



A-570-983
POR: 10/4/2012-3/31/2014
Public Document
ADCVDOPS/II/BCS/RK

April 30, 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 Results of the
Antidumping Duty Administrative Review: Drawn Stainless Steel
Sinks from the People's Republic of China

I. SUMMARY

In response to requests from interested parties, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty (AD) order on drawn stainless steel sinks (drawn sinks) from the People's Republic of China (PRC) for the period of review (POR) October 4, 2012, through March 31, 2014. We preliminarily find that respondents Guangdong Dongyuan Kitchenware Industrial Co., Ltd. (Dongyuan) and Guangdong Yingao Kitchen Utensils Co., Ltd. (Yingao) made sales of the subject merchandise in the United States at prices below normal value (NV).

If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (CBP) to assess AD duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. We intend to issue final results no later than 120 days from the date of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act).

II. BACKGROUND

On April 11, 2013, the Department published in the Federal Register the AD order on drawn sinks from the PRC.¹ On April 1, 2014, the Department published in the Federal Register a

¹ See Drawn Stainless Steel Sinks from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order, 78 FR 21592 (April 11, 2013).



notice of opportunity to request an administrative review of the AD order on drawn sinks from the PRC for the period of October 4, 2012, through March 31, 2014.²

Between April 16, 2014 and April 30, 2014, the Department received requests to conduct an administrative review from Elkay Manufacturing Company (Elkay), the petitioner in the less-than-fair-value (LTFV) investigation (the petitioner),³ as well as from Foshan Zhaoshun Trade Co., Ltd. (Zhaoshun) and Zhongshan Superte Kitchenware Co., Ltd. (Superte),⁴ Zhongshan Newecan Enterprise Development Corporation Limited (Newecan),⁵ Yuyao Afa Kitchenware Co., Ltd. (Yuyao),⁶ Yingao,⁷ Guangdong New Shichu Import and Export Company Limited (New Shichu),⁸ Hajoca Corporation (Hajoca),⁹ Zhongshan Silk Imp. & Exp. Group Co., Ltd. of Guangdong (Zhongshan Silk),¹⁰ Shunde Native Produce Import and Export Co., Ltd. of Guangdong (Native Produce),¹¹ Dongyuan,¹² Feidong Import & Export Co., Ltd. (Feidong), Jiangmen Liantai Kitchen Equipment Co., Ltd. (Liantai), and Jiangmen Xinhe Stainless Steel Products, Co., Ltd. (Xinhe).¹³ In response to these timely requests, the Department published a notice of initiation of administrative review with respect to eleven companies on May 29, 2014.¹⁴

In the Initiation Notice, the Department notified parties of the application/certification process by which exporters and producers of merchandise subject to an administrative review in a non-market economy (NME) country may qualify for separate rate status.¹⁵ Exporters and producers wishing to qualify for separate rate status in this administrative review were given 60 calendar

² See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review, 79 FR 18260 (April 1, 2014).

³ See Letter from Elkay, “Drawn Stainless Steel Sinks From The People’s Republic Of China: Request For Administrative Review” (April 30, 2014). Elkay requested a review of Foshan Success Imp. & Exp. Co. Ltd. (Foshan Success).

⁴ See Letter from Zhaoshun and Superte, “Drawn Stainless Steel Sinks from China; Administrative Review Request” (April 16, 2014).

⁵ See Letter from Newecan, “Drawn Stainless Steel Sinks from China; Administrative Review Request” (April 21, 2014).

⁶ See Letter from Yuyao, “Drawn Stainless Steel Sinks from the People’s Republic of China: Review Request” (April 21, 2014).

⁷ See Letter from Yingao, “Drawn Stainless Steel Sinks from the People’s Republic of China Request for Administrative Review” (April 30, 2014).

⁸ See Letter from New Shichu, “Drawn Stainless Steel Sinks from the People’s Republic of China Request for Administrative Review” (April 28, 2014).

⁹ See Letter from Hajoca, “Drawn Stainless Steel Sinks from the People’s Republic of China: Hajoca Corporation’s Request For Review” (April 30, 2014). Hajoca, an importer, requested a review of Yingao.

¹⁰ See Letter from Zhongshan Silk, “Drawn Stainless Steel Sinks from the People’s Republic of China Request for Administrative Review” (April 30, 2014).

¹¹ See Letter from Native Produce, “Drawn Stainless Steel Sinks from the People’s Republic of China Request for Administrative Review” (April 30, 2014).

¹² See Letter from Dongyuan, “Drawn Stainless Steel Sinks from the People’s Republic of China Request for Administrative Review” (April 30, 2014).

¹³ See Letter from Feidong, Liantai, and Xinhe, “Administrative Review Request Concerning Drawn Stainless Steel Sinks from China” (April 28, 2014). Liantai and Xinhe were identified as producers of the subject merchandise exported by Feidong.

¹⁴ See Initiation of Antidumping and Countervailing Duty Administrative Reviews, 79 FR 30809 (May 29, 2014) (Initiation Notice). The eleven companies listed in the Initiation Notice are: (1) Feidong; (2) Foshan Success; (3) Zhaoshun; (4) Dongyuan; (5) New Shichu; (6) Yingao; (7) Native Produce; (8) Yuyao; (9) Newecan; (10) Zhongshan Silk; and (11) Superte.

¹⁵ See Initiation Notice, 79 FR at 30810.

days after publication of the Federal Register notice to complete, as appropriate, either a separate rate application (SRA) or separate rate certification (SRC).¹⁶ Between July 3, 2014 and July 29, 2014, we received three SRAs¹⁷ and six SRCs¹⁸ from those PRC companies wishing to qualify for separate rate status.

The Initiation Notice also indicated that in the event that the Department limits the number of respondents selected for individual examination, we would select mandatory respondents based on U.S. CBP data for U.S. imports during the POR.¹⁹ On June 4, 2014, the Department released the CBP data to all interested parties under an administrative protective order (APO), and requested comments regarding the data and respondent selection.²⁰ We received comments on the CBP data from the petitioner on June 16, 2014.²¹

On July 31, 2014, pursuant to section 777A(c)(2)(B) of the Act, we selected Dongyuan and Yingao for individual examination in this administrative review.²² The initial NME AD questionnaire was issued to both mandatory respondents on August 18, 2014.²³ Dongyuan and Yingao each submitted responses to this initial NME AD questionnaire in September and October 2014.

On August 27, 2014, the petitioner timely withdrew its request for review of Foshan Success.²⁴ The review was later rescinded with respect to Foshan Success.²⁵ Additionally, between August 27, 2014 and August 28, 2014, Zhongshan Silk made several unsuccessful attempts at withdrawing its request for review.²⁶

¹⁶ Id.

¹⁷ See Letter from Yuyao, “Drawn Stainless Steel Sinks from People’s Republic of China: Separate Rate Application” (July 22, 2014); Letter from New Shichu, “Drawn Stainless Sinks from P.R. China: Separate Rate Application” (July 25, 2014); and Letter from Native Produce, “Drawn Stainless Steel Sinks from the People’s Republic of China - Separate Rate Application” (July 28, 2014).

¹⁸ See Letter from Superte, “Drawn Stainless Steel Sinks from China; Separate Rate Certification” (July 3, 2014); Letter from Zhaoshun, “Drawn Stainless Steel Sinks from China; Separate Rate Certification” (July 3, 2014); Letter from Newecan, “Drawn Stainless Steel Sinks from China; Separate Rate Certification” (July 3, 2014); Letter from Feidong, “Separate Rate Certification, Administrative Review, Drawn Stainless Steel Sinks from People’s Republic of China, A-570-983” (July 8, 2014); Letter from Dongyuan, “Drawn Stainless Steel Sinks from the People’s Republic of China - Separate Rate Certification” (July 28, 2014); and Letter from Yingao, “Drawn Stainless Steel Sinks from the People’s Republic of China - Separate Rate Certification” (July 28, 2014).

¹⁹ See Initiation Notice, 79 FR at 30809.

²⁰ See Letter to All Interested Parties (June 4, 2014) (This letter is incorrectly dated June 4, 2013).

