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International Trade Administration
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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 Antidumping Duty Administrative Review: Aluminum Extrusions from the People's Republic of China; 2014-2015

SUMMARY

In response to requests from interested parties, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty (AD) order on aluminum extrusions from the People's Republic of China (PRC) in accordance with section 751(a)(1) of the Tariff Act of 1930, as amended (the Act). The period of review (POR) is May 1, 2014 through April 30, 2015. The Department selected the following companies as mandatory respondents: Guangzhou Jangho Curtain Wall System Engineering Co., Ltd. and Jangho Curtain Wall Hong Kong Ltd. (collectively, Jangho) and Guang Ya Aluminium Industries Co., Ltd., Foshan Guangcheng Aluminium Co., Ltd., Kong Ah International Company Limited, and Guang Ya Aluminium Industries (Hong Kong) Ltd. (collectively, Guang Ya Group); Guangdong Zhongya Aluminium Company Limited, Zhongya Shaped Aluminium (HK) Holding Limited, and Karlton Aluminum Company Ltd. (collectively, Zhongya); and Xinya Aluminum & Stainless Steel Product Co., Ltd. (Xinya) (collectively, Guang Ya Group/Zhongya/Xinya).[1] The

[1] In prior segments of this proceeding, the Department found that Guang Ya Group, Zhongya, and Xinya were affiliated with each other and should be treated as a single entity. *See, e.g., Aluminum Extrusions From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Rescission, in Part, 2010/12*, 79 FR 96 (January 2, 2014) (*2010-2012 Final Results*); *Aluminum Extrusions From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 79 FR 78784 (December 31, 2014) (*2012-2013 Final Results*); and *Aluminum Extrusions From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013–2014*, 80 FR 75060 (December 1, 2015) (*2013-2014 Final Results*). *See also Zhaoqing New Zhongya Aluminium Co., Ltd. v. United States*, 70 F. Supp. 3d 1298 (CIT May 27, 2015) and *Zhaoqing New Zhongya Aluminum Co., Ltd. et al. v. United States*, 887 F. Supp. 2d 1301, 1310 (CIT 2012).

Department preliminarily determines that Jangho and Guang Ya Group/Zhongya/Xinya failed to cooperate by not acting to the best of their abilities to fully comply with the Department's requests for information, warranting the application of facts otherwise available with adverse inferences, pursuant to sections 776(a) and 776(b) of the Act. As application of adverse facts available (AFA), we preliminarily determine that Jangho and Guang Ya Group/Zhongya/Xinya have not provided sufficient evidence on the record that they qualify for a separate rate. Accordingly, we determine that Jangho and Guang Ya Group/Zhongya/Xinya are part of the PRC-wide entity. We also preliminarily determine that two companies, Xin Wei Aluminum Company Limited (Xin Wei) and Permasteelisa Hong Kong Limited, had no shipments of subject merchandise during the POR.

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. Unless otherwise extended, we intend to issue final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Background

On May 1, 2015, the Department published a notice of opportunity to request an administrative review of the AD order on aluminum extrusions from the PRC (*Order*)[2] for the period May 1, 2014 through April 30, 2015.[3] On July 1, 2015, the Department initiated a review of 175 companies.[4] On January 27, 2016, the Department extended the time limit for the preliminary results of review, pursuant to section 751(a)(3)(A) of the Act, by 100 days,[5] and tolled the deadline by four business days,[6] which resulted in a deadline of May 16, 2016.[7] On May 13, 2016, the Department extended the time limit for the preliminary results of review by an additional 20 days, until June 6, 2016.[8]

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[2] *See Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order*, 76 FR 30650 (May 26, 2011) (*Order*).
[3] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 80 FR 24898 (May 1, 2015).
[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 80 FR 37588 (July 1, 2015) (*Initiation Notice*).
[5] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Aluminum Extrusions from the People's Republic of China: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review," dated January 27, 2016.
[6] *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,'" dated January 27, 2016.
[7] *See* Memorandum to the File, "Clarification of Deadline for Preliminary Results of Review," dated March 8, 2016.
[8] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Aluminum Extrusions from the People's Republic of China: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review," dated May 13, 2016.

Respondent Selection

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 or producers if it is not practicable to determine an individual weighted average dumping margins for each known exporter and producer because of the large number of companies involved in the review.

In the *Initiation Notice*, the Department stated that if we limited the number of respondents for individual examination in this administrative review, we intended to (1) select respondents based on volume data reported in quantity and value (Q&V) questionnaire responses, and (2) limit the number of Q&V questionnaires issued based on import values in the U.S. Customs and Border Protection (CBP) data for aluminum extrusions from the PRC.[9] Accordingly, for the companies on which we initiated an administrative review, we requested that CBP provide import data for all entries of subject merchandise suspended pursuant to the *Order* for the POR. On July 10, 2015, we placed the proprietary results of our data query on the record and specified that we intended to issue a Q&V questionnaire to the 10 companies with the largest import values as shown in the CBP data.[10] In the *Initiation Notice*, the Department also stated that parties subject to this review to which the Department did not issue a Q&V questionnaire may submit a response to the Q&V questionnaire by the applicable deadline.[11]

Seven of the 10 companies with the largest import values (as shown in the CBP data) submitted Q&V questionnaire responses by the applicable deadline of July 22, 2015; on July 29, 2015, the Department issued Q&V questionnaires to the three remaining companies (of the 10 with the largest import values) that did not submit Q&V questionnaire responses by the July 22, 2015 deadline.[12] In addition, nine other companies (or groups of companies) voluntarily submitted Q&V questionnaire responses by the July 22, 2015 deadline.[13]

On August 25, 2015, the Department issued its First Respondent Selection Memorandum, finding that, because of the large number of companies subject to review, as well as resource constraints, it was not practicable to examine all 175 companies individually, but, rather, limit individual examination of respondents to a reasonable number.[14] The Department determined that its resources reasonably permitted examination of two respondents and, thus, recommended limiting examination of respondents in this administrative review to the two largest exporters, by

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[9] *See Initiation Notice*, 80 FR at 37589.

[10] *See* Memorandum to Scot Fullerton, Director, Office VI, Antidumping and Countervailing Duty Operations, "Placing U.S. Customs and Border Protection Data on the Record for the Purpose of Identifying Companies to Receive a Quantity and Value Questionnaire," dated July 10, 2015.

[11] *See Initiation Notice*, 80 FR at 37589.

[12] *See* Memorandum to Scot Fullerton, Director, Office VI, Antidumping and Countervailing Duty Operations, "Selection of Respondents for the 2014-2015 Administrative Review of the Antidumping Duty Order on Aluminum Extrusions from the People's Republic of China," dated August 25, 2015 (First Respondent Selection Memorandum), at Attachment I for a list of these ten companies. As noted therein, one of the three companies to which we issued a Q&V questionnaire did not provide a response to that questionnaire.

[13] *Id.*, at Attachment II.

