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

A-570-932
AR: 4/1/14 - 3/31/15
Public Document
E&C/OV: JH/AHD

May 5, 2016

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for Preliminary Results of Sixth Antidumping Duty Administrative Review: Certain Steel Threaded Rod from the People's Republic of China

---

SUMMARY

In response to requests from interested parties, the Department of Commerce ("Department") is conducting the sixth administrative review of the antidumping duty order on certain steel threaded rod ("STR") from the People's Republic of China ("PRC") for the period of review ("POR") April 1, 2014, through March 31, 2015. The Department preliminarily determines that Zhejiang New Oriental Fastener Co., Ltd. ("New Oriental") sold subject merchandise in the United States at prices below normal value ("NV") and that RMB Fasteners Ltd., IFI & Morgan Ltd., and Jiaxing Brother Standard Part Co., Ltd. (collectively "the RMB/IFI Group") did not sell subject merchandise in the United States at prices below NV.

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

Background

On May 26, 2015, the Department initiated an administrative review of the antidumping duty order on certain steel threaded rod from the PRC for the period April 1, 2014, through March 31, 2015.[1] The Department extended the deadline for these preliminary results by 120 days.[2] As

---

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 80 FR 30041, 30046-47 (May 26, 2015) ("*Initiation Notice*").

explained in the memorandum from the Acting Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines due to the recent closure of the Federal Government. All deadlines in this segment of this proceeding have been extended by four business days. The revised deadline for the preliminary results of this review is now May 5, 2016.[3]

Verification

Between March 21, and March 25, 2016, the Department verified the questionnaire responses of RMB Fasteners Ltd., IFI & Morgan Ltd., and Jiaxing Brother Standard Part Co., Ltd. (collectively "the RMB/IFI Group").[4]

Scope of the Order

The merchandise covered by the order is steel threaded rod. Steel threaded rod is certain threaded rod, bar, or studs, of carbon quality steel, having a solid, circular cross section, of any diameter, in any straight length, that have been forged, turned, cold–drawn, cold–rolled, machine straightened, or otherwise cold–finished, and into which threaded grooves have been applied. In addition, the steel threaded rod, bar, or studs subject to the order are non–headed and threaded along greater than 25 percent of their total length. A variety of finishes or coatings, such as plain oil finish as a temporary rust protectant, zinc coating (*i.e.*, galvanized, whether by electroplating or hot-dipping), paint, and other similar finishes and coatings, may be applied to the merchandise.

Included in the scope of the order are steel threaded rod, bar, or studs, in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 1.80 percent of manganese, or
- 1.50 percent of silicon, or
- 1.00 percent of copper, or
- 0.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 1.25 percent of nickel, or

---

[2] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, from Jerry Huang, Senior Case Analyst, Office V, "Certain Steel Threaded Rod from the People's Republic of China: Extension of Deadline of Preliminary Results of Antidumping Duty Administrative Review" (December 11, 2015).
[3] *See* Memorandum for the Record from Ron Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, "Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm Jonas" (January 27, 2016).
[4] *See* Letter to RMB Fasteners Ltd., and IFI & Morgan Ltd. from Paul Walker, Program Manager, Office V, Re: Antidumping Administrative Review of Certain Steel Threaded Rod from the People's Republic of China (March 11, 2016) ("Verification Outline").

• 0.30 percent of tungsten, or
• 0.012 percent of boron, or
• 0.10 percent of molybdenum, or
• 0.10 percent of niobium, or
• 0.41 percent of titanium, or
• 0.15 percent of vanadium, or
• 0.15 percent of zirconium.

Steel threaded rod is currently classifiable under subheading 7318.15.5051, 7318.15.5056, 7318.15.5090, and 7318.15.2095 of the United States Harmonized Tariff Schedule ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Excluded from the scope of the order are: (a) threaded rod, bar, or studs which are threaded only on one or both ends and the threading covers 25 percent or less of the total length; and (b) threaded rod, bar, or studs made to American Society for Testing and Materials ("ASTM") A193 Grade B7, ASTM A193 Grade B7M, ASTM A193 Grade B16, or ASTM A320 Grade L7.

