responses to Sections A, C, and D, of the Department's antidumping duty questionnaire by the due dates specified for the mandatory respondents.[82] On January 14, 2015, pursuant to section 782(a) of the Act, the Department determined not to select any voluntary respondents because selecting any additional company for individual examination would be unduly burdensome and would inhibit the timely completion of this investigation.[83]

DISCUSSION OF THE METHODOLOGY

Non-Market Economy Country

The Department considers the PRC to be an NME country.[84] 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. Therefore, we continue to treat the PRC as an NME country for purposes of this preliminary determination.

Surrogate Country and Surrogate Value Comments

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

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People's Republic of China: Preliminary Determination of Affiliation/Single Entity Treatment for Zhongda United Holding Group Co., Ltd., Jiaxing Zhongda Import & Export Co., Ltd., and Jiaxing Zhongda Metalwork Co., Ltd." (March 24, 2015) ("Zhongda Affiliation Memo").

[80] Id. We note that the Department did not consider any of the Zhongda entities to be affiliated for the purposes of respondent selection and selected mandatory respondents in this investigation based on the individually reported Q&V.

[81] The two companies that submitted requests to be voluntary respondents are Meridian International and Meridian LM (collectively, "Meridian").

[82] See Letter to the Secretary of Commerce from Meridian International "Section A Questionnaire Response" (November 26, 2014); Letter to the Secretary of Commerce from Meridian International "Section C and Section D Questionnaire Responses" (December 19, 2014); see also Letter to the Secretary of Commerce from Meridian LM "Section A Questionnaire Response" (November 26, 2014); Letter to the Secretary of Commerce from Meridian LM "Section C and Section D Questionnaire Responses" (December 19, 2014).

[83] See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, from Josh Startup, International Trade Analyst, Office V "Antidumping Duty Investigation of Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China: Selection of Voluntary Respondents" (January 14, 2015).

[84] See 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).

comparable merchandise."[85] As a general rule, the Department selects a surrogate country that is at the same level of economic development as the NME unless it is determined that none of the countries 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 development comparable to the NME country, are selected only to the extent that data considerations outweigh the difference in levels of economic development.[86] To determine which countries are at the same level of economic development, the Department generally relies on per capita gross national income ("GNI") data from the World Bank's World Development Report.[87] Further, the Department normally values all FOPs in a single surrogate country.[88]

On September 22, 2014, the Department identified Bulgaria, Colombia, Ecuador, Indonesia, South Africa, and Thailand as countries that are at the same level of economic development as the PRC based on per capita 2012 GNI data.[89] On October 29, 2014, the Department issued a letter to interested parties soliciting comments on the list of countries that the Department determined, based on per capita 2012 GNI, to be at the same level of economic development as the PRC, the selection of the primary surrogate country, as well as provided deadlines for the consideration of any submitted surrogate value information for the preliminary determination.[90] On November 12, 2014, Topsun submitted 2013 World Bank GNI data.[91] The Department also received timely comments on the surrogate country list and surrogate country selection from Topsun and Zhongda[92] and rebuttal surrogate country comments from Meridian.[93]

On January 12, 2015, Topsun,[94] Zhongda,[95] and Petitioner submitted comments on surrogate values. The Department rejected Petitioner's surrogate value comments for containing new

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[85] See Department Policy Bulletin No. 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.
[86] See Letter to All Interested Parties "Request for Surrogate Country and Surrogate Value Comments and Information" (October 29, 2014) ("Surrogate Country Memo").
[87] Id.
[88] See 19 CFR 351.408(c)(2).
[89] See Surrogate Country Memo.
[90] See Letter to All Interested Parties from Catherine Bertrand, Program Manager, Office V "Boltless Steel Shelving Unites Prepackaged for Sale from the People's Republic of China: Request for Surrogate Country and Surrogate Value Comments and Information" (October 29, 2014).
[91] See Letter to the Secretary of Commerce from Topsun "Comments Regarding Surrogate Countries at the Same Level of Economic Development" (November 12, 2014) at Exhibit SC-1.
[92] See Letter to the Secretary of Commerce from Topsun "Comments on Selection of Surrogate Country" (December 30, 2014) ("Topsun SC Comments"); Letter to the Secretary of Commerce from Zhongda "Antidumping Investigation of Boltless Steel Shelving Units Prepackaged for Sale, from China, Zhongda United" (December 30, 2014).
[93] See Letter to the Secretary of Commerce from Meridian "Comments on Surrogate Country Selection" (January 5, 2015) ("Meridian Rebuttal SC Comments").
[94] See Letter to the Secretary of Commerce from Topsun "Surrogate Value Data for Preliminary Results" (January 12, 2015) ("Topsun SV Comments").
[95] See Letter to the Secretary of Commerce from Zhongda "Antidumping Investigation of Boltless Steel Shelving Units Prepackaged for Sale, from China, Zhongda United" (January 12, 2015) ("Zhongda SV Comments").

factual information,[96] and Petitioner properly refiled its submission without the new factual information on January 28, 2015.[97] On January 20, 2015, Petitioner, Topsun and Zhongda each filed rebuttal surrogate value comments.[98] Zhongda's rebuttal SV comments contained 2013 GNI data and a list of surrogate countries used by the Department in a separate antidumping review.[99] Based on the more contemporaneous 2013 GNI data on the record, the Department has found that Bulgaria, Ecuador, Romania, South Africa, Thailand and Ukraine are countries that are at the same level of economic development as the PRC.[100]

Topsun recommends South Africa as the primary surrogate country.[101] In its rebuttal SC comments, Meridian also recommended South Africa as the primary surrogate country for the reasons cited by Topsun.[102] Petitioner submitted data to value FOPs from Indonesia.[103] Zhongda argues that Indonesia is no longer economically comparable to the PRC based on 2013 GNI data, and moreover, the Indonesian data is flawed and not suitable for calculating surrogate values.[104] On February 23, 2015, Petitioner,[105] Topsun,[106] and Zhongda[107] submitted additional factual information for the valuation of FOPs. Topsun's additional SV submission contained additional SC lists issued by the Department in two recent proceedings that utilized 2013 GNI data.[108]

