



A-570-028

POI: 10/01/2014 - 03/31-2015

Public Document

E&C ADCVDII: PG

January 21, 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 Hydrofluorocarbon Blends and
Components Thereof from the People's Republic of China

SUMMARY

The Department of Commerce (the Department) preliminarily determines that hydrofluorocarbon blends and components thereof (HFCs) from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is October 1, 2014, through March 31, 2015. The estimated margins of sales at LTFV are shown in the "Preliminary Determination" section of the accompanying Federal Register notice.

BACKGROUND

On June 25, 2015, the Department received an antidumping duty (AD) petition concerning imports of HFCs from the PRC filed in proper form by The American HFC Coalition and its individual members,¹ as well as District Lodge 154 of the International Association of Machinists and Aerospace Workers (collectively, the petitioners).² The Department published the initiation of this investigation on July 22, 2015.³

¹ The individual members of the American HFC Coalition are: Amtrol Inc., Arkema Inc., The Chemours Company FC LLC, Honeywell International Inc., Hudson Technologies, Mexichem Fluor Inc., and Worthington Industries, Inc.

² See "Hydrofluorocarbon Blends and Components Thereof from the People's Republic of China; Antidumping Duty Petition" dated June 25, 2015 (Petition).

³ See Hydrofluorocarbon Blends and Components Thereof From the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation, 80 FR 43387 (July 22, 2015) (Initiation Notice).



In the Initiation Notice, the Department notified parties that, in accordance with standard practice, the Department intended to issue quantity-and-value (Q&V) questionnaires to each potential respondent for which we had a complete address.⁴ In July 2015, we issued Q&V questionnaires to 40 of the 44 companies listed in the Petition, and we received timely responses to the Q&V questionnaires from 15 companies in the same month. We also received an untimely response to the Q&V questionnaire from Taizhou Qingsong Refrigerant New Material Co., Ltd. (Qingsong).⁵ Because this response was received after the deadline established by the Department, we subsequently removed it from the record.

Also in the Initiation Notice, the Department notified parties of an opportunity to comment on the scope of the investigation, as well as on the appropriate physical characteristics of HFCs to be reported in response to the Department's antidumping duty (AD) questionnaire.⁶ In August 2015, we received comments on the scope of the investigation from the petitioners, a U.S. manufacturer of HFC blends (*i.e.*, National Refrigerants Inc. (National Refrigerants)), and an importer of HFC refrigerants (*i.e.*, Kivlan and Company, Inc. (Kivlan)). We also received comments from a firm representing U.S. refrigerant manufacturers and other companies in the HFCs industry (*i.e.*, The New Era Group, Inc. (New Era)).⁷

In August 2015, the U.S. International Trade Commission (ITC) published a report in which it determined that there is a reasonable indication that an industry in the United States was materially injured by reason of imports from the PRC of HFCs.⁸ Also in August 2015, the Department limited the number of respondents selected for individual examination to the two largest publicly-identifiable producers/exporters of the subject merchandise by volume. Accordingly, we selected Huantai Dongyue International Trade Co., Ltd. (Huantai Dongyue) and T.T. International Co., Ltd. (TT International) as mandatory respondents in this investigation,⁹ and we issued the AD questionnaire to them.

In the Initiation Notice, the Department also notified parties of the application process by which exporters and producers may obtain separate rate status in non-market economy (NME)

⁴ See Initiation Notice, 80 FR at 43390-43391.

⁵ See Memorandum to the File from Patrick Georgi, International Trade Compliance Intern, entitled "Hydrofluorocarbon Blends and Components Thereof from the People's Republic of China: Incomplete Address Information for Certain Chinese Producers," undated but approved by Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) on July 17, 2015 (Incomplete Address Memo).

⁶ See Initiation Notice, 80 FR at 43388.

⁷ New Era submitted a letter clarifying how it is an interested party on January 14, 2016. See Letter from New Era, "Hydrofluorocarbon Blends and Components Thereof from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation," dated January 14, 2016.

⁸ See Hydrofluorocarbon Blends and Components from China, Investigation No. 731-TA-1279 (Preliminary) (August 2015).

⁹ See Memorandum to Christian Marsh, Deputy Assistant Secretary for AD/CVD Operations, from Melissa G. Skinner, Office Director, AD/CVD Operations, Office II, entitled "Respondent Selection for the Antidumping Duty Investigation of Hydro fluorocarbon Blends and Components Thereof from the People's Republic of China" dated August 17, 2015 (Respondent Selection Memo).

investigations.¹⁰ The process requires exporters and producers to submit a separate rate status application (SRA)¹¹ and to demonstrate an absence of both de jure and de facto government control over their export activities. In September 2015, we received timely SRA submissions from 11 companies.¹² We also received an SRA submission from Qingsong; however, because this company failed to submit a timely Q&V response, pursuant to the Department's regulations and practice and as explained in the Initiation Notice and the SRA, we removed this submission from the record, in accordance with 19 CFR 351.302(d).

In September 2015, we received responses to section A of the questionnaire (i.e., the section relating to general information) from Huantai Dongyue¹³ and TT International, as well as a voluntary response to section A from Weitron. In October 2015, we received responses to sections C and D of the questionnaire (i.e., the sections relating to U.S. sales and factors of production (FOPs). respectively) from the two mandatory respondents, as well as a voluntary response to these sections from Weitron.

In October 2015, the petitioners made a timely request pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e) for a 50-day postponement of the preliminary determination.¹⁴ Subsequently, in November 2015, the Department published a postponement of the preliminary determination until no later than January 21, 2016.¹⁵

In October and November 2015, we received comments from the petitioners, Daikin, Dongyue, and TT International regarding the selection of the appropriate surrogate country from which to select surrogate values in the investigation, as well as initial factual information relating to surrogate values from that country. See below for further information regarding surrogate country selection.

¹⁰ See Initiation Notice, 80 FR at 43391.

¹¹ 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>.

¹² The following is a list of the companies that submitted a SRA: 1) Daikin America Inc. and Daikin Fluorochemicals (China) (collectively, Daikin); 2) Jinhua Yonghe Fluorochemical Co., Ltd. (Jinhua Yonghe); 3) Shandong Huaan New Material Co., Ltd. (Huaan); 4) Sinochem Lantian Trade Co., Ltd. (Sinochem Lantian); 5) Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd. (Taicang); 6) Weitron International Refrigeration Equipment (Kunshan) Co., Ltd. (Weitron); 7) Zhejiang Lantian Environmental Protection Fluoro Material Co., Ltd. (Lantian Fluoro); 8) Zhejiang Quhua Fluor-Chemistry Co., Ltd. (Quhua); 9) Zhejiang Quzhou Lianzhou Refrigerants Co., Ltd. (Lianzhou); 10) Zhejiang Sanmei Chemical Ind. Co., Ltd. (Sanmei), and 11) Zhejiang Yonghe Refrigerant Co., Ltd. (Zhejiang Yonghe).

¹³ Huantai Dongyue submitted a consolidated response on behalf of itself and its parent company, Shandong Dongyue Chemical Co., Ltd. (Shandong Dongyue). These companies are hereinafter referred to collectively as "Dongyue."

¹⁴ See Letter from the petitioners, "Hydrofluorocarbon Blends and Components Thereof from the People's Republic of China: Petitioner's Request for Extension of the Antidumping Investigation Preliminary Determination," dated October 28, 2015.

¹⁵ See Hydrofluorocarbon Blends and Components Thereof From the People's Republic of China: Postponement of Preliminary Determination of Antidumping Duty Investigation, 80 FR 70755 (November 16, 2015).

From October through December 2015, the Department issued supplemental questionnaires to Dongyue and TT International. We received responses to the supplemental questionnaires from October 2015 through January 2016.

In November 2015, the Department determined that it was appropriate to “collapse” Huantai Dongyue and Shandong Dongyue and, thus, to treat them as single entity for purposes of this investigation.¹⁶

Also in November 2015, the petitioners alleged that critical circumstances exist with respect to imports of HFCs from the PRC.¹⁷ In December 2015, we requested that Dongyue and TT International provide information regarding their recent imports of the subject merchandise in order to make a critical circumstances determination. Dongyue and TT International submitted this information in the same month. In December 2015, we also received import data from Jinhua Yonghe, Huaan, Quhua, Lianzhou, Sanmei, and Zhejiang Yonghe.

In December 2015 and January 2016, we received additional comments on the appropriate surrogate values to use in this investigation from the petitioners, Dongyue, and TT International.

Period of Investigation

The POI is October 1, 2014, through March 31, 2015. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the Petition, which was June 2015.¹⁸

Scope of the Investigation

The products subject to this investigation are blended hydrofluorocarbons (HFCs) and single HFC components of those blends thereof, whether or not imported for blending. HFC blends covered by the scope are R-404, a zeotropic mixture consisting of 52 percent 1,1,1-Trifluoroethane, 44 percent Pentafluoroethane, and 4 percent 1,1,1,2-Tetrafluoroethane; R-407A, a zeotropic mixture of 20 percent Difluoromethane, 40 percent Pentafluoroethane, and 40 percent 1,1,1,2-Tetrafluoroethane; R-407C, a zeotropic mixture of 23 percent Difluoromethane, 25 percent Pentafluoroethane, and 52 percent 1,1,1,2-Tetrafluoroethane; R-410A, a zeotropic mixture of 50 percent Difluoromethane and 50 percent Pentafluoroethane; and R-507A, an azeotropic mixture of 50 percent Pentafluoroethane and 50 percent 1,1,1-Trifluoroethane also known as R-507. The foregoing percentages are nominal percentages by weight. Actual percentages of single component refrigerants by weight may vary by plus or minus two percent points from the nominal percentage identified above.¹⁹

¹⁶ See Memorandum to Melissa G. Skinner, Office Director, AD/CVD Operations, Office II, from Patrick Georgi, International Trade Compliance Intern, AD/CVD Operations, Office II, entitled “Whether to Collapse Huantai Dongyue International Trade Co., Ltd. and Shandong Dongyue Chemical Co., Ltd. in the Less-Than-Fair-Value Investigation of Hydrofluorocarbon Blends and Components Thereof from the People’s Republic of China,” dated November 16, 2015 (Collapsing Memo).