[14] *Id.*, at 3-4.

volume, of subject merchandise during the POR.[15] Relying upon volume data provided in interested parties' Q&V questionnaire responses, the Department selected the two largest exporters, in alphabetical order, Jiaxing Jackson Travel Products Co., Ltd. and Union Industry (Asia) Co., Limited, as mandatory respondents for individual examination in the instant review.[16]

As discussed below in the section "Rescission of Administrative Review in Part," Petitioner[17] and two other interested parties timely withdrew their requests for review of 129 companies, including Jiaxing Jackson Travel Products Co., Ltd. and Union Industry (Asia) Co., Limited. Consequently, on October 28, 2015, the Department issued its Second Respondent Selection Memorandum, finding that, due to the large number of companies for which review requests remained outstanding, along with resource constraints, it was not practicable to examine individually all 46 of the companies for which requests for review remained outstanding.[18] The Department determined that its resources reasonably permitted individual examination of two exporters and that it was appropriate to select the two largest exporters, by volume, as mandatory respondents.[19] Based on the volumes reported in the Q&V questionnaire responses of the companies for which review requests remained outstanding, these entities were, in alphabetical order, Guang Ya Group/Zhongya/Xinya and Jangho.[20]

On November 4, 2015, the Department issued its standard non-market economy (NME) antidumping questionnaire to Jangho and Guang Ya Group/Zhongya/Xinya.[21]

On November 23, 2015, Zhongya submitted a letter to the Department stating that it would not be responding to the Department's questionnaires.[22] On November 25, 2015, Guang Ya Group submitted a letter informing the Department that it was withdrawing from participation in this review.[23]

Jangho filed its separate rate application (SRA) on July 31, 2015,[24] its section A questionnaire response on December 2, 2015,[25] and its section C and D questionnaire response on December

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[15] *Id*., at 5-8.
[16] *Id*., at 8-9.
[17] Petitioner is the Aluminum Extrusions Fair Trade Committee.
[18] *See* Memorandum to Scot Fullerton, Director, Office VI, Antidumping and Countervailing Duty Operations, "Respondents for the 2014-2015 Administrative Review of the Antidumping Duty Order on Aluminum Extrusions from the People's Republic of China; Second Respondent Selection Memorandum," dated October 28, 2015 (Second Respondent Selection Memorandum), at 4-5.
[19] *Id*., at 5-8.
[20] *Id*., at 8-9.
[21] *See* Letter from the Department to Jangho, dated November 4, 2015 and Letter from the Department to Guang Ya Group/Zhongya/Xinya, dated November 4, 2015.
[22] *See* Letter from Zhongya Aluminum Company Limited, Guangdong Zhongya Aluminium Company Limited, Zhongya Shaped Aluminum (HK) Holding Limited, and Karlton Aluminum Company Ltd. to the Department, "Aluminum Extrusions from China: Antidumping (AD) And Countervailing Duty (CVD) Questionnaires," dated November 23, 2015 (Zhongya Withdrawal Letter).
[23] *See* Letter from Guang Ya Group to the Department, dated November 25, 2015 (Guang Ya Withdrawal Letter).
[24] *See* Letter from Jangho to the Department, "Separate Rate Application; Administrative Review – Jangho; Aluminum Extrusions from China," dated July 31, 2015.
[25] *See* Letter from Jangho to the Department, "Aluminum Extrusions from the People's Republic of China: Section A Questionnaire Response," dated December 2, 2015 (AQR).

18, 2015.[26] Petitioner provided comments on Jangho's AQR on December 16, 2015.[27] On March 18, 2016, the Department issued a supplemental questionnaire covering Jangho's SRA, AQR, and CQR,[28] and on March 21, 2016, the Department issued a supplemental questionnaire covering Jangho's DQR.[29] Jangho submitted responses to both supplemental questionnaires on April 11, 2016.[30] On April 26, 2016, the Department issued a second supplemental questionnaire concerning Jangho's April 11, 2016 supplemental questionnaire responses for sections A, C, and D.[31] Also on April 26, 2016, Petitioner filed pre-preliminary results comments with respect to Jangho.[32] On May 5, 2016, Jangho submitted a letter announcing its decision to withdraw from active participation as a mandatory respondent in the instant administrative review.[33]

Rescission of Administrative Review in Part

On September 29, 2015, Petitioner timely withdrew its request for administrative review with respect to 127 companies.[34] In addition, requests for withdrawal of administrative review were timely filed for two other companies.[35] Thus, all administrative review requests have been

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[26] *See* Letter from Jangho to the Department, "Aluminum Extrusions from the People's Republic of China: Section C and D Questionnaire Response," dated December 18, 2015 (CQR and DQR).
[27] *See* Letter from Petitioner to the Department, "Aluminum Extrusions from the People's Republic of China: Deficiency Comments on Jangho's Section A Response," dated December 16, 2015.
[28] *See* Letter from the Department to Jangho, "Aluminum Extrusions from the People's Republic of China: 2014-2015 Administrative Review of Antidumping Duty Order: Supplemental Questionnaire for Separate Rate Application and Section A, and C Questionnaire Response," dated March 18, 2016.
[29] *See* Letter from the Department to Jangho, "Aluminum Extrusions from the People's Republic of China: 2014-2015 Administrative Review of Antidumping Duty Order: Supplemental Questionnaire for Section D Questionnaire Response," dated March 21, 2016.
[30] *See* Letter from Jangho to the Department, "Aluminum Extrusions from the People's Republic of China: Supplemental Questionnaire Response for Separate Rate Application and Section A, and C Questionnaire Response," dated April 11, 2016 and Letter from Jangho to the Department, "Supplemental Section D Questionnaire Response; Aluminum Extrusions from the People's Republic of China," dated April 11, 2016.
[31] *See* Letter from the Department to Jangho, "Aluminum Extrusions from the People's Republic of China: 2014-2015 Administrative Review of Antidumping Duty Order: Second Supplemental Questionnaire for Sections A, C, and D," dated April 26, 2016 (Second Supplemental Questionnaire).
[32] *See* Letter from Petitioner to the Department, "Aluminum Extrusions from the People's Republic of China: Pre-Preliminary Comments on Jangho," dated April 26, 2016.
[33] *See* Letter from Jangho to the Department, "2014-2015 Administrative Review of Aluminum Extrusions from the People's Republic of China," dated May 5, 2016 (Jangho Withdrawal Letter).
[34] *See* Letter from Petitioner to the Department, "Aluminum Extrusions from the People's Republic of China: Withdrawal of Request for Administrative Review," dated September 29, 2015 (Petitioner's Withdrawal Letter). While Petitioner's Withdrawal Letter lists 131 companies, four companies must be excluded from this figure. First, tenKsolar, Inc. and Taogoasei America Inc./Toagoasei America Inc. must be excluded from this figure because the Department never initiated a review of these two companies based on the belief that they were U.S. importers. *See Initiation Notice*, 80 FR at 37592; *see also* Letter from Petitioner to the Department, "Aluminum Extrusions from the People's Republic of China: Identification of U.S. Importers Included in Administrative Review Request," dated June 9, 2015. Second, as noted in the "Summary" section of this notice, the Department found in prior segments of this proceeding that Karlton Aluminum Company Ltd. and Xinya Aluminum & Stainless Steel Product Co., Ltd. were part of the Guang Ya Group/Zhongya/Xinya single entity. Because the other companies comprising the Guang Ya Group/Zhongya/Xinya single entity remain under review, the Department cannot rescind this administrative review with respect to Karlton Aluminum Company Ltd. and Xinya Aluminum & Stainless Steel Product Co., Ltd. Accordingly, there are 127 companies in Petitioner's Withdrawal Letter for which we are rescinding this administrative review.
[35] *See* Letter from Carrand Companies, Inc. to the Department, "Aluminum Extrusions from the People's Republic of China: Withdrawal of Review Request," dated July 31, 2015 (withdrawing its request for an administrative

timely withdrawn for 129 companies. Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if the party that requested the review withdraws its request within 90 days of the date of publication of the notice of initiation of the requested review. Accordingly, the Department is rescinding this review, in part, with respect to these 129 entities, in accordance with 19 CFR 351.213(d)(1).[36]

Scope of the *Order*

The merchandise covered by this *Order* is aluminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by The Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents). Specifically, the subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 1 contains not less than 99 percent aluminum by weight. The subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 3 contains manganese as the major alloying element, with manganese accounting for not more than 3.0 percent of total materials by weight. The subject merchandise is made from an aluminum alloy with an Aluminum Association series designation commencing with the number 6 contains magnesium and silicon as the major alloying elements, with magnesium accounting for at least 0.1 percent but not more than 2.0 percent of total materials by weight, and silicon accounting for at least 0.1 percent but not more than 3.0 percent of total materials by weight. The subject aluminum extrusions are properly identified by a four-digit alloy series without either a decimal point or leading letter. Illustrative examples from among the approximately 160 registered alloys that may characterize the subject merchandise are as follows: 1350, 3003, and 6060.