A. Economic Comparability

Consistent with its practice, and section 773(c)(4) of the Act,[109] 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 the World Development Report (The World Bank), which used 2012 per capita GNI data.[110] As noted above, parties have placed 2013 per capita GNI data on the record[111] and surrogate country lists

[96] See Letter to the Petitioner from the Department "Petitioner's Comments on Surrogate Values" (January 27, 2015).
[97] See Letter to the Secretary of Commerce from Petitioner "Resubmission of Petitioner's January 12, 2015 Comments on Surrogate Values" (January 28, 2015) ("Petitioner SV Comments").
[98] See Letter to the Secretary of Commerce from Petitioner "Petitioner's Surrogate Value Rebuttal Submission" (January 20, 2015) ("Petitioner Rebuttal SV Comments"); Letter to the Secretary of Commerce from Topsun "Rebuttal Surrogate Value Comments Filed by Petitioner" (January 20, 2015); Letter to the Secretary of Commerce from Zhongda "Antidumping Investigation of Boltless Steel Shelving Units Prepackaged for Sale, from China, Zhongda" ("Zhongda Rebuttal SV Comments") (January 20, 2015).
[99] See Zhongda Rebuttal SV Comments at Exhibits RSV-1 and RSV-2.
[100] Id.
[101] See Topsun SC Comments at 4-5.
[102] See Meridian Rebuttal SC Comments at 2.
[103] See Petitioner SV Comments at Exhibits 1-6.
[104] See Zhongda Rebuttal SV Comments at 1-2.
[105] See Letter to the Secretary of Commerce from Petitioner "Additional Factual Information" (February 23, 2015).
[106] See Letter to the Secretary of Commerce from Topsun "Surrogate Value Data Submission of Nanjing Topsun Racking Manufacturing Co., Ltd." (February 23, 2015) ("Topsun Additional SV Information").
[107] See Letter to the Secretary of Commerce from Zhongda "Boltless Steel Shelving from the People's Republic of China" (February 23, 2015).
[108] See Topsun Additional SV Information at Exhibit S2V-2. The two additional SC lists also found that Bulgaria, Ecuador, Romania, South Africa, Thailand and Ukraine are countries that are at the same level of economic development as the PRC.
[109] See Surrogate Country Memo.
[110] Id.
[111] See Topsun List Comments, at Exhibit SC-2; Zhongda Rebuttal SV Comments, at Exhibit RSV-1; Topsun

that utilized 2013 per capita GNI data on the record.[112] We note that none of the SC lists issued by the Department based on 2013 GNI data list Indonesia as being at the same level of economic development as the PRC. Rather, the countries listed are Bulgaria, Ecuador, Romania, South Africa, Thailand, and Ukraine.[113]

Section 773(c)(4) of the Act states that the Department "shall utilize, to the extent possible, the prices or costs of FOPs in one or more market economy countries that are . . . at a level of economic development comparable to that of the {NME} country." However, the applicable statute does not expressly define the phrase "level of economic development comparable" or what methodology the Department must use in evaluating the criterion. 19 CFR 351.408(b) states that in determining whether a country is at a level of economic development comparable to the NME country, the Department will place primary emphasis on per capita gross domestic product ("GDP") as the measure of economic comparability.[114] The U.S. Court of International Trade ("CIT") has found the use of per capita GNI to be a "consistent, transparent, and objective metric to identify and compare a country's level of economic development" and "a reasonable interpretation of the statute."[115] In Dupont Teijin, the CIT emphasized the importance placed on economic comparability in NME proceedings when it held that the Department's decision to forego consideration of 2009 GNI data that suggested India was no longer economically comparable to the PRC was not supported by substantial evidence.[116] More recently, in a case where the Department disregarded more contemporaneous GNI data on the record, the Court remanded the issue to the Department and stated that "Commerce must consider evidence pertaining to economic comparability …."[117] Accordingly, given the judicial precedent on this matter, and the record evidence of more contemporaneous GNI data on the record, the Department preliminarily determines that Bulgaria, Ecuador, Romania, South Africa, Thailand, and Ukraine are countries that are at the same level of economic development as the PRC based on 2013 GNI data. Accordingly, unless it is determined that none of these countries 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 , we will rely on data from one of these countries. As discussed below, we have determined that one or more of these countries are viable options, and as such, we will not rely on data from Indonesia.

Additional SV Information at Exhibit S2V-2.

112 See Zhongda Rebuttal SV Comments, at Exhibit RSV-2; Topsun Additional SV Information, at Exhibit S2V-2.

113 Id.

114 Commerce uses per capita GNI as a proxy for per capita GDP. GNI is GDP plus net receipt of primary income (compensation of employees and property income) from nonresident sources. See Policy Bulletin 04.1.

115 See Jiaxing Brother Fastener Co. v. United States, 961 F. Supp. 2d 1323, 1329 (CIT 2014).

116 See Dupont Teijin Films v. United States, 931 F. Supp. 2d 1297, 1300 (CIT 2013) ("Dupont Teijin") ("Because Commerce did not provide a reasoned explanation for disregarding the 2009 GNI data and because the 2009 GNI data indicated that India and the PRC were not economically comparable during the POR, the court concluded that Commerce's selection of India as the surrogate country was not supported by substantial evidence." (citing Dupont Teijin Films v. United States, 896 F. Supp. 2d 1302, 1309 (CIT 2013))).

117 See Vinh Hoan Corporation v. United States, Slip Op. 15-16, at 20 (CIT 2015).

B. 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, the Department's practice is examine which countries on the surrogate country list exported merchandise comparable to the merchandise under consideration using export data for the six-digit level harmonized tariff schedule ("HTS") codes listed in the description of the scope of this investigation (i.e., 9403.20 and 9403.10). After reviewing this export data, the Department preliminarily determines that Bulgaria, Ecuador, Romania, South Africa, Thailand, and Ukraine are significant producers of comparable merchandise (i.e., exported merchandise under the six-digit basket HTS codes included in the scope), and, therefore, satisfy the second criterion of section 773(c)(4) of the Act.[118] In this case, the six-digit HTS numbers represent comparable merchandise because metal furniture involves further fabrication of steel components.