¹⁷ See Letter from the petitioners, “Hydrofluorocarbon Blends and Components Thereof from the People’s Republic of China: Critical Circumstances Allegation,” dated November 30, 2015 (Critical Circumstances Allegation).

¹⁸ See 19 CFR 351.204(b)(1).

¹⁹ R-404A is sold under various trade names, including Forane® 404A, Genetron® 404A, Solkane® 404A, Klea®

The single component HFCs covered by the scope are R-32, R-125, and R-143a. R-32 or Difluoromethane has the chemical formula CH_2F_2 , and is registered as CAS No. 75-10-5. It may also be known as HFC-32, FC-32, Freon-32, Methylene difluoride, Methylene fluoride, carbon fluoride hydride, halocarbon R32, fluorocarbon R32, and UN 3252. R-125 or 1,1,1,2,2-Pentafluoroethane has the chemical formula CF_3CHF_2 and is registered as CAS No. 354-33-6. R-125 may also be known as R-125, HFC-125, Pentafluoroethane, Freon 125, and Fc-125, R-125. R-143a or 1,1,1-Trifluoroethane has the chemical formula CF_3CH_3 and is registered as CAS No. 420-46-2. R-143a may also be known as R-143a, HFC-143a, Methylfluoroform, 1,1,1-Trifluoroform, and UN2035.

Excluded from this investigation are blends of refrigerant chemicals that include products other than HFCs, such as blends including chlorofluorocarbons (CFCs) or hydrochlorofluorocarbons (HCFCs).

Also excluded from this investigation are patented HFC blends, such as ISCEON® blends, including MO99™ (RR-438A), MO79 (R-422A), MO59 (R-417A), MO49Plus™ (R-437A) and MO29™ (R-4 22D), Genetron® Performax™ LT (R-407F), and Choice® R-421A and Choice® R-421B.

HFC blends covered by the scope of this investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings 3824.78.0020 and 3824.78.0050. Single component HFCs are currently classified at subheadings 2903.39.2035 and 2903.39.2045, HTSUS. Although the HTSUS subheadings and CAS registry numbers are provided for convenience and customs purposes, the written description of the scope is dispositive.

Scope Comments

During our review of the Petition, the Department issued questions to, and received responses from, the petitioners pertaining to the proposed scope to ensure that the scope language in the Petition would be an accurate reflection of the products for which the domestic industry is seeking relief. In the scope provided by the petitioners was the following substantive provision:

This investigation includes any Chinese HFC components that are blended in a third country to produce a subject HFC blend before being imported into the United States. Also included are semi-finished blends of Chinese HFC components. Semi-finished blends are blends of one or more of the single-component Chinese HFCs used to produce the subject HFC blends, whether or not blended in China or a third country, that have not been blended to the specific

404A, and Suva®404A. R-407A is sold under various trade names, including Forane® 407A, Solkane® 407A, Klea®407A, and Suva®407A. R-407C is sold under various trade names, including Forane® 407C, Genetron® 407C, Solkane® 407C, Klea® 407C and Suva® 407C. R-410A is sold under various trade names, including EcoFluor R410, Forane® 410A, Genetron® R410A and AZ-20, Solkane® 410A, Klea® 410A, Suva® 410A, and Puron®. R-507A is sold under various trade names, including Forane® 507, Solkane® 507, Klea®507, Genetron®AZ-50, and Suva®507. R-32 is sold under various trade names, including Solkane®32, Forane®32, and Klea®32. R-125 is sold under various trade names, including Solkane®125, Klea®125, Genetron®125, and Forane®125. R-143a is sold under various trade names, including Solkane®143a, Genetron®143a, and Forane®125.

proportions required to meet the definition of one of the subject HFC blends described above (R-404A, R-407A, R-407C, R-410A, and R-507A). Single-component HFCs and semi-finished HFC blends are not excluded from the scope of this investigation when blended with HFCs from non-subject countries.

The Department did not adopt this provision for the purposes of initiation because the additional language presented the Department with some novel and complex issues with respect to administering any potential AD order and, as such, we believed this warranted further discussion and analysis from parties to this proceeding.²⁰ Thus, as noted in the Initiation Notice, we set aside a period of time for parties to raise issues regarding product coverage, and we stated that all such comments must be filed within 20 calendar days of the signature date of the Initiation Notice.²¹

On August 3 and 4, 2015, we received timely comments on the scope of this investigation from the petitioners, as well as from Kivlan (an importer of HFC refrigerants), National Refrigerants (a U.S. manufacturer of HFC blends), and New Era (a firm representing U.S. refrigerant manufacturers and other companies in the HFCs industry).²² These comments are as follows:

- 1) The petitioners requested that we modify the scope to include the language on third-country blends noted above. According to the petitioners, blending operations do not add significant value, and the cost of blending operations is relatively low. Thus, the petitioners claim that allowing third-country blends of Chinese components to escape an antidumping duty order would almost immediately negate the effect of the order.
- 2) National Refrigerants requested that the Department find that: 1) HFC components and blends constitute separate classes or kinds of merchandise because they are different in physical characteristics, uses, expectations of the ultimate purchasers, channels of trade, and methods of advertising and display; 2) blends made in third countries from PRC-origin components undergo a substantial transformation, such that they are no longer products of the PRC, because blending is a sophisticated process, adding significant value to the finished product and requiring a substantial capital expenditure; and 3) including semi-finished blends of PRC HFC components and any blends (semi-finished or otherwise) containing non-PRC-origin components in the scope would impermissibly

²⁰ The Department has independent authority to determine the scope of its investigations. See Diversified Products Corp. v. United States, 572 F. Supp. 883, 887 (CIT 1983).

²¹ See Initiation Notice; see also Antidumping Duties; Countervailing Duties; Final rule, 62 FR 27296, 27323 (May 19, 1997).

²² See Letter from Kivlan, “Hydrofluorocarbon Blends and Components From the People’s Republic of China, Investigation A-570-028,” dated August 3, 2015; Letter from the petitioners, “Hydrofluorocarbon Blends and Components Thereof from the People’s Republic of China: Comments Regarding Third-Country Blending,” dated August 4, 2015; Letter from National Refrigerants, “Hydrofluorocarbon Blends and Components Thereof from the People’s Republic of China: Comments on Scope of the Investigation,” dated August 4, 2015; and Letter from New Era, “Hydrofluorocarbon Blends and Components Thereof from the People’s Republic of China: Initiation of Less-Than-Fair-Value Investigation,” dated August 4, 2015. We note that New Era’s original submission contained procedural errors. Therefore, we rejected this submission and allowed New Era to refile it, which it did on August 19, 2015.

expand it to encompass other existing blends as well as new blends containing the same single-component HFCs.

- 3) Kivlan requested that the scope of the investigation explicitly exclude blends that are currently under patent protection, including Choice R-421A and Choice R-421B.
- 4) New Era requested that the Department add the word “refrigerants” to the scope language, which would limit the scope’s coverage to only HFC components and blends used for refrigeration, in order to clarify “the issue of ‘like domestic products.’” New Era also makes statements related to the impact on this case on a proposed rule by the Environmental Protection Agency.

On August 14 and 17, 2015, the petitioners, National Refrigerants, and New Era submitted rebuttal comments.²³ In these comments, the petitioners and National Refrigerants opposed each other’s requests. The petitioners also opposed New Era’s proposal to add the word “refrigerants” to the scope on the grounds that it would add an end-use limitation, which would be both unadministrable and contrary to the intent of the Petition.²⁴ However, the petitioners stated that they do not object to Kivlan’s request to exclude HFC blends R-421A and R-421B from the scope of the investigation.²⁵ Finally, New Era requested that the Department consider the environmental impact of the petitioners’ proposals.

On November 5, 2015, New Era notified the Department that the HTSUS categories under which HFCs are imported have been modified.²⁶ New Era requested that the Department incorporate these modified HTSUS numbers in the scope of the investigation. No rebuttal comments were submitted in response to this submission.

The Department is currently evaluating the petitioners’ and National Refrigerants’ comments. However, because of the complexity of the issues raised, we are unable to address them in this preliminary determination. We intend to issue our analysis of these issues at a later point in the investigation.

With respect to Kivlan’s argument, the petitioner has no objection to modifying the scope to exclude the patented blends R-421A and R-421B. Accordingly, we have modified the scope to exclude these blends because this modification is consistent with the intent of the Petition.

²³ See Letter from the petitioners, “Hydrofluorocarbon Blends and Components Thereof from the People’s Republic of China: Response to Scope Comments,” dated August 17, 2015 (Petitioners’ Rebuttal Comments); Letter from National Refrigerants, “Hydrofluorocarbon Blends and Components Thereof from the People’s Republic of China: Rebuttal Comments on Scope of the Investigation,” dated August 14, 2015; and Letter from New Era, “Hydrofluorocarbon Blends and Components Thereof from the People’s Republic of China: Comments on Scope of the Investigation,” dated August 14, 2015.

²⁴ See Petitioners’ Rebuttal Comments at 2 (FN 2).

²⁵ *Id.*

²⁶ See Letter submitted by New Era Re: Committee for Statistical Annotation of Tariff Schedules, dated November 5, 2015.