Aluminum extrusions are produced and imported in a wide variety of shapes and forms, including, but not limited to, hollow profiles, other solid profiles, pipes, tubes, bars, and rods. Aluminum extrusions that are drawn subsequent to extrusion (drawn aluminum) are also included in the scope.

Aluminum extrusions are produced and imported with a variety of finishes (both coatings and surface treatments), and types of fabrication. The types of coatings and treatments applied to subject aluminum extrusions include, but are not limited to, extrusions that are mill finished (*i.e.*, without any coating or further finishing), brushed, buffed, polished, anodized (including brightdip anodized), liquid painted, or powder coated. Aluminum extrusions may also be fabricated, *i.e.*, prepared for assembly. Such operations would include, but are not limited to, extrusions that are cut-to-length, machined, drilled, punched, notched, bent, stretched, knurled, swedged, mitered, chamfered, threaded, and spun. The subject merchandise includes aluminum extrusions that are finished (coated, painted, *etc.*), fabricated, or any combination thereof.

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review of Ningbo Ivy Daily Commodity Co., Ltd.) and Letter from Capella Sales & Services Ltd. to the Department, "Antidumping Duty Order on Aluminum Extrusions from China; Administrative Review Request," dated September 28, 2015 (withdrawing its request for an administrative review of Dongguan Dazhan Metal Co., Ltd.).

[36] *See* Appendix II of the *Federal Register* notice for a full list of these 129 companies.

Subject aluminum extrusions may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, window frames, door frames, solar panels, curtain walls, or furniture. Such parts that otherwise meet the definition of aluminum extrusions are included in the scope. The scope includes the aluminum extrusion components that are attached (*e.g.*, by welding or fasteners) to form subassemblies, *i.e.*, partially assembled merchandise unless imported as part of the finished goods 'kit' defined further below. The scope does not include the non-aluminum extrusion components of subassemblies or subject kits.

Subject extrusions may be identified with reference to their end use, such as fence posts, electrical conduits, door thresholds, carpet trim, or heat sinks (that do not meet the finished heat sink exclusionary language below). Such goods are subject merchandise if they otherwise meet the scope definition, regardless of whether they are ready for use at the time of importation.

The following aluminum extrusion products are excluded: aluminum extrusions made from aluminum alloy with an Aluminum Association series designations commencing with the number 2 and containing in excess of 1.5 percent copper by weight; aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 5 and containing in excess of 1.0 percent magnesium by weight; and aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 7 and containing in excess of 2.0 percent zinc by weight.

The scope also excludes finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry, such as finished windows with glass, doors with glass or vinyl, picture frames with glass pane and backing material, and solar panels. The scope also excludes finished goods containing aluminum extrusions that are entered unassembled in a "finished goods kit." A finished goods kit is understood to mean a packaged combination of parts that contains, at the time of importation, all of the necessary parts to fully assemble a final finished good and requires no further finishing or fabrication, such as cutting or punching, and is assembled "as is" into a finished product. An imported product will not be considered a "finished goods kit" and therefore excluded from the scope of the investigation merely by including fasteners such as screws, bolts, *etc.* in the packaging with an aluminum extrusion product.

The scope also excludes aluminum alloy sheet or plates produced by other than the extrusion process, such as aluminum products produced by a method of casting. Cast aluminum products are properly identified by four digits with a decimal point between the third and fourth digit. A letter may also precede the four digits. The following Aluminum Association designations are representative of aluminum alloys for casting: 208.0, 295.0, 308.0, 355.0, C355.0, 356.0, A356.0, A357.0, 360.0, 366.0, 380.0, A380.0, 413.0, 443.0, 514.0, 518.1, and 712.0. The scope also excludes pure, unwrought aluminum in any form.

The scope also excludes collapsible tubular containers composed of metallic elements corresponding to alloy code 1080A as designated by the Aluminum Association where the tubular container (excluding the nozzle) meets each of the following dimensional characteristics: (1) length of 37 millimeters ("mm") or 62 mm, (2) outer diameter of 11.0 mm or 12.7 mm, and

(3) wall thickness not exceeding 0.13 mm.

Also excluded from the scope of this order are finished heat sinks. Finished heat sinks are fabricated heat sinks made from aluminum extrusions the design and production of which are organized around meeting certain specified thermal performance requirements and which have been fully, albeit not necessarily individually, tested to comply with such requirements.

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (HTSUS): 8424.90.9080, 9405.99.4020, 9031.90.90.95, 7616.10.90.90, 7609.00.00, 7610.10.00, 7610.90.00, 7615.10.30, 7615.10.71, 7615.10.91, 7615.19.10, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7615.20.00, 7616.99.10, 7616.99.50, 8479.89.98, 8479.90.94, 8513.90.20, 9403.10.00, 9403.20.00, 7604.21.00.00, 7604.29.10.00, 7604.29.30.10, 7604.29.30.50, 7604.29.50.30, 7604.29.50.60, 7608.20.00.30, 7608.20.00.90, 8302.10.30.00, 8302.10.60.30, 8302.10.60.60, 8302.10.60.90, 8302.20.00.00, 8302.30.30.10, 8302.30.30.60, 8302.41.30.00, 8302.41.60.15, 8302.41.60.45, 8302.41.60.50, 8302.41.60.80, 8302.42.30.10, 8302.42.30.15, 8302.42.30.65, 8302.49.60.35, 8302.49.60.45, 8302.49.60.55, 8302.49.60.85, 8302.50.00.00, 8302.60.90.00, 8305.10.00.50, 8306.30.00.00, 8414.59.60.90, 8415.90.80.45, 8418.99.80.05, 8418.99.80.50, 8418.99.80.60, 8419.90.10.00, 8422.90.06.40, 8473.30.20.00, 8473.30.51.00, 8479.90.85.00, 8486.90.00.00, 8487.90.00.80, 8503.00.95.20, 8508.70.00.00, 8515.90.20.00, 8516.90.50.00, 8516.90.80.50, 8517.70.00.00, 8529.90.73.00, 8529.90.97.60, 8536.90.80.85, 8538.10.00.00, 8543.90.88.80, 8708.29.50.60, 8708.80.65.90, 8803.30.00.60, 9013.90.50.00, 9013.90.90.00, 9401.90.50.81, 9403.90.10.40, 9403.90.10.50, 9403.90.10.85, 9403.90.25.40, 9403.90.25.80, 9403.90.40.05, 9403.90.40.10, 9403.90.40.60, 9403.90.50.05, 9403.90.50.10, 9403.90.50.80, 9403.90.60.05, 9403.90.60.10, 9403.90.60.80, 9403.90.70.05, 9403.90.70.10, 9403.90.70.80, 9403.90.80.10, 9403.90.80.15, 9403.90.80.20, 9403.90.80.41, 9403.90.80.51, 9403.90.80.61, 9506.11.40.80, 9506.51.40.00, 9506.51.60.00, 9506.59.40.40, 9506.70.20.90, 9506.91.00.10, 9506.91.00.20, 9506.91.00.30, 9506.99.05.10, 9506.99.05.20, 9506.99.05.30, 9506.99.15.00, 9506.99.20.00, 9506.99.25.80, 9506.99.28.00, 9506.99.55.00, 9506.99.60.80, 9507.30.20.00, 9507.30.40.00, 9507.30.60.00, 9507.90.60.00, and 9603.90.80.50.