C. 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.[119] When evaluating surrogate value data, the Department considers several factors, including whether the surrogate values are publicly available, contemporaneous with the POI, representative of a broad market average, tax and duty-exclusive, and specific to the inputs being valued.[120]

Parties have placed certain data on the record for Bulgaria, Indonesia, and South Africa. Topsun argues that South Africa has high quality data which is broadly available and has not been found to have non-industry specific export subsidies.[121] Petitioner argues that Bulgaria and South Africa do not have usable financial statements for calculating surrogate financial ratios, and therefore are not suitable surrogate country candidates.[122] Zhongda states that Bulgaria has quality, publicly available data to value all FOPs.[123] Additionally, Zhongda argues that Bulgarian data is free from broad government subsidy programs, unlike Indonesia and Thailand.[124]

As discussed above, we preliminarily determine that we will not rely on data from Indonesia. The record only contains certain SV data from Bulgaria and South Africa. For Bulgaria, the record contains data for hot rolled steel and particle board (the two primary inputs), as well as for

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[118] See Memorandum to the File from Josh Startup, International Trade Analyst, Office V, through Catherine Bertrand, Program Manager, Office V "Investigation of Boltless Steel Shelving Units from the People's Republic of China: Surrogate Values for the Preliminary Determination" (March 24, 2015) ("Preliminary SV Memo").
[119] See Policy Bulletin 04.1.
[120] Id.
[121] See Topsun SC Comments at 4-5.
[122] See Petitioner Rebuttal SV Comments at 2-3.
[123] See Zhongda SV Comments at 2.
[124] Id. at 1-2 and Exhibits SV-1 through SV-3.

electricity, and water.[125] Zhongda submitted financial statements for a Bulgarian company, Alcomet, that state that the "main activity of the Company is production of aluminium extruded and rolled products, trade with these products on domestic and international markets and rendering of services."[126]

The record does not contain SV data from South Africa for any of the raw materials, packing materials, electricity or water. Further, the truck freight rate provided by Topsun is from 2005.[127] Finally, the South African financial statements submitted by Topsun for BSi Steel indicate that the company is engaged in the "sale, processing, warehouse and distribution of steel and allied products, financing and insurance industry."[128] Further, as argued by Petitioner,[129] the Department preliminarily determines that the BSi Steel financial statements do not sufficiently break out the company's expenses such that accurate financial ratios may be calculated, and Topsun has not proposed a methodology for calculating any such ratios.[130]

Accordingly, the Department preliminarily determines, pursuant to section 773(c)(4) of the Act, that it is appropriate to use Bulgaria as the primary surrogate country because Bulgaria is (1) at the same level of economic development as the PRC and (2) a significant producer of merchandise comparable to the merchandise under consideration such that can be determined from the information available. Additionally, the record already contains Bulgarian surrogate values for two of the primary inputs in the production of merchandise under consideration, hot rolled steel and particle board. For those FOPs where the record does not contain useable surrogate values, the Department is placing Bulgarian Global Trade Atlas ("GTA") data on the record.[131] Therefore, the Department has calculated NV primarily using Bulgarian surrogate value data when available and appropriate to value respondents' FOPs.[132]

With respect to the calculation of surrogate financial ratios, we note that no parties have placed on the record of this investigation financial statements for producers of comparable merchandise from a country that is at the same level of economic development as the PRC that sufficiently mirrors the production experience of the respondents. Further, as noted above, the BSi Steel financial statements do not break out the company's expenses such that accurate financial ratios may be calculated. Therefore, given the dearth of viable alternatives, we preliminarily determine that it is appropriate to follow our preference for valuing all factors in a single surrogate country, pursuant to 19 CFR 351.408(c)(2), and find that, in this instance, the Alcomet statements represent the best available information for calculating surrogate financial ratios of a producer of sufficiently comparable merchandise. Therefore, we calculated surrogate financial ratios for this preliminary determination using the Bulgarian financial statements from Alcomet.[133]

[125] Id.
[126] Id. at Exhibit SV-4 ("Alcomet Statements") at 4.
[127] See Topsun SV Comments at Exhibit 3.
[128] Id. at Exhibit SV-2 ("BSi Steel Statements") at 32.
[129] See Petitioner Rebuttal SV Comments at 3.
[130] See Topsun SV Comments at Exhibit SV-2.
[131] Id.
[132] Id.
[133] See Preliminary SV Memo.

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.[134] 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.[135] The Department analyzes whether each entity exporting the merchandise under consideration is sufficiently independent under a test established in Sparklers[136] and further developed in Silicon Carbide.[137] 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.

A. Separate Rate Recipients

The Department preliminary determines that Topsun, Zhongda, ETDZ, Meridian International and Meridian LM are eligible to receive a separate rate, as explained below.

1. Joint Ventures between Chinese and Foreign Companies or Wholly Chinese-Owned Companies

Topsun,[138] Zhongda,[139] ETDZ,[140] Meridian International,[141] and Meridian LM[142] provided evidence that they are either Chinese joint-stock limited companies, or are wholly Chinese-owned companies. The Department analyzed whether each of these companies have demonstrated an absence of de jure and de facto government control over their respective export activities.

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134 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).
135 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").
136 Id.
137 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").
138 See, e.g., Letter to the Secretary of Commerce from Topsun "Section A Questionnaire Response" (November 28, 2014) ("Topsun SAQR") at 10-11.
139 See, e.g., Letter to the Secretary of Commerce from Zhongda "Boltless Steel Shelving from the People's Republic of China" (November 26, 2014) ("Zhongda SAQR") at 10.
140 See, e.g., ETDZ SRA at 10-13, and Exhibits 4-10; Letter from the Secretary of Commerce from ETDZ "Supplemental Separate Rate Application" (December 19, 2014) at 3-6 and Exhibits S-3 through S-8.
141 See, e.g., Meridian International SRA at 9-12, and Exhibits 7-11; Letter to the Secretary of Commerce from Meridian International "Separate Rate Application Supplemental Response" (December 30, 2014) at 4-7 and Exhibits 4-5.
142 See, e.g., Meridian LM SRA at 10-12, and Exhibits 8-11; Letter to the Secretary of Commerce from Meridian LM "Separate Rate Application Supplemental Response" (December 30, 2014) at 5-6, and Exhibits 2-3.