DISCUSSION OF THE METHODOLOGY

Respondent Selection

Section 777A(c)(1) of the Act directs the Department to calculate an individual weighted-average dumping margin for each known exporter or 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 review.

On May 26, 2015, the Department placed CBP data for the Harmonized Tariff Schedule ("HTS") numbers listed in the scope of the order on the record of the review and requested comments on the data for use in respondent selection.[5] The Department received comments from Vulcan Threaded Products, Inc. ("Petitioner") on June 1, 2015. No other party submitted comments. Based on CBP data, the Department selected New Oriental and the RMB/IFI Group as the mandatory respondents in this administrative review.[6]

[5] *See* Letter to All Interested Parties, "2014-2015 Administrative Review of the Antidumping Duty Order on Certain Steel Threaded Rod from the People's Republic of China: CBP Data for Respondent Selection" (May 26, 2015) ("CBP Data").
[6] *See* Memorandum to James C. Doyle, Director, Office V, from Andrew Devine, Case Analyst, Office V, "Sixth Administrative Review of Steel Threaded Rod from the People's Republic of China: Respondent Selection" (July 22, 2015).

Non-Market Economy Country

The Department considers the PRC to be a non-market economy ("NME") country.[7] 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. None of the parties to this proceeding contested such treatment. Therefore, we continue to treat the PRC as a NME country for purposes of these preliminary results.

Separate Rates

There is a rebuttable presumption that all companies within the PRC are subject to government control and thus, should be assessed a single antidumping duty rate.[8] In the *Initiation Notice*, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME antidumping duty proceedings.[9] It is the Department's policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in *Sparklers*,[10] as amplified by *Silicon Carbide*.[11] However, if the Department determines that a company is wholly foreign-owned, then a separate rate analysis is not necessary to determine whether it is independent from government control.[12]

In order to demonstrate separate-rate status eligibility, the Department normally requires entities, for whom a review was requested, and who were assigned a separate rate in a previous segment of this proceeding, to submit a separate rate certification stating that they continue to meet the criteria for obtaining a separate rate.[13] For entities that were not assigned a separate rate in the previous segment of a proceeding, to demonstrate eligibility, the Department requires a separate rate application. The Department received separate rate certifications and completed responses

---

[7] *See, e.g., Certain Kitchen Appliance Shelving and Racks f [FIX THROUGHOUT]rom 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).

[8] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079, 53082 (September 8, 2006); *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof From the People's Republic of China*, 71 FR 29303, 29307 (May 22, 2006).

[9] *See Initiation Notice*, 80 FR at 30042-43.

[10] *See Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("*Sparklers*").

[11] *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*").

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

[13] *See Initiation Notice*, 80 FR at 30042-43.

to the Section A portion of the NME questionnaire from the mandatory respondents, New Oriental and the RMB/IFI Group, which contained information pertaining to the companies' eligibility for a separate rate.

In its Section A response, the RMB/IFI Group, reported that it is wholly-owned by individuals or companies located in a market economy ("ME") country.[14] Therefore, because it is wholly foreign-owned, and we have no evidence indicating that it is under the control of the PRC government, a separate rate analysis is not necessary to determine whether this company is independent from government control.[15] Accordingly, we preliminarily grant a separate rate to the RMB/IFI Group.