The subject merchandise entered as parts of other aluminum products may be classifiable under the following additional Chapter 76 subheadings: 7610.10, 7610.90, 7615.19, 7615.20, and 7616.99, as well as under other HTSUS chapters. In addition, fin evaporator coils may be classifiable under HTSUS numbers: 8418.99.80.50 and 8418.99.80.60. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this *Order* is dispositive.[37]

DISCUSSION OF THE METHODOLOGY

Affiliation and Collapsing

In accordance with sections 771(33)(A) and (F) of the Act and with 19 CFR 351.401(f), we previously determined that Guang Ya Group, Zhongya, and Xinya should be treated as a single

[37] *See Order*.

entity.[38] No interested party has provided new evidence in this review to refute the Department's determination in the *Final Determination*, *2010-2012 Final Results*, *2012-2013 Final Results*, and *2013-2014 Final Results* to collapse Guang Ya Group, Zhongya, and Xinya.

In the *Initiation Notice*, the Department stated it "will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.*, investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes."[39] In both the First Respondent Selection Memorandum and Second Respondent Selection Memorandum, the Department treated Guang Ya Group, Zhongya, and Xinya as a single entity based on our prior determination that Guang Ya Group, Zhongya, and Xinya were all affiliated with each other and should be treated as a single entity.[40]

As noted above, after the Department issued its antidumping questionnaire to Guang Ya Group/Zhongya/Xinya, Zhongya submitted a letter stating that it would not be responding to the Department's questionnaires, and Guang Ya Group submitted a letter notifying the Department that it was withdrawing from participation in this review. Xinya did not respond to the Department's antidumping questionnaire. Due to the failure of Guang Ya Group, Zhongya, and Xinya to respond to the Department's antidumping questionnaire, either individually or collectively, we have limited information on the record of this review related to affiliation and collapsing. Therefore, based on our prior determinations, we preliminarily find the entities comprising Guang Ya Group and the entities comprising Zhongya are respectively affiliated pursuant to sections 771(33)(A) and (F) of the Act, and that Guang Ya Group, Zhongya and Xinya are affiliated pursuant to sections 771(33)(A) and (F) of the Act, as we did in all prior segments of this proceeding.[41] Additionally, because no interested party has placed new evidence on the record of this administrative review refuting the facts on the records of each of the prior segments of this proceeding regarding the potential for manipulation of price or

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[38] *See Aluminum Extrusions From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 76 FR 18524 (April 4, 2011) (*Final Determination*) and accompanying Issues and Decision Memorandum at Comment 4; *2010-2012 Final Results* and accompanying Issues and Decision Memorandum at Comment 4; *2012-2013 Final Results* and accompanying Issues and Decision Memorandum at Comment 2; and *Aluminum Extrusions From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 32347 (June 8, 2015) (*2013-2014 Preliminary Results*) and accompanying Memorandum to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, "Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Aluminum Extrusions from the People's Republic of China; 2013-2014," dated June 1, 2015 (Preliminary Decision Memorandum) at 8-9, unchanged in *2013-2014 Final Results; see also Zhaoqing New Zhongya Aluminium Co., Ltd. v. United States*, 70 F. Supp. 3d at 1307. *See also Zhaoqing New Zhongya Aluminum Co., Ltd. et al v. United States*, 887 F. Supp. 2d at 1310.

[39] *See Initiation Notice*, 80 FR at 37588-37589.

[40] *See* First Respondent Selection Memorandum at 6-7 and Second Respondent Selection Memorandum at 7-8.

[41] *See Final Determination* and accompanying Issues and Decision Memorandum at Comment 4; *2010-2012 Final Results* and accompanying Issues and Decision Memorandum at Comment 4; *2012-2013 Final Results* and accompanying Issues and Decision Memorandum at Comment 2; and *2013-2014 Preliminary Results* and accompanying Preliminary Decision Memorandum at 8-9, unchanged in *2013-2014 Final Results*.

production of subject merchandise, we preliminarily find, pursuant to 19 CFR 351.401(f), that there exists the potential for manipulation of price or production of subject merchandise.[42] Thus, we preliminarily find that Guang Ya Group, Zhongya, and Xinya should continue to be treated as a single entity, consistent with the *Final Determination*, *2010-2012 Final Results*, *2012-2013 Final Results*, and *2013-2014 Final Results*.

Preliminary Determination of No Shipments

Two companies remaining under review, Xin Wei and Permasteelisa Hong Kong Limited, timely submitted certifications indicating that they had no exports, sales, shipments, or entries of subject merchandise during the POR.[43] Consistent with our practice, the Department requested that CBP conduct a query on potential shipments made by Xin Wei and Permasteelisa Hong Kong Limited during the POR;[44] CBP provided no evidence that contradicted Xin Wei's and Permasteelisa Hong Kong Limited's claims of no shipments. Based on Xin Wei's and Permasteelisa Hong Kong Limited's no-shipment certifications and our analysis of the CBP information, we preliminarily determine that neither Xin Wei nor Permasteelisa Hong Kong Limited had shipments during the POR. However, consistent with our practice in NME cases, the Department is not rescinding this review, in part, but intends to complete the review with respect to Xin Wei and Permasteelisa Hong Kong Limited and issue appropriate instructions to CBP based on the final results of the review.[45]

Non-Market Economy Country

The Department considers the PRC to be an NME country.[46] 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.[47] None of the parties to this

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[42] *Id.*

[43] *See* Letter from Xin Wei to the Department, "Aluminum Extrusions from the People's Republic of China: Certification of No Sales, Shipments, or Entries," dated July 22, 2015 and Letter from Permasteelisa Hong Kong Limited and Permasteelisa South China Factory, "Aluminum Extrusions From the People's Republic of China: Notice of No Sales," dated July 28, 2015. While the Department issued standard no-shipment port inquiries for Xin Wei and Permasteelisa Hong Kong Limited, we did not do so with regard to Permasteelisa South China Factory because Permasteelisa South China Factory was not granted separate rate status in a prior segment of this proceeding. *See*, *e.g.*, *2013-2014 Final Results*, 80 FR at 75063, footnote 30.

[44] *See* Customs e-mail message number 6102303, dated April 11, 2016 (Xin Wei) and Customs e-mail message number 6102302, dated April 11, 2016 (Permasteelisa Hong Kong Limited).

[45] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65695 (October 24, 2011).

[46] *See*, *e.g.*, *Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Preliminary Results of the First Administrative Review, Preliminary Rescission, in Part, and Extension of Time Limits for the Final Results*, 76 FR 62765, 62767-68 (October 11, 2011), unchanged in *Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Results and Partial Rescission of First Antidumping Duty Administrative Review*, 77 FR 21734 (April 11, 2012).