²¹ See Letter from Elkay, “Drawn Stainless Steel Sinks From The People’s Republic Of China: Comments On CBP Data” (June 16, 2014).

²² See Memorandum to Melissa G. Skinner, Director, Office III AD and Countervailing Duty (CVD) Operations, “2012-2014 Administrative Review of the Antidumping Duty Order on Drawn Stainless Steel Sinks from the People’s Republic of China: Respondent Selection” (July 31, 2014).

²³ See Letters to Dongyuan and Yingao from Irene Darzenta Tzafolias, Program Manager, AD/CVD Operations Office II (August 18, 2014).

²⁴ See Letter from Elkay, “Drawn Stainless Steel Sinks From The People’s Republic Of China: Withdrawal Of Request For Administrative Review” (August 27, 2014); see also Letter from Foshan Success, “Administrative Review 10/4/12 – 3/31/14– Drawn Stainless Steel Sinks from the People’s Republic of China; Notice of No Sales” (June 20, 2014).

²⁵ See Drawn Stainless Steel Sinks From the People’s Republic of China: Partial Rescission of Antidumping Duty Administrative Review, 79 FR 58739 (Sept. 30, 2014).

²⁶ See “The PRC-wide Entity” section below for a full discussion.

In September 2014, the Department issued supplemental SRA questionnaires²⁷ to Native Produce, Yuyao, and New Shichu, and supplemental SRC questionnaires²⁸ to Newecan, Feidong, and Superte. On October 1, 2014, the Department informed Zhaoshun that the company is required to complete a SRA rather than a SRC because Zhaoshun was not assigned a separate rate in the most recent segment of this proceeding (*i.e.*, the LTFV investigation).²⁹ Supplemental SRA and SRC questionnaire responses, as well as Zhaoshun's SRA, were received in September and October 2014.³⁰ Feidong, however, failed to submit a response or request an extension by the established deadline.³¹

Between October 2014 and January 2015, the Department issued supplemental AD questionnaires to each Dongyuan and Yingao. Responses to these supplemental questionnaires were received between November 2014 and February 2015.

On January 20, 2015, soon after the release of the Department's verification agenda for Native Produce, the company notified the Department that it would not be able to participate in the verification or the review.³² From January 28, 2015, through February 5, 2015, the Department conducted a verification of Yingao, and its affiliate Foshan Magang Kitchen Utensils Co., Ltd. (Magang), at the company's facility in Foshan, PRC.³³

²⁷ See Letter to Native Produce, "Antidumping Duty Administrative Review of Drawn Stainless Steel Sinks from the People's Republic of China" (September 16, 2014); Letter to Yuyao, "Antidumping Duty Administrative Review of Drawn Stainless Steel Sinks from the People's Republic of China" (September 16, 2014); and Letter to New Shichu, "Antidumping Duty Administrative Review of Drawn Stainless Steel Sinks from the People's Republic of China" (September 17, 2014).

²⁸ See Letter to Newecan, "Antidumping Duty Administrative Review of Drawn Stainless Steel Sinks from the People's Republic of China" (September 22, 2014); Letter to Feidong, "Antidumping Duty Administrative Review of Drawn Stainless Steel Sinks from the People's Republic of China" (September 22, 2014); and Letter to Superte, "Antidumping Duty Administrative Review of Drawn Stainless Steel Sinks from the People's Republic of China" (September 25, 2014).

²⁹ See Letter to Zhaoshun, "Antidumping Duty Administrative Review of Drawn Stainless Steel Sinks from the People's Republic of China" (October 1, 2014).

³⁰ See Letter from New Shichu, "Drawn Stainless Sinks from P.R. China: Supplemental Separate Rate Application" (September 30, 2014); Letter from Native Produce, "Drawn Stainless Steel Sinks from the People's Republic of China – Supplemental Separate Rate Application" (September 30, 2014); Letter from Yuyao, "Drawn Stainless Steel Sinks from the People's Republic of China: Supplemental Separate Rate Questionnaire Response" (October 3, 2014); Letter from Newecan, "Drawn Stainless Steel Sinks from China; Separate Rate Certification Supplemental Questionnaire Response" (October 6, 2014); Letter from Superte, "Drawn Stainless Steel Sinks from China; Separate Rate Certification Supplemental Questionnaire Response" (October 9, 2014); and Letter from Zhaoshun, "Drawn Stainless Steel Sinks from China; Submission of Separate Rate Application" (October 22, 2014).

³¹ See "The PRC-wide Entity" section below for a full discussion.

³² See Letter from Nancy Decker, Acting Program Manager, AD/CVD Operations, Office 2, "Administrative Review of the Antidumping Duty Order on Drawn Stainless Steel Sinks from the People's Republic of China: Verification Agenda" (January 14, 2015); and Letter from Native Produce, "Drawn Stainless Steel Sinks from the People's Republic of China" (January 20, 2015).

³³ See "Verification of the Sales and Factors Response of Guangdong Yingao Kitchen Utensils Co., Ltd. and Foshan Magang Kitchen Utensils Co., Ltd. in the Antidumping Duty Administrative Review of Drawn Stainless Steel Sinks from the People's Republic of China," dated concurrently with this memorandum.

Also in January 2015, we received surrogate value (SV) and rebuttal comments from the petitioner and Dongyuan.³⁴

Between January and March 2015, we examined the petitioner's allegation of the evasion³⁵ of the AD order by companies subject to this review by requesting documentation for certain entries in the CBP database.³⁶ We also referred this matter to CBP.³⁷

On March 31, 2015, Dongyuan submitted its pre-preliminary results comments to the Department.³⁸ Similarly, on April 6, 2015, the petitioner submitted its pre-preliminary results comments.³⁹ Dongyuan's rebuttal comments, submitted on April 16, 2015, were not received in time to be considered in these preliminary results, but will be considered for the final results.

We extended the deadline of these preliminary results by 120 days, until April 30, 2015, because we required additional time to review/analyze the questionnaire responses submitted by the respondents and to conduct verification prior to making our preliminary results.⁴⁰

III. SCOPE OF THE ORDER

The merchandise covered by the order includes drawn stainless steel sinks with single or multiple drawn bowls, with or without drain boards, whether finished or unfinished, regardless of type of finish, gauge, or grade of stainless steel. Mounting clips, fasteners, seals, and sound-deadening pads are also covered by the scope of this order if they are included within the sales price of the drawn stainless steel sinks.⁴¹ For purposes of this scope definition, the term "drawn" refers to a manufacturing process using metal forming technology to produce a smooth basin with seamless, smooth, and rounded corners. Drawn stainless steel sinks are available in various

³⁴ See Letter from Elkay, "Drawn Stainless Steel Sinks From The People's Republic of China: Submission Of Surrogate Values" (January 5, 2015); Letter from Dongyuan, "Drawn Stainless Steel Sinks from the People's Republic of China: Surrogate Values for Preliminary Results" (January 5, 2015); and Letter from Elkay, "Drawn Stainless Steel Sinks From The People's Republic of China: Surrogate Values Rebuttal Submission" (January 12, 2015).

³⁵ See Letter from Elkay, "Drawn Stainless Steel Sinks From The People's Republic Of China: The Department Should Investigate The Ongoing Evasion Of Drawn Sinks Order" (January 15, 2015).

³⁶ See Memorandum to Michael Walsh, Director, AD/CVD/Revenue Policy & Programs, Office of International Trade, U.S. Customs and Border Protection, "Request for U.S. Entry Documents – Drawn Stainless Steel Sinks from the People's Republic of China A-570-983" (February 3, 2014). Upon further inspection of the CBP entry documentation, we find that the mandatory respondents, Dongyuan and Yingao, each produced and properly reported the merchandise under consideration in their respective U.S. sales listing.

³⁷ See Letter to Cynthia Whittenburg, Executive Director, Office of International Trade, U.S. Customs & Border Protection, U.S. Department of Homeland Security, "Drawn Stainless Steel Sinks from the People's Republic of China" (March 18, 2015).

³⁸ See Letter from Dongyuan, "Drawn Stainless Steel Sinks from the People's Republic of China – Final Surrogate Value Submission and Pre-Preliminary Comments" (March 31, 2015).