Finally, with respect to New Era's comments, we note that most of these comments relate to the treatment of the domestic like product. Because the domestic like product is defined by the ITC, and not the Department, we have not considered these arguments here. With respect to New Era's remaining proposal that the Department amend the scope to add the word "refrigerants," we have not adopted this proposal. While the Department does have the authority to define or clarify the scope of an investigation, the Department must exercise this authority in a manner which reflects the intent of the Petition, and the Department generally should not use its authority to define the scope of an investigation in a manner that would thwart the statutory mandate to provide the relief requested in the Petition.²⁷ Thus, absent an overarching reason to modify the scope in the Petition, the Department accepts the scope as it is currently written.²⁸ Consequently, we have not added the word "refrigerants" to the scope because such an end use limitation would be contrary to the intent of the Petition. That said, we have incorporated the revised HTSUS categories in the scope description noted above in order to facilitate the accurate collection of AD duties.

Selection of Respondents and Treatment of Voluntary Respondents

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (TPEA), which made numerous amendments to the AD and CVD law, including amendments to section 782(a) of the Act.²⁹ The amendments to the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this investigation.³⁰ Section 777A(c)(1) 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

²⁷ See Notice of Final Determination of Sales at Less Than Fair Value: Certain Softwood Lumber Products From Canada, 67 FR 15539 (April 2, 2002), and accompanying Issues and Decision Memorandum under Scope Issues (after Comment 49).

²⁸ Id.; see also Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 73 FR 51788, 51789 (September 5, 2008), unchanged in Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 74 FR 4913 (January 28, 2009); Notice of Final Determination of Sales at Not Less Than Fair Value: Pure Magnesium from the Russian Federation, 66 FR 49347 (September 27, 2001), and accompanying Issues and Decision memorandum at Comment 12; and Mitsubishi Heavy Industries, Ltd. v. United States, 986 F. Supp. 1428, 1433-34 (CIT 1997).

²⁹ See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (June 29, 2015) (TPEA). The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the ITC. See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015, 80 FR 46793 (August 6, 2015) (Applicability Notice).

³⁰ Id., 80 FR at 46794-95. The 2015 amendments may be found at <https://www.congress.gov/bill/114thcongress/house-bill/1295/text/pl>.

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 exporters or producers subject to the investigation is not so large that any additional individual examination of such exporters or producers would be unduly burdensome and inhibit the timely completion of the investigation.

On July 16, 2015, the Department issued Q&V questionnaires to 40 of the 44 PRC exporters and/or producers of HFCs named in the Petition.³¹ All but one of the Q&V questionnaires were successfully delivered to the addressees³²; however, 24 of the exporters/producers did not provide timely responses to the Department's request for information.³³ See "The PRC-Wide Entity" section, below. On July 24, 2015 and July 29, 2015, we received timely filed Q&V questionnaire responses from 15 exporters/producers.

On August 17, 2015, we determined that it was not practicable to examine more than two mandatory respondents in the investigation. Therefore, in accordance with section 777A(c)(2) of the Act, we selected the two exporters accounting for the largest volume of HFCs exported from the PRC during the POI (i.e., Dongyue and TT International) based on Q&V data.³⁴ We issued the AD NME questionnaire to Dongyue and TT International on August 18, 2015. Additionally, one company, Weitron, filed a timely request for treatment as a voluntary respondent in this investigation, and it filed timely responses to the Department's AD NME questionnaire.

On January 21, 2016, pursuant to section 782(a) of the Act, the Department determined not to select Weitron as a voluntary respondent because selecting any additional company for individual examination would be unduly burdensome and would inhibit the timely completion of this investigation.³⁵

Critical Circumstances

On November 30, 2015, the petitioners filed a timely allegation, pursuant to section 733(e)(1) of the Act and 19 CFR 351.206(c)(1), alleging that critical circumstances exist with respect to

³¹ See Incomplete Address Memo.

³² See Memorandum to the File from Patrick Georgi, International Trade Compliance Intern, entitled "Hydrofluorocarbon Blends and Components Thereof from the People's Republic of China: Delivery of Quantity and Value (Q&V) Questionnaires," dated August 11, 2015 (Q&V Questionnaire Delivery Memo).

³³ As noted above, one of these was Qingsong, a company which submitted an untimely response to the Q&V questionnaire which we subsequently removed from the record. The remaining exporters/producers did not provide a response.

³⁴ See Respondent Selection Memo.

³⁵ See Memorandum from Melissa Skinner, Director, Office II, to Christian Marsh, Deputy Assistant Secretary for AD/CVD Operations, entitled "Antidumping Duty Investigation of Hydrofluorocarbon Blends and Components Thereof (HFCs) from the People's Republic of China (PRC): Selection of Voluntary Respondent," dated January 21, 2016.

imports of the merchandise under consideration.³⁶ On December 2, 2015, the Department requested shipment data from Dongyue and TT International concerning the critical circumstances allegation. Dongyue and TT International responded to the Department's request for shipment data on December 16, 2015, and December 15, 2015, respectively.³⁷

In accordance with 19 CFR 351.206(c)(2)(i), when a critical circumstances allegation is submitted more than 20 days before the scheduled date of the preliminary determination, the Department must issue a preliminary finding of whether there is a reasonable basis to believe or suspect that critical circumstances exist no later than the date of the preliminary determination.

Legal Framework

Section 733(e)(1) of the Act provides that the Department, upon receipt of a timely allegation of critical circumstances, will determine whether there is a reasonable basis to believe or suspect that: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should know that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales; and (B) there were massive imports of the subject merchandise over a relatively short period.

Further, 19 CFR 351.206(h)(1) provides that, in determining whether imports of the subject merchandise have been "massive," the Department normally will examine: (i) The volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, 19 CFR 351.206(h)(2) provides that, "in general, unless the imports during the 'relatively short period' . . . have increased by at least 15 percent over the imports during an immediately preceding period of comparable duration, the Secretary will not consider the imports massive." 19 CFR 351.206(i) defines "relatively short period" generally as the period starting on the date the proceeding begins (i.e., the date the Petition is filed) and ending at least three months later. This section of the regulations further provides that, if the Department "finds that importers, or exporters or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely," then the Department may consider a period of not less than three months from that earlier time.

Critical Circumstances Allegation

In its allegation, the petitioners contend that, because the Department has not yet made its preliminary determination in this investigation, the Department may rely on the margins alleged in the Petition to decide whether importers knew, or should have known, that dumping was

³⁶ See Critical Circumstances Allegation.

³⁷ See Letter from Dongyue, "Dongyue Quantity and Value Data for Massive Imports Analysis, Antidumping Duty Investigation on Hydrofluorocarbon Blends and Components Thereof from the People's Republic of China," dated December 16, 2015; and Letter from TT International, "Hydrofluorocarbon Blends and Components Thereof from the People's Republic of China: Second Supplemental Section A Questionnaire Response of T.T. International," dated December 15, 2015.

occurring.³⁸ The estimated dumping margins for HFCs from the PRC in the Petition range from 111.20 to 300.30 percent.³⁹ Therefore, the petitioners maintain that there is information on the record of this investigation to impute knowledge to importers that HFCs from the PRC were being sold in the United States at LTFV.⁴⁰

The petitioners also contend that, based on the preliminary determination of injury by the ITC, there is a reasonable basis to impute importers' knowledge that material injury is likely by reason of such imports.⁴¹

Finally, as part of their allegation and pursuant to 19 CFR 351.206(h)(2), the petitioners submitted import statistics for the subject merchandise covered by the scope of this investigation for the period January 2014 through September 2015, as well as ship manifest data published by Zepol for the period January 2014 through October 2015, as evidence of massive imports of HFCs from the PRC during a relatively short period.⁴² The petitioners made two arguments related to this data: 1) the official import statistics may not account for all imports of HFC blends and may overstate imports of components; and 2) the HFCs industry is seasonal, with demand peaking directly before the summer months.⁴³ The petitioners based both of these claims on information obtained in the course of the ITC's investigation.⁴⁴

To address these concerns, the petitioners provided three analyses, in which they compared the U.S. import data during the "base" period of July 2015-September 2015 to the following periods: 1) April-June 2015; 2) July 2014-June 2015; and 3) July 2014-September 2014. The comparisons showed increases in imports of 22.16 percent, 58.08 percent, and 72.62 percent, respectively.⁴⁵ The petitioners also provided the same analysis using the Zepol data for the period July 2015-September 2015, and comparison periods of 1) March-June 2015; 2) July 2014-June 2015; and 3) July 2014-September 2014. These comparisons showed increases in imports of 53.43 percent, 92.94 percent, and 111.52 percent, respectively.⁴⁶

Analysis

The Department's normal practice in determining whether critical circumstances exist pursuant to the statutory criteria has been to examine evidence available to the Department, such as: (1) the evidence presented in the petitioners' critical circumstances allegation; (2) import statistics released by the ITC; and (3) shipment information submitted to the Department by the

³⁸ See Critical Circumstances Allegation.

³⁹ See Initiation Notice, 80 FR at 43390.

⁴⁰ See Critical Circumstances Allegation at 5.

⁴¹ Id., at 6.

⁴² Id., at Exhibit 2.

⁴³ Id., at 9.

⁴⁴ Id.

⁴⁵ Id., at 10.

⁴⁶ Id., at 11.

respondents selected for individual examination.⁴⁷ As further provided below, in determining whether the above statutory criteria have been satisfied in this case, we have examined: (1) the evidence presented in the petitioners' November 30, 2015, allegation; (2) information obtained since the initiation of this investigation; and (3) the ITC's preliminary injury determination.

We considered each of the statutory criteria for finding critical circumstances below.