[47] *See*, *e.g.*, *Brake Rotors From the People's Republic of China: Preliminary Results and Partial Rescission of the 2004/2005 Administrative Review and Preliminary Notice of Intent To Rescind the 2004/2005 New Shipper Review*, 71 FR 26736 (May 8, 2006), unchanged in *Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the 2004/2005 Administrative Review and Notice of Rescission of 2004/2005 New Shipper Review*, 71 FR 66304 (November 14, 2006).

proceeding contested such treatment. Therefore, we continue to treat the PRC as an NME country for purposes of these preliminary results.

Separate Rates

Pursuant to section 771(18)(C)(i) of the Act, a designation of a country as an NME remains in effect until it is revoked by the Department. Accordingly, 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.[48]

In the *Initiation Notice*, the Department notified parties of the application process by which exporters may obtain separate-rate status in an NME proceeding.[49] 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*,[50] as further developed by *Silicon Carbide*.[51] However, if the Department determines that a company is wholly foreign-owned, then an analysis of the *de jure* and *de facto* criteria is not necessary to determine whether it is independent from government control.[52]

In order to demonstrate eligibility for separate-rate status, the Department requires entities for which a review was requested, and which were assigned a separate rate in the most recent segment of this proceeding in which they participated, to submit a separate rate certification (SRC) stating that they continue to meet the criteria for obtaining a separate rate.[53] For entities which currently do not have a separate rate from a completed segment of the proceeding, to demonstrate eligibility for a separate rate, the Department requires a separate rate application.[54] Companies that submit an SRA or SRC which are subsequently selected as mandatory respondents must respond to all parts of the Department's questionnaire in order to be eligible for separate rate status.[55]

With regard to the mandatory respondents, Jangho submitted an SRA and responded to sections A, C, and D of the Department's antidumping questionnaire and the first supplemental questionnaires issued for Jangho's SRA, AQR, CQR, and DQR. However, because the record still contained numerous deficiencies after Jangho filed these submissions, the Department issued

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[48] *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).
[49] *See Initiation Notice*, 80 FR at 37589-90.
[50] *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*).
[51] *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*).
[52] *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).
[53] *See Initiation Notice*, 80 FR at 37589.
[54] *Id.*, 80 FR at 37589-90.
[55] *Id.*, 80 FR at 37590.

a second supplemental questionnaire to Jangho. Jangho did not respond to this supplemental questionnaire, but, rather, submitted a letter stating that it was withdrawing from active participation as a mandatory respondent in this administrative review. As a result, as we address further below in the section "Application of Facts Available and Use of Adverse Inference," we preliminarily determine as AFA that Jangho did not demonstrate its eligibility for a separate rate in this review. As for Guang Ya Group/Zhongya/Xinya, because the single entity failed to provide a response to the Department's questionnaire, as we address further below, we also preliminarily determine as AFA that Guang Ya Group/Zhongya/Xinya is not eligible for a separate rate in this review.

Of the remaining companies still under review for these preliminary results, the Department received timely-filed SRAs or SRCs from the following 11 companies: Allied Maker Limited (Allied Maker); Atlas Integrated Manufacturing Ltd. (Atlas); Birchwoods (Lin'an) Leisure Products Co., Ltd. (Birchwoods Lin'an); Changzhou Changzheng Evaporator Co., Ltd. (Changzheng Evaporator); Dongguan Aoda Aluminum Co., Ltd. (Dongguan Aoda); Genimex Shanghai, Ltd. (Genimex); JMA (HK) Company Limited (JMA); Kam Kiu Aluminium Products Sdn. Bhd. (Kam Kiu); Metaltek Group Co., Ltd. (Metaltek); Taishan City Kam Kiu Aluminium Extrusion Co., Ltd. (Taishan City Kam Kiu); and Tianjin Jinmao Import & Export Corp., Ltd. (Tianjin Jinmao).[56]

Separate-Rate Applicants Which Are Not Eligible for a Separate Rate

The Department preliminary determines that two of the 11 companies, Atlas and Genimex, did not establish in their SRAs that they qualified for a separate rate. Regarding Atlas, the SRA it filed was grossly deficient. Specifically, Atlas' SRA did not include the company certification;

[56] *See* Letter from Allied Maker to the Department, "Aluminum Extrusions from the People's Republic of China: Separate Rate Certification," dated July 31, 2015 and Letter from Allied Maker to the Department, "Aluminum Extrusions From The People's Republic of China: Supplemental Separate Rate Certification," dated April 18, 2016 (collectively, Allied Maker's SRC); Letter from Atlas to the Department, "Aluminum Extrusions from the People's Republic of China; Response to Q&V Questionnaire," dated July 22, 2015 (Atlas' SRA); Letter from Birchwoods Lin'an to the Department, "Aluminum Extrusions from China – Separate Rate Application," dated July 31, 2015 and Letter from Birchwoods Lin'an to the Department, "Aluminum Extrusions from China – Separate Rate Application," dated August 3, 2015 (collectively, Birchwoods Lin'an's SRA); Letter from Changzheng Evaporator to the Department, "Aluminum Extrusions from the People's Republic of China: Separate Rate Certification," dated July 30, 2015 (Changzheng Evaporator's SRC); Letter from Dongguan Aoda to the Department, "Aluminum Extrusions From The People's Republic of China: Separate Rate Certification," dated July 31, 2015 and Letter from Dongguan Aoda to the Department, "Aluminum Extrusions From The People's Republic of China: Supplemental Separate Rate Certification (collectively, Dongguan Aoda's SRC); Letter from Genimex to the Department, "Aluminum Extrusions from the People's Republic of China: Separate Rate Application," dated July 31, 2015 (Genimex's SRA); Letter from JMA to the Department, "Aluminum Extrusions from China; Separate Rate Application," dated July 30, 2015 and Letter from JMA to the Department, "Aluminum Extrusions from China; Supplemental Questionnaire Response," dated April 18, 2016 (collectively, JMA's SRA); Letter from Kam Kiu and Taishan City Kam Kiu to the Department, "Aluminum Extrusions from the People's Republic of China: Separate Rate Certification," dated July 29, 2015 (Kam Kiu's SRC); Letter from Metaltek to the Department, "Aluminum Extrusions From The People's Republic of China: Separate Rate Certification," dated July 31, 2015 and Letter from Metaltek to the Department, "Aluminum Extrusions From The People's Republic of China: Supplemental Separate Rate Certification," dated April 21, 2016 (collectively, Metaltek's SRC); and Letter from Tianjin Jinmao to the Department, "Aluminum Extrusions From The People's Republic of China: Separate Rate Certification," dated July 31, 2015 (Tianjin Jinmao's SRC).

lacked several key sales documents; asserted it was a wholly-foreign owned enterprise, but provided no information about this enterprise; did not include Atlas' official government business license/registration documents; did not contain information regarding Atlas' shareholders; and provided no response to certain questions.[57] In the case of Genimex, it did not certify in its SRA that it would supply the requested sales documentation to the Department.[58] In fact, Genimex failed to provide a copy of a key document, the U.S. Customs 7501 Entry Summary, related to the sales documents it did provide; further, most of those sales documents were dated outside the POR.[59] The Department issued a supplemental questionnaire to Genimex to address these deficiencies,[60] but Genimex did not provide a response. Because Atlas' SRA was wholly deficient, and because Genimex did not respond to the Department's supplemental questionnaire, the Department preliminarily determines that Atlas and Genimex are not eligible for a separate rate in the instant review.