³⁹ See Letter from Elkay, "Drawn Stainless Steel Sinks From The People's Republic of China: Petitioner's Pre-Preliminary Results Comments" (April 6, 2015).

⁴⁰ See Memorandum to Christian Marsh, Deputy Assistant Secretary for AD and CVD Operations, "Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review" (December 5, 2014).

⁴¹ Mounting clips, fasteners, seals, and sound-deadening pads are not covered by the scope of this order if they are not included within the sales price of the drawn stainless steel sinks, regardless of whether they are shipped with or entered with drawn stainless steel sinks.

shapes and configurations and may be described in a number of ways including flush mount, top mount, or undermount (to indicate the attachment relative to the countertop). Stainless steel sinks with multiple drawn bowls that are joined through a welding operation to form one unit are covered by the scope of the order. Drawn stainless steel sinks are covered by the scope of the order whether or not they are sold in conjunction with non-subject accessories such as faucets (whether attached or unattached), strainers, strainer sets, rinsing baskets, bottom grids, or other accessories.

Excluded from the scope of the order are stainless steel sinks with fabricated bowls. Fabricated bowls do not have seamless corners, but rather are made by notching and bending the stainless steel, and then welding and finishing the vertical corners to form the bowls. Stainless steel sinks with fabricated bowls may sometimes be referred to as “zero radius” or “near zero radius” sinks. The products covered by this order are currently classified in the Harmonized Tariff Schedule of the United States (“HTSUS”) under statistical reporting number 7324.10.0000 and 7324.10.0010. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

IV. DISCUSSION OF THE METHODOLOGY

A. Non-Market Economy Country Status

The Department considers the PRC to be an NME country.⁴² 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 these preliminary results.

B. Separate Rates Determination

In NME proceedings, there is a rebuttable presumption that companies are subject to government control and, thus, should be assessed a single AD rate.⁴³ In the Initiation Notice, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME proceedings.⁴⁴ It is the Department’s policy to assign exporters of the subject merchandise from an NME country a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME

⁴² See, e.g., Multilayered Wood Flooring From the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 70267, 70268 (November 25, 2013), unchanged in Multilayered Wood Flooring From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 79 FR 26712 (May 9, 2014).

⁴³ See 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, 53082 (September 8, 2006); see also Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof From the People’s Republic of China, 71 FR 29303, 29307 (May 22, 2006).

⁴⁴ See Initiation Notice, 79 FR at 30810.

country under the test established in Sparklers,⁴⁵ as amplified by Silicon Carbide.⁴⁶ However, if the Department determines that a company is wholly foreign-owned, then consideration of the de jure and de facto criteria is not necessary to determine whether it is independent from government control.⁴⁷

Under the separate rates test, 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.⁴⁸

Further, the Department typically 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.⁴⁹

The Department continues to evaluate its practice with regard to the separate rates analysis in light of the diamond sawblades from the PRC AD proceeding, and the Department's determinations therein.⁵⁰ In particular, we note that in litigation involving the diamond sawblades proceeding, the U.S. Court of International Trade (CIT) found the Department's existing separate rates analysis deficient in the circumstances of that case, in which a government-controlled entity had significant ownership in the respondent exporter.⁵¹ We have

⁴⁵ See Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China, 56 FR 20588 (May 6, 1991) (Sparklers).

⁴⁶ 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).

⁴⁷ See, e.g., Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles From the People's Republic of China, 72 FR 52355, 52356 (September 13, 2007) (Wax Candles from the PRC).

⁴⁸ See Sparklers, 56 FR at 20589.

⁴⁹ See Silicon Carbide, 59 FR at 22586-89; 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).

⁵⁰ See Final Results of Redetermination Pursuant to Remand Order for Diamond Sawblades and Parts Thereof from the People's Republic of China (May 6, 2013) in Advanced Technology & Materials Co., Ltd., et al. v. United States, 885 F. Supp. 2d 1343 (CIT 2012), affirmed in Advanced Technology & Materials Co., Ltd., et al. v. United States, 938 F. Supp. 2d 1342 (CIT 2013). This remand redetermination is on the Enforcement and Compliance website at <http://enforcement.trade.gov/remands/12-147.pdf>. See also Diamond Sawblades and Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 77098 (December 20, 2013) and accompanying Preliminary Decision Memorandum at 7, unchanged in Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 79 FR 35723 (June 24, 2014) and accompanying Issues and Decision Memorandum at Comment 1.

⁵¹ See, e.g., Advanced Technology & Materials Co., Ltd. v. United States, 885 F. Supp. 2d 1343, 1349 (CIT 2012) ("The court remains concerned that Commerce has failed to consider important aspects of the problem and offered explanations that run counter to the evidence before it."); *id.* at 1351 ("Further substantial evidence of record does not support the inference that SASAC's {state-owned assets supervision and administration commission}

concluded that where a government entity holds a majority ownership share, either directly or indirectly, in the respondent exporter, the majority ownership holding in and of itself means that the government exercises or has the potential to exercise control over the company's operations generally, which may include control over, for example, the selection of management, a key factor in determining whether a company has sufficient independence in its export activities to merit a separate rate. Consistent with normal business practices, we would expect any majority shareholder, including a government, to have the ability to control, and an interest in controlling, the operations of the company, including the selection of management and the profitability of the company. Accordingly, we have considered the level of government ownership where necessary.

In this review, we preliminarily find no evidence of government ownership of the mandatory or the separate rate respondents (*i.e.*, Dongyuan, New Shichu, Newecan, Superte, Yingao, Yuyao, and Zhaoshun). All but one of these separate rate respondents are limited liability companies. Yingao is a joint venture. In accordance with our practice, the Department has analyzed whether these respondents have demonstrated the absence of de jure and de facto governmental control over their respective export activities.

1. Absence of De Jure Control

The evidence provided by Dongyuan, New Shichu, Newecan, Superte, Yingao, Yuyao and Zhaoshun 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.⁵²

2. Absence of De Facto Control

The evidence provided by Dongyuan,⁵³ New Shichu,⁵⁴ Newecan,⁵⁵ Superte,⁵⁶ Yingao,⁵⁷ Yuyao,⁵⁸

'management' of its 'state-owned assets' is restricted to the kind of passive-investor de jure 'separation' that Commerce concludes.") (footnotes omitted); *id.* at 1355 ("The point here is that 'governmental control' in the context of the separate rate test appears to be a fuzzy concept, at least to this court, since a 'degree' of it can obviously be traced from the controlling shareholder, to the board, to the general manager, and so on along the chain to 'day-to-day decisions of export operations,' including terms, financing, and inputs into finished product for export."); *id.* at 1357 ("AT&M *itself* identifies its 'controlling shareholder' as CISRI {owned by SASAC} in its financial statements and the power to veto nomination does not equilibrate the power of control over nomination.") (footnotes omitted).

⁵² See Dongyuan's July 28, 2014, SRC at 5-6; New Shichu's June 25, 2014, SRA at 8 through 11; Newecan's July 3, 2014, SRC at 4-5; Superte's July 3, 2014, SRC at 4-5; Yingao's July 28, 2014, SRC at 6; Yuyao's July 22, 2014, SRA at 9 through 12; and Zhaoshun's July 3, 2015, SRC at 4-5 and its October 22, 2014, SRA at pages 7-10.

⁵³ See Dongyuan's SRC at 6-7 and the September 22, 2014, Section A Response at A-1 through A-13 and Exhibits A-2 through A-10.

⁵⁴ See New Shichu's SRA at 11 through 15 and Exhibits 4 through 13, and the September 30, 2014, SRA Supplemental Response at 1-2 and Exhibits Supp-1 through Supp-4.

⁵⁵ See Newecan's SRC at 5 and the October 6, 2014, SRC Supplemental Response at 1-2 and Exhibits 1 through 5.

⁵⁶ See Superte's SRC at 5 and the October 9, 2014, SRC Supplemental Response at 1-2 and Exhibits 1 through 5.

⁵⁷ See Yingao's SRC at 6-7 and the September 22, 2014, Section A Response at A-1 through A-13 and Exhibits A-2 through A-8.

and Zhaoshun⁵⁹ 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 the disposition of profits or financing of losses.