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

In order to determine whether there is a history of dumping pursuant to section 733(e)(1)(A)(i) of the Act, the Department generally considers current or previous AD duty orders on subject merchandise from the country in question in the United States and current orders in any other country with regard to imports of subject merchandise.⁴⁸ There have been no previous orders on HFCs in the United States, and the Department is not aware of the existence of any active AD orders on HFCs from the PRC in other countries. As a result, the Department does not find that there is a history of injurious dumping of HFCs from the PRC pursuant to section 733(e)(1)(A)(i) of the Act.

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

In determining whether an importer knew or should have known that the exporter was selling subject merchandise at LTFV and that there was likely to be material injury by reason of such sales, the Department must rely on the facts before it at the time the determination is made. The Department generally bases its decision with respect to knowledge on the margins calculated in the preliminary determination and the ITC's preliminary injury determination.

The Department normally considers margins of 25 percent or more for export price (EP) sales and 15 percent or more for constructed export price sales sufficient to impute importer knowledge of sales at LTFV.⁴⁹ In this investigation both Dongyue and TT International reported

⁴⁷ See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China, 73 FR 31970, 31972-73 (June 5, 2008); and Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances: Small Diameter Graphite Electrodes from the People's Republic of China, 74 FR 2049, 2052-53 (January 14, 2009).

⁴⁸ See, e.g., Certain Oil Country Tubular Goods From the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination, 74 FR 59117, 59120 (November 17, 2009), unchanged in Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping, 75 FR 20335 (April 19, 2010).

⁴⁹ See, e.g., Carbon and Alloy Steel Wire Rod From Germany, Mexico, Moldova, Trinidad and Tobago, and Ukraine: Preliminary Determination of Critical Circumstances, 67 FR 6224, 6225 (February 11, 2002) (Steel Wire Rod Prelim), unchanged in Notice of Final Determination of Sales at Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod from Moldova, 67 FR 55790 (August 30, 2002) (Steel Wire Rod Final); and Affirmative

only EP sales. Dongyue's and TT International's preliminary margins are 92.88 percent and 91.99 percent, respectively. Further, we are assigning a rate of 92.60 percent, the weighted average of the mandatory respondents,⁵⁰ to the non-individually investigated companies qualifying for a separate rate and a rate of 210.46 percent for the PRC-wide entity. Because the preliminary dumping margins exceed the threshold sufficient to impute knowledge of dumping, we preliminarily find, with respect to Dongyue, TT International, the non-individually investigated companies qualifying for a separate rate, and the PRC-wide entity, that there is a reasonable basis to believe or suspect that importers knew, or should have known, that exporters were selling the merchandise under consideration at LTFV.

In determining whether an importer knew or should have known that there was likely to be material injury caused by reason of such imports, the Department normally will look to the preliminary injury determination of the ITC.⁵¹ If the ITC finds a reasonable indication of present material injury to the relevant U.S. industry, the Department will determine that a reasonable basis exists to impute importer knowledge that material injury is likely by reason of such imports.⁵² Therefore, because the ITC preliminarily found a reasonable indication that an industry in the United States is materially injured by imports from the PRC of HFCs,⁵³ the Department determines that importers knew or should have known that there was likely to be material injury by reason of sales of HFCs at LTFV by Dongyue, TT International, the non-individually investigated companies qualifying for a separate rate, and the PRC-wide entity.

Section 733(e)(1)(B) of the Act: Whether There Have Been Massive Imports Over a Relatively Short Period

19 CFR 351.206(h)(1) provides that, in determining whether imports of the subject merchandise were "massive," the Department normally will examine: (i) The volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, 19 CFR 351.206(h)(2) provides that, "in general, unless the imports during the 'relatively short period'...have increased by at least 15 percent over the imports during an immediately preceding period of comparable duration, the Secretary will not consider the imports massive." 19 CFR 351.206(i) defines "relatively short period" generally as the period starting on the date the proceeding begins (i.e., the date the Petition is filed) and ending at

Preliminary Determination of Critical Circumstances: Magnesium Metal from the People's Republic of China, 69 FR 59187 (October 4, 2004) (Magnesium Metal Prelim), unchanged in Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Magnesium Metal From the People's Republic of China, 70 FR 9037 (February 24, 2005) (Magnesium Metal Final).

⁵⁰ See Memorandum to the File from Manuel Rey, Analyst, entitled "Antidumping Duty Investigation of Hydrofluorocarbon Blends and Components Thereof from the People's Republic of China: Preliminary Margin for Companies Receiving a Separate Rate," dated January 21, 2016 (Preliminary Separate Rates Memo).

⁵¹ See, e.g., Certain Potassium Phosphate Salts from the People's Republic of China: Preliminary Affirmative Determination of Critical Circumstances in the Antidumping Duty Investigation, 75 FR 24572, 24573 (May 5, 2010).

⁵² See, e.g., Steel Wire Rod Prelim, 67 at 6225, unchanged in Steel Wire Rod Final; and Magnesium Metal Prelim, 70 FR at 5607, unchanged in Magnesium Metal Final.

⁵³ See Hydrofluorocarbon Blends and Components From China: Determination, 81 FR 2903 (January 19, 2016).

least three months later (*i.e.*, the comparison period). This section of the regulations further provides that, if the Department “finds that importers, or exporters or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely,” then the Department may consider a period of not less than three months from that earlier time. The comparison period is normally compared to a corresponding period prior to the filing of the Petition (*i.e.*, the base period).

The petitioners contend that imports of HFCs from the PRC into the United States since the AD Petition was filed on June 25, 2015, were massive, which is indicative of U.S. importers of PRC-origin HFCs building inventory in the United States in order to avoid the imposition of AD duties.⁵⁴

At the time of its filing, the petitioners noted that import statistics for October and November 2015 were not yet available. The petitioners included in their submission U.S. import data collected from the ITC’s Dataweb for the period April 2014 through September 2015.⁵⁵ Based on these data, the petitioners calculated the monthly average imports for the base period (*i.e.*, imports for April through June 2015) and for the comparison period to date (*i.e.*, imports for July and September 2015) and claimed that imports of HFCs from the PRC increased by over 22.16 percent by volume during the three-month comparison period over the three month base period. Thus, the petitioners concluded that there were massive imports during a relatively short period.⁵⁶

It is the Department’s practice to base the critical circumstances analysis on all available data, using base and comparison periods of no less than three months.⁵⁷ Based on these practices, we chose to examine the base period February 2015 through June 2015, and the corresponding comparison period July 2015 through November 2015 in order to determine whether imports of subject merchandise were massive. These base and comparison periods satisfy the Department’s practice that the comparison period is at least three months.

For the individually-investigated companies, we found that imports based on TT International’s reported shipments of merchandise under consideration during the comparison periods increased by more than 15 percent over their respective imports in the base periods, and Dongyue’s

⁵⁴ See Critical Circumstances Allegation at 11.

⁵⁵ Id., at 10.

⁵⁶ Id.

⁵⁷ See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from India, 69 FR 47111, 47118-47119 (August 4, 2004), unchanged in Notice of Final Determination of Sales at Less Than Fair Value and Negative Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From India, 69 FR 76916 (December 23, 2004); and 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 3.

shipments of merchandise did not.⁵⁸ For the non-individually investigated companies, we relied upon GTA import statistics specific to HFCs,⁵⁹ less the mandatory respondents' reported shipment data, to determine if imports in the post-Petition period for the subject merchandise were massive.⁶⁰ From this data, it is clear that there was not an increase in imports of more than 15 percent during a "relatively short period" of time, in accordance with 19 CFR 351.206(h) and (i). Therefore, we preliminarily find there to be massive imports for TT International but not for Dongyue or the non-individually investigated separate rate entities, pursuant to section 733(e)(1)(B) of the Act and 19 CFR 351.206(c)(2)(i).

Regarding the petitioners' claim that the HFCs industry is seasonal, we disagree. We examined U.S. import data from 2013 through 2015 for the same five-month base and comparison periods described above, and found that no seasonal trends exist.⁶¹ Therefore, we find it unnecessary to analyze whether imports by Dongyue or the non-individually-investigated companies would have been massive over a longer period.

Because, as explained below, the PRC-wide entity has been unresponsive, as adverse facts available (AFA), we preliminarily find there to be massive imports for the PRC-wide entity, pursuant to section 733(e)(1)(B) of the Act and 19 CFR 351.206(c)(2)(i).

Therefore, based on the above analysis, we are preliminarily making an affirmative finding of critical circumstances for TT International and the PRC-wide entity.

⁵⁸ See Memorandum to the File from Manuel Rey, Analyst, entitled "Antidumping Duty Investigation of Hydrofluorocarbon Blends and Components Thereof from the People's Republic of China: Critical Circumstances Analysis," dated January 21, 2016 (Prelim Critical Circumstances Memo).

⁵⁹ See HTSUS subheading 2903.39.2030, fluorinated hydrocarbons, and 3824.78.0000 containing perfluorocarbons (PFCs) or HFCs, but not containing chlorofluorocarbons (CFCs) or hydrochlorofluorocarbons (HCFCs).

Several of the non-individually examined companies, including Huaan, Jinhua Yonghe, Lianzhou, Quhua, Sanmei, and Zhejiang Yonghe, also provided shipment data. However, it is not the Department's practice to examine the shipment data of non-individually examined companies in its critical circumstances analysis. See, e.g., Antidumping Duty Investigation of Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, In Part, 80 FR 34893 (June 18, 2015), and accompanying Issues and Decision Memorandum at "Critical Circumstances."

⁶⁰ See Prelim Critical Circumstances Memo at Attachment 1 for our analysis of this data.

⁶¹ See Prelim Critical Circumstances Memo.