<u>Separate-Rate Recipients</u>[61]

Wholly Foreign-Owned

Six of the 11 companies provided evidence in their SRAs or SRCs that they are wholly owned by individuals or companies located in a market economy country: Allied Maker; Birchwoods Lin'an; JMA; Kam Kiu; Metaltek; and Taishan City Kam Kiu.[62] Therefore, because they are wholly foreign-owned, and we have no evidence indicating that the PRC controls their export activities, an analysis of the *de jure* and *de facto* criteria is not necessary to determine whether these companies are independent from government control.[63] Accordingly, we preliminarily grant a separate rate to these companies.[64]

Joint Ventures Between Chinese and Foreign Companies or Wholly Chinese-Owned Companies

Three of the 11 companies, Changzheng Evaporator, Dongguan Aoda, and Tianjin Jinmao, stated in their SRCs that they are joint ventures or wholly Chinese-owned companies.[65] Therefore, the

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[57] *See* Atlas' SRA.
[58] *See* Genimex's SRA at 6.
[59] *Id*., at Exhibit 2.
[60] *See* Letter from the Department to Genimex, "Aluminum Extrusions from the People's Republic of China: Supplemental Questionnaire," dated April 11, 2016.
[61] All companies receiving a separate rate are hereby referred to collectively as the separate-rate recipients.
[62] *See* Allied Maker's SRC; Birchwoods Lin'an's SRA; JMA's SRA; Kam Kiu's SRC; and Metaltek's SRC.
[63] *See*, *e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People's Republic of China*, 64 FR 71104, 71104-05 (December 20, 1999) (where the respondent was wholly foreign-owned and, thus, qualified for a separate rate).
[64] Kam Kiu's SRC indicates that Taishan City Kam Kiu is the producer and Kam Kiu is the exporter. Also, in the prior segment of this proceeding, the Department noted the company's SRA indicated that Kam Kiu was the exporter and Taishan City Kam Kiu was a producer only, and, thus, determined that Kam Kiu was the appropriate party to grant separate rate status. *See 2013-2014 Final Results,* 80 FR at 75063, footnote 29. As a result, the Department preliminarily intends to assign a company-specific rate only to the exporter, Kam Kiu. Courts have recognized that antidumping duty rates in NME proceedings are appropriately tied to the exporter, not the producer. *See Michaels Stores, Inc. v. United States*, 766 F.3d 1388, 1391-93 (Fed. Cir. 2014).
[65] *See* Changzheng Evaporator's SRC; Dongguan Aoda's SRC; and Tianjin Jinmao's SRC.

Department must analyze whether these companies can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

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.[66]

The certifications provided by Changzheng Evaporator, Dongguan Aoda, and Tianjin Jinmao in their respective SRCs supports a preliminary finding of the absence of *de jure* governmental control based on the following: (1) an absence of restrictive stipulations associated with the individual exporters' business and export licenses; (2) there are applicable legislative enactments decentralizing control of the companies; and (3) and there are formal measures by the government decentralizing control of companies.[67]

Absence of De Facto Control

Typically, the Department considers four factors in evaluating whether a respondent is subject to *de facto* government control of its export functions: (1) whether the export prices 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.[68] 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 granting a separate rate.

The certifications provided by Changzheng Evaporator, Dongguan Aoda, and Tianjin Jinmao in their respective SRCs supports a preliminary finding of *de facto* absence of government control based on the following: (1) the companies' export prices are not set by, and are not subject to, the approval of a governmental agency; (2) the companies have authority to negotiate and sign contracts and other agreements; (3) the companies have autonomy from the government in making decisions regarding the selection of management; and (4) the companies retain the proceeds of their export sales and make independent decisions regarding the disposition of profits or financing of losses.[69]

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[66] *See Sparklers*, 56 FR at 20589.
[67] *See* Changzheng Evaporator's SRC; Dongguan Aoda's SRC; and Tianjin Jinmao's SRC.
[68] *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).
[69] *See* Changzheng Evaporator's SRC; Dongguan Aoda's SRC; and Tianjin Jinmao's SRC.

Therefore, in accordance with the criteria established by *Sparklers* and *Silicon Carbide*, the Department is preliminarily granting a separate rate to Changzheng Evaporator, Dongguan Aoda, and Tianjin Jinmao.

Preliminary Determination of Rate for Non-Examined Separate-Rate Recipients

As discussed above, the following companies have demonstrated their eligibility for a separate rate, but were not selected for individual examination in this review: Allied Maker; Birchwoods Lin'an; Changzheng Evaporator; Dongguan Aoda; JMA; Kam Kiu;[70] Metaltek; and Tianjin Jinmao. The statute and the Department's regulations do not address the establishment of a rate to be applied to individual respondents not selected for examination when the Department limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. The Department's practice in cases involving limited selection based on exporters accounting for the largest volumes of trade[71] has been to look to section 735(c)(5) of the Act for guidance, which provides instructions for calculating the all-others rate in an investigation. Section 735(c)(5)(A) of the Act articulates a preference that we are not to calculate an all-others rate using any zero or *de minimis* margins or any margins based entirely on facts available. Accordingly, the Department's usual practice in determining the rate for separate-rate respondents not selected for individual examination has been to average the weighted-average dumping margins for the selected companies, excluding rates that are zero, *de minimis*, or based entirely on facts available.[72] Section 735(c)(5)(B) of the Act provides that, where all rates are zero, *de minimis*, or based entirely on facts available, we may use "any reasonable method" for assigning the all-others rate to the non-selected companies.

In previous administrative reviews, the Department has determined that a "reasonable method" to use when the rates for the respondents selected for individual examination are zero, *de minimis*, or based entirely on facts available is to assign non-examined separate-rate recipients the average of the most recently-determined weighted-average dumping margins that are not zero, *de minimis*, or based entirely on facts available.[73] These rates may be from the investigation, a prior administrative review, or a new shipper review.

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[70] As noted in footnote 64, because Kam Kiu's SRC indicates that Taishan City Kam Kiu is the producer and Kam Kiu is the exporter, and because the Department determined that Kam Kiu was the appropriate party to grant separate rate status in the prior segment of this proceeding, the Department intends to assign a company-specific rate only to the exporter, Kam Kiu.

[71] As discussed above in the section "Respondent Selection," the Department selected mandatory respondents in this administrative review based on the largest volume method.

[72] *See Longkou Haimeng Mach. Co. v. United States*, 581 F. Supp. 2d 1344, 1357-60 (Ct. Int'l Trade 2008) (affirming the Department's determination to assign a 4.22 percent dumping margin to the separate rate respondents in a segment where the three mandatory respondents received dumping margins of 4.22 percent, 0.03 percent, and zero percent, respectively); *see also Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 36656, 36660 (July 24, 2009).

[73] *See Narrow Woven Ribbons With Woven Selvedge From Taiwan; Final Results of Antidumping Duty Administrative Review; 2013-2014*, 81 FR 22578 (April 18, 2016) and accompanying Issues and Decision Memorandum at Comment 1; *see also Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part*, 73 FR 52823, 52824 (September 11, 2008) and accompanying Issues and Decision Memorandum at Comment 16. *See also Yangzhou Bestpak Gifts & Crafts Co., Ltd. v. United States*, 716 F.3d 1370, 1374 (Fed. Cir. 2013) (recognizing the Department's normal methodology for determining a separate rate).