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) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies.[16] The evidence provided by New Oriental supports a preliminary finding of *de jure* absence of government control based on the following: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) there are applicable legislative enactments decentralizing control of the companies; and (3) there are formal measures by the government decentralizing control of companies.[17]

B. Absence of *De Facto* Control

Typically the Department considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) whether the export prices ("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 disposition of profits or financing of losses.[18] The Department determines 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.[19]

The evidence provided by New Oriental supports a preliminary finding of *de facto* absence of government control based on the following: (1) the company set its own EPs independent of the government and without the approval of a government authority; (2) the company has authority to negotiate and sign contracts and other agreements; (3) the company has autonomy from the

---

[14] *See* RMB/IFI Group's September 11, 2015 submission at 3.
[15] *See, e.g., Wax Candles from the PRC,* 72 FR at 52356.
[16] *See Sparklers*, 56 FR at 20589.
[17] *See, e.g.*, New Oriental's September 11, 2015 submission at A5-A9.
[18] *See Silicon Carbide*, 59 FR at 22586-87; *see also 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).
[19] *Id.*, 60 FR at 22544, 22544.

government in making decisions regarding the selection of management; and (4) there is no restriction on any of the company's use of export revenue.[20] Therefore, the Department preliminarily finds that New Oriental established that it qualifies for a separate rate under the criteria established by *Silicon Carbide* and *Sparklers*.

PRC-Wide Entity

The Department's change in policy regarding conditional review of the NME-wide entity applies to this administrative review.[21] Under this policy, the PRC-wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the PRC-wide entity in this review, the entity is not under review and the entity's rate is not subject to change (*i.e.*, 206 percent).[22]

Surrogate Country and Surrogate Value Data

On August 26, 2015 the Department sent interested parties a letter inviting comments on surrogate country selection and surrogate value ("SV") data.[23] On September 24, 2015, Petitioner submitted surrogate country comments. On October 15, 2015, New Oriental submitted surrogate country comments. On December 7, 2015, Petitioner, New Oriental and the RMB/IFI Group submitted SV comments. On December 17, 2015, Petitioner, New Oriental and the RMB/IFI Group submitted rebuttal SV comments. On April 5, 2016, New Oriental and the RMB/IFI Group submitted additional SV comments.

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production ("FOPs"), valued in a surrogate ME country or countries considered to be appropriate by the Department. 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: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.[24] The Department determined that Bulgaria, Ecuador, Mexico, Romania, South Africa, and Thailand are countries with per capita gross national incomes that are at the same level of economic development as the PRC.[25]

---

[20] *See, e.g.*, New Oriental's September 11, 2015 submission at A9-A15.
[21] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013).
[22] *See Certain Steel Threaded Rod from the People's Republic of China: Notice of Antidumping Duty Order*, 74 FR 17154 (April 14, 2009) ("*Order*").
[23] *See* the Department's Letter to All Interested Parties, "Sixth Administrative Review of Certain Steel Threaded Rod from the People's Republic of China: Request for Economic Development, Surrogate Country and Surrogate Value Comments and Information" (August 26, 2015) ("Surrogate Country Memo").
[24] *See* Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) ("*Policy Bulletin*").
[25] *See* Surrogate Country Memo.

Petitioner submits that, for purposes of the Department's selection of an appropriate surrogate country, Thailand is a significant producer of comparable merchandise with publicly available data from which to obtain SVs, therefore Thailand meets the Department's requirements as a surrogate country. Other than Thailand, Petitioner notes that Bulgaria, Mexico, Romania and South Africa are also significant producers of comparable merchandise, and the Department has recently found that Bulgaria, Romania and South Africa offer quality data and are suitable for purposes of selecting surrogate country in other recent proceedings.

New Oriental and the RMB/IFI Group proposes that the Department should select Bulgaria as the surrogate country in this review because Bulgaria is a producer of comparable merchandise and offers the surrogate data that best match the respondents' production experience. Moreover, New Oriental and the RMB/IFI Group argue that Thailand is unsuitable as a surrogate country because of concerns relating to the reliability of its import statistics and because the Thai STR industry is distorted, as indicated by the Department's recent finding that Thai STR was dumped in the United States.