a. Absence of De Jure Control

The Department considers the following de jure criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) legislative enactments decentralizing control over export activities of the companies; and (3) other formal measures by the government decentralizing control over export activities of companies.[143]

The evidence provided by Topsun, Zhongda, ETDZ, Meridian International and Meridian LM supports a preliminary finding of an absence of de jure government control for each of these companies based on the following: (1) an absence of restrictive stipulations associated with the individual exporters' business and export licenses; (2) the existence of applicable legislative enactments decentralizing control of the companies; and (3) the implementation of formal measures by the government decentralizing control of Chinese companies.[144]

b. Absence of De Facto Control

Typically, the Department considers four factors in evaluating whether a respondent is subject to de facto government control of its export functions: (1) whether the export prices ("EP") are set by, or are subject to the approval of, a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses.[145] The Department has determined that an analysis of de facto control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude the Department from assigning separate rates.

The evidence provided by Topsun,[146] Zhongda,[147] ETDZ,[148] Meridian International,[149] and Meridian LM [150] supports a preliminary finding of an absence of de facto government control based on record statements and supporting documentation showing that the companies: (1) set their own EPs independent of the government and without the approval of a government authority; (2) have the authority to negotiate and sign contracts and other agreements; (3) maintain autonomy from the government in making decisions regarding the selection of management; and (4) retain the proceeds of their respective export sales and make independent decisions regarding disposition of profits or financing of losses.

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[143] See Sparklers, 56 FR at 20589.
[144] See, e.g., Topsun SAQR at 6-10 and Exhibit A-4; Zhongda SAQR at A-6 through A-10; ETDZ SRA at 6-10; Meridian International SRA at 6-9; Meridian LM SRA at 6-10.
[145] See Silicon Carbide, 59 FR at 22586-87; Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China, 60 FR 22544, 22545 (May 8, 1995).
[146] See, e.g., Topsun SAQR at 10-17, and Exhibits A-5 through A-11.
[147] See, e.g., Zhongda SAQR at 10-17, and Exhibits A-4 through A-14.
[148] See, e.g., ETDZ SRA at 10-17.
[149] See, e.g., Meridian International SRA at 9-16.
[150] See, e.g., Meridian LM SRA at 10-17.

Therefore, the evidence placed on the record of this investigation by Topsun, Zhongda, ETDZ, Meridian International and Meridian LM demonstrates an absence of de jure and de facto government control under the criteria identified in Sparklers and Silicon Carbide. Accordingly, the Department preliminarily grants separate rates to Topsun, Zhongda, ETDZ, Meridian International and Meridian LM.[151]

Margin for the 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 adverse facts available ("AFA"), in accordance with section 735(c)(5)(A) of the Act.[152] For this preliminary determination, we have calculated weighted-average dumping margins which are above the de minimis threshold and which are not based on total facts available for both mandatory respondents. Because there are only two relevant weighted-average dumping margins for this preliminary determination, using a weighted-average of these two rates risks disclosure of business proprietary information data. Therefore, the Department has assigned a weighted-average margin using the publicly ranged values submitted by mandatory respondents to the separate rate companies for this preliminary determination.[153]

We note that the Department received comments from JS Products, Inc. ("JS Products") on December 30, 2014, and January 27, 2015, requesting that the Department instruct JS Products as to "whether it is required to submit a separate rate application or other information in order to ensure that it is able to receive a separate rate in this proceeding."[154] As noted above, the deadline for submission of separate rate applications was November 21, 2014. Accordingly, because JS Products did not submit a separate rate application by the deadline stated in the Initiation Notice, JS Products is not eligible for a separate rate in this investigation.[155]

[151] See "Preliminary Determination" section below.
[152] 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).
[153] See Memo to the File from Kabir Archuletta, Senior International Trade Analyst, Office V "Boltless Steel Shelving from the People's Republic of China: Calculation of the Preliminary Margin for Separate Rate Companies" (March 24, 2015). This memo contains the Department's comparison of (A) a weighted-average of the dumping margins calculated for the mandatory respondents; (B) a simple average of the dumping margins calculated for the mandatory respondents; and (C) a weighted-average of the dumping margins calculated for the mandatory respondents using each company's publicly ranged values for merchandise under consideration. Based upon that comparison, the Department determines that, (C), a weighted-average using each company's publicly ranged values, is closest to the weighted-average of margins calculated using business proprietary information and, thus, is the most appropriate rate for use in this preliminary determination.
[154] See Letter to the Secretary of Commerce from JS Products "Supplemental Letter on Behalf of JS Products Inc." (January 27, 2015) at 2. See also Letter to the Secretary of Commerce from JS Products "Supplemental Letter on Behalf of JS Products Inc." (December 30, 2014).
[155] See Initiation Notice, 79 FR at 56566.

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.[156] This practice is described in Policy Bulletin 05.1.

The PRC-wide Entity

Nanjing Lixuan Logistics Equipment Co., Ltd. refused the Department's quantity and value questionnaire.[157] Further, the record indicates that there are other PRC exporters and/or producers of the merchandise under consideration during the POI that did not respond to the Department's requests for information. Specifically, the Department did not receive timely responses to its Q&V questionnaire from 15 PRC exporters and/or producers of merchandise under consideration that were named in the Petition and to whom the Department issued Q&V questionnaires.[158] Because non-responsive PRC companies have not demonstrated that they are eligible for separate rate status, the Department considers them to be part of the PRC-wide entity. Furthermore, as explained below, we preliminarily determine to calculate the PRC-wide rate on the basis of AFA.

Application of Facts Available and Adverse Facts Available

Section 776(a)(2) of the Act provides that, if an interested party (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.