For these preliminary results, the rates we determined for the mandatory respondents were either zero, *de minimis*, or based on entirely on facts available. Specifically, for these preliminary results, we based Jangho's and Guang Ya Group/Zhongya/Xinya's margins entirely on facts available. Therefore, we preliminarily determine that a reasonable method for determining the margin for the non-examined separate-rate recipients is to apply a margin from the immediately-preceding segment of this proceeding that is not zero, *de minimis*, or based entirely on facts available. Pursuant to this method, we are preliminarily assigning to the non-examined separate-rate recipients the margin of 86.01 percent, the sole calculated margin in the immediately-preceding segment of this proceeding.[74] Specifically, this is the margin which the Department calculated for mandatory respondent Union Industry (Asia) Co., Ltd. and applied to the non-examined separate-rate respondents in the immediately-preceding segment of this proceeding.[75] The Department has preliminarily determined that the most reasonable method to determine the separate rate in the instant review is to use a calculated rate from the prior segment of this proceeding, as this method constitutes a contemporaneous examination of an individually-reviewed respondent exclusive of zero, *de minimis* and facts available margins, and reasonably reflects the potential dumping margin for the non-selected separate-rate respondents.

<u>The PRC-Wide Entity</u>

As explained below in the section "Application of Facts Available and Use of Adverse Inference," mandatory respondents Jangho and Guang Ya Group/Zhongya/Xinya failed to cooperate by not acting to the best of their abilities to comply with requests for information, warranting the application of facts otherwise available with adverse inferences, pursuant to sections 776(a) and 776(b) of the Act. Accordingly, the Department preliminarily finds, based on AFA, that a separate rate is not warranted for those companies. Because a separate rate is not warranted for those companies, we have preliminarily determined that the PRC-wide entity also includes Jangho and Guang Ya Group/Zhongya/Xinya.

In addition, 21 companies still subject to these preliminary results are not eligible for separate-rate status because they did not submit separate-rate applications or certifications.[76] Also, as explained above in the section "Separate Rates," two companies still under review, Atlas and

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[74] *See 2013-2014 Final Results*, 80 FR at 75063.
[75] *Id.*, 80 FR at 75062-63.
[76] These 21 companies are: Belton (Asia) Development Ltd.; Classic & Contemporary Inc.; Danfoss Micro Channel Heat Exchanger (Jia Xing) Co., Ltd.; Dongguan Golden Tiger Hardware Industrial Co., Ltd.; Ever Extend Ent. Ltd.; Fenghua Metal Product Factory; FookShing Metal & Plastic Co. Ltd.; Foshan Golden Source Aluminum Products Co., Ltd.; Global Point Technology (Far East) Limited; Gold Mountain International Development Limited; Golden Dragon Precise Copper Tube Group, Inc.; Hebei Xusen Wire Mesh Products Co., Ltd.; Jackson Travel Products Co., Ltd.; New Zhongya Aluminum Factory; Shanghai Automobile Air-Conditioner Accessories Co., Ltd.; Southwest Aluminum (Group) Co., Ltd.; Suzhou NewHongJi Precision Part Co., Ltd.; Union Aluminum (SIP) Co.; Whirlpool Canada L.P.; Whirlpool Microwave Products Development Ltd.; and Xin Wei Aluminum Co.
One company, Zhaoqing New Zhongya Aluminum Co., Ltd. (New Zhongya), was determined to have been succeeded by Guangdong Zhongya Aluminum Company Limited (Guangdong Zhongya) in a changed circumstances review. *See Aluminum Extrusions From the People's Republic of China: Final Results of Changed Circumstances Review*, 77 FR 54900 (September 6, 2012). Thus, despite the fact that a review was initiated of New Zhongya, it is not being included among these 21 companies because its successor in interest, Guangdong Zhongya, is part of the Guang Ya Group/Zhongya/Xinya single entity.

Genimex, submitted separate-rate applications that did not demonstrate eligibility for a separate rate. As a result, the Department preliminarily finds these 23 companies are also part of the PRC-wide entity.

The Department's change in policy regarding conditional review of the PRC-wide entity applies to this administrative review.[77] 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. No party requested a review of the PRC-wide entity in the instant review. Pursuant to our change in policy regarding conditional review of the PRC-wide entity, the entity, which includes Jangho, Guang Ya Group/Zhongya/Xinya, and the 23 companies referenced above, is not currently under review. As such, the PRC-wide rate from the previous administrative review remains unchanged, and the PRC-wide entity is receiving a margin of 33.28 percent.[78]

<u>Application of Facts Available and Use of Adverse Inference</u>

Sections 776(a)(1) and 776(a)(2)(A)-(D) of the Act provides that, if necessary information is not available on 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 sections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified as provided for in section 782(i) of the Act, the Department shall, subject to subsection 782(d) of the Act, use the facts otherwise available in reaching the applicable determination.

Section 782(c)(1) of the Act provides that if an interested party "promptly after receiving a request from {the Department} for information, notifies {the Department} that such party is unable to submit the information requested in the requested form and manner," the Department shall consider the ability of the interested party and may modify the requirements to avoid imposing an unreasonable burden on that party.

Section 782(d) of the Act provides that, if the Department determines that a response to a request for information does not comply with the request, the Department shall promptly inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person an opportunity to remedy or explain the deficiency. If that person submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department may, subject to section 782(e), disregard all or part of the original and subsequent responses, as appropriate.

Section 782(e) of the Act states that the Department shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the administering authority if: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is

[77] *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, 65970 (November 4, 2013) (*Conditional Review of NME Entity*).
[78] *See 2013-2014 Final Results*, 80 FR at 75063.

not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

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 countervailing duty (CVD) law, including amendments to section 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act.[79] The amendments to the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this administrative review.[80]

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 less-than-fair-value investigation, a previous administrative review, or other information placed on the record.

Under section 776(d) of the Act, the Department may use any dumping margin from any segment of the proceeding when applying an adverse inference, including the highest of such margins. The TPEA also makes clear that when selecting an AFA margin, 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.

Below we discuss the application of facts available, and the use of adverse inferences, with respect to Jangho and Guang Ya Group/Zhongya/Xinya, in these preliminary results.

Jangho

As noted above in the section "Respondent Selection," Jangho submitted an SRA and responded to sections A, C, and D of the Department's antidumping questionnaire and the first supplemental questionnaires issued for Jangho's SRA, AQR, CQR, and DQR. However, because the record still contained numerous deficiencies after Jangho filed these submissions, the Department issued a second supplemental questionnaire to Jangho,[81] pursuant to section 782(d)

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[79] *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 International Trade Commission. *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).
[80] *Id.*, 80 FR at 46794-95. The 2015 amendments may be found at https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl.
[81] *See* Second Supplemental Questionnaire.

of the Act. Jangho did not respond to the Department's second supplemental questionnaire. Instead, Jangho submitted a letter stating that it was withdrawing from active participation as a mandatory respondent in this administrative review.[82]

The Department preliminarily finds the use of facts otherwise available is warranted with respect to Jangho in accordance with sections 776(a)(1) and 776(a)(2)(A)(B), (C), and (D) of the Act. By withdrawing from participation in this proceeding, Jangho withheld necessary information requested by the Department and therefore significantly impeded the proceeding. Furthermore, some of the information Jangho did provide prior to its withdrawal from this proceeding was not in the form and manner requested (thus prompting the Department to issue a second supplemental questionnaire), and Jangho's withdrawal precludes verification of the information it did provide.