Economic Comparability

The Department's practice is to consider surrogate countries that are at the same level of economic development as the PRC for selection that otherwise meet our selection criteria. We may also consider countries not at the same level of economic development, but still at a level of economic development comparable to the NME country, only to the extent that data considerations outweigh the difference in levels of economic development. As explained in our Surrogate Country Memo, the Department considers Bulgaria, Ecuador, Mexico, Romania, South Africa, and Thailand to be at the same level of economic development as the PRC.[26] Because "countries that are at a level of economic development comparable to that of the NME country" necessarily includes countries that are at the same level of economic development as the NME country, we consider all six countries identified in the Surrogate Country Memo as having met the economic comparability prong of the surrogate country selection criteria.[27]

Significant Producers of Comparable Merchandise

Section 773(c)(4)(B) of the Act requires the Department to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute nor the Department's regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, the Department looks to other sources such as the *Policy Bulletin* for guidance on defining comparable merchandise. The *Policy Bulletin* states that "in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise."[28] Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in

[26] *Id*.
[27] *See* Section 773A(c)(4)(A) of the Act.
[28] *See Policy Bulletin* at 2.

selecting a surrogate country.[29] Further, when selecting a surrogate country, the statute requires the Department to consider the comparability of the merchandise, not the comparability of the industry.[30] "In cases where the identical merchandise is not produced, the Department must determine if other merchandise that is comparable is produced. How the Department does this depends on the subject merchandise."[31] In this regard, the Department recognizes that any analysis of comparable merchandise must be done on a case-by-case basis:

> In other cases, however, where there are major inputs, *i.e.*, inputs that are specialized or dedicated or used intensively, in the production of the subject merchandise, *e.g.*, processed agricultural, aquatic and mineral products, comparable merchandise should be identified narrowly, on the basis of a comparison of the major inputs, including energy, where appropriate.[32]

Further, the statute grants the Department discretion to examine various data sources for determining the best available information.[33] In this case, because production data of comparable merchandise are not available, we analyzed exports of comparable merchandise from the seven countries, as a proxy for production data. We examined the export data from Global Trade Atlas for HTS 7318.15: "Threaded Screws and Bolts Nesoi, With or Without Their Nuts or Washers, Of Iron Or Steel." The countries reported the following export volumes for the POR: (1) Bulgaria (8,615,000 kg); (2) Ecuador (28,727 kg); (3) Mexico (19,760,132 kg); (4) Romania (10,189,710 kg); (5) South Africa (16,190,994 kg); and (6) Thailand (101,533,706 kg).[34]

As noted above, all countries identified in the Surrogate Country Memo had significant exports of comparable merchandise.[35] Because none of the potential surrogate countries have been disqualified through the above analysis, the Department looks to the availability of SV data to determine the most appropriate surrogate country.

Data Availability

When evaluating SV data, the Department considers several factors, including whether the SV is publicly available, contemporaneous with the POR, represents a broad-market average, from an

---

[29] The *Policy Bulletin* also states that "if considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise." *Id.*, at note 6.

[30] *See Sebacic Acid from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 62 FR 65674, 65675-76 (December 15, 1997) ("{T}o impose a requirement that merchandise must be produced by the same process and share the same end uses to be considered comparable would be contrary to the intent of the statute.").

[31] *See Policy Bulletin* at 2.

[32] *Id.* at 3.

[33] *See* section 773(c) of the Act; *see also Nation Ford Chem. Co. v. United States*, 166 F.3d 1373, 1377 (Fed. Cir. 1990).

[34] *See* Petitioner's September 24, 2015, submission at Exhibit 1.

[35] The Department analyzed export data for HTS 7318.15 because it found that products classified under this HTS subheading are comparable to the subject merchandise. *See e.g. Certain Steel Threaded Rod From the People's Republic of China: Preliminary Results and Partial Rescission of the Antidumping Duty Administrative Review; 2012-2013*, 79 FR 30543 (May 28, 2014), and accompanying Preliminary Decision Memorandum at 8.

appropriate surrogate country, tax and duty-exclusive, and specific to the input. There is no hierarchy among these criteria. It is the Department's practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis.[36] With respect to Ecuador, Mexico, Romania, and South Africa, no interested party submitted data for any of these countries. Thus, there is no data for these countries on the record and the Department will not consider these countries for surrogate country selection purposes.