DISCUSSION OF THE METHODOLOGY

Non-Market Economy Country

The Department considers the PRC to be an NME country.⁶² 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

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base normal value (NV), in most circumstances, on the NME producer's factors of production (FOPs), valued in a surrogate market economy (ME) country or countries considered to be appropriate by the Department. Specifically, in accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, "to the extent possible, the prices or costs of FOPs in one or more ME countries that are: (A) at a level of economic development comparable to that of the NME country; and (B) significant producers of comparable merchandise."⁶³ 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 surrogate value (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. To determine which countries are at a similar 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.⁶⁴ 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.

On July 30, 2015, the Department identified Bulgaria, Ecuador, Mexico, Romania, South Africa, and Thailand as being at the same level of economic development as the PRC.⁶⁵ On August 17,

⁶² 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).

⁶³ 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>.

⁶⁴ Id.

⁶⁵ See Memorandum from Carole Showers, Director, Office of Policy, to Shawn Thompson, Program Manager, Office II, Enforcement and Compliance, "Request for a List of Surrogate Countries for an Antidumping Duty

2015, the Department issued a letter to the interested parties soliciting comments on the list of countries that the Department determined, based on per capita 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.⁶⁶ The Department received timely comments on the surrogate country list and surrogate country selection from the petitioners, Daikin, Dongyue, and TT International.⁶⁷

The petitioners, Daikin, Dongyue, and TTI agree that the Department should select Mexico as the primary surrogate country.⁶⁸ The petitioners note that Mexico is not only comparable in terms of economic development with the PRC, but it is also a significant producer of refrigerants.

A. Economic Comparability

Consistent with its practice, and section 773(c)(4) of the Act,⁶⁹ the Department identified Bulgaria, Ecuador, Mexico, Romania, South Africa, and Thailand as countries at the same level of economic development as the PRC based on the most current annual issue of World Development Report (The World Bank).⁷⁰

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

Investigation of Hydrofluorocarbon Blends and Components Thereof (HFCs) from the People’s Republic of China (China),” dated July 30, 2015 (Surrogate Country Memo).

⁶⁶ See Letter to All Interested Parties from Shawn Thompson, Program Manager, Office II, Enforcement and Compliance, “Less-Than-Fair-Value Investigation of Hydrofluorocarbon Blends and Components Thereof from the People’s Republic of China: Surrogate Country and Surrogate Value Comments,” dated August 17, 2015.

⁶⁷ See Letter from Daikin, “Hydrofluorocarbon Blends and Components Thereof from People’s Republic of China: Comments Regarding Surrogate Country Selection,” dated October 23, 2015; Letter from Dongyue, “Surrogate Country Comments of Dongyue : Antidumping Duty Investigation on Hvdrofluorocarbon Blends and Components Thereof from the People’s Republic of China,” dated October 23, 2015 (Dongyue Surrogate Country Comments); Letter from the petitioners, “Hydrofluorocarbon Blends and Components Thereof from the People’s Republic of China: Initial Surrogate Country Comments,” dated October 23, 2015; and Letter from TT International, “Hydroflouorocarbon Blends & Components Thereof from the People’s Republic of China: T.T. International Co. Ltd. – Surrogate Country Selection Comments,” dated October 23, 2015.

⁶⁸ See Letter from Daikin, “Hydrofluorocarbon Blends and Components Thereof from People’s Republic of China: Comments Regarding Surrogate Values,” dated November 15, 2015; Letter from the petitioners, “Hydrofluorocarbon Blends and Components Thereof from the People’s Republic of China: Preliminary Determination Comments and Submission of Factual Information,” dated December 22, 2015 (Petitioners’ Preliminary Determination Comments); “Letter from Dongyue, “Dongyue’s Pre-preliminary Comments Antidumping Duty Investigation on Hydrofluorocarbon Blends and Components Thereof from the People’s Republic of China,” dated December 28, 2015; and Letter from TT International, “Hydrofluorocarbon Blends and Components Thereof from China: Pre-Preliminary Comments of T.T. International,” dated December 29, 2015 (TT International Preliminary Comments).

⁶⁹ See Surrogate Country Memo.

⁷⁰ Id.

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 GDP as the measure of economic comparability.⁷¹ 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.”⁷²

Unless it is determined that none of the countries identified above 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.

B. Significant Producer of Comparable Merchandise

Section 773(c)(4)(B) of the Act requires the Department, to the extent possible, 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. 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 to examine which countries on the surrogate country list exported merchandise comparable to the merchandise under consideration. Information on the record indicates that Mexico and Thailand are significant exporters of merchandise covered by HTS categories identified in the scope of this investigation.⁷³ Accordingly, we preliminarily find that Mexico and Thailand meet the significant producer of comparable merchandise prong of the surrogate country selection criteria.

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.⁷⁴ 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.⁷⁵ There is no hierarchy among these criteria.⁷⁶ It is the Department’s

⁷¹ The Department 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.

⁷² See *Jiaxing Brother Fastener Co. v. United States*, 961 F. Supp. 2d 1323, 1329 (CIT 2014).

⁷³ See Dongyue Surrogate Country Comments at Exhibit 1.

⁷⁴ See Policy Bulletin 04.1.

⁷⁵ Id.

⁷⁶ See, e.g., Certain Preserved Mushrooms from the People’s Republic of China: Final Results and Final Partial

practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis.⁷⁷

Parties have placed data on the record for Mexico and Thailand;⁷⁸ all parties agree that we should use data from Mexico to value FOPs. The Department finds that the Mexico data are the best available data for valuing respondents' FOPs because we have complete, specific Mexican data for each input used by the respondents, while we do not have complete Thai data from GTA for all material inputs. In addition, the Mexican surrogate financial statements on the record are for companies which produce refrigerants, while the Thai surrogate financial statements are only for producers of comparable merchandise (*i.e.*, producers of industrial gases). Therefore, because complete surrogate value information is available from Mexico, the Department preliminarily determines that Mexico data are the best available surrogate value data.

For the reasons stated above, the Department preliminarily determines, pursuant to section 773(c)(4) of the Act, that it is appropriate to use Mexico as the primary surrogate country because Mexico is (1) at a level of economic development comparable to the PRC; (2) a significant producer of merchandise comparable to the merchandise under consideration; and (3) contains the best available data for valuing FOPs. Therefore, the Department has calculated NV using Mexico import prices when available and appropriate to value respondents' FOPs.

Rescission of the Sixth Administrative Review, 71 FR 40477 (July 17, 2006), and accompanying Issues and Decision Memorandum at Comment 1.

⁷⁷ See Policy Bulletin 04.1.

⁷⁸ See Letter from Daikin, "Hydrofluorocarbon Blends and Components Thereof from People's Republic of China: Comments Regarding Surrogate Values," dated November 16, 2015; Letter from Dongyue, "First Surrogate Value Submission of Dongyue : Antidumping Duty Investigation on Hydrofluorocarbon Blends and Components Thereof from the People's Republic of China," dated November 16, 2015; Letter from the petitioners, "Hydrofluorocarbon Blends and Components Thereof from the People's Republic of China: Petitioners' Initial Surrogate Values Submission," dated November 16, 2015; Letter from TT International, "Hydrofluorocarbon Blends & Components Thereof from the People's Republic of China: T.T. International Co. Ltd. – Initial Surrogate Value Comments," dated November 16, 2015; Letter from Weitron, "First Surrogate Value Submission of Weitron-China: Antidumping Duty Investigation of Hydrofluorocarbon Blends and Components Thereof From the People's Republic of China," dated November 16, 2015; Letter from Daikin, "Hydrofluorocarbon Blends and Components Thereof from People's Republic of China: Surrogate Value Rebuttal Comments," dated November 23, 2015; Letter from Dongyue, "First Surrogate Value Rebuttal Submission of Dongyue : Antidumping Duty Investigation on Hydrofluorocarbon Blends and Components Thereof from the People's Republic of China," dated November 23, 2015; Letter from the petitioners, "Hydrofluorocarbon Blends and Components Thereof from the People's Republic of China: Rebuttal to Factor Value Submissions of Dongyue, TTI, Weitron, and Daikin," dated November 23, 2015; Letter from TT International, "Hydrofluorocarbon Blends & Components Thereof from the People's Republic of China: T.T. International Co. Ltd. – Initial Surrogate Value Comments," dated November 23, 2015; Letter from Dongyue, "Second Surrogate Value Submission of Dongyue : Antidumping Duty Investigation on Hydrofluorocarbon Blends and Components Thereof from the People's Republic of China," dated December 22, 2015; Petitioners' Preliminary Determination Comments; Letter from TT International, "Hydrofluorocarbon Blends & Components Thereof from the People's Republic of China: T.T. International Co. Ltd. – 2nd Submission of Surrogate Values," dated December 21, 2015; Letter from Dongyue, "Dongyue's Rebuttal re: Surrogate Value of Hydrochloric Acid, Fluorspar and Sulfuric acid in the Antidumping Duty Investigation on Hydrofluorocarbon Blends and Components Thereof from the People's Republic of China," dated January 6, 2016; and Letter from the petitioners, "Hydrofluorocarbon Blends and Components Thereof from the People's Republic of China: Submission of Factual Information in Response to Respondent's Surrogate Value Information," dated January 6, 2016.

Surrogate Value Comments

On November 16, 2015, the petitioners, Dongyue, Daikin, TT International, and Weitron filed surrogate factor valuation comments and surrogate value information with which to value the FOPs in this proceeding, and on November 23, 2015, each of these parties also filed rebuttal surrogate factor valuation comments and surrogate value information. On December 22, 2015, the petitioners, Dongyue, and TT International submitted surrogate value information pursuant to 19 CFR 351.301(c)(3)(i). Finally, on January 5, 2015, the petitioners and Dongyue submitted rebuttal surrogate value information pursuant to 19 CFR 351.301(c)(3)(iv). For a detailed discussion of the surrogate values used in this LTFV proceeding, see the “Factor Valuation” section below and the Preliminary SV Memo.⁷⁹

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.⁸⁰ 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.⁸¹ The Department analyzes whether each entity exporting the merchandise under consideration is sufficiently independent under a test established in Sparklers⁸² and further developed in Silicon Carbide.⁸³ 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.