Pursuant to section 776(b) of the Act, the Department also preliminarily determines that Jangho failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information, because, as noted above, Jangho did not respond to the Department's second supplemental questionnaire, and also withdrew from active participation as a mandatory respondent in the instant review.[83] Thus, an adverse inference is warranted. Therefore, we are applying total AFA to Jangho for these preliminary results and have determined that a separate rate is not warranted for Jangho. Absent a finding that a separate rate is warranted for Jangho, we are preliminarily determining that Jangho is part of the PRC-wide entity. As part of the PRC-wide entity, the rate for the PRC-wide entity from the previous administrative review applies to Jangho's merchandise - 33.28 percent. This rate remains unchanged pursuant to our current policy, which states that there is no conditional review of the PRC-wide entity.[84]

Guang Ya Group/Zhongya/Xinya

As noted above, after the Department issued its antidumping questionnaire to Guang Ya Group/Zhongya/Xinya, Zhongya filed a letter stating that it would not be responding to the Department's questionnaires, and Guang Ya Group submitted a letter notifying the Department that it was withdrawing from participation in this administrative review.[85] Xinya did not respond to the Department's antidumping questionnaire. The Department preliminarily finds the use of facts otherwise available is warranted with respect to the single entity Guang Ya Group/Zhongya/Xinya in accordance with sections 776(a)(2)(A) and (C) of the Act, because Guang Ya Group/Zhongya/Xinya withheld information that was requested by the Department and, by not providing requested information, significantly impeded the proceeding.

Pursuant to section 776(b) of the Act, the Department preliminarily finds that, through its actions, Guang Ya Group/Zhongya/Xinya failed to cooperate by not acting to the best of its

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[82] *See* Jangho Withdrawal Letter.
[83] *See Nippon Steel Corporation v. United States*, 337 F.3d 1373, 1383 (Fed. Cir. 2003) (*Nippon Steel*) (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.")).
[84] *See Conditional Review of NME Entity*, 78 FR at 65970.
[85] *See* Zhongya Withdrawal Letter and Guang Ya Withdrawal Letter, respectively.

ability to comply with the Department's requests for information.[86] As such, an adverse inference is warranted. Therefore, we are applying total AFA to Guang Ya Group/Zhongya/Xinya for these preliminary results and have determined that there is insufficient information on the record to substantiate that a separate rate is warranted for Guang Ya Group/Zhongya/Xinya. Absent a finding that a separate rate is warranted for Guang Ya Group/Zhongya/Xinya, we are preliminarily determining that Guang Ya Group/Zhongya/Xinya is also part of the PRC-wide entity. As part of the PRC-wide entity, the rate for the PRC-wide entity from the previous administrative review applies to Guang Ya Group/Zhongya/Xinya's merchandise - 33.28 percent. This rate remains unchanged pursuant to our current policy, which states that there is no conditional review of the PRC-wide entity.[87]

Adjustments for Countervailable Subsidies

To determine whether to grant a domestic pass-through adjustment for the separate-rate recipients, the Department relies on the experience of the mandatory respondents examined in this review, subject to section 777A(f)(2) of the Act. As noted above, the Department preliminarily applied total AFA to both mandatory respondents in this administrative review because of their failure to cooperate by not acting to the best of their ability to comply with the Department's requests for information. As such, neither of the mandatory respondents established eligibility for this adjustment. Therefore, for these preliminary results, the Department did not make an adjustment pursuant to section 777A(f) of the Act for countervailable domestic subsidies for the separate-rate recipients.

Pursuant to section 772(c)(1)(C) of the Act, the Department made an adjustment for countervailable export subsidies for the separate-rate recipients. We calculated this adjustment as the simple average of the countervailable export subsidies determined for the mandatory respondents in the 2013 (*i.e.*, most recently completed) countervailing duty administrative review[88] and deducted this amount from the rate assigned to the separate-rate recipients. *See* Attachment 1 for this calculation.

[86] *See Nippon Steel*, 337 F.3d at 1383.
[87] *See Conditional Review of NME Entity*, 78 FR at 65970.
[88] *See Aluminum Extrusions From the People's Republic of China: Final Results, and Partial Rescission of Countervailing Duty Administrative Review; 2013*, 80 FR 77325 (December 14, 2015) and *Aluminum Extrusions From the People's Republic of China: Amended Final Results of Countervailing Duty Administrative Review; 2013*, 81 FR 15238 (March 22, 2016), as corrected in *Aluminum Extrusions from the People's Republic of China: Notice of Correction to Amended Final Results of Countervailing Duty Administrative Review; 2013*, 81 FR 31227 (May 18, 2016).

For the PRC-wide entity, since the entity is not currently under review, its rate is not subject to change. As a result, the margin net of subsidies is that determined in the *2012-2013 Final Results*[89] and also applied in the *2013-2014 Final Results.*[90] *See* Attachment 1.

Conclusion

We recommend applying the above methodology for these preliminary results.

✓ _________ 　　　　_________
Agree 　　　　　　Disagree

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Paul Piquado
Assistant Secretary
for Enforcement and Compliance

6 JUNE 2016
(Date)

[89] *See 2012-2013 Final Results*, 79 FR at 78787. As the rate for the PRC-wide entity is not subject to change in the instant review, the adjusted margin that we are applying to the PRC-wide entity in the instant review is net of the countervailable domestic and export subsidies determined in the *2012-2013 Final Results*.

[90] *See 2013-2014 Final Results*, 80 FR at 75063, footnote 27.

Attachment 1

Adjustment for Countervailable Subsidies

Adjustment for Countervailable Subsidies

Countervailable Export Subsidies Determined for the Individually-Examined Respondents in the 2013 Countervailing Duty Administrative Review[91]

Jangho Companies:	0.01%[92]
Guang Ya Group:	0.13%[93]
Total Export Subsidies:	0.14%
Simple Average:	0.07%

Margin Applied to the Non-Examined Separate-Rate Recipients:	86.01%[94]
Less: Simple Average of Countervailable Export Subsidies Determined for the Individually-Examined Respondents in the 2013 Countervailing Duty Administrative Review	0.07%
Margin Adjusted for Liquidation and Cash Deposit Purposes:	85.94%

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[91] *See Aluminum Extrusions From the People's Republic of China: Final Results, and Partial Rescission of Countervailing Duty Administrative Review; 2013*, 80 FR 77325 (December 14, 2015) and *Aluminum Extrusions From the People's Republic of China: Amended Final Results of Countervailing Duty Administrative Review; 2013*, 81 FR 15238 (March 22, 2016), as corrected in *Aluminum Extrusions from the People's Republic of China: Notice of Correction to Amended Final Results of Countervailing Duty Administrative Review; 2013*, 81 FR 31227 (May 18, 2016).

[92] This amount is equal to the subsidy rate determined for the "2013 Export Increase Fund." *See* Memorandum to the File, "Administrative Review of Countervailing Duty Order on Aluminum Extrusions from the People's Republic of China: Amended Final Results Analysis Memorandum for the Jangho Companies," dated March 15, 2016, at Attachment.

[93] This amount is equal to the sum of the subsidy rates determined for the "Famous Brands Program" (0.07 percent) and the "International Market Program" (0.06 percent). *See* Memorandum to Robert James, Program Manager, AD/CVD Operations, Office VI, "Final Results Calculation Memorandum for the Guang Ya Group," dated December 7, 2015, at 5 and Attachment I.

[94] This is the margin calculated for Union in the immediately-preceding segment of this proceeding. *See 2013-2014 Final Results*, 80 FR at 75063.