With respect to Bulgaria and Thailand, Petitioner and respondents submitted data for these countries for surrogate valuation purposes. Given that there is data to value the FOPs from these two countries on the record of this proceeding, the Department must evaluate the quality of the data to determine which country provides the best available information for surrogate country selection purposes for this proceeding.

For Thailand, with regard to the main input of steel wire rod, there is import data from Thailand specific to the grade of steel wire rod used by respondents based on the carbon content of the steel. However, while the Thai data for steel wire rod is specific with respect to carbon content, it covers only the lower diameter ranges of wire rod used by respondents.[37] With respect to the information for valuing the other FOPs from Thailand, there is information on the record to value all of the FOPs from Thailand.[38] Unlike Thailand, the Bulgarian data for steel wire rod is not only specific to low carbon steel, but also covers the full range of diameters used by respondents.[39] Moreover, there is information on the record to value all of the FOPs from Bulgaria.[40] Due to the overwhelming importance of steel inputs in the NV calculation, the data from Bulgaria are the best available information for surrogate valuation purposes because the information for valuing the primary inputs is the closest match to respondents' FOPs on the record,[41] and the other aspects of the Bulgarian information are equivalent to the other SV information on the record.

In sum, the Department finds that Bulgaria provides the best available information for surrogate valuation purposes for these preliminary results. The Department finds Bulgaria to be a reliable source for SVs because Bulgaria is at a comparable level of economic development pursuant to 773(c)(4) of the Act, is a significant producer of comparable merchandise, and has publicly available and reliable data. Given the above facts, the Department has preliminarily selected Bulgaria as the primary surrogate country for this review. A detailed explanation of the SVs is provided below in the "Normal Value" section of this notice.

<u>Date of Sale</u>

19 CFR 351.401(i) states that, in identifying the date of sale of the merchandise under consideration or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business.

---

[36] *See Policy Bulletin*.
[37] *See* Petitioner's December 7, 2015, submission at Exhibit 1.
[38] *Id*.
[39] *See* New Oriental's December 7, 2015, submission at Exhibit SV-3.
[40] *Id*.
[41] *See Jiaxing Brother Fastener Co. v. United States*, No. 2015-1161 (Fed. Cir. Apr. 21, 2016) (finding that it was reasonable for the Department to emphasize steel input data in selecting a surrogate country in this proceeding).

Additionally, the Department may use a date other than the date of invoice if the Department is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.[42] The Court of International Trade ("CIT") stated that a "party seeking to establish a date of sale other than invoice date bears the burden of producing sufficient evidence to 'satisfy' the Department that a different date better reflects the date on which the exporter or producer establishes the material terms of sale."[43] Alternatively, the Department may exercise its discretion to rely on a date other than invoice date if the Department "provides a rational explanation as to why the alternative date 'better reflects' the date when 'material terms' are established."[44] The date of sale is generally the date on which the parties establish the material terms of the sale,[45] which normally includes the price, quantity, delivery terms and payment terms.[46]

New Oriental and the RMB/IFI Group reported that the date of sale was determined by the invoice issued by the exporters to their unaffiliated United States customers. In this case, as the Department found no evidence contrary to New Oriental and the RMB/IFI Group's claims that invoice date was the appropriate date of sale, the Department used invoice date as the date of sale for these preliminary results in accordance with 19 CFR 351.401(i).[47]

<u>Comparisons to Normal Value</u>

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), in order to determine whether New Oriental's and the RMB/IFI Group's sales of the subject merchandise from the PRC to the United States were made at less than NV, the Department compared the EP to NV as described in the "U.S. Price," and "Normal Value" sections below.