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 its determinations therein.⁸⁴

⁷⁹ See Memorandum to the File from Manuel Rey, Analyst, to the File, entitled “Investigation of Hydrofluorocarbon Blends and Components Thereof from the People’s Republic of China: Surrogate Values for the Preliminary Determination,” dated January 21, 2016 (Preliminary SV Memo).

⁸⁰ 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).

⁸¹ 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).

⁸² Id.

⁸³ 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).

⁸⁴ See Final Results of Redetermination Pursuant to Remand Order for Diamond Sawblades and Parts Thereof from the People’s Republic of China (May 6, 2013) in Advanced Technology & Materials Co., Ltd., et al. v. United States, 885 F. Supp. 2d 1343 (CIT 2012) (Advanced Technology I), affirmed in Advanced Technology & Materials Co., Ltd., et al. v. United States, 938 F. Supp. 2d 1342 (CIT 2013), aff’d Case No. 2014-1154 (Fed. Cir. 2014) (Advanced Technology II). This remand redetermination is on the Enforcement and Compliance website at <http://enforcement.trade.gov/remands/12-147.pdf>; see also Diamond Sawblades and Parts Thereof from the

In particular, in litigation involving the diamond sawblades from the PRC proceeding, the CIT found the Department's existing separate rates analysis deficient in the circumstances of that case, in which a government-owned and controlled entity had significant ownership in the respondent exporter.⁸⁵ Following the Court's reasoning, in recent proceedings, we have 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.⁸⁶ This 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.

A. Separate Rate Recipients

The Department preliminary determines that Daikin, Huaan, Jinhua Yonghe and Zhejiang Yonghe, Sanmei, and Weitron qualify for a separate rate, as explained below.

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

Huaan,⁸⁷ Jinhua Yonghe,⁸⁸ Zhejiang Yonghe,⁸⁹ and Sanmei⁹⁰ provided evidence that they are either Chinese joint-stock limited companies, or are wholly Chinese-owned companies. The

People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 77098 (December 20, 2013) and accompanying Preliminary Decision Memo at 7, unchanged in Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 79 FR 35723 (June 24, 2014), and accompanying Issues and Decision Memorandum at Comment 1.

⁸⁵ See, e.g., Advanced Technology I, 885 F. Supp. 2d at 1349 (CIT 2012) ("The court remains concerned that Commerce has failed to consider important aspects of the problem and offered explanations that run counter to the evidence before it."); Id., at 1351 ("Further substantial evidence of record does not support the inference that SASAC's {state-owned assets supervision and administration commission} 'management' of its 'state-owned assets' is restricted to the kind of passive-investor de jure 'separation' that Commerce concludes.") (footnotes omitted); Id., at 1355 ("The point here is that 'governmental control' in the context of the separate rate test appears to be a fuzzy concept, at least to this court, since a 'degree' of it can obviously be traced from the controlling shareholder, to the board, to the general manager, and so on along the chain to 'day-to-day decisions of export operations,' including terms, financing, and inputs into finished product for export."); Id., at 1357 ("AT&M itself identifies its 'controlling shareholder' as CISRI {owned by SASAC} in its financial statements and the power to veto nomination does not equilibrate the power of control over nomination.") (footnotes omitted).

⁸⁶ See Carbon and Certain Alloy Steel Wire Rod From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances, in Part, 79 FR 53169 (September 8, 2014), and accompanying Preliminary Decision Memorandum at 5-9.

⁸⁷ See Huaan's SRA submission dated September 3, 2015 (Huaan SRA submission), at 10.

⁸⁸ See Jinhua Yonghe's SRA submission dated September 4, 2015 (Jinhua Yonghe's SRA submission), at 10.

⁸⁹ See Zhejiang Yonghe's SRA submission dated September 4, 2015 (Zhejiang Yonghe's SRA Submission), at 10.

⁹⁰ See Sanmei's SRA submission dated September 2, 2015 (Sanmei's SRA submission), at 10.

Department analyzed whether each of these companies has demonstrated an absence of de jure and de facto government control over its respective export activities.

a. Absence of De Jure Control

The Department considers the following de jure criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) 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.⁹¹

The evidence provided by Huaan, Jinhua Yonghe, Zhejiang Yonghe, and Sanmei 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.⁹²

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 EPs 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.⁹³ 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 Huaan,⁹⁴ Jinhua Yonghe,⁹⁵ Zhejiang Yonghe,⁹⁶ and Sanmei⁹⁷ 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

⁹¹ See Sparklers, 56 FR at 20589.

⁹² See Huaan's SRA submission at 8-11 and Exhibits 4 and 5; Jinhua Yonghe's SRA submission at 9-12 and Exhibits 4 and 5; Zhejiang Yonghe's SRA submission at 9-11 and Exhibits 4 and 5; and Sanmei's SRA submission at 8-12 and Exhibits 4 and 5.

⁹³ See Silicon Carbide, 59 FR at 22586-87; and 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).

⁹⁴ See Huaan's SRA submission at 11-21 and Exhibits 5, 6, 7, 9, 10, 11, 12, 13, and 15.

⁹⁵ See Jinhua Yonghe's SRA submission at 12-20 and Exhibits 5, 6, 7, 8, 9, 10, 11, 12, 13, and 15.

⁹⁶ See Zhejiang Yonghe's SRA submission at 11-19 and Exhibits 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14.

⁹⁷ See Sanmei's SRA submission at 12-20 and Exhibits 5, 6, 7, 8, 9, 10, 11, 12, and 13.

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.

Therefore, the evidence placed on the record of this investigation by Huaan, Jinhua Yonghe, Zhejiang Yonghe, and Sanmei demonstrates an absence of de jure and de facto government control under the criteria identified in Sparklers and Silicon Carbide. Accordingly, we are preliminarily granting separate rates to Huaan, Jinhua Yonghe, Zhejiang Yonghe, and Sanmei.

2. Wholly Foreign-Owned

Daikin⁹⁸ and Weitron⁹⁹ provided evidence in their SRAs that they are wholly foreign owned. Moreover, there is no record evidence indicating that these companies are under the control of the government of China. For these reasons, it is not necessary for the Department to conduct further analyses of the de jure and de facto criteria to determine whether Daikin or Weitron is independent from government control.¹⁰⁰ Therefore, we are preliminarily granting separate rates to Daikin and Weitron.

B. Companies Not Receiving a Separate Rate

We preliminarily determine that Lantian Fluoro, Lianzhou, Sinochem Lantian, Quhua, and Taicang are not eligible to receive a separate rate, as explained below.

1. Absence of De Jure Control

The evidence provided by Lantian Fluoro,¹⁰¹ Lianzhou,¹⁰² Sinochem Lantian,¹⁰³ Quhua,¹⁰⁴ and Taicang¹⁰⁵ 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

⁹⁸ See Daikin' SRA submission dated September 4, 2015, at 10-16 and Exhibits 4 and 11.

⁹⁹ See Weitron's SRA submission dated September 4, 2015, at 9-11 and Exhibit 4.

¹⁰⁰ See, e.g., Seamless Refined Copper Pipe and Tube from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 75 FR 26716, 26720 (May 12, 2010), unchanged in Seamless Refined Copper Pipe and Tube From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 75 FR 60725 (October 1, 2010).

¹⁰¹ See Lantian Fluoro's SRA submission dated September 4, 2015 (Lantian Fluoro SRA submission), at 7-10 and Exhibits 2 and 3.

¹⁰² See Lianzhou's SRA submission dated September 4, 2015, at 8-1 and Exhibits 4 and 5.

¹⁰³ See Sinochem Lantian's SRA submission dated September 4 2015 (Sinochem Lantian SRA submission), at 6-10 and Exhibits 2 and 3.

¹⁰⁴ See Quhua's SRA submission dated September 4, 2015, at 8-10 and Exhibits 4 and 5.

¹⁰⁵ See Taicang's SRA submission dated September 4, 2015, at 6-10 and Exhibits 2 and 3.

legislative enactments decentralizing control of the companies; and (3) the implementation of formal measures by the government decentralizing control of Chinese companies.

2. Failure to Demonstrate Absence of De Facto Control

The Department preliminarily determines that Lantian Fluoro, Lianzhou, Sinochem Lantian, Quhua, and Taicang have not demonstrated an absence of de facto government control.¹⁰⁶ As discussed above, the Department considers four factors in evaluating whether a respondent is subject to de facto government control: (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.

Certain information regarding SASAC involvement with each of these entities is business proprietary; therefore, we provide a complete discussion of the facts regarding these companies and their failure to demonstrate an absence of de facto government control in a separate memorandum.¹⁰⁷

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 AFA, in accordance with section 735(c)(5)(A) of the Act.¹⁰⁸ The statute further provides that, where all margins are zero rates, de minimis rates, or rates based entirely on facts available, the Department may use "any reasonable method" for assigning the rate to non-selected respondents.¹⁰⁹ Consistent with this practice, for this preliminary determination, we calculated weighted-average dumping margins for the mandatory respondents which are not zero, de minimis, or based entirely on facts available. Therefore, we preliminarily assign Daikin, Huaan,

¹⁰⁶ See Diamond Sawblades and Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Intent to Rescind Review in Part, 76 FR 76135 (December 6, 2011).