Therefore, the evidence placed on the record of this investigation by Dongyuan, New Shichu, Newecan, Superte, Yingao, Yuyao and Zhaoshun 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 Dongyuan, New Shichu, Newecan, Superte, Yingao, Yuyao and Zhaoshun.⁶⁰

3. Separate Rate for Non-Selected Companies

In accordance with section 777A(c)(2)(B) of the Act, the Department employed a limited examination methodology, as it was not practical to examine all companies for which an administrative review was initiated. We selected Dongyuan and Yingao as mandatory respondents for this review. As discussed above, New Shichu, Newecan, Superte, Yuyao and Zhaoshun are also exporters of subject merchandise that demonstrated their eligibility for a separate rate, but they were not selected for individual examination in this review.

The statute and the Department's regulations do not directly address the establishment of a rate to be applied to individual companies not selected for individual examination where the Department limited its examination in an administrative review pursuant to section 777A(c)(2) of the Act. The Department's practice in cases involving limiting respondent selection based on exporters accounting for the largest volumes of trade has been to look at section 735(c)(5) of the Act for guidance, which provides instructions for calculating the all-others rate in investigations. Section 735(c)(5)(B) of the Act provides that "the estimated all-others rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and de minimis margins, and any margins determined entirely under" section 776 of the Act.

In this review, we calculated weighted-average dumping margins for both mandatory respondents that are above de minimis and which are not based on total facts available. Because there are only two relevant weighted-average dumping margins for these preliminary results, using a weighted-average of these two rates risks disclosure of business proprietary data. Therefore, the Department assigned a margin to the separate rate companies as described in the Separate Rate Calculation Memorandum.⁶¹

⁵⁸ See Yuyao's SRA at 12 through 18 and Exhibits 1 through 11, and the October 3, 2014, SRA Supplemental Response at 1-3 and Exhibit 1.

⁵⁹ See Zhaoshun's SRC at 5 and the October 22, 2014, SRA at 10-17 and Exhibits 2 through 10.

⁶⁰ See "Separate Rate for Non-Selected Companies" section below.

⁶¹ See Memorandum to the File from Brian Smith, Team Leader, "Drawn Stainless Steel Sinks from the People's Republic of China: Calculation of the Preliminary Margin for Separate Rate Companies," dated concurrently with this memorandum (Separate Rate Calculation Memorandum). This memorandum contains our comparison of (A) a

C. The PRC-wide Entity

For the reasons detailed below, the Department preliminarily determines that Zhongshan Silk, Feidong, and Native Produce have not demonstrated that they are each eligible for a separate rate. Accordingly, the Department preliminarily determines Zhongshan Silk, Feidong, and Native Produce to be properly considered part of the PRC-wide entity.

The Department's change in policy regarding conditional review of the PRC-wide entity applies to this administrative review.⁶² Under this policy, the PRC-wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the PRC-wide entity in this review, the entity is not under review and the entity's rate is not subject to change. Therefore, if our determination is unchanged in the final results, entries from the three identified companies will be liquidated at the rate previously established for the PRC-wide entity.

On April 30, 2014, the Department received a request for administrative review from Zhongshan Silk, Feidong, and Native Produce, Chinese exporters of subject merchandise.⁶³ In the Initiation Notice, the Department notified parties, including Zhongshan Silk, Feidong, and Native Produce, of the application process by which exporters and producers may apply for separate rate status in NME review.⁶⁴

1. Zhongshan Silk

Zhongshan Silk did not submit a SRA or SRC by the deadline specified in the Initiation Notice. On August 25, 2014, Zhongshan Silk contacted the Department to inquire about the steps necessary to withdraw its request for administrative review. We notified the company that pursuant to 19 CFR 351.213 (d)(1), “{t}he Secretary will rescind an administrative review under this section, in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. The Secretary may extend this time limit if the Secretary decides that it is reasonable to do so.” We further

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 the merchandise under consideration. We compared (B) and (C) to (A) and selected the rate closest to (A) as the most appropriate rate for the separate rate respondents in these preliminary results. See Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part, 75 FR 53661, 53663 (September 1, 2010).

⁶² See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings, 78 FR 65963 (November 4, 2013).

⁶³ See Letter from Zhongshan Silk, “Drawn Stainless Steel Sinks from the People's Republic of China Request for Administrative Review” (April 30, 2014); Letter from Feidong, “Administrative Review Request Concerning Drawn Stainless Steel Sinks from China” (April 30, 2014) (the document is dated April 28, 2013, but was filed through the Department's electronic filing system ACCESS on April 30, 2014); and Letter from Native Produce, “Drawn Stainless Steel Sinks from the People's Republic of China Request for Administrative Review” (April 30, 2014).

⁶⁴ See Initiation Notice, 79 FR 30809, at 30810.

informed Zhongshan Silk that its withdrawal request must be submitted by August 27, 2014, which is 90 days after the date on which the notice of initiation published (i.e., May 29, 2014).⁶⁵

On August 27, 2014, Zhongshan Silk submitted its withdrawal request through the Department's electronic filing system ACCESS. The filing, however, was rejected by ACCESS as it was submitted under an incorrect case number. Zhongshan Silk was notified of its mistake, and subsequently re-filed the submission on August 28, 2014. This second submission, however, was also rejected because it listed an incorrect segment date/POR. While Zhongshan Silk was notified of the rejection and advised to refile its withdrawal request with the correct segment date/POR, it failed to do so.⁶⁶

In light of the above, we preliminarily determine that Zhongshan Silk remains a part of the PRC-wide entity, because it neither withdrew its request for administrative review nor demonstrated its eligibility for separate rate status.

2. Feidong

On July 8, 2014, the Department received a SRC on behalf of Feidong.⁶⁷ Subsequently, on September 22, 2014, the Department issued Feidong a separate rate supplemental questionnaire.⁶⁸ The company, however, failed to submit a response to the Department's SR Supplemental or to request an extension by the established deadline, October 6, 2014.⁶⁹

On December 9, 2014, more than two months after the established deadline, Feidong requested an extension to submit its response to the Department's SR Supplemental. The Department denied Feidong's untimely request for an extension on December 11, 2014, because it determined that (1) there were no extraordinary circumstances that prevented Feidong from filing a timely response or extension request as required by 19 CFR 351.302(c); and (2) pursuant to 19 CFR 351.302(b), good cause for granting Feidong a retroactive extension did not exist.⁷⁰

On December 15, 2014, Feidong submitted an untimely unsolicited response to the Department's SR Supplemental and requested that the Department reconsider its decision to deny the extension

⁶⁵ See Memorandum to the File from Brian Smith, Senior International Trade Compliance Analyst, "Zhongshan Silk Imp. & Exp. Group Co., Ltd. of Guangdong's Submission of Withdrawal of Request for Administrative Review" (September 10, 2014).

⁶⁶ Id., see also Memorandum to the File from Reza Karamloo, International Trade Compliance Analyst, "Zhongshan Silk Imp. & Exp. Group Co., Ltd. of Guangdong's Late Submission of Withdrawal of Request for Administrative Review" (September 2, 2014); and Memorandum to the File from Brian Smith, Senior International Trade Compliance Analyst, "Zhongshan Silk Imp. & Exp. Group Co., Ltd. of Guangdong's Submission of Withdrawal of Request for Administrative Review" (September 10, 2014).

⁶⁷ See Letter from Feidong, "Separate Rate Certification, Administrative Review, Drawn Stainless Steel Sinks from People's Republic of China, A-570-983" (July 8, 2014).

⁶⁸ See Letter from the Department to Feidong, "Antidumping Duty Administrative Review of Drawn Stainless Steel Sinks from the People's Republic of China" (September 22, 2014) (SR Supplemental).

⁶⁹ Id.