A. *Determination of Comparison Method*

Pursuant to 19 CFR 351.414(c)(1), the Department calculates weighted-average dumping margins by comparing weighted-average normal values to weighted-average export prices (or constructed export prices) (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, the Department examines whether to compare weighted-average normal values with the export prices (or constructed export prices) of individual sales (*i.e.*, the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department

---

[42] *See* 19 CFR 351.401(i); *see also Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) ("*Allied Tube*") (quoting 19 CFR 351.401(i)).
[43] *See Allied Tube*, 132 F. Supp. 2d at 1090 (brackets and citation omitted).
[44] *See SeAH Steel Corp. v. United States*, 25 CIT 133, 135 (CIT 2001).
[45] *See* 19 CFR 351.401(i).
[46] *See USEC Inc. v. United States*, 31 CIT 1049, 1055 (CIT 2007).
[47] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From Thailand*, 69 FR 76918 (December 23, 2004) and accompanying Issues and Decision Memorandum at Comment 10.

nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in less-than-fair-value investigations.[48]

In recent investigations, the Department applied a "differential pricing" analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.[49] 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 administrative review. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating a respondent's weighted-average dumping margin.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of export prices (or constructed export prices) for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchaser, region and time period to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination 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 period of review 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 export price (or constructed export price) and normal value 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* coefficient is a generally recognized statistical measure of the extent of the difference between the mean (*i.e.*, weighted-average price) of a test group and the mean (*i.e.*, weighted-average price) of a comparison group. First, for comparable merchandise, the Cohen's *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region or time period each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen's *d* coefficient is used to evaluate the extent to which the prices

[48] *See Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012) and the accompanying Issues and Decision Memorandum at comment 1; *see also Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (Ct. Int'l Trade 2014).

[49] *See, e.g., Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair,* 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); or *Welded Line Pipe From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

to the particular purchaser, region or time period differ significantly from the prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen's *d* test: small, medium or large (0.2, 0.5 and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are found to pass the Cohen's *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large (*i.e.,* 0.8) threshold.

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

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

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

B. *Results of the Differential Pricing Analysis*

For the RMB/IFI Group, based on the results of the differential pricing analysis, the Department preliminarily finds that 48.7 percent of the value of U.S. sales pass the Cohen's *d* test,[50] and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sale which did not pass the Cohen's *d* test. Thus, for these preliminary results, the Department is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for the RMB/IFI Group.[51]

For New Oriental, based on the results of the differential pricing analysis, the Department preliminarily finds that 55.7 percent of the value of U.S. sales pass the Cohen's *d* test,[52] and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test. Thus, for these preliminary results, the Department is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for New Oriental.

U.S. Price – Export Price

For New Oriental and the RMB/IFI Group's EP sales, we used the EP methodology, pursuant to section 772(a) of the Act, because the first sale to an unaffiliated purchaser was made prior to importation. Where appropriate, we made deductions from the starting price (gross unit price) for foreign movement expenses, foreign brokerage and handling, and international movement

---

[50] *See* Memorandum to the File through Paul Walker, Program Manager, Office V, from Jerry Huang, Case Analyst, Re: Sixth Administrative Review of Certain Steel Threaded Rod from the People's Republic of China: Analysis for the Preliminary Results of the RMB/IFI Group (May 5, 2016) ("RMB/IFI Group Analysis Memo")

[51] In these preliminary results, the Department applied the weighted-average dumping margin calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012). In particular, the Department compared monthly weighted-average EPs with monthly weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

[52] *See* Memorandum to the File through Paul Walker, Program Manager, Office V, from Andrew Devine, Case Analyst, Re: Sixth Administrative Review of Certain Steel Threaded Rod from the People's Republic of China: Analysis for the Preliminary Results of Zhejiang New Oriental Fastener Co., Ltd. (May 5, 2016) ("New Oriental Analysis Memo")

expenses, in accordance with section 772(c) of the Act.[53] Where we valued these expenses reported by New Oriental and the RMB/IFI Group with surrogate values, they are discussed further below.