¹⁰⁷ See Memorandum to the File from Dennis McClure, Senior Analyst, entitled "Preliminary Separate Rates Analysis for Zhejiang Quhua Fluor-Chemistry Co., Ltd. (Quhua), Zhejiang Quzhou Lianzhou Refrigerants Co., Ltd. (Lianzhou), Zhejiang Lantian Environmental Protection Fluoro Material Co., Ltd. (Lantian Fluoro), Sinochem Lantian Trade Co., Ltd. (Sinochem Lantian), and Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd. (Taicang) in the Antidumping Duty Investigation of Hydrofluorocarbon Blends and Components Thereof from the People's Republic of China," dated January 21, 2016.

¹⁰⁸ 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).

¹⁰⁹ See 735(c)(5)(B) of the Act.

Jinhua Yonghe, Sanmei, Weitron, and Zhejiang Yonghe a rate of 92.60 percent, which is equal to the weighted average of the rates calculated for the mandatory respondents.¹¹⁰

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.¹¹¹ This practice is described in Policy Bulletin 05.1.

The PRC-Wide Entity

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 responses to its Q&V questionnaire from numerous PRC exporters and/or producers of merchandise under consideration that were named in the Petition and to whom the Department issued the Q&V questionnaire.¹¹² Because non-responsive PRC companies have not demonstrated that they are eligible for separate rate status, the Department considers them part of the PRC-wide entity. Furthermore, as explained in the next section, we preliminarily determine to calculate the PRC-wide rate on the basis of AFA. We have preliminarily assigned the PRC-wide entity a dumping margin of 210.46 percent.

As discussed above, we have determined not to grant a separate rate to Lantian Fluoro, Lianzhou Quhua, Sinochem Lantian, and Taicang. Specifically, we found these companies have not demonstrated an absence of de facto government control. Because Lantian Fluoro, Lianzhou Quhua, Sinochem Lantian, and Taicang have not demonstrated that they are eligible for separate rate status, the Department considers them part of the PRC-wide entity.

Application of Facts Available and Adverse Inferences

Section 776(a)(1) and (2) of the Act provides that, if necessary information is missing from the record, or if an interested party (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.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party an opportunity to remedy or explain the deficiency. If the party fails to remedy or satisfactorily explain the

¹¹⁰ See Preliminary Separate Rates Memo.

¹¹¹ See Initiation Notice, 80 FR 43387.

¹¹² See Q&V Questionnaire Delivery Memo.

deficiency within the applicable time limits, subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate.

As noted above, the TPEA is applicable to this investigation. The TPEA, made numerous amendments to the AD and CVD law, including amendments to section 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act.

Section 776(b) of the Act provides that the Department may use an adverse inference in applying the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. In doing so, and under the TPEA, the Department is not required to determine, or make any adjustments to, a weighted-average dumping margin based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information. Further, section 776(b)(2) states that an adverse inference may include reliance on information derived from the Petition, the final determination from the LTFV investigation, a previous administrative review, or other information placed on the record.

1. Use of Facts Available

The Department preliminarily finds that the PRC-wide entity, which includes Lantian Fluoro, Lianzhou, Sinochem Lantian, Quhua, Taicang, and other PRC exporters and/or producers that did not respond to the Department's requests for information, 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. Accordingly, the Department preliminarily determines that use of facts available is warranted in determining the rate of the PRC-wide entity, pursuant to sections 776(a)(1) and (a)(2)(A)-(C) of the Act.¹¹³

2. Application of Facts Available with an Adverse Inference

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 was not fully cooperative.¹¹⁴ The PRC-wide entity neither filed documents indicating that it was having difficulty providing the information, nor did it request to submit the

¹¹³ 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).

¹¹⁴ See Nippon Steel Corporation v. United States, 337 F.3d 1373, 1383 (Fed. Cir. 2003) (Nippon) (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.")).

information in an alternate form. Therefore, we preliminarily find that an adverse inference is warranted in selecting from the facts otherwise available with respect to the PRC-wide entity in accordance with section 776(b) of the Act and 19 CFR 351.308(a).¹¹⁵

3. Selection and Corroboration of the AFA Rate

When using facts otherwise available, section 776(c) of the Act provides that, where the Department relies on secondary information (such as the Petition) rather than information obtained in the course of an investigation, it must corroborate, to the extent practicable, information from independent sources that are reasonably at its disposal. 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.¹¹⁶ The SAA clarifies that “corroborate” means that the Department will satisfy itself that the secondary information to be used has probative value,¹¹⁷ although under the TPEA, the Department is not required to corroborate any dumping margin applied in a separate segment of the same proceeding.¹¹⁸ To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used, although under the TPEA, the Department is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party.¹¹⁹ Finally, under the new section 776(d) of the Act, the Department may use any dumping margin from any segment of a proceeding under an antidumping order when applying an adverse inference, including the highest of such margins.¹²⁰

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. Because the highest Petition margin is 300.30 percent,¹²¹ and determined that the highest petition margin of 300.30 percent was the higher of the two. Next, in order to corroborate 300.30 percent as the potential PRC-wide rate, we first compared it to the highest transaction-specific margin calculated for the mandatory respondents.¹²² The highest

¹¹⁵ See Nippon, 337 F.3d at 1382-83.

¹¹⁶ See SAA, H.R. Doc. No. 316, Vol. I, 103d Cong., 2d Sess. (1994), at 870.

¹¹⁷ See SAA at 870; see also 19 CFR 351.308(d).

¹¹⁸ See section 776(c)(2) of the Act; TPEA, section 502.

¹¹⁹ See, e.g., Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews, 61 FR 57391, 57392 (November 6, 1996), unchanged in Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part, 62 FR 11825 (March 13, 1997).

¹²⁰ See section 776(d)(1)-(2) of the Act; TPEA, section 502(3).

¹²¹ See Initiation Notice, 80 FR at 43390.

¹²² See Memorandum to the File from Elizabeth Eastwood, Senior Analyst, entitled “Antidumping Duty Investigation of Hydrofluorocarbon Blends and Components Thereof from the People’s Republic of China:

transaction-specific margin demonstrates that the petition rate of 300.30 percent does not have probative value. Therefore, we have determined that we are unable to corroborate the 300.30 percent rate and, therefore, we will instead use the highest calculated transaction-specific margin of 210.46 percent as the PRC-wide rate. It is unnecessary to corroborate this rate because it was obtained in the course of this investigation and, therefore, is not secondary information.

The transactions underlying this dumping margin are neither unusual in terms of transaction quantities nor otherwise atypical.¹²³ 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 POI¹²⁴ and “does not lie outside the realm of actual selling practices.”¹²⁵ 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. Therefore, we have preliminarily determined that TT International’s transaction-specific margin of 210.46 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 Dongyue, TT International, and the other producers/exporters receiving a separate rate, as stated above.

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 normally includes the price, quantity, delivery terms and payment terms.¹²⁶ Consistent with our regulatory presumption to use invoice date and because Dongyue and TT International

Preliminary Analysis Memo for Huantai Dongyue International Trade Co., Ltd./Shandong Dongyue Chemical Co., Ltd. (Collectively, Dongyue),” dated January 21, 2016 (Dongyue Preliminary Analysis Memorandum); and Memorandum to the File from Dennis McClure, Senior Analyst, entitled “Antidumping Duty Investigation of Hydrofluorocarbon Blends and Components Thereof from the People’s Republic of China: Preliminary Analysis Memo for T.T. International Co., Ltd.,” dated January 21, 2016 (TT International Preliminary Analysis Memorandum).

¹²³ See TT International Preliminary Analysis Memorandum at Attachment II.

¹²⁴ 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).

¹²⁵ See KYD, Inc. v. United States, 607 F.3d 760, 767 (Fed. Cir. 2010).

¹²⁶ 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.

demonstrated that the substantive terms of sale occurred on the invoice date,¹²⁷ the Department has preliminarily determined to use invoice date as the date of sale.

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.¹²⁸

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 Dongyue and TT International. 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 for Dongyue (*i.e.*, foreign inland freight, foreign brokerage and handling, international freight, and marine insurance) and TT International (*i.e.*, foreign inland freight, international freight, marine insurance, U.S. brokerage and handling, U.S. duty, U.S. inland freight, and other U.S. freight expenses).¹²⁹ The Department based movement expenses on surrogate values where the service was purchased from a PRC company.¹³⁰

1. Value Added Tax (VAT)

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 irrecoverable VAT in certain NME countries in accordance with section 772(c)(2)(B) of the Act.¹³¹ 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.¹³² Where the irrecoverable VAT is a fixed percentage of EP or CEP, the Department explained that the final step in arriving at a tax

¹²⁷ See Dongyue's response to section C of the Department's questionnaire, dated October 13 (Dongyue Section C Response), at 8; and TT International's response to section C of the Department's questionnaire, dated October 13, 2015 (TT International Section C Response), at 13.

¹²⁸ See "Export Price" and "Normal Value," below.

¹²⁹ See section 772(c)(2)(A) of the Act.

¹³⁰ See "Factor Valuation Methodology," below.

¹³¹ 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).

¹³² *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.

neutral dumping comparison is to reduce the U.S. EP or CEP downward by this same percentage.¹³³

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 Dongyue 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 13 percent.¹³⁴ Consistent with the Department's standard methodology, for purposes of this preliminary determination, in our calculations for Dongyue we removed from U.S. price the amount calculated based on the difference between those standard rates (i.e., four percent) applied to the export sales value, consistent with the definition of irrecoverable VAT under PRC tax law and regulation. However, regarding TT International, record evidence indicates that TT International neither pays VAT on inputs nor collects any VAT refunds upon exportation of subject merchandise.¹³⁵

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 of production costs invalid under the Department's normal methodologies.¹³⁶ 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.¹³⁷

Factor Valuation Methodology

In accordance with section 773(c) of the Act, the Department calculated NV based on FOP data reported by Dongyue and TT International. 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,

¹³³ Id.