⁷⁰ See Letter from the Department to Feidong, "Antidumping Duty Administrative Review of Drawn Stainless Steel Sinks from the People's Republic of China: Retroactive Extension Request for Supplemental Questionnaire" (December 11, 2014).

request.⁷¹ The Department, however, rejected Feidong's submission as untimely, and denied Feidong's second request for a retroactive extension.⁷²

In light of the above facts, we find that Feidong has failed to establish its eligibility for a separate rate because it failed to submit a timely response to the Department's SR Supplemental or request an extension by the established deadline. The CIT has long recognized the need to establish and enforce time limits for filing questionnaire responses, the purpose of which is to aid the Department in the administration of the AD laws.⁷³ Consequently, we preliminarily determine that Feidong is properly considered to be a part of the PRC-wide entity.

3. Native Produce

On July 28, 2014, the Department received a SRA on behalf of Native Produce.⁷⁴ Subsequently, on September 16, 2014, the Department issued Native Produce a separate rate supplemental questionnaire.⁷⁵ Native Produce submitted its response to the Department's supplemental questionnaire on September 30, 2014.⁷⁶

On January 20, 2015, soon after the release of the Department's verification agenda for Native Produce, the company notified the Department that it would not be able to participate in the verification or the review.⁷⁷

In light of the above facts, we find that Native Produce has failed to establish its eligibility for a separate rate because the Department was unable to verify the information it submitted, and therefore, we preliminarily determine that Native Produce remains a part of the PRC-wide entity.

⁷¹ See Letter from Feidong, "Response to Separate Rate Certification Supplementary Questionnaire, Administrative Review, Drawn Stainless Steel Sinks from People's Republic of China, A-570-983" (December 15, 2014).

⁷² See Letter from the Department to Feidong, "Antidumping Duty Administrative Review of Drawn Stainless Steel Sinks from the People's Republic of China: Second Retroactive Extension Request for Supplemental Questionnaire" (December 19, 2014); see also, Memorandum to the File from Brian Smith, Senior International Trade Compliance Analyst, "Rejection of 'Response to Separate Rate Certification Supplementary Questionnaire, Administrative Review, Drawn Stainless Steel Sinks from the People's Republic of China, A-570-983,' Submitted by Ray Yin & Partners P.R.C. Lawyers, on behalf of Feidong Import & Export Co., Ltd. (Feidong)" (December 19, 2014).

⁷³ See, e.g., Nippon Steel Corp. v. United States, 118 F. Supp. 2d 1366, 1377 (CIT 2000); and Seattle Marine Fishing Supply, et al. v. United States, 679 F. Supp. 1119, 1128 (CIT 1998) (it was not unreasonable for the Department to refuse to accept untimely filed responses, where "the record displays the ITA followed statutory Procedure" and the respondent "was afforded its chance to respond to the questionnaires, which it failed to do.").

⁷⁴ See Letter from Native Produce, "Drawn Stainless Steel Sinks from the People's Republic of China - Separate Rate Application" (July 28, 2014).

⁷⁵ See Letter to Native Produce, "Antidumping Duty Administrative Review of Drawn Stainless Steel Sinks from the People's Republic of China" (September 16, 2014).

⁷⁶ See Letter from Native Produce, "Drawn Stainless Steel Sinks from the People's Republic of China Supplemental Separate Rate Application" (September 30, 2014).

⁷⁷ See Letter from Nancy Decker, Acting Program Manager, AD/CVD Operations, Office 2, "Administrative Review of the Antidumping Duty Order on Drawn Stainless Steel Sinks from the People's Republic of China: Verification Agenda" (January 14, 2015); and Letter from Native Produce, "Drawn Stainless Steel Sinks from the People's Republic of China" (January 20, 2015).

D. Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base 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 the FOPs in one or more ME countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.⁷⁸ To determine which countries are at the same level of economic development, the Department generally relies solely on per capita gross national income (GNI) data from the World Bank's World Development Report.⁷⁹ In addition, if more than one country satisfies the two criteria noted above, the Department narrows the field of potential surrogate countries to a single country (pursuant to 19 CFR 351.408(c)(2), the Department will normally value FOPs in a single surrogate country) based on data availability and quality.

As a general rule, the Department selects a surrogate country that is at the same level of economic development as the NME country unless it is determined that none of the countries 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 differences in levels of economic development.

On September 22, 2014, the Department identified Bulgaria, Colombia, Ecuador, Indonesia, South Africa, and Thailand as being at the same level of economic development as the PRC.⁸⁰ On October 20, 2014, the Department issued a letter to the interested parties soliciting comments on surrogate country selection.⁸¹ On October 31, 2014, the petitioner and Dongyuan each submitted comments on the appropriate surrogate country.⁸²

The petitioner contends that the Department should follow its determination in the LTFV investigation and continue to rely on Thailand as the surrogate country.⁸³ In contrast, Dongyuan

⁷⁸ See also Import Administration Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (Policy Bulletin), available at <http://enforcement.trade.gov/policy/> (Policy Bulletin 04.1).

⁷⁹ Id.

⁸⁰ See Memorandum from Carole Showers, Director, Office of Policy, to Irene Darzenta Tzafolias, Program Manager, Office II, Enforcement and Compliance, "Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Stainless Steel Sinks ("SSS") from the People's Republic of China ("China")" (September 22, 2014) (Surrogate Country Recommendation Memorandum).

⁸¹ See Letter to All Interested Parties, "Administrative Review of Drawn Stainless Steel Sinks from the People's Republic of China: Request for Surrogate Country and Surrogate Value Comments and Information" (October 20, 2014).

⁸² See Letter from Elkay, "Drawn Stainless Steel Sinks From The People's Republic Of China: Comments On Surrogate Country" (October 31, 2014) (Petitioner's Surrogate Country Comments); see also Letter from Dongyuan, "Stainless Steel Sinks from the People's Republic of China – Surrogate Country Comments" (October 31, 2014) (Dongyuan's Surrogate Country Comments).

⁸³ See Petitioner's Surrogate Country Comments.

suggests that the Department select the Philippines as the surrogate country for this proceeding.⁸⁴ Dongyuan relies on the Department's selection of the Philippines as a surrogate country in prior reviews of AD orders on unrelated merchandise, and submits World Bank indicators and an excerpt indicating that the Philippines exported subject merchandise under HTS subheading 7324.10 in the last three years.⁸⁵

As indicated above, when selecting among several potential surrogate countries, the Department's practice, in accordance with section 773(c)(1) of the Act, is to select a country that provides SV data which are product-specific, representative of a broad-market average, publicly available, contemporaneous with the POR, and free of taxes and duties.⁸⁶ There is no hierarchy among these criteria. It is the Department's practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis of valuing the FOPs.⁸⁷

1. Economic Comparability

As explained in the Surrogate Country Recommendation Memorandum, the Department considers Bulgaria, Colombia, Ecuador, Indonesia, South Africa, and Thailand to be at the same level of economic development as the PRC.⁸⁸ Therefore, we consider all six countries as having satisfied this prong of the surrogate country selection criteria.⁸⁹

2. Significant Producer of Comparable Merchandise

Section 773(c)(4)(B) of the Act requires the Department to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute nor the Department's regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, the Department looks to other sources such as the Policy Bulletin for guidance on defining comparable merchandise.⁹⁰

The Policy Bulletin states that “{i}n all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise. In cases where the identical merchandise is not produced, the team must determine if other merchandise that is comparable is produced. How the team does this, depends on the subject merchandise.”⁹¹

⁸⁴ See Dongyuan's Surrogate Country Comments at 2.

⁸⁵ *Id.* at Exhibits 1 and 2.

⁸⁶ See, e.g., First Administrative Review of Certain Polyester Staple Fiber From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 75 FR 1336 (January 11, 2010), and accompanying Issues and Decision Memorandum at Comment 1.

⁸⁷ See, e.g., Certain Steel Threaded Rod From the People's Republic of China: Final Results of Third Antidumping Duty Administrative Review; 2011-2012, 78 FR 66330 (November 5, 2013), and accompanying Issues and Decision Memorandum at 7.

⁸⁸ See Surrogate Country Recommendation Memorandum.

⁸⁹ See Section 773(c)(4)(A) of the Act.

⁹⁰ See Policy Bulletin.