Topsun reported that it used the services of tollers to apply zinc plating to the wire decks and channels it produced.[159] While Topsun obtained certain FOP information from the tollers,[160] Topsun subsequently stated the tollers were "unwilling and unable" to complete the Department's section D and reconciliation appendix as requested by the Department.[161]

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[156] Id.
[157] See Q&V Tracking Memo at Attachments I and II.
[158] Id. The Department also posted a copy of the Q&V questionnaire to which it referred in the Initiation Notice on its website. The companies to whom Q&V questionnaires were issued that did not timely respond are: Dalian Huameilong Metal Products Co., Ltd; Dongguan Yuan Er Sheng Machinery Source Hardware Co., Ltd.; Dong Rong Metal Products Co. Ltd.; Global Storage Equipment Manufacturer Limited; Guangdong Guanyu Metal Products Company Limited; Intradin (Shanghai) Import & Export Co., Ltd.; Jinhua Development District Hongfa Tool, LTD; Kunshan Jisheng Metal & Plastic Co., Ltd; Nanjing Huade Warehousing Equipment Manufacturing Co. Ltd (formerly known as Nanjing Huade Shelving Co. Ltd.); Nanjing Whitney Metal Products Co., Ltd; Nanjing Yodoly Logistics Equipments Manufacturing Co. , Ltd.; Ningbo Decko Metal Products Trade Co., Ltd.; Ningbo Haifa Metal Works Co., Ltd. (Ningbo Lianfa Metal Works Co., Ltd.); Ningbo HaiFa Office Equipment Co., Ltd.; Ningbo TLT Metal Products Co., Ltd.
[159] See SAQR at 28.
[160] See e.g., Topsun's section D supplemental questionnaire response (January 29, 2015), at Exhibit SD-13 ("Topsun SDSQR").
[161] See Topsun's supplemental questionnaire response (March 6, 2015), at 10-11.

Therefore, for this preliminary determination we have not used the FOPs provided by Topsun's tollers, and as facts available, have valued the wire decks using Bulgarian GTA import statistics for the harmonized schedule code 731431, "Grill, Netting And Fencing, Of Iron Or Steel Wire, Welded At The Intersection, Plated Or Coated With Zinc."[162]

The Department preliminarily finds that the PRC-wide entity failed to provide necessary information, withheld information requested by the Department, failed to provide information in a timely manner, and significantly impeded this proceeding by not submitting the requested information. The PRC-wide entity neither filed documents indicating it was having difficulty providing the information nor did it request to submit the information in an alternate form. As a result, the Department preliminarily determines, pursuant to sections 776(a)(1) and (a)(2)(A)-(C) of the Act, to use facts otherwise available to determine the rate for the PRC-wide entity.[163]

Section 776(b) of the Act provides that the Department, in selecting from among the facts otherwise available, may use an inference that is adverse to the interests of a party if that party has failed to cooperate by not acting to the best of its ability to comply with a request for information. The Department finds that the PRC-wide entity's failure to provide the requested information constitutes circumstances under which it is reasonable to conclude that the PRC-wide entity is not fully cooperative.[164] Therefore, the Department preliminarily determines that the PRC-wide entity failed to cooperate to the best of its ability to comply with requests for information and, consequently, the Department may employ an inference that is adverse to the PRC-wide entity in selecting from among the facts otherwise available.

Section 776(b) of the Act states that the Department, when employing an adverse inference, 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. In selecting a rate based on AFA, the Department selects 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 fully cooperated. The Department's practice is to select, as an AFA rate, the higher of: (1) the highest dumping margin alleged in the petition, or (2) the highest calculated dumping margin of any respondent in the investigation.[165]

In this investigation, the highest petition dumping margin is 211 percent.[166] This rate is higher than any of the weighted-average dumping margins calculated for the companies individually

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[162] See Topsun Prelim Analysis Memo at 4-5, for a complete discussion of this issue.
[163] See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen Fish Fillets From the Socialist Republic of Vietnam, 68 FR 4986, 4991 (January 31, 2003), unchanged in Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam, 68 FR 37116 (June 23, 2003).
[164] 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.")).
[165] See Certain Stilbenic Optical Brightening Agents From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 77 FR 17436, 17438 (March 26, 2012).
[166] See Initiation Notice, 79 FR at 56565.

examined. However, as explained below, we have determined to use the highest calculated control number ("CONNUM")-specific margin as the AFA rate to apply to the PRC-wide entity.

Corroboration of Information

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."[167]

The SAA clarifies that "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value.[168] 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.[169] To corroborate secondary information, the Department will, to the extent practicable, determine whether the information used has probative value by examining the reliability and relevance of the information.

As noted above, to determine the appropriate rate for the PRC-wide entity based on AFA, the Department first examined whether the highest petition margin was less than or equal to the highest calculated margin, and determined that the petition margin of 211 percent was the higher of the two. Next, in order to corroborate 211 percent as the potential PRC-wide rate, we first compared it to 108.53 percent, the highest CONNUM-specific margin calculated for one of the mandatory respondents.[170] The highest CONNUM-specific margin demonstrates that the petition rate of 211 percent does not have probative value. Therefore, we have determined that the 211 percent rate does not corroborate and, therefore, we will instead use the highest calculated CONNUM-specific margin of 108.53 percent as the PRC-wide rate.[171]

In selecting the highest calculated CONNUM-specific margin to use as the PRC-wide rate, the Department analyzed the underlying transaction(s) resulting in the 108.53 percent AD margin and affirmed that this rate is neither unusual in terms of transaction quantities nor otherwise aberrational.[172] In terms of transaction quantities, there are significant numbers of sales made by

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[167] See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Rep No. 103-316 at 870 (1994) ("SAA").

[168] Id.

[169] Id.

[170] See Memorandum to the File through Catherine Bertrand, Program Manager, Office V, from Josh Startup, International Trade Analyst, Office V "Antidumping Duty Investigation of Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China: Preliminary Analysis Memo for Nanjing Topsun Racking Manufacturing Co., Ltd." (March 24, 2015) ("Topsun Prelim Analysis Memo") at Attachment II: Output.

[171] See, e.g., Steel Wire Garment Hangers From the Socialist Republic of Vietnam: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 77FR 46044, 46050-51 (August 2, 2012); see also High Pressure Steel Cylinders From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, 76 FR 77964, 77970-71 (December 15, 2011) ("PRC Steel Cylinders LTFV Prelim"), unchanged in High Pressure Steel Cylinders From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 77 FR 26739, 26742 (May 7, 2012).