The Department's methodology with respect to the calculation of EP and CEP is to include an adjustment of any un-refunded (herein irrecoverable) value-added tax ("VAT") in certain non-market economies, in accordance with section 772(c)(2)(B) of the Act.[54] The Department explained that when a non-market economy 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.[55] Where the irrecoverable VAT is a fixed percentage of the EP, the Department explained that the final step in arriving at a tax neutral dumping comparison is to reduce the U.S. EP downward by this same percentage. The Department's methodology essentially amounts to performing two basic steps: (1) determining the irrecoverable VAT tax on subject merchandise, and (2) reducing U.S. price by the amount (or rate) determined in step one.

Information placed on the record of this review demonstrates that the VAT rate during the POR was 17 percent, and that there was a VAT rebate rate of five percent applicable to exports of the merchandise under consideration.[56] For these preliminary results, in order to calculate a price net of VAT, we adjusted the net price reported by New Oriental and the RMB/IFI Group for the irrecoverable VAT.[57]

<u>Normal Value</u>

Section 773(c)(1) of the Act provides that the Department shall determine the NV using an FOPs methodology if: (1) the merchandise is exported from an NME country; and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. When determining NV in an NME context, the Department will base NV on FOPs because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our normal methodologies. Under section 773(c)(3) of the Act, FOPs include, but are not limited to: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. The Department based NV on FOPs reported by New Oriental and the RMB/IFI Group as discussed below.

---

[53] *See* RMB/IFI Group Analysis Memo; Memorandum to the File through Paul Walker, Program Manager, Office V, from Andrew Devine, Case Analyst, Re: Sixth Administrative Review of Certain Steel Threaded Rod from the People's Republic of China: Analysis for the Preliminary Results of Zhejiang New Oriental Fastener Co., Ltd. (May 5, 2016) ("New Oriental Analysis Memo").
[54] *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).
[55] *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.
[56] *See, e.g.*, RMB/IFI Group's October 5, 2015, submission at C-29 - C-31.
[57] *See* New Oriental Analysis Memo; RMB/IFI Group Analysis Memo.

Factor Valuations

In accordance with section 773(c) of the Act, for subject merchandise produced by New Oriental and the RMB/IFI Group, the Department calculated NV based on the FOPs reported by New Oriental and the RMB/IFI Group, respectively, for the POR. The Department used Bulgarian import data and other publicly available Bulgarian sources in order to calculate SVs for New Oriental and the RMB/IFI Group's FOPs. To calculate NV, the Department multiplied the reported per-unit FOP quantities by publicly available SVs. The Department's practice when selecting the best available information for valuing FOPs is to select, to the extent practicable, SVs which are product-specific, representative of a broad market average, publicly available, contemporaneous with the POR, and exclusive of taxes and duties.[58]

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

Furthermore, with regard to the Bulgarian import-based SVs, consistent with Section 773(c)(5) of the Act, we disregarded prices from countries that we have determined maintain broadly available export subsidies.[59] In prior proceedings, we determined India, Indonesia, South Korea and Thailand maintain broadly available, non-industry-specific export subsidies.[60] Additionally, consistent with our practice, we disregarded prices from NME countries and excluded imports labeled as originating from an "unspecified" country from the average value, because the Department could not be certain that they were not from either an NME country or a country with general export subsidies.[61] Therefore, we have not used prices from these countries either in calculating the Bulgarian import-based SVs.