⁹¹ *Id.*

The petitioner provides several exhibits in support of its contention that Thailand is a significant producer of comparable merchandise, including stainless steel sinks.⁹² These exhibits include excerpts from the Thai Stainless Steel Development Association, Thai import statistics during the POR from the Global Trade Atlas (GTA) for HTS subheading 7219.33 and its 10-digit sub-classifications, as well as excerpts of websites from Thai stainless steel producer POSCO-Thainox and cold rolled stainless steel manufacturer and distributor Lohakit.⁹³ In contrast, Dongyuan, relies on the Department's selection of the Philippines as a surrogate country in prior reviews of AD orders on unrelated merchandise, and submits World Bank indicators and an excerpt indicating that the Philippines exported subject merchandise under HTS subheading 7324.10 in the last three years and is, like Thailand, also a significant producer of comparable merchandise.⁹⁴

3. Data Availability

If more than one country satisfies the statutory requirements for selection as a surrogate country, the Department selects a surrogate country from among the potential countries based on data availability and quality. When evaluating SV data, the Department considers several factors including whether the SV are publicly available, contemporaneous with the POR, representative of a broad market average, from an approved surrogate country, tax and duty-exclusive, and specific to the inputs being valued.⁹⁵ In this review, there is no complete SV information on the record for any country on the surrogate country list except for Thailand.

Because Thailand is the only country listed on the Surrogate Country Memorandum found to be both at the same level of economic development as the PRC and a significant producer of comparable merchandise for which we have reliable data to value almost every one of the FOPs, we have selected Thailand as the surrogate country. Given that one of the countries found to be economically comparable to the PRC satisfies the requirements for selection as a surrogate country, for purposes of the preliminary results, there is no need for the Department to evaluate the Philippines as a potential surrogate country.

E. 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 material terms of sale. This normally includes the price, quantity, delivery terms, and payment terms.⁹⁶

⁹² See Petitioner's Surrogate Country Comments at 5-7, and Exhibits 2-4.

⁹³ Id.

⁹⁴ See Dongyuan's Surrogate Country Comments at 2, and Exhibits 1-2.

⁹⁵ See, e.g., 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), and accompanying Issues and Decision Memorandum at Comment 3.

⁹⁶ 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 Issues and Decision Memorandum at Comment 1; and Notice of Final Determination of Sales at Less Than Fair Value; Certain Cold-Rolled Flat-Rolled

Dongyuan and Yingao reported that the date of sale was determined by the date of issuance of the commercial invoice.⁹⁷ Because the Department found no evidence contrary to the respondents' claims that the commercial invoice date was the appropriate date of sale, the Department used the commercial invoice date as the date of sale for these preliminary results, in accordance with 19 CFR 351.401(i).⁹⁸

F. Fair Value Comparisons

To determine whether sales of the subject merchandise made by Dongyuan and Yingao to the United States were at prices below NV, we compared each company's export price (EP) to NV, as described below.

1. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average EPs (or constructed export prices (CEPs)) (the average-to-average method), unless the Secretary determines that another method is appropriate in a particular situation. In AD investigations, the Department examines whether to use the average-to-transaction method as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not govern the Department's examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is analogous to the issue in AD investigations.⁹⁹ In recent investigations, pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act, the Department has applied a "differential pricing" analysis to determine whether application of average-to-transaction comparisons is appropriate in a particular situation.¹⁰⁰ The Department finds that the differential pricing analysis used in those recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review.¹⁰¹ The Department will continue to develop its approach in this area based on comments received in this and other proceedings, as well as the Department's

Carbon Quality Steel Products from Turkey, 65 FR 15123 (March 21, 2000), and accompanying Issues and Decision Memorandum at Comment 1.

⁹⁷ See Dongyuan September 22, 2014, section A questionnaire response at A-13; see also Yingao September 22, 2014, section A questionnaire response at A-13.

⁹⁸ See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From Thailand, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10.

⁹⁹ See Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum at Comment 1.

¹⁰⁰ See, e.g., Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 33350 (June 4, 2013), and accompanying Issues and Decision Memorandum at Comment 3; and Hardwood and Decorative Plywood From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 58273 (September 23, 2013), and accompanying Issues and Decision Memorandum at Comment 3.

¹⁰¹ See, e.g., 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 & Decision Memorandum at comment 2.

additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differ significantly among purchasers, regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account using the average-to-average 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. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination zip code and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR 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 (or CEP) and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen’s *d* coefficient is used to evaluate 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. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen’s *d* test: 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 passed the Cohen’s *d* test, if the calculated Cohen’s *d* coefficient is equal to or exceeds the large threshold (i.e., 0.8).

Next, the “ratio test” assesses the extent of the significance of the 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 accounts for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the application of the average-to-transaction method to all sales as an alternative to the average-to-average 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 but less than 66 percent of the value of total sales, then the results support the application of an average-to-transaction method to those sales identified as passing the Cohen’s *d* test as an alternative to the average-to-average method, and application of the average-to-average 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 the application of an alternative to the average-to-average 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, the Department examines whether using only the average-to-average 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 average-to-average method only. If the difference between the two calculations is meaningful, this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if 1) there is a 25 percent or greater relative change in the weighted-average dumping margin between the average-to-average 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 in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.

For Dongyuan, based on the results of the differential pricing analysis, the Department finds that 59.7 percent (*i.e.*, between 33 percent and 66 percent) of Dongyuan's U.S. sales pass the Cohen's *d* test, which confirms the existence of a pattern of EPs for comparable merchandise that differ significantly among purchasers, regions or time periods. This finding supports consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen's *d* test and application of the average-to-average methodology to those sales identified as not passing the Cohen's *d* test. Further, the Department determines that the average-to-average method cannot appropriately account for such differences because the resulting weighted-average dumping margin moves across the de minimis threshold. Accordingly, the Department determined to use the average-to-transaction method for those U.S. sales which passed the Cohen's *d* test and the average-to-average method for those U.S. sales which do not pass the Cohen's *d* test to calculate the weighted-average dumping margin for Dongyuan.

For Yingao, the Department finds that 73.6 percent of Yingao's U.S. sales pass the Cohen's *d* test, which confirms the existence of a pattern of EPs for comparable merchandise that differ significantly among purchasers, regions or time periods. Further, the Department determines that the average-to-average method cannot appropriately account for such differences because there is a meaningful difference in the weighted-average dumping margins calculated using the average-to-average method and an alternative method based on the average-to-transaction method applied to all U.S. sales. Specifically, the Department determines that the average-to-average method cannot appropriately account for such differences because the resulting weighted-average dumping margin moves across the de minimis threshold. Accordingly, the

Department preliminarily determines to use the average-to-transaction method for all U.S. sales to calculate the weighted-average dumping margin for Yingao.

2. Export Price

According to section 772(a) of the Act, EP is the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under section 772(c) of the Act. In accordance with section 772(a) of the Act, we used EP methodology for both Dongyuan's and Yingao's sales because the subject merchandise was sold directly to the unaffiliated customer in the United States prior to importation, and because the use of CEPs was not otherwise warranted.¹⁰²

a) Dongyuan

We based EP on packed prices to the first unaffiliated purchaser in the United States. We made deductions from the starting U.S. sales price for movement expenses, in accordance with section 772(c)(2)(A) of the Act. These expenses included foreign inland freight from the plant to the port of exportation, foreign brokerage and handling, and international freight. As these expenses were incurred in the PRC or provided by an NME service provider, we valued these expenses using the SV methodology described in the "Factor Valuation Methodology" section of this memorandum, below. For certain U.S. sales, Dongyuan reported an amount for freight revenue. In accordance with our practice,¹⁰³ we capped the freight revenue by the amount of the freight expense. We also deducted value added tax (VAT) from the starting price as explained below.

b) Yingao

We based EP on packed prices to the first unaffiliated purchaser in the United States. Pursuant to 19 CFR 351.401(c), we adjusted the starting price for other discounts, where appropriate. We also made deductions from the starting price for movement expenses to the port of export and brokerage and handling expenses in the PRC, in accordance with section 772(c)(2)(A) of the Act. As these movement expenses were incurred in the PRC, we valued these expenses using the SV methodology described in the "Factor Valuation Methodology" section of this memorandum, below. We also deducted VAT from the starting price as explained below.