[172] See, e.g., Certain Lined Paper Products from India: Notice of Final Results of Antidumping Duty Administrative

both respondents with quantities similar to that in the underlying transaction(s).[173] Additionally, the underlying sale(s) is(are) not unusual in terms of the product characteristics. Further, the rate is otherwise reasonable and supported by substantial evidence because it represents an actual rate at which a cooperating respondent sold the merchandise under consideration during the POI [174] and "does not lie outside the realm of actual selling practices."[175] If during the POI, the cooperating respondent sold the merchandise under consideration at the rate the Department selected, the Department may reasonably determine that a non-responsive, or uncooperative, respondent could have made all of its sales at the same rate.[176] Therefore, we have preliminarily determined that Topsun's CONNUM-specific margin of 108.53 percent, based on data in the current investigation, is not aberrational and is a reasonable AFA rate for the PRC-wide entity for this preliminary determination. The PRC-wide rate applies to all entries of merchandise under consideration except for entries from Topsun, Zhongda, and the producers/exporters receiving a separate rate, as stated above.

Affiliation/Single Entity

Based on the evidence on the record in this investigation, including information submitted by Zhongda in its questionnaire responses, the Department preliminarily finds affiliation between Zhongda United and Zhongda IE, exporters of merchandise under consideration and with Zhongda Metalwork, a producer of merchandise under consideration, pursuant to section 771(33)(B)(E) and (F) of the Act. Further, based on the evidence presented in Zhongda's questionnaire responses, we preliminarily find that Zhongda United, Zhongda IE and Zhongda Metalwork should be treated as a single entity for the purposes of this investigation, pursuant to 19 CFR 351.401(f)(2), because there exists a significant potential for manipulation of price or production.[177]

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 generally the date on which the parties agree upon all substantive terms of the sale. This

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Review, 75 FR 7563 (February 22, 2010), and the accompanying Issues and Decision Memorandum; Hyundai Elec. Indus. Co., Ltd. v United States, 395 F. Supp. 2d 1231, 1235-36 (CIT 2005); F.lli De Cecco Di Filippo Fara S. Martino S.p.A v. United States, 216 F.3d 1027, 1032 (Fed. Cir. 2000).

[173] See Memorandum to the File through Catherine Bertrand, Program Manager, Office V, from Kabir Archuletta, Senior International Trade Analyst, Office V "Antidumping Duty Investigation of Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China: Preliminary Analysis Memo for Zhongda United Holding Group Co., Ltd." (March 24, 2015) ("Zhongda Prelim Analysis Memo") at Attachment II; Topsun Prelim Analysis Memo at Attachment II.

[174] See Shanghai Taoen International Trading Co., Ltd. v. United States, 360 F. Supp. 2d 1339, 1347-48 (CIT 2005) (upholding a 223.01 percent total AFA rate, the highest available dumping margin from a different respondent in a previous administrative review).

[175] See KYD, Inc. v. United States, 607 F.3d 760, 767 (Fed. Cir. 2010).

[176] See PRC Steel Cylinders LTFV Prelim, 76 FR at 77970-71.

[177] For a detailed discussion of this issue, see Zhongda Affiliation Memo.

normally includes the price, quantity, delivery terms and payment terms.[178] Topsun and Zhongda demonstrated that the substantive terms of sale occurred on the invoice date. Thus, consistent with our date of sale regulation, the Department preliminarily determines to use invoice date as the date of sale.[179]

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 mandatory respondents sold merchandise under consideration to the United States at LTFV during the POI.[180]

Export Price

In accordance with section 772(a) of the Act, the Department defined the U.S. price of merchandise under consideration based on the EP of all of the sales reported by Topsun and Zhongda. 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 movement expenses (i.e., domestic and foreign inland freight, domestic and foreign brokerage and handling).[181] The Department based movement expenses on surrogate values where the service was purchased from a PRC company.[182]

Value-Added Tax

In 2012, the Department announced a change of methodology with respect to the calculation of EP and constructed export price ("CEP") to include an adjustment of any un-refunded (herein "irrecoverable") value-added tax ("VAT") in certain NME countries in accordance with section 772(c)(2)(B) of the Act.[183] 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.[184] Where the irrecoverable VAT is a fixed percentage of EP or CEP, the

[178] 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 Issues and Decision Memorandum at Comment 1.
[179] See Zhongda Prelim Analysis Memo; Topsun Prelim Analysis Memo.
[180] See "Export Price" and "Normal Value" sections below.
[181] See section 772(c)(2)(A) of the Act.
[182] See "Factor Valuation Methodology" section below.
[183] 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 (June 19, 2012).
[184] 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 Issues and Decision Memorandum at Comment 5.A.

Department explained that the final step in arriving at a tax neutral dumping comparison is to reduce the U.S. EP or CEP downward by this same percentage.[185]

In its questionnaire response, while providing the relevant information, Topsun states its disagreement with our methodology and argued it is incorrect to "deduct irrecoverable VAT from the U.S. sales prices."[186] Similarly, Zhongda, while providing relevant information, argues that because neither of its exporting entities (i.e., Zhongda United or Zhongda IE) are producers or purchased inputs that were subject to the VAT input tax there is no basis for an adjustment for irrecoverable VAT tax.[187]

The Department's methodology, as explained above and applied in this investigation, incorporates two basic steps: (1) determine the irrecoverable VAT on subject merchandise, and (2) reduce U.S. price by the amount determined in step one. Information placed on the record of this investigation by Topsun and Zhongda indicates that according to the PRC VAT schedule, the standard VAT levy is 17 percent and the rebate rate for the merchandise under consideration is 15 percent.[188] For the purposes of this preliminary determination, therefore, we applied the difference between the rates (i.e., two percent) to the U.S. Free On Board ("FOB") price, which is the irrecoverable VAT as defined under PRC tax law and regulation, as reported by Topsun and Zhongda.[189]

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using the FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation

[185] Id.
[186] See Letter to the Secretary of Commerce from Topsun "Section C and D and App. V. Questionnaire Response" (December 19, 2014) ("Topsun SCQR") at 34.
[187] See Letter to the Secretary of Commerce from Zhongda "Section C Questionnaire Response" (December 19, 2014) ("Zhongda SCQR") at 32.
[188] See Topsun SCQR at 35; Zhongda SCQR at 34-35.
[189] See Topsun SCQR at Exhibit C-1(a); Letter to the Secretary of Commerce from Zhongda "Section C supplemental questionnaire" at Exhibit SC-11. See also Zhongda Prelim Analysis Memo. We note that while Zhongda has reported a VAT recovery rate of 15 percent of the FOB value of the exports, PRC regulations governing VAT tax submitted by Zhongda indicate that the tax base for the VAT recovery rate for production enterprises should be based on the FOB value of the exported goods, and the tax base for the VAT recovery rate for foreign trade enterprises should be based on the transfer price of the exported goods. See Zhongda SCQR at 35 and Zhongda SuppC at Exhibit SC-11. Because Zhongda has claimed that neither of its exporting entities are producers, it follows that the latter scenario contemplated in the PRC regulations should apply. Accordingly, given the apparent inconsistencies between Zhongda's reported irrecoverable VAT calculation and the PRC regulations governing VAT refunds, we are preliminarily following our standard practice of deducting from U.S. FOB price the difference between the standard VAT levy and the VAT refund rate reported by Zhongda (i.e., two percent).

of production costs invalid under the Department's normal methodologies.[190] Therefore, in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c), the Department calculated NV based on FOPs. Under section 773(c)(3) of the Act, FOPs include, but are not limited to: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs.[191]

Factor Valuation Methodology

In accordance with section 773(c) of the Act, the Department calculated NV based on FOP data reported by the individually examined respondents. To calculate NV, the Department multiplied the reported per-unit factor-consumption rates by publicly available surrogate values. When selecting the surrogate values, the Department considered, among other factors, the quality, specificity, and contemporaneity of the data.[192] As appropriate, the Department adjusted input prices by including freight costs to make them delivered prices. Specifically, the Department added a surrogate freight cost, where appropriate, to surrogate input values using the shorter of the reported distance from the domestic supplier to the respondent's factory or the distance from the nearest seaport to the respondent's factory.[193] A detailed description of all surrogate values used for respondents can be found in the Preliminary SV Memo.

For the preliminary determination, the Department used Bulgarian import data, as published by GTA, and other publicly available sources from Bulgaria to calculate surrogate values for respondents FOPs. In accordance with section 773(c)(1) of the Act, the Department applied the best available information for valuing FOPs by selecting, to the extent practicable, surrogate values which are (1) non-export average values, (2) contemporaneous with, or closest in time to, the POI, (3) product-specific, and (4) tax-exclusive.[194] The record shows that Bulgarian import data obtained through GTA, as well as data from other Bulgarian sources, are product-specific, tax-exclusive, and generally contemporaneous with the POI.[195] In those instances where the Department could not obtain information contemporaneous with the POI with which to value FOPs, the Department adjusted the SVs using, where appropriate, Bulgaria's producer price index as published in the International Monetary Fund's ("IMF") International Financial Statistics.

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[190] See, e.g., Preliminary Determination of Sales at Less Than Fair Value, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products from the People's Republic of China, 71 FR 19695, 19703 (April 17, 2006), unchanged in Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China, 71 FR 53079 (September 8, 2006).
[191] See section 773(c)(3)(A)-(D) of the Act.
[192] See, e.g., Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, 73 FR 40485 (July 15, 2008), and accompanying Issues and Decision Memorandum at Comment 9.
[193] See Sigma Corp. v. United States, 117 F.3d 1401, 1407-08 (Fed. Cir. 1997).
[194] See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam, 69 FR 42672, 42682 (July 16, 2004), unchanged in Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam, 69 FR 71005 (December 8, 2004).
[195] See Preliminary SV Memo.

In accordance with legislative history, the Department continues to apply its long-standing practice of disregarding surrogate values if it has a reason to believe or suspect the source data may be subsidized.[196] In this regard, the Department has previously found that it is appropriate to disregard such prices from India, Indonesia, South Korea and Thailand because we have determined that these countries maintain broadly available, non-industry specific export subsidies.[197] Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POR, the Department finds that it is reasonable to infer that all exporters from India, Indonesia, South Korea and Thailand may have benefitted from these subsidies. Therefore, the Department has not used prices from India, Indonesia, South Korea and Thailand in calculating the Bulgarian import-based surrogate values.

Additionally, the Department disregarded data from NME countries when calculating Bulgarian import-based per-unit surrogate values.[198] The Department also excluded from the calculation of Bulgarian import-based per-unit surrogate values imports labeled as originating from an "unidentified" country because the Department could not be certain that these imports were not from either an NME country or a country with generally available export subsidies.[199]

In Labor Methodologies,[200] the Department determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country. Additionally, the Department determined that the best data source for industry-specific labor rates is Chapter 6A: Labor Cost in Manufacturing from the International Labor Organization ("ILO") Yearbook of Labor Statistics ("Yearbook").

It is the Department's preference to use data reported under the most recent revision. In this case, we found that Bulgaria's most recent reported revision is ISIC-Rev.4-C. Within ISIC-Rev. 4-C, the Department identified the two-digit series most specific to boltless steel shelving as Division 25, which is described as "Manufacture of fabricated metal products, except machinery and equipment" and includes Group 259, which is described as "Forging, pressing, stamping and roll-forming of metal; powder metallurgy."[201] However, because Bulgaria did not report wage data specific to this two-digit description for the POI, we used the most recently reported wage

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[196] See Omnibus Trade and Competitiveness Act of 1988, Conf. Report to Accompany H.R. 3, H.R. Rep. No. 576, 100th Cong., 2nd Sess. (1988) at 590.

[197] See, e.g., Certain Frozen Warmwater Shrimp From India: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination; 2011-2012, 78 FR 42492 (July 16, 2013), and accompanying Issues and Decision Memorandum at 7-19; see also Certain Lined Paper Products From Indonesia: Final Results of the Expedited Sunset Review of the Countervailing Duty Order, 76 FR 73592 (November 29, 2011), and accompanying Issues and Decision Memorandum at 1; see also Cut-to-Length Carbon-Quality Steel Plate From the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2012, 79 FR 46770 (August 11, 2014), and accompanying Issues and Decision Memorandum at 4; see also Certain Frozen Warmwater Shrimp From Thailand: Final Negative Countervailing Duty Determination, 78 FR 50379 (August 19, 2013), and accompanying Issues and Decision Memorandum at IV.