[58] *See, e.g., Electrolytic Manganese Dioxide from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 48195 (August 18, 2008) and accompanying Issues and Decision Memorandum at Comment 2.
[59] *See* Section 505 of the Trade Preferences Extension Act of 2015, Pub. Law 114-27 (June 29, 2015); *see also, Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793, 46795 (August 6, 2015).
[60] *See, e.g., Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order*, 75 FR 13257 (March 19, 2010) and accompanying Issues and Decision Memorandum at 4-5; *Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia: Final Results of Expedited Sunset Review*, 70 FR 45692 (August 8, 2005) and accompanying Issues and Decision Memorandum at 4; *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*, 74 FR 2512 (January 15, 2009) and accompanying Issues and Decision Memorandum at 17, 19-20.
[61] *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates From the People's Republic of China*, 69 FR 75294, 75300 (December 16, 2004), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China*, 70 FR 24502 (May 10, 2005).

The Department used Bulgarian import statistics from the Global Trade Atlas to value the raw material and packing material inputs that New Oriental and the RMB/IFI Group used to produce subject merchandise during the POR, as well as the byproduct New Oriental and the RMB/IFI Group produced, except where listed below.[62]

The Department valued electricity using Bulgarian data from the National Institute of Statistics (Bulgaria) prices covering the POR.[63] We did not inflate the rate since all data points are contemporaneous with the POR. We valued water using data from Bulgarian State Energy Regulatory Commission.[64] We did not inflate the rate since all data points are contemporaneous with the POR.

We valued brokerage and handling using a price list of export procedures necessary to export a standardized cargo of goods in Bulgaria. The price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods in Bulgaria that is published in *Doing Business 2016: Bulgaria* by the World Bank.[65] We used Bulgaria transport information in order to value the freight-in cost of the raw materials. The Department determined the best available information for valuing truck freight to be from *Doing Business 2016: Bulgaria*.[66] This World Bank report gathers information concerning the distance and cost to transport products in a 20-foot container weighing 15 metric tons from the largest city in Bulgaria to the most commonly used Turkish border crossing. We calculated the per-unit inland freight costs using the distance from Bulgaria's largest city, Sofia, to the border crossing.

To value marine insurance, the Department used rates from RJG Consultants. RJG Consultants is a ME provider of marine insurance, and these rates are basic coverage rates for international shipments. We valued international freight using international freight price quotes from the Decartes website covering industrial goods.[67]

In *Labor Methodologies,*[68] the Department determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country. Additionally, the Department determined that the best data source for industry-specific labor rates is Chapter 6A: Labor Cost in Manufacturing, from the International Labor Organization (ILO) Yearbook of Labor Statistics. In these preliminary results, the Department calculated the labor input using the Chapter 6A, industry-specific ILO data for Bulgaria from 2007, the most recent year for when such data are available.[69] In *Labor Methodologies*, the Department decided to change to the use of ILO Chapter 6A data from the use of ILO Chapter 5B data, on the rebuttable presumption that Chapter 6A data better account for all direct and indirect labor

[62] *See* Preliminary Surrogate Values Memo.
[63] *Id*. at Exhibit 7.
[64] *Id*. at Exhibit 8.
[65] *Id*. at Exhibit 5.
[66] *Id*. at Exhibit 4.
[67] *Id*. at Exhibit 6.
[68] *See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092 (June 21, 2011) ("*Labor Methodologies*").
[69] *See* Preliminary Surrogate Values Memo.

costs.[70] Additionally, where the financial statements used to calculate the surrogate financial ratios include itemized detail of labor costs, the Department made adjustments to certain labor costs in the surrogate financial ratios.[71]

The Department notes that there are multiple financial statements that are available on the record from Bulgaria that are usable for calculating the surrogate financial ratios. To value factory overhead, selling, general, and administrative expenses, and profit, the Department used the simple average of the financial statements of VTPG-Stroimat Ltd and Special Wires And Nails AD-Ruse, which both are producers of comparable merchandise (i.e. nails).[72]

Currency Conversion

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

Conclusion

We recommend applying the above methodology for these preliminary results.

✓
Agree   Disagree

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

5 MAY 2016
(Date)

[70] *See Labor Methodologies*, 76 FR at 36093.
[71] *Id.*, 76 FR at 36093-94.
[72] *See* Preliminary Surrogate Values Memo at Exhibit 14.