¹⁰² See Dongyuan's October 15, 2014, response to section C of the questionnaire (Section C Response) at C-17; and Yingao's October 29, 2014, response to section C of the questionnaire at C-17.

¹⁰³ See, e.g., Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent to Revoke Antidumping Duty Order in Part, 75 FR 50999 (August 18, 2010), and accompanying Issues and Decision Memorandum at Comment 2.

3. VAT

The Department's recent practice in NME cases is to adjust EP or CEP for the amount of any un-refunded (hereafter irrecoverable) VAT, in accordance with section 772(c)(2)(B) of the Act.¹⁰⁴ 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.¹⁰⁵ Where the irrecoverable VAT is a fixed percentage of EP, the Department explained that the final step in arriving at a tax neutral dumping comparison is to reduce the U.S. EP downward by this same percentage.¹⁰⁶ The Department's methodology, as explained above and applied in this review, essentially amounts to performing two basic steps: (1) determining the irrecoverable VAT tax on subject merchandise, and (2) reducing U.S. price by the amount (or rate) determined in step one.

Information placed on the record of this review by Dongyuan and Yingao indicates that, according to the Chinese VAT schedule, the standard VAT levy is 17 percent¹⁰⁷ and the rebate rate for subject merchandise is 9 percent.¹⁰⁸ For the purposes of these preliminary results, therefore, we removed from U.S. price the difference between the rates (8 percent), which is the irrecoverable VAT as defined under Chinese tax law and regulation.¹⁰⁹ We note that this is consistent with the Department's policy and the intent of the statute, that dumping comparisons be tax-neutral.¹¹⁰

4. Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using an FOP methodology if the merchandise is exported from an NME and the Department finds that the available information does not permit the calculation of NV using home market prices, third country prices, or constructed value under section 773(a) of the Act. When determining NV in an NME context, the Department will base NV on FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under our normal methodologies. 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

¹⁰⁴ 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) (Methodological Change).

¹⁰⁵ 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.

¹⁰⁶ See Methodological Change, 77 FR 36481.

¹⁰⁷ See Dongyuan's Section C Response at page C-38; and Yingao's December 15, 2014, submission at Exhibit SQ-12.

¹⁰⁸ Id.

¹⁰⁹ Id.

¹¹⁰ See Methodological Change (citing Antidumping Duties; Countervailing Duties, 62 FR 27296, 27369 (May 19, 1997), and Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. I 03-316, vol. I, 827, reprinted in 1994 U.S.C.C.A.N. 3773, 4172); see also Final Determination of Sales at Less Than Fair Value: Prestressed Concrete Steel Rail Tie Wire From the People's Republic of China, 79 FR 25572 (May 5, 2014), and accompanying Issues and Decision Memorandum at Comment 1.

employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. Accordingly, in this review the Department used the FOPs reported by the respondents for materials, labor, energy, and packing.

G. Factor Valuation Methodology

In accordance with section 773(c) of the Act, we calculated NV based on FOPs data reported by Dongyuan and Yingao for the POR.

The Department used Thai import data and other publicly-available Thai sources in order to calculate SVs for each of Dongyuan and Yingao's FOPs. To calculate NV, the Department multiplied the reported per-unit FOPs quantities by publicly available SVs.¹¹¹ Further, the Department added a surrogate freight cost, where appropriate, to the SVs using the shorter of the reported distance from the domestic supplier to the respondent's factory or from the nearest seaport to the respondent's factory.¹¹² Additionally, where necessary, the Department adjusted SVs for inflation and exchange rates, and the Department converted all applicable FOPs data to a per-kilogram basis. The Department's practice when selecting the best available information for valuing FOPs is to select, to the extent practicable, SVs which are product-specific, representative of a broad market average, publicly available, contemporaneous with the POR, and exclusive of taxes and duties.¹¹³

A detailed description of all SVs used to calculate the weighted-average dumping margins for the mandatory respondents can be found in the Preliminary Surrogate Value Memorandum. An overview of the SVs used to calculate weighted-average dumping margins for Dongyuan and Yingao are below.

For the preliminary results, in accordance with the Department's practice, except where noted below, we used Thai import data, as published by GTA, and other publicly-available sources from Thailand to calculate SVs for the FOPs data reported by Dongyuan and Yingao. The GTA reports import statistics, such as from Thailand, in the original reporting currency, and, thus, these data correspond to the original currency value reported by each country. The record shows that data in the Thai import statistics, as well as those from several other Thai sources, are contemporaneous with the POR, product-specific, and tax-exclusive.¹¹⁴ In those instances where the Department was unable to obtain publicly-available information contemporaneous to the POR with which to value factors, we adjusted the SVs using, where appropriate, the Thai

¹¹¹ See Memorandum to the File from Ross Belliveau and Brandon Custard, International Trade Compliance Analysts, "Factor Valuation Memorandum for the Preliminary Results in the Antidumping Duty Administrative Review of Drawn Stainless Steel Sinks from the People's Republic of China," dated concurrently with this memorandum (Preliminary Surrogate Value Memorandum) at Attachment 1.

¹¹² See Sigma Corp. v. United States, 117 F.3d 1401, 1408 (Fed. Cir. 1997).

¹¹³ See, e.g., Electrolytic Manganese Dioxide From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR 48195 (August 18, 2008), and accompanying Issues and Decision Memorandum at Comment 2.

¹¹⁴ See Preliminary Surrogate Value Memorandum.

Producer Price Index (PPI) or Consumer Price Index (CPI) (i.e., in the case of labor), as published in the International Monetary Fund's International Financial Statistics.¹¹⁵

When calculating Thai import-based SVs, we disregarded import data on inputs that we have reason to believe or suspect may be dumped or subsidized. It is the Department's practice, guided by the legislative history, not to conduct a formal investigation to ensure that such prices are not dumped or subsidized.¹¹⁶ Rather, the Department bases its decision on information that is available to it at the time it makes its determination.

In this case, the Department has reason to believe or suspect that prices of inputs from India, Indonesia, and the Republic of Korea may have been subsidized. The Department found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies.¹¹⁷ Therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized.¹¹⁸ Therefore, the Department has not used data from these countries in calculating Thai import-based SVs.

Additionally, consistent with our practice, the Department disregarded data from NME countries when calculating Thai import-based SVs. The Department also excluded from the calculation of Thai import-based SVs imports labeled as originating from an "unspecified" country because it could not be certain that these imports were not from either an NME country or a country with general available export subsidies.¹¹⁹

In our calculation of the SV for stainless steel, we also excluded the import data from countries for which Thailand imposed AD duties on stainless steel products (i.e., Japan and Taiwan).¹²⁰

¹¹⁵ See, e.g., Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 74 FR 9600 (March 5, 2009), unchanged in Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 74 FR 36656 (July 24, 2009).

¹¹⁶ See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576, at 590 (1988); see also Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China, 72 FR 30758, 30763 (June 4, 2007), unchanged in Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China, 72 FR 60632 (October 25, 2007).

¹¹⁷ See, e.g., Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order, 75 FR 13257 (March 19, 2010), and accompanying Issues and Decision Memorandum at 4-5; Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia: Final Results of Expedited Sunset Review, 70 FR 45692 (August 8, 2005), and accompanying Issues and Decision Memorandum at 4; and Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review, 74 FR 2512 (January 15, 2009), and accompanying Issues and Decision Memorandum at 17, 19-20.

¹¹⁸ See Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China, 69 FR 20594 (April 16, 2004), and accompanying Issues and Decision Memorandum at Comment 7.

¹¹⁹ 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, 75300 (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).

¹²⁰ See Drawn Stainless Steel Sinks from the People's Republic of China: Investigation, Final Determination, 78 FR 13019 (February 26, 2013), and accompanying Issues and Decision Memorandum at Comment 2 (Drawn Sinks LTFV Final).