[198] See 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).

[199] Id.

[200] See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor, 76 FR 36092 (June 21, 2011) ("Labor Methodologies").

[201] See Preliminary SV Memo.

data specific to the two-digit Division noted above. Thus, the Department calculated the labor value using total labor data reported by Bulgaria to the ILO in 2007, in accordance with section 773(c)(4) of the Act, and inflated that value to the POI using the consumer price index, in accordance with our normal practice.

As stated above, the Department used Bulgarian ILO data reported under Chapter 6A of the Yearbook, which reflects all costs related to labor, including wages, benefits, housing, training, etc.[202] Because the financial statements used to calculate the surrogate financial ratios include itemized details of indirect labor costs, the Department made adjustments to the surrogate financial ratios.[203]

We valued water using Bulgarian data from the Bulgarian State Regulatory Commission (2012) and inflated the price using CPI data.[204]

We valued truck freight expenses using data from the World Bank's Doing Business 2014, Economy Profile: Bulgaria publication and used a calculation methodology based on a 20-foot container weighing 10,000 kilograms and an average distance of 383 kilometers.[205]

We valued brokerage and handling expenses using a price list of export procedures necessary to export a standardized cargo of goods in Bulgaria, as published in the World Bank's Doing Business 2014, Economy Profile: Bulgaria publication, which is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by ocean transport in Bulgaria.[206]

As discussed above, interested parties have submitted two financial statements for companies located in ME countries that are at the same level of economic development as the PRC.[207] Therefore, pursuant to 19 CFR 351.408(c)(2) and in accordance with our preference for valuing all factors in the primary surrogate county, we preliminarily determine to calculate surrogate financial ratios using the Bulgarian financial statements from Alcomet.[208]

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 Topsun's and Zhongda's sales of the subject merchandise to the United States were made at less than NV, the Department compared EP to NV as described in the "Export Price" and "Normal Value" sections of this memorandum.

[202] See Labor Methodologies, at 76 FR 36093.
[203] See Preliminary SV Memo.
[204] Id.
[205] See Zhongda SV Comments at Exhibit 3, Attachment 9.
[206] See Preliminary SV Memo.
[207] See "Data Availability" section, above.
[208] See Preliminary SV Memo.

A. *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 (the average-to-average ("A-A") method) unless the Secretary determines that another method is appropriate in a particular situation. In antidumping duty investigations, the Department examines whether to compare weighted-average NVs to the EPs 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.[209] 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 administrative review. 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.[210]

The differential pricing analysis used in this preliminary determination requires a finding of a pattern of EPs 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 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 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

[209] See, e.g., Hardwood and Decorative Plywood From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 58273 (September 23, 2013) and accompanying Issues and Decisions Memorandum at Comment 5; 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.

[210] Id.

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.

B. *Results of the Differential Pricing Analysis*

For Topsun, the Department finds that 76.9 percent of Topsun's export sales confirm the existence of a pattern of EPs for comparable merchandise that differ significantly among purchasers, regions or time periods.[211] However, when comparing the weighted-average dumping margins calculated using the average-to-average method for all U.S. sales with those calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales, there is not a meaningful difference in the results (e.g., relative change in the results is less than 25 percent). Accordingly, the Department used the A-A method in making comparisons of EP and NV for Topsun for this preliminary determination.[212]

For Zhongda, the Department finds that 17.5 percent of Zhongda's export sales confirm the existence of a pattern of EPs for comparable merchandise that differ significantly among purchasers, regions or time periods.[213] However, because 33 percent or less of the value of total sales pass the Cohen's *d* test, the results of the Cohen's *d* test do not support consideration of an alternative to the A-A method. Accordingly, the Department determines to use the A-A method in making comparisons of EP and NV for Zhongda for this preliminary determination.

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.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information used to calculate the rates for Topsun and Zhongda and upon which we will rely in making our final determination.

Section 777A(f) of the Act

In applying section 777A(f) of the Act, the Department has 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 section 773(c) of the Act, has increased the weighted average dumping margin for the class or kind of

[211] See Topsun Prelim Analysis Memo.
[212] In this preliminary determination, 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 (February 14, 2012). In particular, the Department compared monthly weighted-average export prices with monthly weighted-average NV s and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.
[213] See Zhongda Prelim Analysis Memo.

merchandise.[214] 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.[215] In conducting this analysis, 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. As a result of our analysis, the Department is preliminarily not making adjustments pursuant to section 777A(f) of the Act to the AD cash deposit rate found for each respondent in this investigation.

This preliminary determination is based on information on the administrative record provided by the mandatory respondents in this investigation. Specifically, Topsun stated that it did not apply for benefits under any of the subsidy programs under investigation in the concurrent CVD investigation during the POI.[216] Further, Zhongda reported that it did not apply for or benefit from any of the subsidy programs under investigation in the concurrent CVD investigation during the POI.[217] Because both respondents claim to have not participated in any of the subsidy program under review in the concurrent CVD proceeding during the POI, the Department is not applying an adjustment under section 777A(f) of the Act in this preliminary determination.

International Trade Commission 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 boltless steel shelving, or sales (or the likelihood of sales) for importation, of the merchandise under consideration within 45 days of our final determination.

As further discussed in the accompanying Federal Register notice, we will make our final determination no later than 75 days after the date of publication of this preliminary determination, pursuant to section 735(a)(1) of the Act.

[214] See section 777A(f)(1)(A)-(C) of the Act.
[215] See section 777A(f)(1)-(2) of the Act.
[216] See Letter to the Secretary of Commerce from Topsun "Double Remedy Questionnaire Response" (January 2, 2015) at 5.
[217] See Letter to the Secretary of Commerce from Zhongda "Double Remedy Questionnaire Response" (January 9, 2015) at 5.

Conclusion

We recommend applying the above methodology for this preliminary determination.

✓ __________
Agree

____
Disagree

____
Paul Piquado
Assistant Secretary
for Enforcement and Compliance

24 MARCH 2015
(Date)