¹³⁴ See Dongyue Section C Response at 30-31 and Exhibit C-6.

¹³⁵ See TT International Section C Response at 39.

¹³⁶ 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).

¹³⁷ See section 773(c)(3)(A)-(D) of the Act.

specificity, and contemporaneity of the data.¹³⁸ 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.¹³⁹ A detailed description of all surrogate values used for Dongyue and TT International can be found in the Preliminary SV Memo.

For the preliminary determination, the Department used Mexican import data, as published by Global Trade Atlas (GTA), and other publicly available sources from Mexico 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.¹⁴⁰ The record shows that Mexico import data obtained through GTA, as well as data from other Mexican sources, are broad market averages, product-specific, tax-exclusive, and generally contemporaneous with the POI.¹⁴¹ In those instances where the Department could not obtain information contemporaneous with the POI with which to value FOPs, the Department adjusted the surrogate values using, where appropriate, Mexico's producer price index as published in the International Monetary Fund's (IMF's) International Financial Statistics.

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 dumped or subsidized.¹⁴² 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.¹⁴³ Based on the existence of

¹³⁸ 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.

¹³⁹ See Sigma Corp. v. United States, 117 F.3d 1401, 1407-08 (Fed. Cir. 1997).

¹⁴⁰ 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).

¹⁴¹ See Preliminary SV Memo.

¹⁴² See TPEA (amending Section 773(c)(5) of the Act to permit Department to disregard price or cost values without further investigation if it has determined that certain subsidies existed with respect to those values); see also TPEA Application Dates, 80 FR at 46795.

¹⁴³ 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; 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; 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; and 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.

these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POI, 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 those countries in calculating Mexican import-based surrogate values.

Additionally, the Department disregarded data from NME countries when calculating Mexican import-based per-unit surrogate values.¹⁴⁴ The Department also excluded from the calculation of Mexican 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.¹⁴⁵

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

Dongyue and TT International purchased certain inputs that are produced in ME countries, from ME suppliers and paid for in an ME currency.¹⁴⁶ The Department valued those inputs in accordance with 19 CFR 351.408(c).¹⁴⁷

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

In NME AD proceedings, the Department prefers to value labor solely based on data from the primary surrogate country.¹⁴⁸ In Labor Methodologies, 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

¹⁴⁴ 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).

¹⁴⁵ Id.

¹⁴⁶ See Dongyue’s section D questionnaire response dated October 20, 2015, at Exhibit D-4.2 for Zhejiang Quzhou Juxin Fluorine Chemical Co., Ltd.; see also TT International’s section D questionnaire response dated October 19, 2015, at Part B page 9 and Part C page 11.

¹⁴⁷ See Preliminary SV Memo; Dongyue Preliminary Analysis Memorandum; and TT International Preliminary Analysis Memorandum.

¹⁴⁸ See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor, 76 FR 36092 (June 21, 2011) (Labor Methodologies).

Labor Organization (ILO) Yearbook of Labor Statistics (Yearbook). We used this source in this investigation.¹⁴⁹

We valued electricity using data from the website of the International Energy Agency, which contains pricing data contemporaneous with the POI for electricity rates in Mexico. These electricity rates represent publicly available, broad-market averages.¹⁵⁰

We valued water using data from Mexico's National Commission for Water published in Water Statistics in Mexico 2014. The rates are for water for industrial users in select cities in Mexico. Because these rates were based on 2013 data, we inflated them to be contemporaneous with the POI.¹⁵¹

We valued truck freight expenses using data from the World Bank's Doing Business 2016: Mexico publication. We also valued brokerage and handling expenses using this data source, which provided a price list of export procedures necessary to export a standardized cargo of goods in Mexico. We did not inflate these prices because they are contemporaneous with the POI.¹⁵²

The record contains three financial statements from Mexico: Arkema Inc. (Arkema); CYDSA SAB de CV (CYDSA); and Mexichem SAB de CV (Mexichem). While all three companies are producers of refrigerant gases, the petitioners asserted that Arkema (which is a member of the HFC Coalition), does not produce this product in Mexico.¹⁵³ Therefore, we did not rely on Arkema's financial statements for purposes of calculating the surrogate financial ratios. Instead, for the preliminary determination we calculated the surrogate financial ratios using data from the financial statements of CYDSA and Mexichem.

By-Products

The Department looks to several factors in order to determine which joint products are to be considered co-products and which are to be considered by-products.¹⁵⁴ Among these factors are the following: 1) how the company records and allocates costs in the ordinary course of business, in accordance with its home country generally accepted accounting principles; 2) the significance of each product relative to the other joint products; 3) whether the product is an unavoidable consequence of producing another product; 4) whether management intentionally controls production of the product; and 5) whether the product requires significant further processing after the split-off point. No single factor is dispositive in our determination.

¹⁴⁹ See Preliminary SV Memo.

¹⁵⁰ Id.

¹⁵¹ Id.

¹⁵² Id.

¹⁵³ See Petitioners' Preliminary Determination Comments at 18-19.

¹⁵⁴ See, e.g., Citric Acid and Certain Citrate Salts from the People's Republic of China: Issues and Decision Memorandum for the Final Results of the 2011-2012 Antidumping Duty Administrative Review, 79 FR 101 (January 2, 2014), and accompanying Issues and Decision Memorandum at Comment 5.

Rather, we consider each factor in light of all of the facts and circumstances surrounding the case.

The information provided by Dongyue and TT International regarding its reported by-product hydrochloric acid (HCL) indicates that it is appropriate to treat HCL as a by-product for purposes of the preliminary determination. Specifically, Dongyue and TT International stated that: 1) they (or their unaffiliated suppliers) record the production of HCL as a by-product in their accounting records (for Dongyue) or the sales value as “other income” (for TT International); 2) the relative sales value of HCL is less than the value of the joint product; 3) HCL is an unavoidable consequence of the production process; 4) management does not intentionally control the production of HCL; and 5) HCL does not require further processing before it is sold.¹⁵⁵ Therefore, based on this information, we are treating the HCL reported by Dongyue and TT International as a by-product in our preliminary determination margin calculations.

However, in an NME proceeding the Department calculates the relative sales value for purposes of its by-product/co-product analysis using SV data and the SV used for HCL in this preliminary determination is 11.90 peso per kilogram.¹⁵⁶ Using this SV data, we find that the relative sales value of HCL is significant when compared to the joint HFC products produced by Dongyue and TT International. As a result, it may be appropriate to treat HCL as a co-product, rather than a by-product, for purposes of the final determination. We intend to request additional information from Dongyue and TT International regarding their reporting of HCL. We also invite interested parties to comment on this issue in their case briefs so that we can address this issue in the final determination.

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 Dongyue’s and TT International’s sales of the subject merchandise to the United States were made at less than NV, the Department compared the EP to the NV as described in the “Export Price” and “Normal Value” sections of this memorandum.

A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs (or constructed export prices (CEPs)) (i.e., the average-to-average (A-to-A) method) unless the Secretary determines that another method is appropriate in a particular situation. In LTFV investigations, the Department examines whether to compare weighted-average normal values with the EPs (or CEPs of individual sales (i.e., the average-to-transaction (A-to-T) method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. In recent investigations, the Department applied a “differential pricing” analysis for determining whether

¹⁵⁵ See Dongyue’s Dongyue’s section D supplemental questionnaire response dated December 2, 2015, at Exhibit SD-7; TT International’s section D supplemental questionnaire response dated December 4, 2015, at Exhibit DS-39 and TT International Preliminary Comments at 5-7.

¹⁵⁶ See Preliminary SV Memo.

application of the A-to-T method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.¹⁵⁷ The Department finds that the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this investigation. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating a respondent's weighted-average dumping margin.

The differential pricing analysis used in this preliminary determination 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 when using the A-to-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. Regions are defined using the reported destination code (*i.e.*, 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 POI based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. 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. 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.

¹⁵⁷ See, e.g., Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 33351 (June 4, 2013); Steel Concrete Reinforcing Bar From Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, 79 FR 54967 (September 15, 2014); and Welded Line Pipe From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value, 80 FR 61362 (October 13, 2015).

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-to-T method to all sales as an alternative to the A-to-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-to-T method to those sales identified as passing the Cohen’s *d* test as an alternative to the A-to-A method, and application of the A-to-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-to-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-to-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-to-A method only. If the difference between the two calculations is meaningful, this demonstrates that the A-to-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-to-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 Dongyue, based on the results of the differential pricing analysis, the Department finds that 43.9 percent of Dongyue’s EP sales confirm the existence of a pattern of EPs for comparable merchandise that differ significantly among purchasers, regions or time periods.¹⁵⁸ For TT International, the Department finds that 52 percent of TT International’s EP sales confirm the existence of a pattern of EPs for comparable merchandise that differ significantly among purchasers, regions or time periods.¹⁵⁹ Further, the Department preliminarily determines that there is no meaningful difference between the weighted-average dumping margins calculated using the A-to-A method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the A-to-T method to all U.S. sales for both

¹⁵⁸ See Dongyue Preliminary Analysis Memorandum.

¹⁵⁹ See TT International Preliminary Analysis Memorandum.

Dongyue and TT International. Thus, for this preliminary determination, the Department is applying the A-to-A method for all U.S. sales to calculate the weighted-average dumping margins for Dongyue and TT International.

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 from Dongyue and TT International upon which we will rely in making our final determination.

Conclusion

We recommend applying the above methodology for this preliminary determination.



Agree

Disagree



Paul Piquado
Assistant Secretary
for Enforcement and Compliance

21 JANUARY 2016
(Date)