With respect to labor, we valued labor using 2011 data from the Thai National Statistics Office (NSO), an authorized government agency, using the product specific code, “manufacturing of other fabricated metal products” (ISIC Rev.4 Code: 2599).¹²¹

We valued electricity using the calculation methodology applied in Drawn Sinks LTFV Final, Sodium Hexametaphosphate, and Silicon Metal.¹²² The electricity calculation is based on the 2011 tariff rates applied by the Thailand Metropolitan Electricity Authority (MEA) for “large general service” companies.¹²³ We find that this methodology represents the “best available” information within the meaning of the statute because the MEA rates are from an approved surrogate country, are publicly available, specific to the input, contemporaneous, and exclusive of taxes.

We valued water using an average of basic rates in effect for “Type 2” (Commerce, government agency, state, enterprise, industry and others) users, as published in the Thailand Board of Investment’s “Doing Business in Thailand” report. These rates are for industrial users, are VAT-exclusive, and are contemporaneous with the POR.

We valued brokerage and handling expenses using price data from the World Bank publication, Doing Business 2014: Thailand. This publication based the price on the exportation of a standardized cargo of goods from Thailand using a 20-foot container weighing 10,000 kilograms. We did not inflate this price because it is contemporaneous with the POR.¹²⁴

We also valued truck freight expenses using data from the World Bank’s Doing Business 2014: Thailand and a calculation methodology based on a 20-foot container weighing 10,000 kilograms and an average distance of 76.67 kilometers. We did not inflate this price because it is contemporaneous with the POR.¹²⁵

We valued international ocean freight using rates obtained from Descartes Carrier Rate Retrieval Database. We calculated a surrogate freight rate in U.S. dollars by averaging the costs of 20-foot and 40-foot container shipments from the PRC to the United States. We did not inflate these rates because they are contemporaneous with the POR.

To value factory overhead, selling, general, and administrative expenses, and profit, we used rates based on data taken from the fiscal year 2013 financial statements of four Thai companies: Advance Stainless Steel Co., Ltd., Diamond Brand Co., Ltd. (Diamond Brand), Homeware Industry Co., Ltd., and Stainless Steel Home Equipment Manufacturing Co., Ltd.¹²⁶ All four

¹²¹ See Preliminary Surrogate Value Memorandum at Attachment 7.

¹²² See, e.g., Drawn Stainless Steel Sinks From the People’s Republic of China: Antidumping Duty Investigation, 77 FR 60673 (October 4, 2012), unchanged in Drawn Sinks LTFV Final, 78 FR 13019; see also Sodium Hexametaphosphate from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review, 77 FR 59375 (September 27, 2012), and accompanying Issues and Decision Memorandum at Comment II; and Silicon Metal from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review, 77 FR 54563 (September 5, 2012).

¹²³ See Preliminary Surrogate Value Memorandum at Attachment 3a-3b.

¹²⁴ Id. at Attachment 5.

¹²⁵ Id. at Attachment 4.

¹²⁶ Id. at Attachment 2.

financial statements are from producers of comparable merchandise, cover the same period and a substantial portion of the POR, are complete, and do not indicate the existence of countervailable subsidies.

As stated above, the Department used 2011 Thai data, reported to the NSO, which reflect all costs related to labor, including wages, benefits, housing, and training. Because the financial statements used to calculate the surrogate financial ratios do not include an itemized detail of indirect labor costs, the Department made no adjustments to the surrogate financial ratios for these types of expenses. In addition, we treated the SG&A labor costs (e.g., welfare, benefits, bonus, etc.) as SG&A labor expenses, rather than direct production labor expenses, for purposes of deriving the surrogate financial ratios. These expense items are designated as selling and administrative expenses, rather than production expenses, in the surrogate producers' financial reports.

Both respondents reported that they recovered and sold stainless steel scrap (i.e., a by-product) from the production of subject merchandise during the POR. Therefore, in calculating NV, we also granted a by-product offset to each respondent based on the reported kilogram-per-sink by-product amount generated and sold during the POR.

H. Adjustment Under Section 777A(f) of the Act

In applying section 777A(f) of the Act in this administrative review, the Department examined (1) whether a countervailable subsidy (other than an export subsidy) has been provided with respect to a class or kind of merchandise, (2) whether such countervailable subsidy has been demonstrated to have reduced the average price of imports of the class or kind of merchandise during the relevant period, and (3) whether the Department can reasonably estimate the extent to which that countervailable subsidy, in combination with the use of NV determined pursuant to section 773(c) of the Act, has increased the weighted-average dumping margin for the class or kind of merchandise.¹²⁷ For a subsidy meeting these criteria, the statute requires the Department to reduce the AD duty by the estimated amount of the increase in the weighted-average dumping margin subject to a specified cap.¹²⁸

As a result of our analysis, the Department is preliminarily making adjustments to the calculation of the AD duties for Dongyuan and Yingao in this review, pursuant to section 777A(f) of the Act, in the manner described below. In making these adjustments, the Department has not concluded that concurrent application of NME AD and CVD duties 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.

Both respondents asserted that the most important factors each considered in setting or changing the EP of subject merchandise sold to their customers are changes in the cost of main materials

¹²⁷ See section 777A(f)(1)(A)-(C) of the Act.

¹²⁸ See section 777A(f)(1)-(2) of the Act.

(such as stainless steel), the exchange rate, and market competition.¹²⁹ Both respondents also stated that they do not receive benefits from the two domestic subsidy programs under review in the companion CVD proceeding: the Provision of Stainless Steel Coils for Less than Adequate Remuneration (LTAR) (stainless steel subsidy program) and the Provision of Electricity for LTAR (electricity subsidy program).¹³⁰

The respondents have indicated in their questionnaire responses that there is cost-to-price linkage for the stainless steel subsidy program that impacts the cost of manufacturing (COM) but have not indicated that there is a cost-to-price linkage for the electricity subsidy program. Therefore, our analysis with respect to this issue focused only on whether a cost-to-price linkage exists with respect to the stainless steel subsidy program. We relied on U.S. import statistics to preliminarily find that there is a cost-to-price relationship for stainless steel.¹³¹

In the CVD investigation, the Department determined a rate for the stainless steel subsidy program for Yingao.¹³² In the companion CVD administrative review, the Department preliminarily determined a rate for the stainless steel subsidy program for Dongyuan. To make the adjustment for the stainless steel subsidy to Dongyuan's and Yingao's margin calculations for purposes of the preliminary results of this review, the Department relied on the rates calculated for the stainless steel for LTAR program in the CVD investigation (not the concurrent administrative review) based on the Department's practice.¹³³

Dongyuan and Yingao did not propose, or provide information to calculate, company-specific estimates of the extent of subsidy pass-through to prices. Therefore, because the record indicates that several factors other than the cost of stainless steel impact Dongyuan and Yingao's prices to customers, the Department is applying, instead, a documented ratio of cost-price changes for the Chinese manufacturing sector as a whole as the estimate of the extent of subsidy pass-through.¹³⁴

I. Currency Conversion

Where necessary, the Department 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.

¹²⁹ See Dongyuan's November 12, 2014, submission at page 2; and Yingao's November 12, 2014, submission at page 2.

¹³⁰ See Dongyuan's Double Remedy QR at page 6; and Yingao's Double Remedy QR at page 6.

¹³¹ See Memorandum to the File from Reza Karamloo, International Trade Compliance Analyst, "Drawn Stainless Steel Sinks from the People's Republic of China: Double Remedies Calculation Memorandum," dated concurrently with this memorandum (Double Remedies Calculation Memorandum) at Attachment 1.

¹³² See Drawn Stainless Steel Sinks From the People's Republic of China: Final Affirmative Countervailing Duty Determination, 78 FR 13017 (Feb. 26, 2013) and accompanying Issues and Decision Memorandum at Analysis of Programs, I.C. "Stainless Steel Coils for LTAR."

¹³³ See, e.g., Aluminum Extrusions From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Rescission, in Part; 2012/2013, 79 FR 36003 (June 25, 2014), unchanged in Aluminum Extrusions From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013, 79 FR 78784 (December 31, 2014).

¹³⁴ See Double Remedies Calculation Memorandum at Attachment 2.

V. CONCLUSION

We recommend applying the above methodology for these preliminary results.

✓
Agree

Disagree

Paul Piquado
Paul Piquado
Assistant Secretary
for Enforcement and Compliance

30 APRIL 2015
(Date)